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INDEPENDENT COMMISSION AGAINST CORRUPTION

THE HONOURABLE DAVID IPP AO, QC, COMMISSIONER

PUBLIC HEARING

OPERATION CICERO

Reference: Operation E09/1235

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON TUESDAY 27 APRIL 2010

AT 10.15AM

Any person who publishes any part of this transcript in any way and to any person contrary to a Commission direction against publication commits an offence against section 112(2) of the Independent Commission Against Corruption Act 1988.

This transcript has been prepared in accordance with conventions used in the Supreme Court.

THE COMMISSIONER: This public inquiry is being conducted for the purposes of an investigation of a complaint of the following nature. A public inquiry is being conducted for the purpose of investigating allegations that Sebastian Wade, a senior correctional officer with the Department of Corrective Services and others supplied contraband including drugs and mobile telephones to inmates at the John Morony Correctional Centre in return for payment. In the latter sentence I have not used the word including in an exhaustive sense. There may be other items of contraband involved.

10

A public inquiry will be conducted with the following general scope and purpose. The general scope and purpose of this public inquiry is to gather evidence relevant to the allegations I have mentioned for the purpose of determining the matters referred to in section 13(2) of the ICAC Act and to investigate the steps taken by the Department of Corrective Services New South Wales to prevent the recurrence of incidents of conduct of the kind alleged to have been undertaken by Mr Wade as well as the steps that should be taken in the future.

20 Mr Pike.

MR PIKE: May it please the Commissioner, I seek leave to appear as counsel assisting.

THE COMMISSIONER: Yes, you have leave.

MR PIKE: Commissioner, the smuggling of drugs and other contraband by correctional officers into New South Wales Correctional Centres is a problem which has persisted for some time. It represents serious form of corrupt conduct. There have been five previous investigations or inquiries since February, 1998 in relation to whether, to whether the staff of

30 Corrective Services New South Wales, formerly the Department of Corrective Services are trafficking contraband, in particular drugs and mobile phones into gaols in New South Wales.

The most recent investigation was Operation Killick in November, 2008. After each of those prior investigations the Commission had made a series of recommendations to Corrective Services New South Wales as to steps to be introduced to prevent the trafficking of contraband into correctional

40 centres. The recommendations related for the most part in improving the systems and procedures in place at correctional centres across New South Wales.

One of the correctional centres is the John Morony Correctional Centre located at Berkshire Park, near Windsor, in the north west of Sydney. It is classified as a medium security facility. On 27 April, 2009, the manager of the security at the John Morony Correctional Centre received information from an inmate that a senior correctional officer at the centre, Mr Sebastian

Wade was being paid \$500 to bring steroids and prohibited drugs, namely marijuana and dope into the centre for inmates.

A report of that investigation was provided to the Commission which then commenced an investigation. That investigation involved considerable surveillance and interception of a large number of telephone communications between inmates and the relatives and associates outside correctional centres. Those communications were made by inmates using one or more mobile phones which had been illegal trafficked into the centre.
10 There was also a considerable monitoring of the telephone communications between Mr Wade and other persons.

On 25 January, 2010, Mr Wade was observed meeting with a person at a residence at North Richmond. Mr Wade was seen to be provided with two small containers and a water bottle. Subsequently, on 25 January, 2010, Mr Wade was stopped in the car park at the John Morony Correctional Centre prior to entering the correctional centre for work that day. He was found to be in possession of green vegetable matter believed to be and subsequently found to be cannabis, three tablets initially thought to be ecstasy although
20 subsequent drug analysis results were inconclusive. And a Mount Franklin water bottle containing a liquid substance, \$510 in cash was also found in Mr Wade's vehicle during a subsequent search of it on 25 January.

Mr Wade was arrested and charged with two counts each of supply prohibited drugs and possess prohibited drugs. Those criminal charges are next for mention on 21 May, 2010.

The first aspect of the Commission's inquiry will be to investigate the circumstances surrounding Mr Wade's trafficking of contraband into the
30 John Morony Correctional Centre. The principal focus is the smuggling of drugs by Mr Wade, although the smuggling of other contraband items, including mobile phones will also be considered. The use of mobile phones in prisons is particularly important as they appear to provide the means by which inmates communicate with their associates outside prisons so as to arrange for drugs to be brought in.

The Commission identified that in a period of approximately three months a contraband mobile telephone used by inmates was in constant use, utilising four separate SIM cards, which must also have been trafficked into the
40 centre. One of this use was apparently detected by staff at the centre. A total of 17 different inmates were identified as using the contraband mobile telephone. They made 1,023 calls in that period. Of those calls, 48% related to drug related criminal activity, including a large scale and systematic trafficking of illegal drugs into the centre through contact visits. Other uses including downloading pornography from the internet as well as establishing and maintaining Facebook accounts.

Now, the number of occasions on which Mr Wade smuggled drugs and other contraband will be investigated as well as how it was done. This will involve a consideration of firstly, Mr Wade's relationship with inmates at the John Morony Correctional Centre as well as the associates of those inmates outside the Correctional Centre. Second, the communication between inmates and their associates through the use of mobile phones in prison so as to organise the smuggling in of drugs and other associated contraband and thirdly, how it was that the systems and procedures at the John Morony Correctional Centre for the searching of prison officers failed to detect the smuggling of drugs by Mr Wade.

The second aspect of the inquiry is the issue of the procedures and the systems in place at correctional facilities in New South Wales for the prevention and/or detection of corrupt conduct by prison officers in bringing drugs and other contraband, including mobile phones, into correctional centres on behalf of inmates. As I said earlier, there have been five previous Commission inquiries or investigations into the conduct of prison officers in smuggling drugs and other items into correctional centres. The first was in 1998 and the most recent, Operation Killick, was in November 2008, some 16 months ago.

Now, Mr Wade's situation demonstrates that notwithstanding the previous inquiries and investigations and the consequent recommendations made the problem persists. This inquiry will examine what Corrective Services New South Wales has done to implement earlier recommendations of this Commission and what additional systems and/or procedures are or may be necessary.

Dealing with the first of these matters, implementation of earlier recommendations, this inquiry will examine what has been done in relation to the use of drug detection dogs at correctional centres for searching prison staff. Recommendation 3 arising from the Commission's Operation Montessa in September 2004 was to the effect that drug detection dogs be used from time to time and without notice during random and targeted searches of staff at maximum security correctional facilities. Recommendation 5 in the Commission's Operation Killick in November 2008 was that a regular programme of random checks on correctional centre staff using drug detection dogs be carried out in maximum security facilities.

Since November 2008 there has been considerable correspondence between the Commission and Corrective Services New South Wales in which the Commission has sought an update from Correctional Services New South Wales as to what if anything has been done with respect to implementing a regular programme of random checks using drug detection dogs. After Mr Wade's arrest in January a further request was made of Correctional Services New South Wales to update the Commission as to what is being done. To date no comprehensive response has been received.

The Commission understands that Corrective Services has implemented random searches using dogs. However, searches do not appear to have been as comprehensive as recommended by the Commission. It is anticipated that Mr Woodham, the Commissioner for Corrective Services, will give evidence before this inquiry to explain what has been done in relation to the use of drug detection dogs in random searches and whether there are any issues or impediments to implementing the regular programme twice recommended by the Commission as well as whether there are any issues or impediments to extending the use of drug detection dogs beyond maximum security facilities.

In terms of additional systems and procedures, one matter which the facts of this inquiry raises is what Corrective Services does in respect of a correctional officer who is suspected of inappropriate corrupt conduct that cannot be proven. In particular, the Commission will examine what could be done to eliminate the risk of actual corrupt conduct occurring. Now, this issue arises in the present case because Mr Wade was suspected for some considerable time prior to May 2009 when the information was received leading to this investigation of having an involvement in improper associations, organised criminal groups, drug use and distribution, trafficking contraband and unauthorised secondary employment. These suspicions arose both because of inmates Mr Wade was seen to frequent with inside the correctional facilities in which he worked as well as his association outside of correction centres with persons associated with drug making activities.

Whilst there were investigations into the suspicions, because improper conduct could not be proved the matter really went no further. In particular, nothing was done directly with Mr Wade to raise with him the concerns that existed by virtue of his very association with certain persons both inside and outside correctional facilities or to actively manage the risk which was perceived to exist.

In September, 2009, the Police Integrity Commission produced, after a long inquiry, a report entitled Identifying and Managing High Risk Officers in the New South Wales Police Force. A number of recommendations were made which have subsequently been implemented by the New South Wales Police Force to identify high risk officers and then manage those officers. The focus of this inquiry will thus be the appropriateness of introducing systems and procedures to identify and manage high risk Corrective Services officers. Again, it is anticipated that this is a matter that Mr Woodham will give evidence about before this inquiry.

THE COMMISSIONER: Thank you, Mr Pike. I'll just take the representations. Who is appearing?

If the court pleases, Mr Commissioner, my name is Russell. I appear for Mr Wade. I seek leave to appear for Mr Wade.

THE COMMISSIONER: Yes, Mr Russell, you have that leave.

MS DAVID: Yes, Mr Commissioner, I seek leave to appear for ~~XXXXXXXX~~. My name is David.

THE COMMISSIONER: Ms David.

10

MS DAVID: That's Correct, D-A-V-I-D. I seek leave to appear.

THE COMMISSIONER: Yes, you have that leave.

MS DAVID: Thank you.

THE COMMISSIONER: Any other appearances?

20

MR KING: My name is King. I seek your leave to appear for ~~XXXXXX~~, a witness before the Commission.

THE COMMISSIONER: Yes, you have that leave.

MR ROBINSON: Commissioner, I seek leave to appear for ~~XXXXXX~~, my name is Robinson.

THE COMMISSIONER: Yes, Mr XXXXX, sorry, I beg your pardon, Mr Robinson, yes, you have that leave, Mr Robinson.

30

MR ROBINSON: Thank you, Commissioner.

MR CLARK: Commissioner, may it please, my name is Clark, C-L-A-R-K, and I appear for one of the inmates (not transcribable).

THE COMMISSIONER: You appear for?

MR CLARK: One of the inmates (not transcribable)

THE COMMISSIONER: For one of the inmates.

40

MR CLARK: Yes.

THE COMMISSIONER: You have that leave.

MS LAM: Commissioner, I seek leave to appear for one of the inmates. I am Ms Lam, L-A-M.

THE COMMISSIONER: L-A-M?

MS LAM: Yes, L-A-M.

THE COMMISSIONER: You have that leave. Any other appearances? Before we commence, I'm going to make a suppression order. The order is in these terms. Absent additional and persuasive evidence, I am satisfied that it is necessary and desirable in the public interest that I make a direction pursuant to Section 112 of the ICAC Act that any evidence given before the public inquiry including the contents of any exhibits tendered during the course of the public inquiry that identifies any of the persons referred to below should not be published or otherwise communicated to anyone except by Commission officers for statutory purposes. Persons concerned are the following: **XXXX XXXXX; XXXXX; XXXXX; XXXXX XXXXX; XXXXX; XXXXX; XXXXX; XXXXX; XXXXX and XXXXX.**

ABSENT ADDITIONAL AND PERSUASIVE EVIDENCE, I AM SATISFIED THAT IT IS NECESSARY AND DESIRABLE IN THE PUBLIC INTEREST THAT I MAKE A DIRECTION PURSUANT TO SECTION 112 OF THE ICAC ACT THAT ANY EVIDENCE GIVEN BEFORE THE PUBLIC INQUIRY INCLUDING THE CONTENTS OF ANY EXHIBITS TENDERED DURING THE COURSE OF THE PUBLIC INQUIRY THAT IDENTIFIES ANY OF THE PERSONS REFERRED TO BELOW SHOULD NOT BE PUBLISHED OR OTHERWISE COMMUNICATED TO ANYONE EXCEPT BY COMMISSION OFFICERS FOR STATUTORY PURPOSES. PERSONS CONCERNED ARE THE FOLLOWING: **XXX XXXXX; XXXXXXXXXXX; XXXXX; XXXXX XXXXX; XXXXX; XXXXX; XXXXX; XXXXX; XXXXX AND XXXXX.**

THE COMMISSIONER: The principal reason for making this suppression order is that the Commission is satisfied that there is a real risk of personal harm being caused to the persons I have mentioned if they are identified as having participated in any way in the ICAC investigation or this inquiry. I therefore stress that the Commission will take extremely seriously any breach of this order. So I do again point out that the order can be breached not only by media publishing any material which tends to identify the persons I have mentioned, but any particular individual who speaks to anyone or writes to anyone so I do ask all persons to take the utmost care in ensuring that this order is not breached.

Yes, Mr Pike?

MR PIKE: Were you proposing, Commissioner, to have a short adjournment prior to the first witness being called?

THE COMMISSIONER: Yes.

SHORT ADJOURNMENT

[10.29am]

THE COMMISSIONER: Mr Pike.

10 MR PIKE: Mr Commissioner, before I call the first witness I understand there's another legal representative present here to seek leave to appear this morning.

MR OATES: My name is Oates, Commissioner. I seek your authorisation to appear for Mr ~~XXXXX XXXXX~~.

THE COMMISSIONER: You have that leave.

MR OATES: As you please.

20 THE COMMISSIONER: Mr Pike.

MR PIKE: Yes. Mr Commissioner, the first witness is ~~XXXXXXXXXX~~ that I call.

THE COMMISSIONER: Ms ~~XXXXX~~, you're not represented by any lawyer today are you?

MS ~~XXXXX~~: Oh, no, just legal representation.

30 THE COMMISSIONER: Sorry, you, oh, so you - - -

MS DAVID: Yes, your Honour, Mr Commissioner, David, D-A-V-I-D.

THE COMMISSIONER: Yes, that's right, Ms David, I beg your pardon. That is my fault and I have it written down.

MS DAVID: Thank you, Commissioner.

THE COMMISSIONER: Yes. Do you wish a section 34 order to be made?

40 MS DAVID: Yes, Commissioner.

THE COMMISSIONER: Section 38 order.

MS DAVID: Section 38, yes.

THE COMMISSIONER: Yes. Pursuant to section 38 - - -

MS DAVID: To all the questions, your Honour and answers I should say.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Ms XXXXX and all documents and things produced by her during the course of today's hearing are to be regarded as having been given or produced on objection and accordingly there is no need for Ms XXXXX to make objection in respect of any particular answer given or document or thing produced. This order is for the duration of Ms XXXXX's evidence today. If she is required to return to give evidence on other days and wishes to avail herself of the protection afforded by this order it will be necessary to apply again.

10

Ms XXXXX, do you wish to give your evidence under oath or do you wish to affirm?

MS XXXXX: Affirm, please.

<XXXXXX XXXXX, affirmed

[10.40am]

THE COMMISSIONER: Mr Pike.

MR PIKE: Thank you. Would you please tell the Commission your full name?---Yeah, sure. My name is XXXX XXXXX.

And your surname is spelt XXXXXXXX. Is that correct?

10 ---That's correct.

All right. Your date of birth, please?---6/11/1985.

And your occupation, please?---A hairdresser.

All right. And your address is known, you've previously told the Commission your address. Is that correct?---That's correct.

20 All right. I just want to ask you a few questions if I may, Ms XXXXX about any mobile telephones that you may have owned during the 2009 year. Did you have a mobile phone during 2009?---I've always had a mobile phone.

All right. Have you always had the same mobile phone number?---Yes, I have.

And what is that number, please?---XXXXXXXXXXXX.

30 Okay. And you still have that mobile phone. Is that correct?---Yes, I do.

All right. Do you have, and again this is from, for 2009, Ms XXXXX, did you during that period own a motor vehicle?---I always have as well.

All right. What, is it a white Honda Civic? Is that correct?---Yes, it is.

And is the registration number XXXXX?---Yes.

Okay. And I think that car is registered in - - -?---My step-dad's name.

40 Right?---Yeah.

All right. Now your brother, Mr XXXXX XXXXX - - -?---Yes.

- - - is currently an inmate at correctional facilities in New South Wales. Is that correct?---In XXXX yes.

Right. So he's currently at XXXXX?---Yes.

Throughout 2009 to early 2010 was he at the John Morony Correctional Centre at Windsor?---I believe so, yes.

All right. Did you regularly visit him whilst he was at that centre?---Yes.

All right?---Every second, every second weekend also.

And in addition to visiting him in person would you also communicate with him regularly via telephone?---Yes.

10

All right. Now a number of the telephone calls you received from him were, were on a normal gaol phone. Is that correct?---Yes.

And you could tell when those phone calls were received because at the start of the call there was a recorded message. Is that correct?---That's correct.

Which, which indicated that the call was coming from a correctional facility. Correct?---Yes. Yep.

20 You also did you not from time to time receive phone calls from him on a mobile telephone. Is that correct?---That's correct.

Which he had with him in the prison. Is that correct?---That's correct.

Are you able to estimate or are you able to estimate when it was approximately that the phone calls being made on the mobile telephone started?---No. I wouldn't be able to remember that.

30 All right. It was some time in 2009. Is that correct?---I'm not too sure.

All right. Well, to your knowledge how long was he at the John Morony Centre?---He got transferred there from Lithgow, so he was there for a while. I know that he was there for a while 'cause we were visiting there all the time.

All right. And the records - - -

THE COMMISSIONER: (not transcribable) in 2009?---I believe so, yes.

40 MR PIKE: Are you able to estimate how long after he went to John Morony - - -?---Yep.

- - - that the phone calls on the mobile phone started?---No, I'm not too sure, 'cause it wasn't a regular thing.

All right. But was it, was it as soon as he arrived there he seemed to have access to a mobile phone or was (not transcribable) some period of time? ---No. Not that I'm aware of.

So there was some period of time after he went there before the phone calls on the mobile phone started. Is that correct?---I'm not too sure.

All right. Now you're aware are you not that there are a number of items that are prohibited from being brought into gaols?---Yes, I do.

One of those, one of those items is a mobile phone. Correct?---That's correct.

10

Another item would be drugs. Correct?---Yes.

Another item would be certain compact discs. Correct?---Yes.

Certain types of clothing?---Yes.

And throughout the period that you visited your brother at the John Morony Correctional Centre you were aware of those prohibited items being prohibited?---Yeah, they're at the front of the gaol.

20

All right. Now you were previously stopped were you not from taking drugs into the Long Bay Correctional Centre?---That's correct.

And you were given a good behaviour bond in respect of that?---Yes. But it wasn't - - -

Sorry, please go on?---I was just holding whatever I was holding. I wasn't going to actually do it. My intentions weren't there.

30

I just want to ask you, Ms XXXXX about your involvement in the attempt or the actual smuggling in of prohibited items into the John Morony Correctional Centre?---Yep.

Now you were asked from time to time were you not by your brother to arrange for certain prohibited items to be brought into the centre?---That's correct.

All right. And you were asked to do that by providing the items to a person who would then take the items in. Is that correct?---I only gave money.

40

Sorry, what do you mean only gave money?---Well, I only gave money on those occasions.

Right?---I was unaware of the other things that - - -

THE COMMISSIONER: But you weren't allowed to bring them in?
---Yeah.

MR PIKE: Right. So do I understand from that answer that your brother asked you to what, give certain items to a person. Is that correct?---Yes.

But you say now that you - - -?---I didn't know what the items were. All I did was just give them money. I was unaware of actually what was in there until I actually had to come here and realised that it was more than what I thought. My intentions were probably thinking about what it was, but I wasn't a hundred per cent sure on what I was actually bringing in.

10 THE COMMISSIONER: Were you bringing the packages?---Yes.

MR PIKE: All right. So you gave packages and money to a person who you knew were then going to bring the packages into the prison. Correct? ---That's correct.

Right. And you knew that that person was a, a prison guard. Correct? ---Yes.

20 Did you know that person's name at the time?---I didn't, no.

All right. How was it that you came into contact with that person? How did you, did you get their number from somewhere?---I believe my brother gave the number to the correctional officer.

THE COMMISSIONER: Your telephone number?---Yeah.

MR PIKE: And that correctional officer then contacted you. Is that correct?---Yeah. And then, yeah.

30 Right. And you then arranged to meet with that correctional officer from time to time. Is that correct?---Yep.

Are you able to estimate how many, on how many occasions you met with that correctional officer?---To be honest, I'm not sure. Maybe three, three times to five.

40 All right. And on each of those occasions was it your brother asked you to get certain items? Was that the first step?---Yeah, well I'd just pick them up.

Right. Who did you pick them up from?---Just friends of his.

All right. And then what, the correctional officer would then contact you. Is that correct?---It was always the same place, same time.

All right. And that place was the Shell Service Station at North Richmond? ---That's correct.

Is that correct?---Yep.

And then you said the same time, what was the same time?---About 10.00-ish.

But how did you know the particular day on which to turn up? It wasn't, was it every day that you went there?---No. Just on my days off, 'cause I work.

10 But how was it arranged that you would turn up at 10.00am at this place on a particular day? How did you know which day to turn up?---Through a text message on my phone.

All right. Was that from your brother or was that from the correctional officer?---From the correctional officer.

Did you have the correctional officer's number stored in your mobile phone?---Yes, I did.

20 And what was it stored under?---Screw.

And screw was, you understood was a slang term for a correctional officer. Is that correct?---Yes.

Do you still have that number stored in your mobile phone?---No, I don't.

All right. Well, did someone ask you to delete that number?---Yes.

30 Who was that?---The correctional officer.

When was that?---I'm not too sure when. I don't know. With dates I'm just hopeless.

All right. Well, can we just, can I try and get it within a date range? I'll come back to that issue. All right. Now in terms of the money that you handed over to the correctional officer - - -?---Yes.

- - - there was money handed over on each occasion. Correct?---Yes.

40 And you understood that that money was the fee - - -?---That's correct.

- - - for the correctional officer taking the stuff in?---Yes.

All right. Was the fee the same fee each time or - - -?---No, it was different.

Okay. What did it range from?---1,000.

Yes?---Probably 1,000 would be the max.

I just want to indicate, this is for your XXXXXefit Ms XXXXX in asking these questions, this Commission has no interest in what you may have done in terms of whether that's criminal or not. We're purely interested in your involvement in providing material to the corrective services officer?---Ah
hmm.

Do you understand that?---Yes.

10 THE COMMISSIONER: We've got no interest in causing any complaint to be made against you or any proceedings to be taken against you. We're only interested in the information you can give us?---Okay.

MR PIKE: Now, just going back to the fee, Ms XXXXX, I think you said earlier that it may have been as much as \$1,000?---Yes.

Is it your recollection that the fee changed depending on the number of items being taken in or not?---I believe so, yes.

20 And so the more items the higher the fee?---Yeah, that's right.

All right. Now, can you, can you tell me, I think you said earlier that you didn't know in respect of the items that you were handing to the correctional officer what they were. Is that correct?---That's correct.

Was that in relation to all items, you didn't know what they, any of them were?---I didn't 100 per cent know what they were, no. I probably have inklings of what they were but I didn't know.

30 What was your inkling at the time, that it was drugs?---They were, that they weren't allowed in the gaol.

But what sort of items did you think they were?---I'm not too sure.

THE COMMISSIONER: From the shape of the package could you tell?
---Sometimes it's quite hard to tell what was inside it.

Was the package hard or soft?---Soft, sometimes hard.

40 So there were different items coming in all the time?---Yes.

MR PIKE: All right. But I think from time, that there were CDs, correct?
---Yes.

You obviously knew what they were?---Yeah.

There was some T-shirts from time to time?---I'm not too sure about that.

Okay. But there were other items you say that were packaged so that you couldn't see what was in them. Correct?---Yeah.

How big, if you're able to tell me, were those packages?---They weren't too big, like you could hold them in your hand.

Right. Are you familiar with like containers in which mints and things like that are kept?---In what sorry?

10 Mints, like Cool Mints or something like that, so they're, they're packages probably - - -?---No.

All right. How, how, when you say you fit them in the palm of your hand so they're sort of, what, five or so centimetres long?---Yeah, they weren't heavy, like you could hold them.

Okay. And were they, were they wrapped in any way?---Yeah, they were concealed, I couldn't see what was inside of them.

20 Wrapped in like electrical tape from time to time, is that correct?---Yeah.

All right. Are you, are you aware of, one of the items that were taken in were, were steroids in a tablet form?---No, I was unaware of that.

All right. I just want to show you now if I may, Ms XXXXX, some video footage. It's, you've got a screen in front of you?---Yeah.

30 So if you could watch that please and I think at some stage an audio will also come on, so if you could just watch that please?---Ah hmm.

VIDEO RECORDING PLAYED

[10.53am]

MR PIKE: Now, you've have seen that footage, Ms XXXXX?---Yes.

You agree with me that, that the white Honda that was driving in there first was your vehicle?---Yes.

40 A few vehicles later I think there was a, a grey or a black four-wheel drive, do you see that?---Ah hmm.

That came along and parked next to you?---Yeah.

Correct. Was that car being driven by the, the correctional officer that you gave the items to?---Yes.

And you then handed over certain items to that correctional officer, correct?

---Yes.

And what, and included amongst the items was the sum of \$300, correct?

---Yeah, I couldn't, yeah.

I think you mentioned, didn't you, in the audio that we heard there that there was \$300 in there. Does that sound correct?---Yeah, I couldn't hear that bit, I could hear like a T-shirt and some CDs and that but I didn't actually hear that bit clear.

10

THE COMMISSIONER: Do you have a transcript?

MR PIKE: We do have a transcript, perhaps that could be shown to Ms XXXXX?---Oh no, that's okay. I trust your word for it.

THE COMMISSIONER: No (not transcribable).

MR PIKE: Out of fairness, Ms XXXXX, I just want to show you a transcript?---(not transcribable) from \$1,000 money that I gave him and under so - - -

20

I don't want to be difficult about this, I just want to - - -?---No, that's all right.

- - - get your agreement with the words that I think we heard you say. So you should see on the screen in front of you a transcript that's been prepared of the audio that we heard there?---Yeah.

And you'll see the second last entry, "300 bucks in there as well." Do you see that?---Yeah.

30

Does that sound correct?---Yes.

Commissioner, I do propose to tender - - -

THE COMMISSIONER: Yes.

MR PIKE: - - - both the video and the, the video which includes the audio as well as the transcript.

40

THE COMMISSIONER: Right. How do I describe it, Mr Pike?

MR PIKE: You would describe the video as video or surveillance footage of a meeting on 25 November, 2009 between Ms XXXXX and the correctional officer.

THE COMMISSIONER: All right. The surveillance footage as described by Mr Pike is Exhibit 1.

**#EXHIBIT 1 - EXHIBIT 1 -VIDEO SURVEILLANCE FOOTAGE OF
25 NOV 2009 XXXXX & WADE**

THE COMMISSIONER: The transcript of a conversation between
Ms XXXXX and the driver of the car, of the - - -

10 MR PIKE: The four-wheel, a four-wheel drive.

THE COMMISSIONER: - - - of the four-wheel drive shown in that
surveillance footage is Exhibit 2.

**#EXHIBIT 2 – TRANSCRIPT OF CONVERSATION BETWEEN
XXXXX & WADE**

20 MR PIKE: Thank you, Commissioner.

Now, I think you said earlier, Ms XXXXX, that you do not know the name
of the correctional officer?---That's correct.

All right. I just want to show you a photograph now if I may?---Yeah.

This should come up on the screen in front of you in a moment?---Yeah,
I've seen this all before when I came in the first time.

30 Okay. Would you please just have a look at that photograph.

THE COMMISSIONER: I just want to explain, I know it might be tiresome
for you and I understand that but I think the point of it is that there are, there
are lawyers for other people involved and they have, what you said before
was private - - -?---Yeah.

- - - so they have to, and the public has to see, has to see and hear your
evidence?---Ah hmm.

40 That's the reason for doing it?---Okay.

MR PIKE: Do you see that photograph in front of you, Ms XXXXX?
---Yes, I do.

Is that the correctional officer that you met with?---Yes, yes, yeah.

I tender that.

THE COMMISSIONER: Right.

MR PIKE: It should be described as a photograph of Sebastian Wade taken by the police on 25 January, 2010.

THE COMMISSIONER: What date was that, Mr Pike?

MR PIKE: 25 January, 2010.

10

THE COMMISSIONER: The photograph of Sebastian Wade taken 25 January, 2010 is Exhibit 3.

#EXHIBIT 3 – PHOTOGRAPH OF SEBASTIAN WADE TAKEN BY POLICE 25 JANUARY 2010

MR PIKE: Now, do you recall Ms XXXXX, that in addition to I think the
20 items that you, well, we heard you say on the audio, that on that occasion you also gave the correctional officer some tablets? Do you recall that?---
No.

Now, can we take it that prior to that meeting you had a discussion with your brother in which he asked you to get certain items, is that correct?
---That's correct.

All right.

30 THE COMMISSIONER: I think that, Mr Pike, the Commission has no interest in, in, in having, causing any proceedings to be taken against Ms XXXXX's brother.

MR PIKE: Yes, yes.

THE COMMISSIONER: So you understand that, Ms XXXXX, do you? Nothing in what you say to the Commission will be used by the Commission to cause any complaints to be made against your brother or any proceedings to be taken against your brother?---Yeah.

40

MR PIKE: All right. I just, I just want to play you now an audio of a telephone intercept so if you would just for the moment just listen to it - -
-?---Yes.

- - - and I'll stop it at a certain stage?---Okay.

So if you would listen to it, please.

And is it your recollection that you did in fact give the tablets to the correctional officer?---Yes.

All right. And then it was also said, "And he's going to give me a charger as well as some meat". Do you recall that?---Oh, what XXX said, yeah.

Yes?---Yep.

10 And so as far as you understood it, XXX thought that the correctional officer was going to give him a mobile phone charger, correct?---Yes.

All right. But you didn't hand over to the correctional officer any mobile phone charger, did you?---No.

All right. And you also understood that the prison officer was to give a bottle of alcohol to your brother, correct?---Yep.

Which was vodka?---Yes.

20 All right, but you didn't hand over to the correctional officer any vodka? ---No.

I just want to play you another audio of a telephone intercept from the same day, Ms XXXXX, so 24 November.

TELEPHONE RECORDING PLAYED [11.04am]

30 MR PIKE: Sorry, Ms XXXXX, that was the same call that we had before.

THE COMMISSIONER: Can you reduce the volume slightly?

MR PIKE: I'm sure we will.

TELEPHONE RECORDING PLAYED [11.04am]

40 MR PIKE: We'll just stop it there. Do you agree again, Ms XXXXX, that that is you speaking to - - -?---Yes.

- - - your brother on the, on the mobile telephone?---Yes.

All right. Now again I want you to assume that this is taken the day before the Wednesday that we have seen - - -?---Okay.

All right. I'm just going to play you another extract which I'll just ask you to listen to carefully please.

TELEPHONE RECORDING PLAYED

[11.05am]

10 MR PIKE: We'll just stop it there. And if you need to see a transcript we can provide you with a transcript, Ms XXXXX, but do you agree that during that call you said to your brother that, "I don't have his number. You told me to delete it". Do you recall that?---Yes.

All right. Now, so was it shortly prior to this phone call that the Correctional Services officer asked you to delete his phone number?
---Correct. It'd probably be in that week or a couple of weeks before.

Okay?---Yep.

20 And do you agree that what is occurring on this phone call is your brother is telling you that he wants you to go and meet with a Correctional Services officer tomorrow morning?----Yeah, that's right.

And you understood that that would be for the purposes of giving some items - - -?---Yes.

- - - to be taken in?---Yes.

30 All right. I just want to play on for a moment so would you please just listen to it.

TELEPHONE RECORDING PLAYED

[11.07am]

MR PIKE: All right. I just want to stop it there. Just the last bit of that phone call, Ms XXXXX, you said to your brother, "How many times have I gone and seen the cunt? I've seen him, like, five times already." Do you recall that?---Yes.

40 All right. So is it reasonable to assume then that your recollection, as at November, 2009, was that you'd previously seen this correctional officer about five times before?---Yeah, that was roughly what I said, yep.

All right, and so the next day would be the sixth occasion, does that sound correct?---I'm not too sure.

All right. And do you agree that what was being discussed on the telephone call was the \$300, correct?---Yes.

Tablets?---Yes.

Which was what you were to give to the correctional officer, correct?---Yes.

A T-shirt?---Ah hmm.

Is that correct?---Yes.

10 And then as far as your brother was aware, the correctional officer was also to give to him a mobile phone charger?---Yes.

Because the one that your brother had had broken, correct?---Yes.

Some steak?---Yes.

And then a bottle of vodka?---Yes.

20 All right. Now, just in relation to the mobile phone that your brother had access to in the prison. Do you have any knowledge as to how he came to get that phone?---No, I don't.

All right. Were you ever involved in providing it to someone to be brought in?---Not that I am aware of.

All right. Did - - -?---I know that I did take some things in but I'm, I'm not a hundred per cent sure that I took a phone in.

30 Okay. So is it your evidence that you never knowingly took a phone in?
---that's correct.

Never knowingly gave a phone to someone to take in?---That's correct.

But because some of the items were wrapped up and you could not see what was in them - - -?---Yes.

- - - you can't deny that one of those items may have been a phone, is that correct?---Possibly, yep.

40 Now, just back on the last call and the reference to tablets?---Ah hmm.

Do you recall that?---Yes.

What were those tablets as far as you're aware?---I'm not too sure. Just all I knew that, that they were tablets.

And where did you get the tablets from?---I just them up.

Where did you pick them up from?---Not too far away from where I live.

All right. Was that at a person's house that you picked them up from?---No, just in the street.

Did you meet someone to get them?---Yes.

Who was that person, and again we have no interest in proceeding against that person. I'm just trying to understand who it was you got them from?
10 ---One of XXX mates.

All right. Is that, what's the name of that person, if you - - -?---I'm not too sure.

How did you know that person? What did you know them as?---One of XXXXX's mates.

You didn't know their name at all?---No.

20 And did your brother tell you to go and meet them to get the tablets, is that correct?---Yes.

And did you suspect at the time that those tablets were some form of drugs?---I'm not too sure. I didn't know what they were.

THE COMMISSIONER: They were not likely to be anything else, were they?---Pardon?

30 They were not likely to be anything else, were they?---No. They were tablets but I don't know what sort of tablets they were.

You didn't know what kind of drugs they were?---Yeah.

But you thought they were drugs?---I know, I just know that they were tablets. I didn't know they were drugs or - - -

But they weren't aspirin?---No, they weren't aspirins.

40 MR PIKE: I just want to ask you again, if I could, to see if you can remember when it was that your brother started ringing you on the mobile phone?---I'm not too sure, to be honest. I really don't know dates and all that stuff.

Well, we know from the phone call that I've just played to you that - - -?
---Yeah.

- - - that there are at least five previous occasions that you'd met with Mr Wade?---Yes.

Or the Correctional Services officer, correct?---Yes.

Is it your recollection that prior to each of those five previous occasions there was a phone call from your brother on the mobile phone asking you to do certain things?---Yes.

All right. Do you recall how soon after he moved into the John Morony Centre - - -?---Yes.

10

- - - that he asked you to do these things?---It wasn't, like, a short time. Like it, a month, I don't know, I don't know. I really don't know what, I know he was there for a while and I just visited every second weekend. I - - -

Could it have been as long as six months prior to November?---I'm not too sure.

20

You're just not able to recall?---I just, yeah, I can't tell you a date.

Now, do you recall or did you communicate with the Corrective Services officer? I think you said this previously, but by way of SMS, is that correct?---Yes.

Did you ever speak to that officer?---Occasionally.

Do you have any recollection now of that officer's number? I think you said he told you to delete it. Do you recall what it was?---No. No.

30

All right. Does the number XXXXXX, sorry, XXXXXXXX, is that a number that you're familiar with?---When I get numbers I just save them in my phone as, you know, I don't, I don't know anybody's number off by heart except for my mum's probably - - -

THE COMMISSIONER: You can't remember?---Yep, I can't remember.

MR PIKE: Do you recall how, how frequently you SMS'd the Corrective Services officer?---Only when we were supposed to meet.

40

And that was generally to arrange meeting times?---That's correct, yeah.

But it was always at the same place, is that correct?---Yes.

Now, did you ever yourself make any threats to this Corrective Services officer?---No, I didn't.

And as far as you're aware were any threats ever made by or on behalf of your brother to that Corrective Services - - -?---Not that I'm aware of.

All right. To your observation in dealing with the Corrective Services officer - - -?---Yep.

- - - he didn't appear to be acting under any form of duress or threat?---No.

And he appeared to be doing what he was doing willingly, is it that correct?---Yes.

10 Now, have you ever had any involvement in any attempts to bring a firearm into the John Morony Correctional Centre?---No.

Are you ever, are you aware of your brother ever having any involvement in (not transcribable)?---No.

Now, on each of the occasions that you met with the Corrective Services officer at the Shell Service Station, was that for the purposes of handing over items to be taken in?---Yes.

20 You didn't meet with him for any other purpose, I take it?---No.

You had no other reason to meet with him?---No.

And similarly, you had no other reason to send him text messages or speak to him - - -?---That's correct.

- - - other than for the purposes of arranging to meeting with him?---Yes, yep.

30 THE COMMISSIONER: You had no reason to give him any package unless, other than to help your brother in the way he asked you to?---Yes.

MR PIKE: And you were aware, were you not, that the packages that you were giving were packages that could not be brought into the prison - - -?---Yes.

- - - in the ordinary course, correct?---Yes.

40 So they were some form of contraband or something like that?---Or, yeah, illegal.

Drugs or - - -

THE COMMISSIONER: Illegal - - - -?---Illegal things, yeah.

MR PIKE: All right. Pardon me, Mr Commissioner, just one moment.

And just to confirm, I think you've already given this evidence, Ms XXXXX, but on each occasion you handed over a package or at least one package as well as some money, correct?---Yes.

And on each occasion is it your recollection that at least one of the packages was wrapped up so you couldn't see what was in it?---Yes.

10 All right. And so it's likely, is it not, that on each of the occasions that you visited, at least one of the packages was something that you didn't know what it was, correct?---Yeah, yes.

And it could, and it could've been drugs, could it?---Yes.

Now, are you aware of whether your brother is a drugs user whilst he's in prison?---Not that I'm aware of.

What about steroid user whilst he's in prison?---Not that I'm aware of.

20 And as far as you're aware, the items that he had asked you to give to the Corrective Services officer to bring in were items that he was going to use for his own person use, is that correct, or you don't know?---I'm not too sure.

Did he ever have any telephone discussions with you where he appeared to be affected by drugs?---No.

That's all I have for this witness, Mr Commissioner.

30 THE COMMISSIONER: Yes. I'll ask you last, Mr King. Are there any, any counsel who wish to cross-examine?

MR RUSSELL: Commissioner, I'd just seek some time, if I could, to get some instructions.

THE COMMISSIONER: I expect people to be ready.

MR RUSSELL: Well, we weren't aware of this witness's evidence until today so how can I get instructions on material I'm not aware of?

40 THE COMMISSIONER: That's how it works. I'll give you time. How long, how long do you need?

MR RUSSELL: Well, I note the time, Commissioner.

THE COMMISSIONER: I'm not going to adjourn.

MR RUSSELL: Five minutes, something like that. Is that sufficient time, five minutes would be sufficient.

THE COMMISSIONER: I'll see, you'll get your time, I just want to see what other people want to question her. Does anyone else want to question the witness?

MR OATES: No, Commissioner.

THE COMMISSIONER: All right. I'll adjourn for 10 minutes, that will give you time.

10

SHORT ADJOURNMENT

[11.21am]

THE COMMISSIONER: Do you wish to tender some documents?

MR PIKE: I do wish to tender some documents just for the, well, some documents and some audio, Mr Commissioner. There's the - - -

20 THE COMMISSIONER: Yes. On the XXXXXch there's a letter.

MR PIKE: Yes.

THE COMMISSIONER: Is that right?

MR PIKE: That's correct.

THE COMMISSIONER: All right. The audio of a phone call of 24 November, 2009 at 21.55 is Exhibit 4.

30

#EXHIBIT 4 - AUDIO TELEPHONE INTERCEPT OF Z XXXXX AND XXXXXXXXXXXX ON 24 NOVEMBER 2009 AT 22:32:37

THE COMMISSIONER: The transcript of that audio is Exhibit 5.

#EXHIBIT 5 - TRANSCRIPT OF TELEPHONE INTERCEPT OF XXXXXX AND XXXX XXXXX ON 24 NOVEMBER 2009 At 22:32:37

40

THE COMMISSIONER: The audio of the call of 24 November, 2009 at 22.32.37 is Exhibit 6.

**#EXHIBIT 6 – AUDIO TELEPHONE INTERCEPT OF X XXXXX
AND XXX XXXXX ON 24 NOVEMBER 2009 AT 21:55:00**

THE COMMISSIONER: The transcript of that audio is Exhibit 7.

**#EXHIBIT 7 – TRANSCRIPT OF TELEPHONE INTERCEPT OF
XXXXXX AND XXXX XXXXX ON 24 NOVEMBER 2009 AT 21:55:00**

10

THE COMMISSIONER: That will do?

MR PIKE: Yes. Thank you, Mr Commissioner.

THE COMMISSIONER: Yes, thank you. Now, the questioning, have you had enough time?

20

MR RUSSELL: Yes, thank you. No questions.

THE COMMISSIONER: No questions. Ms David?

MS DAVID: Sorry, no, no.

THE COMMISSIONER: No. So no questions. So may - - -

MR OATES: I have a couple of questions, if you please, Commissioner.

30

THE COMMISSIONER: Yes. Ms XXXXX would you mind returning to the witness box, please. Just a moment, please. Yes, Mr Oates.

MR OATES: Thank you, Commissioner. Ms XXXXX, do you recall today being shown a video of a meeting effectively between you and the prison officer?---Yes.

And then you were shown a transcript of the conversation?---Yes.

Do you recall that transcript?---Yes.

40

In that transcript the prison officer says, "What's going on?" You said, "That was good timing." And then the prison officer laughed?---Yes.

Did it strike you that he was in a reasonably good mood by virtue of the fact that he had a laugh with you?---Yes.

And your meetings with him were they always conducted on this cordial, pleasant basis?---Yes.

Did he ever seem to be stressed when he met you?---No.

Is it the case that you on at least one occasion received a text message from the prison officer suggesting that you have coffee?---Yes.

Did that confuse you at all?---Yes.

10

Did you then communicate with him asking him on what basis he'd sent you the text message?---Yes.

Did he telephone you?---Yeah, he, he rang and explained what it was about or in a text message, I can't recall, but - - -

What did he say to you essentially about why he'd sent you a text message suggesting coffee?---He just mentioned that when he says that it's like we're going to meet, you know, at the same place the same time again.

20

Right. And was there a purpose for him suggesting that it was a coffee meet rather than something else?---Pardon?

Did he tell you why he said, used the word meeting for coffee rather than some other pretext for the meeting?---Yes.

What did he say to you?---Oh, no, he, he just mentioned that and sometimes he'd just say, you know, we have to meet at this place, this time.

30

Did he ever say to you something along the lines that that would throw people off the track or disguise the true cause of our meetings?---Something along those lines, yes.

Nothing further, Commissioner.

THE COMMISSIONER: Yes, thank you. Any further questions arising out of that? No.

MR PIKE: No, Mr Commissioner.

40

THE COMMISSIONER: Mr Pike, may Ms XXXXX be - - -

MR PIKE: Yes, please, Commissioner.

THE COMMISSIONER: Thank you for your evidence, Ms XXXXX?
---Thank you.

THE WITNESS EXCUSED

[11.43am]

MR PIKE: The next witness, Mr Commissioner, is XXXXX. So I call XXXXX.

THE COMMISSIONER: Mr Pike, the assurance (not transcribable) the assurance that I've given to the witnesses - - -

10 MR PIKE: Yes.

THE COMMISSIONER: - - - make sure you give it to all of them who you think that's appropriate.

MR PIKE: I will make that clear, Mr Commissioner.

THE COMMISSIONER: Yes. Now Mr King, you're appearing for Ms XXXXX.

20 MR KING: I am.

THE COMMISSIONER: Do you wish me to make a section 38 order?

MR KING: She seeks a declaration, yes, Mr Commissioner.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Ms XXXXX and all documents and things produced by her during the course of today's hearing are to be regarded as having been given or produced on
30 objection and accordingly there is no need for her to make objection in respect of any particular answer given or document or thing produced. This order is for the duration of Ms XXX' evidence today. If she is required to return to give evidence on other days and wishes to avail herself of the protection of such an order she'll have to apply for another order.

Do you wish to give your evidence under oath Ms XXXX or do you wish to affirm?

40 MS XXXXX: I'll affirm, thank you.

THE COMMISSIONER: Yes, Mr Pike.

MR PIKE: Would you, would you please tell the Commission your full name?---Miss XXXX XXXXX.

10 Your, your occupation please?---Bank manager, like a mobile lender.

Right. Your date of birth, please?---XXXXXX.

And you previously told the Commission your address. Is that correct?
---Yes, sir, yes.

All right. And so who are you currently employed by, Ms XXXXX?
---XXXXXX.

20 For how long have you been employed?---Since XXXX.

And what is your position?---Mobile lending manager, like a mobile banking manager for home loans.

All right. Now, in your role at XXXXX do you have a, a vehicle provide by your employer?---Yes, I do. It's got XXXXX stickers all over it.

All right. And what, what sort of car is it?---It's a XXXXXXX.

30 All right. And have you had that vehicle since commencing employment, I think you said XXXX?---Yes, I have.

All right. Prior to that time did you own a motor vehicle?---Not for, not for a while.

All right. Did you, did you have the use of a motor vehicle prior to that time?---Yes, I did.

40 Right. What, what motor vehicle was that you had the use of?---I occasionally had the use of a black XXXX.

And that's a sedan, is that correct?---No, no, it's a coupe.

Right?---A two-door coupe.

All right. Are you aware of what the registration number is of your work vehicle?---I'm sure you have it, I could probably, it's A-V something, I don't know exactly what it was but I know it starts with A.

Right?---Sorry.

That's all right. Now, do you have a mobile telephone provided by XXXX?---Yes, sir, I do.

And again did you have that mobile phone from day 1, being 12 October, 2009?---I believe so, yes, if it wasn't that day it was the following day so it was very soon around there.

10 And what was the, what's the, what's the phone number of that mobile phone, please?---XXXXXXXXXX.

All right. In addition to a work provided mobile phone, do you have a personal mobile phone?---I have the use of a personal mobile phone that's been lent to me, yes.

For how long have you had the use of that mobile phone?---About, about a year, a year and a half.

20 All right. So at least throughout 2009?---Oh, yes, definitely, absolutely.

All right. And what, what is the number of that mobile phone, please? ---XXXXXXXXXX

All right. I just want to ask you some questions now in relation to your association with a man by the name of XXXXXX?---Sure.

You know of a man by the name of XXXXXX, correct?---Yes, I do.

30 When did you first meet him?---I believe it was around 2005.

In what circumstances?---He, he actually went to kindergarten with my ex-husband who I'm, well, he's still my husband but we're in the middle of divorcing but he went to kindergarten with him and I also met him through a mutual friend by the name of, at a birthday party for XXXX who I believe is his co-something, co-defendant or something in his - - -

Co-offender?---Co-offender, sorry, sorry, co-offender, yes.

40 Could you just spell the surname of that person's name that you mentioned? ---Which one?

XXXXXXXX, I believe, I think it's XXXXXX, I imagine, XXXXXX, something like that.

Okay. Now, you're aware that, well, how would you describe your relationship with Mr XXXXXX?---Oh, friendly. I hadn't seen him for some years. We went to gaol and then I had been overseas for a few years and

then when I came back he'd contacted me quite randomly on the telephone. He'd got my telephone number from somebody and we kind of reconnected and he, he was a good listener and a good friend to me in a, in a hard time.

Mr Commissioner, I, it probably is appropriate that a suppression order is made in respect of the name of Mr XXXX.

10 THE COMMISSIONER: Yes, very well. The suppression order that I previously made in relation to a number of witnesses applies also to XXXXX. What is his first name?---XXX, I'm not sure if it's XXXXX

XXX?---I don't know if it's XXX.

It applies on the same terms.

20 **THE SUPPRESSION ORDER THAT I PREVIOUSLY MADE IN RELATION TO A NUMBER OF WITNESSES APPLIES ALSO TO MR XXXXXXXX.**

MR PIKE: Thank you, Commissioner. You are aware, are you not, Ms XXXXX, that Mr XXXXX is currently serving a custodial sentence for serious drug supply offences?---Very much aware of that, yes.

Now I just want to ask you some questions - - -?---Ah hmm.

- - - if I may, in relation to you visiting Mr XXXXX and - - -?---Sure.

30 - - - your communications with Mr XXXXX and can I just make it perfectly clear at the outset, Ms XXXXX, that this Commission is not interested in what you may or may not have done or, and it is not interested in laying any charges against you or Mr XXXXX or anybody like that?---Okay, thank you.

All right. Now, have you visited Mr XXXXX in prison?---Yes.

40 All right. For a period, are you aware of what correctional facility he is currently at?---John Morony 1 or 2, it's John Morony something.

All right. Now, whilst he's been at John Morony, how often did you visit him?---I tried to visit him when I got back, when we got back in touch as, as much as I could, as often as I could. Sometimes it was every week, sometimes I'd miss a visit or, you know, if I didn't have time or I couldn't get a visit but as often as I could.

And when did those visits commence, as best as you can recall?---When did I get back? I get back from overseas I believe in around May, May, June, so

I would say, and I can't say for sure, but I would say probably somewhere around July or something like that.

And that is July of last year, is that correct?---I believe so, yes. I think so yeah, but I'm sure you'd have the records.

10 Now, in addition to visiting Mr XXXXX, you also maintain telephone contact with him, is that correct?---He would call me sometimes every day for periods of time, sometimes every few days but he would call me really quite frequently.

But did those phone calls commence at or about the same time as you started visiting Mr XXXXX in about July of last year?---I'd say so, yes, because I was away, like I said before that, I was overseas so when I came back and he did call me it was pretty soon after that that I went and visited him, as I recall.

20 Okay. Now, the phone calls that you received from Mr XXXXX, they were on occasions, were they not, on official gaol phones, is that correct?---I believe mostly. I think occasionally he called me and said, "I'll call you back in a second" and then he'd call me and I didn't get the recording before and then he'd say hello, oh, hello.

And you knew when that occurred that he was ringing on some other phone that he had access to?---I would guess he would have a mobile phone in the call.

30 Now, are you aware of when Mr XXXXX started calling you on the mobile phone?---I'm aware, sorry/

Are you aware of when the phone calls - - -?---From the other phone?

- - - from the other phone started?---I think, I believe it was later on. It wasn't, in the beginning it was only the gaol phone for a long time, for months I believe, and then it wasn't until probably around maybe October, November, something like that.

Of last year?---I believe so, yeah, but I'm sure again you have it in records.

40 And how regularly did he speak to you on the mobile phone?---On, on not the gaol phone?

Yes?---I definitely remember at least twice.

Yes?---I think possibly could've been more but I definitely remember two specific conversations where he called me to chase up basically about me, wanting me to go and see somebody and give something to them.

Well, I'll ask you about that in a moment?---Sure.

Just on these phone calls. Did you ever discuss with him how he, how he was able to get access to that phone?---No, it's not something I really went into in, went into with him.

Did he ever tell you how it was that the phone came to be brought into the gaol?---No, but I'm not silly. I know that they get all sorts of things in there.

10

But he never told you who - - -?---He never sat down and had a discussion with me and told me who gave it to him or where it came from, no.

Now, in addition to having phone conversations with Mr XXXXX, did you also have text or did you also send text messages to him from time to time? ---Not that I, no, I never sent messages to him.

20

You don't ever recall sending at least one text message to Mr XXXXX on - - -?---I don't recall, I don't recall, no, sorry. I'm sure you would have it if I did but I don't recall sending it.

30

Now, I think you mentioned earlier that you were asked at some point in time by Mr XXXXX to pick up some things from someone and give them to a Correctional Officer, is that correct?---I was asked by Mr XXXXX to go and see his mother, XXXXX, in XXXXX, opposite the XXXXX where she lives in a block of units, to pick up some, a sum of money because, and the, the reason he'd given me at the time was that his sister, XXXXX, had apparently taken about \$1,200 that somebody had given to his mother to hang onto and spent it so he asked me if I could go and pick up \$600 from his mother and hold onto it. That was the initial conversation that I had with him. It then progressed to requiring me and requesting of me to do other things and go and see two separate people which I felt obligated to do and I, in hindsight, should've probably given the money back and said no, so - - -

Okay, well, I'll just ask you some questions about that in a moment. Mr Commissioner, it's probably appropriate also that the suppression order extends to XXXXX.

40

THE COMMISSIONER: Yes, the suppression order will extend to XXXXX in the same terms.

MR PIKE: And also the sister I think, which was XXXXX.

THE WITNESS: Yeah, sorry, would you rather I don't say names? It's that I don't know how this works, sorry.

THE COMMISSIONER: You can say names. We will just stop it?---Okay, sorry.

It might help people to know who you're talking about?---Okay.

In other words - - -?---Sure.

- - - people (not transcribable) representing - - -?---Okay.

- - - those who are at risk in this inquiry would like to know?---Sure.

10 It's XXXX XXXXX and XXXXX?---XXXXXX.

Sorry, I beg your pardon. XXXXXXX?---XXXXXX is Mrs XXXXX, XXX mother.

So that the two names - - -?---And XXXXX is his sister.

All right. So the suppression order in the same terms as previously made applies to XXXX and XXXXX.

20

**THE SUPPRESSION ORDER IN THE SAME TERMS AS
PREVIOUSLY MADE APPLIES TO XXXXXX AND XXXXXX**

MR PIKE: Thank you, Commissioner.

Now, can I just, do you recall now when it was that XXXX asked you to go and pick the money up from his mother?---It could've been September but it could've been October as well. I really can't give you the exact date. I'm
30 very sorry. But it's around that time.

Now, you subsequently, the end of the events is you, you going and meeting a correctional officer at Windsor, is that correct?---I believe so, yes, at the end of it, yes, I found this correctional officer, yes.

How, can I just do this, how, how long prior to that final meeting - - -?---Ah
hmm.

- - - was it that you got the initial request to - - -?---It was some time. It was
40 some time. It was, when he asked me to do it, to pick the money up from his mother and I said sure, no problem, and then it extended to can you go and see someone else. And it started with XXXX and it turns out his name I believe is XXXXX, who's the gentleman who gave me the little red thing to, to then and I had to go, so, and I kind of felt a bit off about the whole thing at that point and I held off from going and seeing anybody for about, I think it was about six or seven weeks. And that was the time in which XXXX would call me from the gaol phone and from, I believe once from the other phone saying, you know, I really need you to go and drop that

money off 'cause I owe it to somebody and I'm going to get in trouble. And I kind of went, okay, and that's when I, so it was about, about six or, I think about six weeks in between the initial to the actual meeting at the Shell Service Station where I saw the man that is the big man.

All right. Now, once you picked up the money - - -?---Ah hmm.

10 - - - you said you held onto it for some period of time, is that correct?---
About six weeks or so, I, I, I, that's what I, it, it was a long time, it was weeks. Could've been four weeks, could've been six weeks but it wasn't, you know, days.

And, and did, did XXXXX say to you what he wanted you to do with the money?---Yes, he wanted me to give part of the money to the man with the name B, XXXXX, and then part of the money to the second man who I didn't know his name but his friend, his said, and that's the man, the, I believe the correctional officer.

20 All right. So he, he, how did you get in contact with XXXXX?---I was given a telephone number by XXXXX and called him and I said, "I'm a friend of XXXXX's, he's asked me to come and see you, are you free, you know, Tuesday, Wednesday, when are you free?" And we proceeded to go back and forwards about when we were both free and where to meet 'cause I don't know the area very well. I'm from the east so - - -

All right, and so you subsequently arranged to meet up with XXXXX?
---Yes.

30 And then what, you gave XXXXX some money?---Yes.

How much did you give XXXXX?---I gave him about \$150 I think and then I gave him another, no, I think it was about 300 in total.

Yes?---Yes.

And then he gave you what, you said, a red - - -?---He gave me a red, it was like a red thing, that big. Do you want me to describe it to you?

40 If you could, please?---Sure. It was about that big - - -

THE COMMISSIONER: Well, how many centimetres is that about?---So that would be about five, about, I don't know, 10 centimetres, maybe, yeah, about 10 centimetres. And it was a red, it was wrapped completely in electrical tape. I've seen the picture of it.

Ten centimetres long, high?---Well, yes, is that 10 centimetres?

Yes?---Looks about 10, doesn't it? A couple of inches.

MR PIKE: Now, can I, in order to assist you, Ms XXXXX, can I ask you to look at the screen and hopefully a photograph of - - -?---That's it. Well, except for the blue thing. The red thing, that looks exactly like that.

All right?---If you cover the blue thing up.

Yes?---That's it.

10 And if I were suggest to you it was a container that mints or something like that are often stored in when they're sold, is that the sort of - - -?---I don't know. It was wrapped in red electrical tape so, but if you just cover the blue thing - - -

THE COMMISSIONER: Was it the size of a candy bar?---Yeah, would be like the size of a Mars Bar or something.

MR PIKE: And would ordinarily fit within the palm of your hand or may be a bit bigger?---Yeah, yeah, it would, would be from there to there, no
20 bigger than that.

I think the witness has probably indicated about 10 centimetres, Mr Commissioner?---Yeah.

All right. So XXXXX gave you that?---Ah hmm.

You gave XXXXX \$300?---Yes.

30 You were then asked were you to make contact with, I think you referred to the big man?---Yeah, that he was a big man with fuzzy hair.

How did you get in contact with that person?---I'd been given, as I recall, I'm very sorry, I don't have, yeah, I've had a bit of problems with, with, yeah, not being well for a couple of years but, I've a bit of problem with my memory but I do remember that I was given his phone number, I believe, and I called him, not called him, I text messaged him.

40 Yes?---I'd never spoken to him until we met. Never had a conversation with him. We were going back and forth on the text.

Yes?---And I believe he had to go away in the middle of trying to meet him at one point, 'cause I was very busy at that point as well, you know, starting a new job and my job was very busy, I meet a lot of people. So he, he had to go away at one point somewhere for two weeks or something. I think it was a hospital visit or something. Does that make sense? I don't know. Anyway, I recall something about a hospital visit and then he had to go away. And I think XXXXX called me and said such and such, he's got to go away, you know, can you go and drop that money off to him. And I said,

okay, yeah, look I'm trying to but I'm, you know, he's not available, I'm not available, so, we'd been trying to meet but there was a point where he couldn't meet me for a couple of weeks or something.

Does it accord with your recollection that you were trying to arrange a time to meet with the prison officer - - -?---Yes.

- - - at a time when you hadn't picked up the package from XXXXX?---No.

10 All right?---No.

All right. Perhaps I should tender while we're, I tender - - -

THE COMMISSIONER: Yes. (not transcribable) of the red cylinder is Exhibit 8.

#EXHIBIT 8 – PHOTOGRAPH OF RED CYLINDER

20

MR PIKE: Thank you. Now do you recall having a telephone call with XXXXX shortly prior to going and seeing the prison officer where he told you certain things?---I can't remember. I remember having a conversation with him and I think it wasn't, I think he'd called me back, but the time that I remember that he'd said to me, I'll you back in a minute.

Right?---And he'd been quite, putting a lot of pressure, you know, and I felt quite uncomfortable at that point and just wanted it all to be, I didn't feel right about it.

30

I just want to, I just want to play you the audio of - - -?---Sure.

- - - the telephone intercept if I could, please Ms XXXXX?---Sure. Ah
hmm.

And ask you just to listen to it - - -?---Sure.

- - - and then I'll ask you some questions in relation to it?---No problem.

40

TELEPHONE RECORDING PLAYED

[12.02pm]

MR PIKE: All right. So firstly your voice was the female voice on that call?---Definitely.

And Mr XXXXX was the male voice?---Absolutely.

All right. Now I want you to assume that this phone call was on 18 November, 2009?---Yeah, okay.

Okay?---Okay.

And do you agree that what, the first part of the call you indicated you'd been trying to contact somebody?---Yeah. There was another guy that he wanted me to see that I never ended up seeing him.

10 Okay?---And his name was XXXXX and the last hearing that we had, I told the gentleman (not transcribable) gave him XXXXXs number, 'cause I said, look there's another guy that I almost had gone to see 'cause he wanted me to, but I never ended up seeing him. I ended up seeing the big fuzzy man instead, the big, sorry, the big correctional officer one instead.

Did you understand, who did you understand XXX to be?---I believe XXXXX's brother.

All right?---Is that right? From the phone call. Well, that's what he told me anyway.

20 Okay?---So I'd, I've never met him though.

All right. You're being told in this call by XXXXX that you'll go and see, to ring XXXXX?---To ring, no, no to ring, he said to ring XXXX, he's XXXXX's brother.

All right?---Yeah.

30 All right. So you thought you were going, well who do you recall you subsequently rang after this phone call?---I tried to call XXX and then XXX ended up being away and he was unavailable.

Yes?---And I just never ended up seeing him. And then when I saw the man and gave him the money and the red thing and the paprika, after that I didn't go and visit them, 'cause I just didn't feel comfortable about that other thing and I just felt like it was off and it just didn't feel right and I thought you know what, I think this is all wrong, so I just didn't take his calls any more. So I never ended up seeing XXXX. I only saw XXXXX.

40 All right. When, when in relation to this phone call did you see XXXXX? ---Oh, prior, prior to that. It must've been because it was only I believe a few days after that that I, is that right, that I saw, it was around the end of November that I saw the man at the Shell.

Well, I think if I was to suggest to you it was 20 November when you saw the man?---Well, that's two days after isn't it, so if that's the 18th that that call came on, then that's two days after.

All right. And do you recall Mr XXXXX said to you - - -?---Ah hmm.

- - - call him, he should have something and if you can just make sure, if you can pick it up off him - - -?---Ah hmm.

- - - pick it up off him the day before, that way nothing can go wrong, you know?---Yeah. I didn't recall that, but now, it's obvious he said it to me.

All right. But I never ended up seeing XXXX.

10 What did you understand was meant by, that way nothing can go wrong?
---Well, that way it would get to the person it needed to get to, which was his other friend.

Right?---Yeah - - -

No, you go on?---No, I was going to say, well, the correctional officer.

Okay. So you understood at this time that you were at some stage going to see the correctional officer. Correct?---I knew I was going to see a friend
20 his. I didn't know at that time it was a correctional officer. But I know now it's a correctional officer.

And your recollection now is that you at this, the time of this call already had the red package from XXXXX?---Yes. I'd had it for some time. I had actually had it in my possession for some time, so, but I hadn't looked inside of it or anything like that. So I don't, I, yeah, I hadn't opened it up.

I just want to play you, I probably should tender that.

30 THE COMMISSIONER: Yes. The audio of the phone call of 18 November, 2009 is Exhibit 9.

**#EXHIBIT 9 - AUDIO OF INTERCEPTED
TELECOMMUNICATION DATED 18/11/09 17:08 BETWEEN
XXXXX AND XXXXX**

40 MR PIKE: And we do have a transcript of that which I'll also tender.

THE COMMISSIONER: And the transcript of that is Exhibit 10.

**#EXHIBIT 10 - TRANSCRIPT OF INTERCEPTED
TELECOMMUNICATION DATED 18/11/09 BETWEEN XXXXX
AND XXXXX**

MR PIKE: Now you see the telephone number there, so do you recall a telephone number was indicated in that phone call of XXXXXXXXXXXX?
---Okay. Yes.

And it was a number I think that you already had stored in your phone. Do you recall that?---Would it be under XXXXX? I don't, I don't recognise the number, but I'm, I don't know, I gave the number to the police officer gentleman.

10

Do you recall that it was stored under the name XXXXX in your phone?
---No, I don't recall that. But if it was, then I'm sure it was.

All right. And is it possible that you're mistaken that the person that you were going to contact after this phone call was in fact XXXXX?---No, I don't believe so, because it was XXXXX.

Okay. All right. I just want to play you another - - -?---Sure. Yeah.

20

- - - call if I can?---Sure.

Do you recall that the other The phone call that I just played you ended with you saying you were going to speak to somebody?---Ah hmm. Ah hmm.

And XXXXX was going to ring you back. Correct?---Yeah. If you listen to it, he says to call XXXX and he said it's XXXXX's brother, so, it is XXXXX definitely. But I never, yeah, I did talk to him, but I never met with him. He sounded like a very young person, but kind of dopey.

30

All right. All right. Can you then please listen to this audio?---Ah hmm.

TELEPHONE RECORDING PLAYED

[12.08pm]

MR PIKE: Again, do you agree that the female voice is your voice?
---Definitely. Sorry.

40

And the male voice is that of Mr XXXXX. Correct?---Absolutely.

MR PIKE: All right. And is it correct that between the earlier call that I played and
- - -?---Ah hmm.

- - - this call you have spoken to a person?---Yes.

And is that person, you understood that person you'd spoken to was XXXX. Is that correct?---Yes. I recall it was XXXXXbut he was away and I couldn't see him.

Right. And you agree, don't you, that what you said to Mr XXXXX in the conversation that I just played to you- - -?---Ah hmm.

- - - "I've just spoken to him, I'm seeing him tomorrow. All right."---Ah
hmm.

10

So you had arranged, had you, to go and see this other person?---I might have. I don't recall that. All I recall is XXXX telling me that he's away and you can't see him and I ended up not seeing him and I ended up having to go and see the man at the Shell and give him what I had.

Right. O.K. All right. Well, you also asked- - -?---As you can see, I'm quite busy in my day, so my humble apologies, but yes, unfortunately time I think got away from me.

20

Right. So you (not transcribable) the red package?---Yes, sir, I did.

It was then asked, you were asked by Mr XXXXX to get some pepper and chilli.---It actually turned out to be paprika that he wanted, not chilli, so, yeah, so I did get it from Crown Street Convenience Store and I put it in a little package the size of my hand and I did give it to the gentleman, along with the red thing and the \$300.

Right. (not transcribable) the last phone call that I just played, which was the 18 September at, sorry, 18 November at 17.14?

30

THE COMMISSIONER: That's (not transcribable)

MR PIKE: No, I think it's the - - -

THE COMMISSIONER: (not transcribable) Yes, it's the second.

MR PIKE: The second one, Mr Commissioner, sorry.

THE COMMISSIONER: Yes, so it's also the 18th of November.

40

MR PIKE: Yeah, at 17.14 is the best way to identify it, Mr Commissioner.

THE COMMISSIONER: And the first, and exhibit 9 is what time?

MR PIKE: Is at 17.08.

THE COMMISSIONER: And you're tendering a transcript of exhibit 11.

MR PIKE: Yes.

THE COMMISSIONER: Yes. They will be exhibits- - -

MR PIKE: Right.

THE COMMISSIONER: - - - 11 and 12 respectively.

10 **#EXHIBIT 11 - AUDIO OF TELEPHONE INTERCEPT BETWEEN
XXXXX & XXXXX ON 18/11/09 AT 17:14:20**

**#EXHIBIT 12 - TRANSCRIPT OF TELEPHONE INTERCEPT
BETWEEN XXXXX & XXXXX ON 18/11/09 AT 17:14:20**

MR PIKE: Thank you, Mr Commissioner. Is it your recollection, Ms
XXXXX, that shortly prior to meeting up with the correctional officer, you
20 were texting him to arrange the time and place to meet?---Yes, that's
correct, for some time. It went on for weeks actually so there was probably
up to maybe twenty or thirty even text messages going back and forth,
trying to work out, you know, whether he was available, because apparently,
I don't know, he sent me a message once, I think that I recall something
about he can only meet at certain times or something 'cause he's very busy
or whatever and you see I'm very busy as well.

All right. I just want to show you, and I think we'll bring this up on the
screen, firstly some SMS text messages between you - - -?---Ah hmm.

30 - - -and the prison officer I think on the 17th - - -?---Ah hmm.

- - -of November.---Ah hmm.

So if you just watch the screen- - -?---O.K.

- - -hopefully something will come up.---Thank you.

Right. Do you see that in front of you?---Ah hmm. Yeah, that's right.

40 All right. So we have the first, this is on the 17th of November.---Yes.

The first is you- - -?---Me to him. Yes, I understand.

O.K.---(not transcribable)

At least tentative suggesting Thursday.---Yep.

Then he comes back, "It will have to be Friday."---(not transcribable) morning. What's the date on Friday going to be?

The 20th.---It will be the 20th.

(not transcribable)---Is that the day that I saw him? I don't, really, I didn't, sorry, think I was going to be interrogated about it. I don't remember what date it was. It was the Friday, was it?

10 I asked you, yeah. Can you just assume, Ms XXXXX, that you met on the Friday and the Friday was the 20th.---Wonderful. Thank you. Sure. Yeah, that looks, I'm sure that would be me if that's what it is.

O.K. And then the third entry is, "See you Friday morning or afternoon." And his response is - - -?---Morning.

- - - "Morning, 9.30 if we can."---Yes. I recall I saw him in the morning.

Yes.---Yes.

20

All right. And can I then show you the SMS interchange on the 18th - - -? ---Ah hmm.

- - - of November.---(not transcribable) Yes.

This is the day after. You're responding on the first entry, "Sorry, yes we are. Friday morning, Shell servo, at what time, love?"---Yes.

Do you see that?---Yes. 9.30.

30

Given how you've started that text message, is it likely that there was either a text message or a call prior to it asking you from Mr Wade whether Friday was still on?---There might have been a text before, I can't recall, but there definitely wasn't a call. But one thing that I should tell you is that if, on my phone, if you type something it's got predictive text so sometimes it will throw a word in, like sorry, you know, when you're trying to type something and it throws it in, so it might be that that's what it is, or there could have been a text, but there definitely wasn't a telephone call.

40 All right. And then 9.30 on Friday is confirmed.---Yes, yes.

All right. Then I want to show you the, do you recall there being some text interchange on the morning that you in fact met?---Yes, yes.

On the 20th.---Yes.

Can we show you that, please.---I remember that, yes. Yes, there was quite a few because I was trying to get there and I was running a little bit late and, yeah, so- - -

O.K. All right. Well, can you just have a look, if you could, please, at each of those entries.---Yes, yes.

Now, first is from you to him, "See you at 9.30."---Yep.

10 Response, "O.K. Cool."---Ah hmm.

"I'm ten minutes away", he says to you.---Ah hmm.

You say, "I'm thirty away."---Ah hmm.

You then say, "Shell?"---Yep.

20 His response, "Yeah, baby. 9.26. You in wagon?"---Ah, yes. I think that he maybe thought I was in another car or something.

All right.---So he was asking me I think if I was in a wagon. I do remember that actually, yeah.

Can you, are you able to assist me as to why Mr Wade would be asking whether you were in a wagon?---'Cause he's never met me before.

30 O.K. All right. So, all right. And your response is, "No, bank car." Do you see that?---Yes. Well, trust me, when you see my bank car you can't miss it.

Right. And then you tell him you're two minutes away.---Yes.

Right. O.K. And then you subsequently met with this person.---Yes. It was very quick. You'll see how quick it was. It was only a couple of minutes he was in the car.

All right. I just want to show you if I could some- - -?---Sure.

40 - - -surveillance footage.---Yes, sir.

SURVEILLANCE FOOTAGE PLAYED

[12.17]

THE WITNESS: See?

MR PIKE: Right. And do you agree, Ms XXXXX, that the surveillance I've just shown you firstly depicts you sitting in your bank vehicle?---Ah hmm. Yes.

The person who was in the car with you and got out was the correctional officer. Is that correct?---Yes.

All right. And this was at the Shell Service Station at North Richmond. Does that sound correct?---I believe so, yes.

10

In the car park.---Yes.

Right. Now, I think the video that we've just shown then was about a minute and a half.---Ah hmm.

Does that sound about right?---Yeah, I suppose so, whatever you say.

For how long was the gentleman in your vehicle?---Not for long, not, yeah, not for longer than probably a minute, a couple of minutes maximum.

20

O.K. Now, as I understand it you, what did you hand over to that gentleman?---I gave the gentleman the red thing that I described which you have a picture of.

Yes.---I gave him \$300 and I gave him a small thin plastic like a sandwich bag of paprika.

30

Right. Now, was there some conversation between the two of you in the car?---He got in the car and as I recall we just said, you know, hello, how are you, and said, I'm fine, how are you. And I said, "I believe I have some things for you." And he said, "O.K. What have you got?" And I said, "Well, there, I've been asked to give you this. There's \$300, there's the red thing and there's the paprika." And that was really the extent of it. I don't recall what the banter was. He must have been, I don't know, trying to say something funny as he got out of the car or something 'cause he looked quite like he was in a jovial mood and I probably would have retorted with, yes, ha ha ha, and then that's about it. But I don't recall the exact conversation when he was getting out of the car.

40

All right. Now at this time did you have any understanding as to what was in the red container?---No. Not at that time, but I probably thought that it wasn't going to be anything particularly wonderful, I mean, really, why would you give someone an empty canister. There must've been something in it.

Did you suspect that it contained drugs?---I suspected, but I wasn't a hundred per cent sure and I hadn't looked inside, so I couldn't say for sure.

But there must've been something in there. I mean I didn't think it was going to be, you know, fairy floss.

Did you ever ask XXXXX what was - - -?---No, I did not. I didn't really want to know.

All right. Okay. The video then showed you then walking into the service station. Correct?---That's correct.

10 And Mr, and the gentleman driving off?---I believe, I didn't see him drive off, I was inside, so I believe so, yes.

All right. All right. Can I then show you Exhibit 3, please Mr Commissioner, which is a photograph of the gentleman?---Ah hmm.

It'll be brought up on the screen?---Ah hmm. Yes, sir.

Is that a photograph of the person that you met with on 20 November?
---Definitely.

20

All right. For the record that's Exhibit 3 that's being shown, Mr Commissioner. And did you understand at the time you handed over the \$300 that that was the fee that was being paid to the corrective services officer for taking the item in?---I had an inkling. I didn't really, I hadn't had the discussion with him, but I, at that point I was starting to suspect things weren't all that, yes, they should've been.

THE COMMISSIONER: Mr Pike, it may be a convenient time to tender the, the SMS sets.

30

MR PIKE: Yes.

THE COMMISSIONER: And the video footage.

MR PIKE: It may be convenient if the SMS's are tendered as one bundle.

THE COMMISSIONER: Well, the SMS of 17 November will be, the SMS's of 17 November will be Exhibit 13.

40

#EXHIBIT 13 – SMS BETWEEN XXXXX AND WADE ON 17/11/09

THE COMMISSIONER: The SMS as of 18 November will be Exhibit 14.

#EXHIBIT 14 – SMS BETWEEN XXXXX AND WADE ON 18/11/09

THE COMMISSIONER: The SMS's of 20 November will be Exhibit 15.

#EXHIBIT 15 – SMS BETWEEN XXXXX AND WADE ON 20/11/09

THE COMMISSIONER: And the video footage of Ms XXXXX and Mr Wade will be Exhibit 15.

10

MR PIKE: 16, I think, Mr Commissioner.

THE COMMISSIONER: 16. Okay.

#EXHIBIT 16 – VIDEO FOOTAGE OF XXXXX AND WADE ON 20 NOV 2009

20 THE COMMISSIONER: Yes, thank you.

MR PIKE: Now are you aware of XXXXX being a user of drugs whilst in prison?--I would actually have to say absolutely not. XXXXX used to have a very serious drug problem and as I, as far as I know he's been clean for some years. He doesn't even drink alcohol. He hasn't, as long as I've know him, I've never seen him touch a drop. And I've never seen him take a drug.

30 Now, did you observe did you not that the gentleman that you met on 20 November appeared to be in a jovial mood. Correct?--He seemed to be, yeah, very sparkly. He did.

It was your observation he didn't seem to be acting under any duress or anything like that?--Oh, no, definitely not.

All right. Now, are you, did yourself ever make any threats to that person? --Myself?

40 Yes?--No, sir. Absolutely not.

Are you aware of anybody else having made threats to that gentleman? --Absolutely not.

Now is that the only occasion on which you have met, physically met with that gentleman?--That is correct. That's the only occasion. After that I've had zero correspondence or anything with him at all. No text messages, no conversations, no meetings.

Right. And prior to that meeting - - -?---Yes.

- - - apart from the text messaging that you have referred to in order to arrange to meet?---Yes.

Have you had any other dealings with - - -?---Absolutely not.

All right. Have you ever had any dealings with him in, in your professional capacity as a XXXXXX employee?---No, sir. N, sir.

10

Okay. All right. Do you have any knowledge of any attempt to smuggle firearms into the correctional centre?---No, sir, I do not.

That's all I have for this witness, Commissioner.

THE COMMISSIONER: Okay. Any questions?

MR XXXXXX: No questions.

20

THE COMMISSIONER: You don't wish to take instructions?

MR XXXXXX: No.

THE COMMISSIONER: No other questions from any other counsel? No. May Ms XXXXXX be excused?

MR PIKE: Yes, please, Commissioner.

30

THE COMMISSIONER: You are discharged from giving evidence at this (not transcribable)?---Thank you. Thank you very much.

THE WITNESS EXCUSED

[12.25pm]

MR PIKE: The next witness, Mr Commissioner is XXXXXX.

THE COMMISSIONER: Mr XXXXXX.

40

MR PIKE: I call XXXXXX.

THE COMMISSIONER: Be seated Mr XXXXXX. Mr XXXXXX, you may have heard, I've made these orders that have the effect that the evidence given by particular witnesses is under objection and I presume you'd like me to make the same order.

MR ROBINSON: Yes. I've had discussions with Mr XXXXXX.

THE COMMISSIONER: You've had discussions with Mr XXXXX.

MR ROBINSON: Yes.

THE COMMISSIONER: Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by Mr XXXXX and all documents and things produced by him during the course of today's hearing are to be regarded as having been given or produced on objection and accordingly there is no need for Mr XXXXX to make
10 objection in respect of any particular answer given or document or thing produced. And the order is for the duration of Mr XXXXX's evidence today. He's required, if he returns and wishes to avail himself of such an order he'll have to apply again at a later date.

Mr XXXXX would you like to give your evidence under oath?

MR XXXXX: Yes.

THE COMMISSIONER: Would you swear Mr XXXXX in.
20

MR XXXXX: Stand up?

THE COMMISSIONER: Yes, please.

THE COMMISSIONER: Mr Pike, you can, I think mention to Mr XXXXX his position as regards to the Commission's - - -

MR PIKE: Yes. Mr XXXXX, before I ask you some questions, I'll just make it clear that this Commission is not interested in any way, shape or form in laying any charges in respect of you or anybody that you may mention. Our interest is purely in relation to the dealings that you've had with a corrective services officer. Do you understand that?---Yep.

THE COMMISSIONER: And I might say, we're also not interested in your club or any way in which it operates or any person belonging to it. And you are not going to be asked any questions about that?---No worries.

MR PIKE: All right. Would you please tell the Commission your full name?---XXXXX XXXXX.

20 Your current occupation, please?---Unemployed.

And you've previously made your address known to this Commission. Is that correct?---Yes.

All right. Are you also known as XXXXXXX?---Yes.

It may be useful, Mr Commissioner, if a suppression order is also made in respect of the name XXXXXXX.

30 THE COMMISSIONER: Yes. The suppression order previously made applies to XXXXXXX as well.

THE SUPPRESSION ORDER APPLIES TO XXXXXXXX AS WELL

MR PIKE: Now, sir, during 2009 did you have a mobile phone?---Yep.

40 What was the number of that mobile phone if you're aware, sir?---XXXXXXX.

And how long have you had that mobile phone number?---Several years.

Now I asked you some questions about your involvement earlier this year in arranging for certain items to be brought in to the John Morony Correctional Centre. Now firstly, do you know a gentleman by the name of XXXXX?---Yep.

For how long have you known Mr XXXXX?---15 years.

THE COMMISSIONER: And there is a suppression order relating to Mr XXXXX.

MR PIKE: All right. Now as at early or as at January, 2010 as you are aware, he was an inmate at the John Morony Correctional Centre. That's correct?---Sorry? What?

10 As at January of this year, Mr XXXXX was an inmate, as far as you were aware, at the John Morony Correctional Centre?---Before that, I think.

Yes. He went there before that, but as at January, 2010 he was still there? ---January, I don't know. He's under a medical thing, so he goes from gaol to Long Bay gaol pretty frequently for medical, something to do with his heart or something.

But for a time he was at the John Morony Correctional Centre. Correct? ---Well, as of that date, I don't know. I couldn't tell you.

20

Did you, did you visit him at the John Morony Correctional Centre?---Yeah, I visited him, yeah.

On how many occasions did you visit him?---Two or three, three or four.

Okay. What about Mr XXXXX? Do you know that gentleman? ---Yep.

30

How long have you know Mr XXXXXXXX for?---Five years, six years.

And again, you're aware are you not that he's currently serving time? ---Yep.

And earlier this, at least as at earlier this year, he was at the John Morony Correctional Centre?---Yeah.

And you, from time to time, visited him. Is that correct?---Yep.

40

Now, in addition to going out and visiting both Mr XXXXX and Mr XXXXX, did you also have telephone contact with each of those gentlemen?---Yep.

How regularly did you have contact with each?---Yeah, fairly regularly.

You're aware, are you not, that they rang you from time to time on a, what was known to you to be a mobile phone they had in the prison?---Mobile or an office phone or something, yeah.

You're aware, aren't you, when, when some calls are made or official calls are made from correctional facilities, there is a recorded message (not transcribable) ?---That's correct.

You're aware that a number of the calls that you got from both Mr XXXXX and Mr XXXXXX didn't begin with that recording, is that correct?---Yeah.

10 And you were aware, when you got those sorts of calls, that they were coming from another phone which, which those gentlemen had access to?
---Yeah, sometimes I'd be just oblivious to it, I suppose, that they'd be on the phone, but yeah, I suppose so, yeah.

All right. Now, earlier this year you were involved, were you not, in providing some items to a prison officer who you knew as XXXX?---Yeah.

But who you now know as Mr Sebastian Wade, is that correct?---That's correct.

20 And that was bring into the John Morony Correctional Centre certain items, is that correct?---Yep.

And those items had been requested to be brought in by Mr XXXXX, is that correct?---I couldn't be exact with that. If it was Mr XXXXX or not I can't be exact, I don't recall.

If it wasn't Mr XXXXX was it, was the other likely person Mr XXXXX?
---No, I'm not sure. To be, I'd be lying. I don't recall.

30 THE COMMISSIONER: It was some inmate whoever it was?---Yeah, it was, yeah. Who I don't recall.

MR PIKE: Now, do you recall that the person who you knew at the time as Ned came to visit you early one morning at your place?---Yep.

And if I was to suggest to you that that was on 25 January, 2010, does that sound about right?---Wouldn't have a clue.

40 But you gave to XXXXX at that time two black canisters, correct?---That's correct.

A Mount Franklin bottle containing a liquid?---Yep.

Which you knew at the time to be vodka, correct?---Yep.

And a sum of \$500, is that correct?---No.

How much was it you gave Mr - - - -?---\$300.

And you understood that the \$300 was the payment to be received by XXX for taking the items in, correct?---No. When I give it to him he was pretty oblivious to the money so I didn't know, I just give it to him. Didn't know whether it was for me or whether it was for him or what. But I give it to him. He looked oblivious to the money, so I don't know.

All right. Now, where did you get the two black canisters from?---Off another young bloke.

10 Do you know who that person, do you know the name of that person?---I now believe it was, I don't know, from when I was there the other week.

THE COMMISSIONER: XXXXX?---Yeah.

MR PIKE: Mr XXXXX, is that correct?---Yeah, something like that, yeah.

20 Do you recall that, sorry, when you received some of the items from Mr X, were they already in the black canisters, as you can recall it, or not?---Well, since the last time I was here I think when I was here last time I said that I met a bloke in McDonald's car park.

Yes?---He give me them but it wasn't that way after thinking about it. It was the other way around. So me saying that last time I was wrong.

All right. What I want to suggest to you, Mr XXXXX, is that the material that was put into the two canisters, came from two different sources, do you recall that?---Yeah.

30 Part of it came from XXXXX, correct?---Yep, yep.

And the other part came from some people that you didn't know?---No.

Came from, some people gave it to you at the McDonald's car park at Blacktown?---Yep.

Did you know who - - -?---At Blacktown, no.

At Windsor?---Yeah.

40 All right. Did you know who those people were that gave you the material?---No, no.

All right. Did you know which inmates that material was intended for?---No.

But you were aware, were you not, that the material they handed over to you at the McDonald's car park was intended to go into the prison?---Yeah.

Now, when it was handed over to you in the McDonald's car park, was it in the canister?---No, but that's what I did say before. It was in a balloon.

Like a normal party balloon which was orange in colour, is that correct?---I don't even know. You know more than me by the sounds of it.

You then put the balloon into a canister, correct?---No. I opened the balloon and it was in, like, clear plastic or some shit.

10 What was it that was in the clear plastic?---Marijuana.

All right. Did you then put that marijuana into a canister?---Not all of it, no.

Some of it?---Some of it, yeah.

All right. You kept some for yourself, is that correct?---That's correct.

All right. Did you also put a tablet, at least one tablet into the canister?
---No, I didn't.

20

All right. Now, in relation to the items that, or the material that Mr XXXXX or XXXXX gave to you, in what form was that handed over to you?---In two containers wrapped in black tape.

All right. So Mr XXXXX gave you two containers, correct?---Yeah.

Did you then put the marijuana that had been given to you or part of the marijuana that had been given to you at McDonald's at Blacktown or at Windsor into one of those two canisters?---That's correct.

30

And taped it back up?---Yep.

All right. Now, do you recall that, I think you've agreed with me that the corrective officer or Ned turned up on, early one morning, correct?---Yeah. I was asked, it was twice, it was twice.

All right. Well, I just want to ask you about the one occasion, if I could, which I think is the second of the two occasions what I want to suggest to you is about 25 January?---Mmm.

40

This is the occasion on which you handed over the bottle?---Yep.

And the two canisters and the \$300?---Yep.

I just want to ask you about that?---Yep.

Do you recall that was the second time that you'd met the prison officer, do you recall that?---Yeah.

And if I was to suggest to you that there was another occasion about 11 or so days earlier, does that sound about right?---Yeah, something like that.

And that earlier occasion, again, the prisoner officer turned up early one morning and met you at your house, correct?---Yep.

Now, how long do you, I just want to deal with the second occasion, the 25th of January. For how long do you recall either meeting with or talking to Ned at the front of your place?---Only a couple of minutes.

I just want to show you some surveillance footage if I could now, Mr XXXXX, so if you could just watch the footage and then once we've been through that I will ask you some further questions.

VIDEO RECORDING PLAYED

[12.38pm]

20 MR PIKE: I'll just stop it there, Mr XXXXX. Can I just get you to identify firstly that that is out the front of your residential address, is that correct? ---Looks like it.

And that's an address in, in North Richmond, correct?---Yeah.

And do you agree, although you were partly obscured behind the tree, that that's you behind the tree?---More than likely, yeah.

30 And, and that the person who's on the left of the tree as we look at the picture was the, the Corrective Services officer that you met that morning? ---Yeah.

Right. Can we just keep playing it please.

VIDEO RECORDING PLAYED

[12.40pm]

40 MR PIKE: Can we just stop there for a moment. Do you agree, Mr XXXXX, that we can see in the bottom middle of the picture a, a Mt Franklin bottle - - -?---Yeah.

- - - which you handed over to the, the person - - -?---Yeah.

- - - and that prior to that you had also given him the, the two canisters? ---I don't know, yeah, probably.

On that occasion you handed over the two canisters, correct?---I don't know, I can see the bottle.

And you also handed over two canisters, correct?---At the same time I did but I can't see it there.

All right. And you also, during the course of this meeting you also handed over the \$300?---Yeah.

10 Can you keep playing it please.

VIDEO RECORDING PLAYED

[12.41pm]

MR PIKE: All right. Now, Mr XXXXX, you have just watched that surveillance video. Do you agree?---Mmm.

20 And do you agree that it went for nearly eleven minutes?---Something like that.

O.K. And it showed you having a chat with the corrective services officer out the front of your place. Correct?---Yep.

And on occasion, Ned, the corrective services officer, was laughing and joking with you.---Yeah, it looked that way.

30 All right. And to your observation on that occasion he'd didn't appear to be acting under any duress or any threat- - ?---No.

- - - as far as you're aware? That's correct, isn't it?---That's correct.

Now, I just want to show you, if I May, exhibit 3. So have a look at the screen if you could, Mr XXXXX, in a moment, and the photograph should appear. Do you see that photograph?---Yeah.

40 Is that the photograph of the gentleman that you met as depicted in the surveillance video?---Oh, I was shown the picture the other week and I said, no, this bloke looks a bit chubbier in the face, but there's a similarity I suppose.

Right. So are you saying you're unable to identify this person as the person you met?---Oh, well, now I seen the bloke this morning looking like that you can sort of see it but, yeah, but no, when I was first shown it I said no, because he looks a lot fatter in the face there, but it was always night-time when, the times that I met him so - - -

THE COMMISSIONER: You can identify the person I the hearing room, right.---Yeah.

MR PIKE: Right. Is it the person that's sitting in the second-back room with the red- - -?---(not transcribable) but there's another bloke that looks like him who's out holding the camera in the media room too.

10 But is the person that you met, Mr XXXXX, as shown in the surveillance video, sitting in this hearing room?---Oh, I'm pretty sure, yeah.

And is it the gentleman in the red tracksuit top in the second-back road?---Oh, he looks a bit different there again too so- - -

THE COMMISSIONER: Do you know how he got the name Ned?---I basically give it to him 'cause of the number plate on the car I suppose.

The number plate of his car is Ned?---Yeah, I didn't know his name though.

20 No, you didn't know his name but you knew that the, you know that he was called Ned.---Yeah.

And that's the number plate on his car.---Yeah. Well, I seen a similar number plate on another black car that's very similar. That's why it stood out to me, yeah.

MR PIKE: And the earlier car was a black Monaro. Correct?---The number plate I seen before, yeah, was on a black car, yeah.

30 And the number plate's N-E-D-8-8-U or something like that. Is that correct?---Oh, something similar, yeah. I'm sure there's a few of them. It stands out, Ned for Ned Kelly I suppose, that's why it stood out to me.

Now, all right. And I also want to show you some photographs of a - - -

THE COMMISSIONER: Are you tendering that video?

MR PIKE: Yes, I'm sorry, I do tender the video.

40 THE COMMISSIONER: And that's exhibit 17.

#EXHIBIT 17 – VIDEO SURVEILLANCE FOOTAGE OF MEETING BETWEEN MR XXXXX AND NUMBERED 25 JANUARY 2010

THE COMMISSIONER: It's the video of the meeting between Mr XXXXX and Ned. That's right, is it?---Yeah. When I first got to know him, yeah, knew him as Ned, that was it. Didn't know his name.

THE COMMISSIONER: O.K.

MR PIKE: The 25th of January.

THE COMMISSIONER: Yes.

MR PIKE: Can I just show you a photograph now of two canisters, if you could have a look at the screen, please, Mr XXXXX. Do you see those two
10 canisters?---Yep.

Now, at the time that you handed the items over on the 25th of January, do you agree that the items were taped up versions of those two canisters?---
Sorry, what?

What I'm asking you to agree with, do those two canisters, ignoring the blue bits at the top for the moment, do those two canisters look like the canisters that you handed over on the 25th of January?---Oh, yeah.

20 And I think you said earlier that you were involved, were you not, in, sorry. When you got the two canisters from XXXXX, they were all taped up. Correct?---Yeah.

You took the top off one of them. Correct?---Yeah.

And re-taped it up?---Yeah.

Right. And are you aware or do you recall that when you removed the tape from one of them, what was underneath was a blue canister?---By looking at
30 that, yeah.

THE COMMISSIONER: The photo of the two canisters is exhibit 19, Mr Pike.

#EXHIBIT 18 – PHOTOGRAPH OF TWO CANISTERS

MR PIKE: Thank you. Can I then show you another photograph, Mr
40 XXXXX.

THE COMMISSIONER: Sorry, that was 18.

MR PIKE: Now, I appreciate that all, that a number of Mount Franklin water bottles may look the same, but does the picture that I'm showing you now look similar to the bottle that you handed over as depicted in the surveillance before?---Yeah, a similarity, yeah.

I tender that.

THE COMMISSIONER: Yes, that's exhibit 19. A photograph of a water bottle.

#EXHIBIT 19 – PHOTOGRAPH MOUNT FRANKLIN WATER BOTTLE

10

MR PIKE: Now, do you recall how it was that you first came in contact or came to contact Ned?---Oh, no, I think he just called me up and wanted me to meet him or something.

Right. And when he called you up, did you, he obviously said who he was. Is that correct?---Oh, look, I don't recall.

20

All right. Was it, was it your understanding at the time that he contacted you that he'd obviously been contacted by some inmates and told to get in contact with you - - -?---Yeah, something like that.

- - - for the purposes of bringing certain items into the prison?---More than likely, yeah.

Now, I think you said earlier that you, you recall meeting Ned on one previous occasion, do you recall that, giving that evidence?---At me house, yeah.

30

All right. Do you recall meeting Ned on any earlier occasion other than at your house?---Yeah.

All right. And that was at North Richmond, correct?---Yeah.

That was at the Shell Service Station, correct?---No.

Where was that at?---A car park.

40

All right. Where, where is that car park, what's the car park called?---North Richmond.

Sorry?---North Richmond.

North Richmond. Right. And, and what is near the car park if you're able to recall?---Shops.

A shopping centre at North Richmond?---Yeah.

All right. Now - - -?---So the garages and that, you know, shops, garages but it's a car park.

Right. So we've got three, we've got three occasions on which you met Ned, correct?---Yeah.

All right. Taking the first of those, how long prior to the surveillance footage that we've just seen was that meeting?---Sorry, can you say that again?

10

How long before the surveillance footage that we've seen, how long before that was the first meeting you had with Ned?---A couple of weeks.

And then the second meeting, how long between the two other meetings you've identified was it?---Only a couple of weeks as well.

All right. Now, taking the first meeting what occurred at that first meeting at the shops?---I basically just pulled into the car park and met the bloke who was sitting in the car park.

20

Did you hand anything to him?---Yeah, I think so.

Again what you handed to him was some items to be taken into the prison, correct?---Yeah.

You handed him some money?---No.

Right. Are you sure of that?---No, not really. I really can't remember that far back so, yeah, I'm on a wing and a prayer here.

30

Okay. And again, the items that you handed over were they items that you'd been asked by inmates to arrange to be brought into the prison? ---Yeah.

All right. Now, the second, the second occasion which I think is when you said that Ned came to your house - - -?---Yeah.

- - - is it your recollection that he came to your house early one morning? ---Yeah.

40

At a similar time to what's been seen on the video?---Well, I didn't see the time, I don't know.

But 5.30am, something along that line?---Yeah, something like that, yeah.

Now, what occurred on that occasion?---No one had dropped anything off for him so I don't know why he turned up.

Right. And you didn't give anything to him?---Yeah, I did.

Sorry?---Yes, I did.

You did, what did you give to him?---A tiny little bit of a bud, marijuana.

And was that in, packaged in any way?---Oh, yeah, no doubt. I don't know, I don't recall, it could have been in tissue paper, it could have been in foil, I don't know, I don't recall. I know I give him something.

10

Did you give him any money at that time?---No.

Are you sure of that?---Yeah.

All right. So we have, we have two occasions on which you've given, sorry, is this the sum of your evidence, Mr XXXXX, there are three occasions that you met with Ned?---Yeah.

20

Two at your house and one at the shops?---Yeah.

On all three occasions you handed over some items to Mr, sorry, to Ned?---Yeah.

And on one of those occasions you were able to say that you handed over \$300, correct?---That was the last occasion, yeah.

Right. The middle occasion you're, you're saying you didn't hand any money over?---No.

30

And on the first occasion you're not sure?---No, there was no money.

So you're sure - - -?---I've only given him money once and that was it.

All right. Okay. But on all three occasions you're aware that the items that you gave to him were to be taken into the prison, correct?---Yeah, I suppose.

40

And you're aware that he was a Corrective Services officer at the time?---I don't know at that stage if I knew he was an officer at that stage or not, I'm not sure.

Right. You know that, you know that now, don't you?---I did, yeah, yeah, I do now.

THE COMMISSIONER: Mr Pike, is this a convenient time?

MR PIKE: Yes, it probably is, Mr Commissioner.

THE COMMISSIONER: I'll adjourn till 2.00pm.

LUNCHEON ADJOURNMENT

[1.01pm]