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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 WEDNESDAY 28 APRIL 2010

AT 10.17AM

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.

MR PIKE: Mr Commissioner, I think Mr Wade was still in the witness box. I don't think there's any preliminary matters to be dealt with.

THE COMMISSIONER: All right. Mr Wade, would you mind returning to the witness box. Would you mind be (not transcribable).

<SEBASTIAN WADE, on former oath

[10.19am]

10

MR PIKE: Now, Mr Wade, you recall that prior to the adjournment yesterday afternoon I was asking you some questions in relation to the arrangements that were made, that came to you coming to meet Mr XXXX. Do you recall that?---Yes.

And I think, and correct me if I'm wrong, you suggested that it was Mr XXXX - - -?---Yes.

- - - that had told you to go and meet Mr XXXXX?---Yes.

20

And I, I think, in the last few questions before the adjournment yesterday suggested to you that it was Mr XXXX XXXXX that may also have been involved in speaking to you to ask you to go and see Mr XXXXX. Do you recall that question?---Yes.

And I think your answer to it was that you did not recall Mr XXXXX being involved, is that correct?---Yes.

30

Is that still your evidence, that Mr XXXXX was not involved in telling you to talk to Mr XXXXX?---He, he did at one stage.

All right?---And he just asked me to ask Mr XXXXX if he was taking, going up to see his mum and that's the only time anything was ever said.

All right. So you, you, are you saying that Mr XXXXX spoke to you about speaking to Mr XXXXX, is that what you're saying?---Yes.

40

But the word he said to you was that, well, what do you say he said to you? ---Said about going up to his mum's on the weekend. I can't exactly remember what it was a hundred per cent.

But what, can you tell me just to assist me, Mr Wade, as to why Mr XXXXX would be telling you that?---He just said, have you seen, he asked me if he's going up to mum's on the weekend.

All right. So do you deny, do you, that Mr XXXXX spoke to you and told you to speak to Mr XXXXX about arranging for drugs to be brought into the centre?---Yes.

All right. When do you say the conversation that you had with Mr XXXXX occurred?---I couldn't remember.

Well - - -?---This year some time.

Okay. We know you were arrested on 25 January. Are you able to estimate, it was obviously prior to then, is that correct?---Yes.

10 All right. Are you able to estimate how long prior to then it was?---Maybe a week, two weeks.

Once Mr XXXXX had said to you, correct me if I'm wrong, he said to you something like, if you see Mr XXXXX can you ask him if he's going up to see my mum, is that correct?---Yeah, something like that.

What did you then do?---I said, "Yeah, okay".

All right?---And I just walked away.

20

Did you then do anything to contact Mr XXXXX at all or not?---Yeah. I sent him a text message that afternoon.

What did that text message say?---Something along those lines as well. I couldn't be a hundred per cent tell you.

Do you recall having any telephone discussion with Mr XXXXX at all?
---About that?

30 Yes?---No, I don't recall.

And do you agree with me that if, there would've been no reason why Mr XXXXX could not have telephoned Mr XXXXX himself and asked him that matter?---Yep.

Because there was nothing illegal or improper in relation to that communication, do you agree?---I agree.

40 All right. Are you still certain that that was what he asked or that was what he said to you?---Yes.

All right. I just want to play some, an audio of a telephone intercept if I could, so if you would listen to the audio and I think we will also bring the transcript up on the screen in front of you so to the extent you need to, apart from listen, if you want to look at the transcript, do so.

TELEPHONE RECORDING PLAYED

[10.23am]

MR PIKE: Right. So you've listened to that?---Yep.

Do you agree that one of the male voices on there is your voice?---I think so, yeah.

And the other is that of Mr XXXXX. Correct?---Yes.

10 Now you'll see from the transcript that this telephone intercept was on 13 January, at 11.19am. Do you see that?---Yep.

And I think you recall the evidence the evidence you gave yesterday was that you in fact went and saw Mr XXXXX on the 14th, prior to work?---Yes.

Right. Now do you agree that during the course of the telephone discussion you said that you were XXXX's mate?---Yes.

20 And the XXXXX in that converse was Mr XXXXX. Correct?---Yes.

And that you would spoke to him today, that's Mr XXXXX. Correct?---Well, it wasn't, I actually used Mr XXXXX's name 'cause I knew that he would recognise that.

Okay. But you said I actually, and this is on page 2, perhaps we can - - -? ---I so realise what it says, but I'm just explaining why I used XXXX's name.

30 Yes. So that, so that Mr XXXXX would know who you were?---Yes.

Because as you understood it Mr XXXXX, sorry, Mr XXXXX had spoken to Mr XXXXX about you. Correct?---I don't know.

Well, he'd spoken, he'd spoken, you knew that Mr XXXXX had spoken to Mr XXXXX about you and, and he used the name Chevy to refer to you. Correct?---No.

40 You deny that do you?---Yes. It was another inmate that told me to use the word Sheddy.

All right. We'll just have a look at the transcript please Mr Wade and if we need to go back and play the audio, tell me?---Yep.

Now I'll just direct your attention to the bottom of page 1. Half way down you'll see that you're using the word, you used the word Chevy, about half way down?---Yes.

He says, "Who"? You repeat, Chevy. He then says, "Seby" And you say, "Chevy". He then says, "Chevy Chevy." And then down the bottom of the page you said, "XXXXX mate." It then seems to click in, "Ah, XXXXX mate." Do you see that?---Yes.

And then over the page, "Do you remember we met one night?" Do you see that?---Yes.

10 And then from what follows it's obvious isn't it that that's the meeting that we talked about yesterday which occurred in the shopping centre car park at North Richmond?---Yes.

All right. Then Mr XXXXX says, "I do, right, yeah, so I know who it is now." You, "I actually spoke to him today." The him in that context was Mr XXXXX. Correct?---No.

Well who's the him do you say?---Mr XXXXX.

20 All right. Well, do you agree that looking at the words that have been used, XXXXX mate, ah, XXXXX mate. Then you go on to say, "I actually spoke to him today." The natural reading of that is that the him is Mr XXXXX. Do you agree with that?---No.

All right. And that he, I would suggest to you is Mr XXXXX. Do you agree with that?---No.

And that it was Mr XXXXX that had said to you, yeah, tell him it's Chevy? ---No.

30 So you maintain do you that it was Mr XXXXX?---Yes, I do.

See, what I want to suggest to you Mr Wade that it was not only Mr XXXXX that had asked you to contact Mr XXXXX in relation to bringing drugs in, but it was also Mr XXXXX. What do you say in relation to that?--No.

40 All right. And that you knew that the drugs that were, that you were attempting to bring in on 25 January, were at least in part meant for Mr XXXXX. What do you say to that?---No, I did not.

All right. Do you maintain your evidence do you that it was only Mr XXXXX that had spoken to you and told you to speak to Mr XXXXX?---Yes.

All right. And you maintain your evidence do you that the, the drugs that you picked up on 25 January from Mr XXXXX were only intended to be given to Mr XXXXX. Is that correct?---Yes.

All right. And I think I put to you yesterday, out of fairness I'll do it again. You agree you went and saw Mr XXXXX on the 14th of January, correct, the day after this phone call?---Yes.

At 5.30 in the morning?---Yes.

What I want to suggest to you is you in fact picked up some drugs from him at that time?---No.

10 Now, you recall that you were asked some questions yesterday by the commissioner in relation to how you actually got - - -

THE COMMISSIONER: (not transcribable)

MR PIKE: Sorry, I do, I wish to tender the, both the audio and the transcript.

THE COMMISSIONER: The audio recording (not transcribable) 13 January, 2010 and (not transcribable) transcript of the (not transcribable).

20

#EXHIBIT 27 - AUDIO TELEPHONE INTERCEPT BETWEEN MR XXXXX & MR WADE ON 13/1/2010 AT 11:19:56

#EXHIBIT 28 - TRANSCRIPT OF TELEPHONE INTERCEPT BETWEEN MR XXXXX & MR WADE ON 13/1/2010 AT 11:19:56

30 MR PIKE: Yes, sorry, just a couple more questions on the, on the audio and the transcript, Mr Wade. You said in the telephone discussion with Mr XXXXX that you were at work until 2.00. Do you recall that?---Yes.

So do we take it that you started work at 6.00 in the morning?---Yes.

Do you recall, you agree, don't you that you were using your mobile telephone to ring Mr XXXXX for this call?---Yes.

40 Did you actually have that telephone with you inside the correctional centre?---No, I'd gone down the shop for lunch.

All right. So 11.19 was your lunch break, is that correct?---It was between 11.00 and 12.00.

All right. O.K. Now, you recall you were asked some questions yesterday by the Commissioner and I think in relation to how it was that you in fact got the items that you had picked up, how in fact you got them into the prison?---Yeah.

And I think you said that you weren't searched at any stage. Do you recall that?---Yes.

Now, did you have a practice of turning up at the gate immediately prior to your shift starting so that there would not be time for you to be searched?---I used to get there on time, yes, I used to get there at 10.30 or 25 past.

10 All right. But do you recall, sorry, I'll ask, I'll suggest it to you that you in fact had a practice of turning up immediately prior to your shift starting so that if there was any attempt made to search you you would say that you didn't have time because you had to get in for parade. What do you say to that?---I would never say that.

All right. So you deny that you ever had any such practice to that effect? ---It was not a, a practice, something I was doing intentionally.

20 Well, do you ever, do you ever recall anybody requesting that they search you when you arrived for work?---No.

All right. So you just went straight through, is that what happened?---Yes, it was just a walk in.

Was there, was there a metal detector or something like that which is, you walked through?---Yes.

30 All right. And the items that were in your, in a plastic bag, I think, or in a clear bag, did they go through any form of scanner or anything as far as you're aware?---Through the metal detector.

And what, were you holding them at the time?---It was, the bag would be over my shoulder.

Right. And so there was no separate conveyor belt with a scanner or anything like that?---No.

40 Okay. And what, you would just walk in, say hello to whoever was on the gate and then keep going?---Get my keys and walk through and get changed.

All right. Did you, all right. At the time that you started presumably it was a change of shift. Is that correct, generally?---In the mornings, yes.

Okay. And so there generally would be some other officers turning up for work at the same time. Is that correct?---Yes.

And so you would, during your time at, I'm just confining it to John Morony number 1 at the moment, you would during your time have observed other prison guards going through for work, correct?---Yes.

Do you ever recall any of those people being searched?---No. 8 o'clock was about the only time people used to get searched.

And what occurred at 8 o'clock, what shift started then?---8.00 till 4.00, dayshift.

10

All right. I think you said yesterday you either worked 6.00 till - - -?---6.00 till 2.00

Or the other one was 10.30 or something like that?---Yeah.

Till 6.00 or something like that?---Yes.

All right. And was it well-known, amongst prison guards at least, that it was only on the 8 o'clock shift that searches took place?---Pretty well.

20

And why was it, if you know, that it was only on the 8 o'clock shift that searches occurred?---No, I don't know.

Were there different personnel there at 8 o'clock that weren't there at 6 o'clock?---Probably more execs but there was execs, executive officers that started at 6.00 as well.

All right. And was it the practice that those executive officers would wait at the gate while people reported for duty at 6 o'clock?---Yes.

30

And so is it your evidence that those executive officers would have observed that no searching was being done?---Yes.

Right. But were there, were there any additional non-executive people there at 8 o'clock to carry out the searches or who in fact did the searches at 8 o'clock?---The first class that stands in the gate usually does the, the wandering.

40

Yes. And was the searching that, do I take it from your evidence that you on occasion did observe people being searched at 8 o'clock?---Yes.

All right. And what was the extent of that search that you observed?---They just walked through the metal detector and then they'd stand on a box and they'd run the wand over them.

All right. There'd be not patting down or anything like that and I think you said yesterday you never observed any sniffer dogs being used?---No.

All right. All right. Now, you recall that I asked you some questions yesterday in relation to the meeting that you had with Ms XXXXX, I think it was in November 2009?---Yes.

Which was the surveillance footage that we saw while Ms XXXXX was giving evidence. Do you recall that?---Yes.

And that's the one in respect of which there was a listening device and a transcript. Do you recall that?---Yes.

10

And that's a different occasion to the surveillance that I showed you about yesterday where we had the discussion about was is in your hand?---Yes.

All right. So I just want to ask you a couple more questions in relation to the November meeting and I think I suggested to you yesterday that in addition to the items that you picked up from Ms XXXXX, and I think you agreed were to be taken in for XXXXX, I suggest to you that you also took into XXXXX a mobile phone charger and you, and you denied that?
---That's right.

20

And I also suggested to you that you took in some meat and that you denied that as well?---Yes, I did.

All right. What I want to suggest to you is that you also took in some alcohol, being vodka for XXXXX. What do you say to that?---No, I deny that.

All right. All right. I just want to ask you some questions now about a different topic which is the drug - - -

30

THE COMMISSIONER: Before you do I think I should just remind everyone that the suppression order I made yesterday continues to be in force so that all persons mentioned in this that I, I dealt with yesterday are still covered by the suppression order.

I THINK I SHOULD JUST REMIND EVERYONE THAT THE SUPPRESSION ORDER I MADE YESTERDAY CONTINUES TO BE IN FORCE SO THAT ALL PERSONS MENTIONED IN THIS THAT I, I DEALT WITH YESTERDAY ARE STILL COVERED BY THE SUPPRESSION ORDER.

40

MR PIKE: May it please.

All right. I want to ask you some questions about a different topic now, Mr Wade, which is the drug testing that was carried out in prisons of inmates?---Yes.

Now, you're familiar, are you not, that there was a, a programme within the John Morony Correctional Centre for inmates to be, had their urine tested for the purposes of detecting drugs?---Yes.

And now from time to time you were involved, were you not, in supervising the inmates providing the urine sample?---Yes.

10 The practice was, was it not, that a, that a, a container was provided to the inmate and the inmate had to provide a specimen, correct?---Yes.

And then that specimen was then taken and placed in a certain, I think fridge it may have been, and then sent off for testing. Is that correct?---Yes.

Yeah. Now, you're aware, or are you aware that, sorry, I withdraw that. Are you aware that there was a practice within the correctional centre of inmates being provided in advance of any urine testing with a, a specimen container so that they could provide a specimen long prior to being tested?---No.

20

Were you ever, were you ever involved in any such conduct?---No.

Were you ever involved in providing to any inmates a clean or a clear specimen container so that they could provide a, a sample at a time they were clean which could then be used if they were subsequently tested?---No.

You're quite sure of that?---Yes.

30 Are you aware of any other prison officers being involved in such conduct?---No, I'm not.

Are you aware that when Mr XXXXX XXXXX's cell, I think it was, was searched shortly after your arrest that a specimen container was found in his cell?---No, I was not.

So you deny, I think you've denied having any direct knowledge. Correct?---Yes.

40 Of your involvement I mean?---Yes.

And also you deny that you had any knowledge and any involvement of any other corrective services officers. Is that correct?---That's correct.

All right. Now I just want to ask you some questions, you're aware are you not that, that after you were arrested on 25 January, that the police together with ICAC staff searched your motor vehicle?---Yes.

And you had earlier that morning dropped your motor vehicle off to Windsor Toyota to be serviced. Correct?---That's correct.

And you did that after you had been to see Mr XXXXX as we've seen on the footage. Correct?---That's correct.

You're aware are you not that a sum of about \$510 was found in your vehicle in the sunglass compartment on the roof. Is that correct?---That's correct.

10

All right. Now what I want to suggest to you is that \$510 included the \$300 that you had been given by Mr XXXXX. Is that correct?---Yes.

All right. And where did you get the other \$200 from or \$210 from?---From a mate, probably two weeks before or ten days before.

All right. Which mate was that?---Brad Barber his name is.

20

All right. For what purpose had he given you that money?---He's buying a greyhound off me.

All right. And when do you say Mr Barber gave you that money?---It was around 14th or 15th.

How much did he give you?---600.

30

All right. So we have 600 from Mr Barber and you got 300 from Mr XXXXX. Can you just tell me why it is that the sum was \$510 that was in your sunglass compartment?---I bought things. I had a birthday, I had a birthday party the weekend before, bought beer and - - -

Did you otherwise have a wallet or something in which you keep your money?---No, I don't.

All right. So this - - -?---(not transcribable) a wallet.

40

All right. So this was the cash that you had on you at the time and you put it in the sunglass compartment?---Yes. I owed money to the butcher and things like that.

When you, when you went into the, well when you were trying to go into the correctional centre on 25 January, did you have any money on you at that time?---No.

No. So the money that you had on you, you put in the sunglass compartment?---Yes.

But you were aware weren't you that your car was going to be serviced that day?---Yes.

You're aware, you were concerned weren't you that there would be the potential for someone from Windsor Toyota to take that money?---No. They've serviced my car the whole time, I've never had a drama. I always leave money in it.

10 All right. So you're saying are you that it was your regular practice to put money up in the sunglass compartment?---Yes.

All right. All right. Now do you recall in about March, 2008, sending an email to Mr Don Rogers, who I think at the time was an Assistant Commissioner of Corrective services or the department at that time?---No.

20 All right. Well, can I just, hopefully it will assist your recollection, can I show you a document which I think will come up on the screen. If you want a hard copy of it, let me know. I just want you to read it in it's entirety and once you've done that tell me?---Yes.

All right. So I just want to direct your attention to, well, let's just go through it. I'm writing to you regarding my placement at Windsor. So that was your placement at John Morony, I think initially number 2. Is that correct?---Yes.

And that had been done, you'd previously been at Parklea. Correct?---Yes.

And there was an incident that occurred there?---Yes.

30 Which was resolved?---Yes.

And part of that resolution was that you would be sent to work at the John Morony Correctional Centre?---Yes.

That relocation or replacement caused a considerable loss in your earning potential. Correct?---Yes.

And I think you said in the region of \$20,000. That's correct?---Yes.

40 And you were most concerned about that weren't you?---Yes.

So you were most concerned weren't you to earn as much money as you could. Correct?---I, well I just, if you go to the bottom bit, I just wanted to go back to the emergency unit or, over at Parklea.

All right. What I want us to focus on is you were concerned about the fact that you had taken a substantial drop in earnings. Correct?---No, not really.

All right. You've written there, has severely limited my earnings potential in the region of \$20,000. Do you see that?---Yes.

So what I want to suggest to you again is that you were extremely concerned at that time about the reduction in your earning potential?---No.

All right. You did subsequent to this undertake some secondary employment didn't you?---What date's this?

10 This is March, 2008?---I actually took three, twelve weeks off.

Yes?---On holidays.

Yes. And during that twelve week period you undertook some secondary employment. Correct?---Yes.

And you were aware were you not at the time that that was prohibited?---Well, actually while I was on holidays I applied for twelve months leave without pay.

20

All right. What I want to suggest to you is that at this time, again suggest to you, you were most concerned about the drop that had occurred in your earning potential weren't you?---No.

All right. I want to also suggest to you is that at about this time you set about doing whatever you could to increase the money that you earned. That's correct isn't it?---Where does it say that?

30 I'm suggesting, I'm not suggesting it says it there, I'm asking you or putting to you a proposition - - -?---No.

- - - that what you sought to do at about this time was to do whatever you could to maximize your income?---No.

All right. I want to also suggest to you is that you appreciated the money that you were receiving, for example from Ms XXXXX, Ms XXXXX and Mr XXXXX in relation to bringing contraband items into the prison was a way of increasing your income?---No. It was never about money.

40 So you say that you were never motivated by money in bringing the items in? Is that what you say?---That's correct.

So you would've done it for free. Is that what you say?---Like I said to you yesterday, like you build up a good rapport with, with inmates, you'd like to keep the, you know, there's someone you can, you can talk to throughout the system. And that you see them everyday and talk to them and you just, I get close to them and they can help you with anything that's going on inside the gaol and, and you get really close to them. It's like a favour, I guess.

So what's the answer to my question though, Mr Wade?---No, I didn't do it for the money.

All right. But are you saying are you, you would've done it for free?---Yes.

Is that a serious answer, Mr Wade?---Well if I didn't do it for the money - -
-

10 Well, why did you take money then for doing it?---I don't know.

Is that a serious answer, Mr Wade, you don't know?---(NO AUDIBLE REPLY)

Is that a serious answer?---Yes.

You've admitted haven't you that at least over a six month period you have on at least four occasions taken money for bringing illegal items in.
Correct?---Yes.

20

And is your last answer that you do not know why you took that money?
---Yes.

Well, I want to suggest to you is that you knew full well why you were taking the money, didn't you?---Meaning, I didn't do it for the money.

I'm going to suggest to you that you did do it for the money?---No.

30

You did it to increase your income?---No.

You deliberately did it because you appreciated you probably wouldn't get caught. That's correct isn't it?---No.

So you're saying now that you, what, thought there was a prospect that you would get caught?---Yes. Every chance.

But if you, if you got caught you'd lose your job and could go to gaol.
That's correct isn't it?---Yes.

40

And you say that notwithstanding that risk you were prepared to do this for nothing?---Yes.

I want to suggest to you Mr Wade, that's fanciful?---I don't understand that.

All right. It's just, it's lies. It's not the truth. What do you say to that?
---That's the truth.

What I want to suggest to you is that you were deliberately engaged in a pattern of bringing in contraband items for the payment of money?---No.

And you were doing that at least from about May, 2009 up to and including 25 January, 2010?---No.

And that you were doing it to make money for yourself. What do you say to that?---No.

10 All right.

THE COMMISSIONER: Mr Pike, are you tendering the email?

MR PIKE: I am tendering the email, Mr Commissioner.

THE COMMISSIONER: Email from Mr Wade to Mr Rodgers of 31 March, 2008, is Exhibit 29.

20 **#EXHIBIT 29 - EMAIL FROM WADE TO RODGERS DATED
31/3/2008 AT 7:55 AM**

MR PIKE: I just want to ask you some questions now about a different topic which is any discussions you may have had with Mr XXXXX in relation to you obtaining a firearm?---Yes.

30 All right. You recall yesterday that Mr XXXXX gave some evidence in relation to a discussion with you where you requested, I think, or asked him about whether you could obtain a shotgun, do you recall that?---Yes.

Well, do you say on your oath that you had any discussion with Mr XXXXX about a shotgun?---I don't remember it being a shotgun. I just asked him about something to get rid of snakes.

All right. Well, what was the something, what was the discussion as best as you can recall?---Well, about a gun that could get rid of snakes.

40 All right. When was this discussion?---That morning.

This is the morning of 25 January?---Yes, I think so.

On the footage that we've seen - - -?---Pretty sure.

All right. So you say, do you, that you had a snake problem at that time at your house?---Yes.

All right. And you wanted a gun to get rid of the snakes?---Yes.

All right. What did, and you asked Mr XXXXX if he could get one for you?

---If he knew where I could get one.

All right. And was there ever any intention on your part if you were able to get a gun to take that into the prison?---No.

10 All right. Do you ever recall have any discussions with an inmate, XXXXX, about a gun?---No.

All right. Do you recall having any discussion with Mr XXXXX about whether he knew how you could get a hold of a nine millimetre pistol? ---No.

All right. So you deny any discussion with Mr XXXXX in relation to a firearm, is that correct?---Yes.

20 All right. Do you currently have a firearm licence?---No, I don't.

And so if you were to obtain a gun, was it your intention to apply for some sort of a firearm licence?---Yes.

Have you done anything about that since, obtaining a firearm licence?---No, I can't afford it.

30 All right. Now, again this was a topic I think was touched upon by the Commissioner yesterday and I just want to ask you a few more questions about that. You obviously to some extent or you obviously have, don't you agree, been able to successfully bring illegal items into the John Morony Correctional Centre?---Yes.

What do you think, obviously having beaten the system, what do you think can be done to improve the system?---I'd probably make it a bit more so you're not so close, to be totally honest with you.

When you say not so close, you mean not so close to the inmates?---Yes.

40 All right. What about things that can be done to improve, well, that may stop the potential, on your evidence, for you wanting to bring something in but what about steps that can be done to improve the detection of correctional officers such as yourself bringing items in? Do you have any suggestions as to how that could be improved?---Just has to be better searches. What you say, sniffer dogs or that's, that's a lot of dogs to go to every correctional centre so, you know, can only sniff at a maximum of 15 minutes at a time so it'd be up to, you'd have to hire, hire all the independent security on the front gates to search officers 'cause, yeah, to make it a better search.

That's all I have for Mr Wade, Commissioner.

THE COMMISSIONER: (Not transcribable).

MR PIKE: Sorry, there may be a couple of more points, I'm sorry.

Now, I think I asked you this yesterday but I'll put it to you again as a matter of fairness. Is it your evidence that you did not bring a mobile telephone into the centre for XXXXX XXXXX?---Yes.

10

And is it your evidence that you weren't paid a thousand dollars for doing so?---Yes.

Now, I just want to ask you again, when is it, on your evidence, that you first started bringing illegal items into the prison?---I said yesterday I think it was roughly June or July.

All right. And again, can you tell me the inmates that you say you brought the items in for?---Mr XXXXX, Mr XXXXX, Mr XXXXX.

20

Nobody else, is that correct?---That's correct.

Thank you, Mr Commissioner.

THE COMMISSIONER: Are there any questions for Mr Wade?

MR RUSSELL: I have some questions, Commissioner.

THE COMMISSIONER: Other than you, Mr Russell, is there anyone else who wishes to ask any questions? Mr Russell?

30

MR RUSSELL: Yes, thank you.

Mr Wade, you were just asked some questions by counsel assisting as to why you in fact brought the drugs and other contraband into the prison. And it was suggested to you that you did it for the money. The suggestion is that over the period of time that you brought the contraband in for XXXXX, XXXXX and XXXXX that there may have been a total amount of somewhere in the vicinity of about \$1,000 to \$1,500?---Yes.

40

THE COMMISSIONER: I'm not sure if that's right.

MR PIKE: I don't think I suggested that, Mr Commissioner.

MR RUSSELL: No, I'm just doing a rough calculation on the basis of the amount of, the amount of times and so forth and there's \$300 on each occasion.

THE COMMISSIONER: I think it was \$900 and three, \$300 on three occasions which is \$900. There's an issue about a thousand dollars which Mr Wade denies.

MR RUSSELL: Yes.

So I'll just take you back, so \$900 is really the total amount that's really suggested.

10 MR PIKE: That's not what's suggested, Mr Commissioner.

MR RUSSELL: All right. I'll - - -

MR PIKE: (not transcribable) about the number of times and there is an issue about how much he was paid each time he did it.

MR RUSSELL: All right. You've admitted three occasions and a sum of \$900. You understand that the counsel assisting has suggested that it may be more than that and that you may have even received \$1,000 at one particular time?---Yes.

And you deny that you've received that \$1,000 of anything of that nature, is that right?---Yes.

So on the basis of what you've told the Commission, it's some \$900. Were you, during the period that you've admitted or it's suggested to you that you were bringing the contraband into the prison between say June, 2009, through to January, 2010, were you in a compromised financial position so that you needed to receive a sum of \$900 or maybe \$2,000, something like that?---No, I was not.

Did you have any gambling habits that, or some other habit? Were you - - - ?---No.

A drug habit or anything of that nature?---No.

Anything that required you to receive additional moneys?---No.

Do you have family that are able to assist you from time to time if you need money?---Yes.

And who are that family?---My mum and dad - - -

Your mother and father?--- - - - would help me out.

And without being wealthy people they're reasonably well off, are they? ---Yes.

And they're able to assist you?---Yes.

And they have assisted you in the past in relation to obtaining some money when you needed it?---Yes.

10 You mentioned that prisoners that you have got close to can help you, you said, with anything that is going on inside the gaol. I don't quite understand. What are you talking about in relation to that? Can you just explain that?---If there's like fights going on or a planned attack against other inmates or something like that. Sometimes inmates will let you know, like, chief, something's going to happen, or you know, stay out of that area. So if you got a good rapport with an inmate they'll often tell you that so you don't go there or to try and, so you can try and prevent anyone getting hurt at all.

You were asked some questions about your training that you received when you first became a prison officer?---Yes.

20 And I think that was in the early part of your evidence yesterday?---Yes.

And you conceded that you well knew that you were not permitted to bring contraband into prisons at all?---Yes.

Or any other items which were not readily available to prisoners inside the prison?---Yes.

You also agreed that you were not permitted to foster relationships with the prisoners?---Yes.

30 Or their families, do you agree with that?---Yes.

What do you say about the fact that you were in fact fostering a relationship with these three inmates?---On occasions it's, it's actually helped when you talk to XXXXX and one of the, one of the inmates in question is actually on XXXXX so I spoke to him every day for a lengthy period of time, like XXXXX and we spoke for hours on a daily basis, he was going through a rough, a rough time.

40 Which person was that?---That's Mr XXXX.

Mr XXXXXX. And did he appear to be a person who was prepared not only to talk to you but to listen to you?---Yes.

Have you in the past received any information from inmates which has assisted you in the carrying, carrying out of your duties as a prison officer? ---Yes.

Have you also heard of other prison officers who have received information from inmates that they've fostered a relationship of sorts which has assisted them in carrying out their duties?---Yes, it would, I'd say it'd be like 95 per cent of our Intell comes from other inmates.

When you say Intell you're talking about intelligence?---Information.

Intelligence or information?---Yeah.

10 And the majority of intelligence which, intelligence systems that operates is a recognised system, is it not?---Yes.

And it's very, very important if not vital for the conduct of the prison?
---Yes.

And apart from those, those obligations that you had and I outlined to you which are the principal ones of concern before the Commission, that is not taking contraband into the prison, not fostering relationships with prisoners or their families. You have a, a further rather pivotal obligation, do you
20 now, as to the protection of inmates?---Yes.

Yes, thank you, your Honour.

THE COMMISSIONER: Mr Pike?

MR PIKE: Yes, just a few questions, arising out of that evidence if I might, Mr Commissioner.

I'm just going to ask you some, a few questions, Mr Wade, in relation to
30 your financial position, for the moment we'll confine it to throughout 2009 up to 25 January, 2010. I think in answer to some questions from your counsel you indicated that you weren't, if I can use this expression, doing it tough because you've had family that could help you. Is that correct?
---Yes.

Is, is that an honest answer?---Yes.

All right. During this time weren't you in the process of going through a
40 divorce?---No.

All right?---I was divorced in '97.

All right. And was there a financial settlement which occurred after that?
---'97.

All right. You were at this time though, this is 2009, in a de facto relationship. Is that correct?---Yes.

And with your de facto you were buying a house at Bilpin, correct?---Yes.

There were mortgage payments in respect of that?---Yes.

I think you mentioned earlier the name Bradley Barber. Do you recall that?
---Yes.

You and he have bought a greyhound together, correct?---Yes.

10 You had indicated to him after a short period after buying the greyhound that you wanted out, correct?---Yes.

And he agreed to pay you for your half-share in the greyhound, correct?
---Yes.

And he couldn't do it straightaway, he had to make a number of instalment payments, correct?---Yes.

20 And he hasn't adhered to those instalment payments, has he?---Not all of them, no.

No, and indeed you have been or you have contacted him on a number of occasions to try and get your money, correct?---Yeah, I used to go around and see him.

All right. And what I want to suggest to you is in your discussions with Mr Barber you had said to him words to the effect that you were doing it tough, correct?---I might have done.

30 And that was the truth, wasn't it?---Well, I needed the money to try and get the loan, yeah.

Yeah, but you were doing it tough at the time, that's correct, isn't it?---No, I wasn't doing it tough.

You were - - -?---I wanted the \$2,000.

You were struggling?---No.

40 You were always crying poor to Mr Barber, weren't you?---No, not literally. I just needed the money.

All right. So do you, do you deny that you'd said to Mr Barber that you were struggling or doing it tough?---I might have done but Brad and I have been mates for 20 years, he'd know if I was really struggling.

All right. Now are you aware that your de facto has described your family as being poor as church mice?---Yeah.

And that's true isn't it?---Well, they're not rich, put it that way. But we live, we live a good life. We're not after extravagant things.

You understand what is meant by the expression, poor as church mice. Correct?---Yes. But I think you're taking it a bit literally.

Well, it's the truth isn't it?---No, it's not.

10 You didn't have, you were struggling financially. Correct?---No, not at all.

And what I'll again suggest to you is that you were bringing the money in, sorry, bringing the items into the John Morony Correctional Centre in return for financial gain?---No.

20 All right. Now from the answers that you gave to Mr Russell are you saying that you would go trafficking contraband into the gaol is justified in order to build a good rapport or get intelligence from inmates?---Looking at it, no I don't say it's justified, but I got close to, I got close to the inmates that I shouldn't of.

All right. What I suggest to you is you knew at the time that it was totally wrong didn't you?---Yeah. You do know it's totally wrong, yes. Like I said, you just build that rapport.

But you knew it was - - -?---It becomes like a, yes, I did know, counsellor, yes.

30 Okay. I didn't want to cut you off. Is there something else that you wish to say, Mr Wade?---No. I just want to elaborate on the fact that, how close you do get to these people. It's - - -

But you knew - - -?---But you don't realise that that's what, what you're doing.

All right. You knew that bringing in the contraband in was totally wrong. Correct?---Yeah.

40 You knew you were being paid for it. Correct?---Yes.

And that's the reason why you did it wasn't it?---No.

All right. Don't you agree that, you're aware that at least some of the items that were being brought in or attempted to be brought into the prison were drugs. Correct?---For Mr XXXX and Mr XXXXX.

All right. You were aware that those drugs would be consumed by inmates. Correct?---Yes.

You're aware that that would have an adverse affect on their behaviour.
Correct?---Well, to quieten them down. Keep it calm.

So you suggest do you that those drugs would have a calming effect on the
prisoners?---Yes.

And it wouldn't have any affect of perhaps increasing their propensity for
violent behaviour?---No.

10

All right. That's all.

THE COMMISSIONER: Mr Wade, you may be discharged.

THE WITNESS EXCUSED

[11.07am]

20 MR PIKE: Mr Commissioner, the next witness in an inmate, Mr XXXXX.
As I understand it his counsel would like ten minutes with him prior to him
being questioned. I have no objection to that. And I don't anticipate that
his evidence will be very long. So if I could ask you - - -

THE COMMISSIONER: We'll adjourn for ten minutes.

MR PIKE: Yes. Thank you.

30

SHORT ADJOURNMENT

[11.08am]

THE COMMISSIONER: Mr Pike.

MR PIKE: Thank you, Mr Commissioner. In light of the evidence that's
been given by Mr Wade yesterday afternoon and this morning I wish to
recall Mr Wade to ask him some questions in relation to some earlier
answers that have been given by Mr Wade to this Commission in a
compulsory examination.

THE COMMISSIONER: Yes, Mr Wade. Mr Wade, you're still under your oath?---Yes.

10 MR PIKE: Now, Mr Commissioner, the earlier evidence that was given, a suppression order was made in respect of it. I only wish to take Mr Wade to certain passages of that earlier examination so for the moment I'd ask for a limited lifting of the suppression order so that I can ask the questions and then I will need to tender particular parts of the transcript which will then mean a proper lifting of the suppression order.

THE COMMISSIONER: Mr Russell, do you wish to be heard on this?

20 MR RUSSELL: Well, your Honour, I discussed this with counsel assisting before we came back into the hearing room. In my respectful submission nothing can be gained by this exercise. The evidence that was given on the prior occasion is the evidence, he's now given his evidence in these proceedings. It's, it, it appears that he's, he's done his level best to assist the Commission on this occasion and even went further. To hang him out to dry so to speak when he's now being forthcoming and, and more forthcoming than, than even required by the questioning in, in some respects is an exercise which I urge, and I have urged, counsel assisting on behalf of the Commission not to adopt.

30 THE COMMISSIONER: I understand. I think hanging out to dry is an inaccurate description but I understand why you're using it. The, but the Commission has a duty to perform. Whether, how the Commission will exercise its discretion in relation to the evidence, should it come to that, is a matter for the future.

MR RUSSELL: I appreciate that, Mr Commissioner, but the exercise could only be, the exercise could only be motivated towards establishing some basis for some charge of not providing - - -

THE COMMISSIONER: It's part of the Commission's duty.

40 MR RUSSELL: Well, I would have - - -

THE COMMISSIONER: Or part of its function, statutory function.

MR RUSSELL: That may be so, your Honour, Mr Commissioner, but it may not be - - -

THE COMMISSIONER: It is tempered by discretion, Mr Russell.

MR RUSSELL: Yes.

THE COMMISSIONER: I do appreciate the point you're making and, and with respect it's not about merit but I do think that the statutory duty of the Commission at this stage is, is more important in my view, it doesn't follow from that that the discretion to make recommendations will be exercised in any particular way.

MR RUSSELL: Commissioner.

10 THE COMMISSIONER: And you've, I may say you've done the best that anyone could do on this point. I accept there's, this is, there is really nothing more than can be said on it.

MR RUSSELL: Commissioner.

THE COMMISSIONER: Yes, Mr Pike.

MR PIKE: Could I just make it clear, Mr Commission, that none of this questioning is intended to alter the suppression order that you made at the
20 start of this hearing in relation to the names of particular individuals.

THE COMMISSIONER: Mr Wade, I just want to ask you some, a few questions if I may about some evidence that you gave in a compulsory examination in February of this year. Do you recall attending at this Commission on 26 February, 2010 pursuant to a summons for you to attend for compulsory examination?---Yes.

And you recall that that examination took place before an Assistant
30 Commissioner, Ms Hamilton. Do you recall that?---Yes.

And that Mr Vasan, the person to my right, asked you some questions on that occasion?---Yeah.

All right. And do you recall that at the start of that examination you were asked by the Assistant Commissioner whether you wished to, it was pointed out to you that you were required to tell the truth by either taking an oath on the bible or making an affirmation. Do you recall being asked that and you took an oath on the bible, do you recall that?---Yes.

40 And so you were clearly aware at the time that you answered questions in that private or compulsory examination that you were under the obligation to tell the truth?---Yes.

Right. Do you also recall that, that part way through that examination there was an adjournment of the examination and immediately prior to that adjournment the Assistant Commissioner said to you that you were under an obligation to tell the truth and you needed to get some advice in respect of that?---Yes.

And that you went off and, and later came back and the examination resumed. Is that correct?---Yes.

And so is it fair to say that you were during the course of the examination again reminded of your obligation to tell the truth and given a, a short adjournment to speak to your legal adviser in respect of it?---Yes.

10 And so that at all times throughout the compulsory examination you were aware that you were under an obligation to tell the truth?---Yeah.

Now, do you agree that the evidence that you gave in that compulsory examination, and I'll take you to some particular respects in a moment, was inconsistent with the evidence that you have given before this Commission yesterday and today?---Yes.

20 And you agree that at the time or during the course of the compulsory examination that took place on the 26th of February, 2010 you were not shown or had not seen all the footage that you saw yesterday?---Yes.

Right. And do you agree that the reason why you were more forthcoming in your evidence yesterday and today than you were at the compulsory examination on 26 February was because you saw the surveillance and heard the audio footage that was played yesterday morning?---No.

30 All right. What explanation do you have for the change in your evidence? ---Back then I was scared, I've had a lot of time to think about, think about things, a lot, a lot of things have happened in my life since the day I was arrested and since the day I come in here. My fiancée and all that's left and I've just, I've had a lot of time to think and I didn't even tell my own barrister everything because I was just that confused and scared about what things were but when, when I came in and saw him on Tuesday or whenever it was, it was time to tell the truth to my own barristers.

MR PIKE: All right. So you've now decided to come clean, is that what you're saying?---Yes.

40 All right. Now, if you look at the screen in front of you, hopefully what will be shown there is a transcript which was taken of the compulsory examination and I wish to take you to various parts of that and put propositions to you. Do you understand that?---I've just told you that I told the truth.

I just wish to identify particular aspects, Mr Wade, in respect of which the evidence that you have given now is inconsistent with the evidence you gave back then?---I just told you that.

Could I ask you to look at the screen please, Mr Wade. Can I firstly ask you to go to page 55 and this will be brought up on the screen in front of you and if I can just direct your attention please, Mr Wade, you will see that there are some numbers down the left-hand column which represent line numbers. Now, and if I can just direct your attention to I think about line 17 there's an answer given by you, or sorry, a question, "Yes, and collect some drugs for him, is it?" and then your answer is, "I went around there because it was, he told me I better do it or else. I went around there to try and sort it out and then that didn't work and then I got more threats to go around and do it." Next question, "All right. So it's XXXXX who issued the threats?---Yes." "All right. He's a current inmate?---Yes". Do you see those answers?---Yes.

Those answers were false, were they not?---Yes.

And I think, would you agree with me that the evidence that you gave before the compulsory examination was to the effect that letters had been left for you in a metal shop at the prison making threats against you. Correct? That evidence was false, was it not?---Yes.

Because you now accept, don't you, and you gave this evidence yesterday that no threats were made to you by Mr XXXXX in relation to you bringing out (not transcribable) at his request?---Yes.

And indeed at the time that you gave that evidence on 26 February, 2010, I think you've agreed with me you were aware that you were under an obligation to tell the truth, correct?---Yes.

And you chose to tell a lie. Correct?---Yes.

Can I then ask you to go to page 57 of the transcript and you were being asked some questions here, Mr Wade, and if you need to see some earlier pages to refresh your recollection please tell me but you were being asked some questions on this page in relation to your meetings with Ms XXXXXXXXXXXX, and you give an answer at about line, or you were asked a question at line 21, "You had made contact with her and several contacts at that, isn't it?---Yes." "And what was that contact for, to meet up with her and pick up some drugs, isn't it?---No." "All right. So what was, meet up with her for what?---There was burnt CDs and a pair of sunglasses." Then "Yes, to what end?---To pick up from her to, and then to deliver it to her brother. Is that it? Answer, "Yes." "Okay. Did you collect any tablets or prescription medication from her?" Answer, "No." Answer, "Did you receive any cash from her?--- No." It's the last answer I want to direct your attention to. That answer is false, correct?---Correct.

And you did receive cash from Ms XXXXX, correct?---Correct.

Do you recall that you were also asked some questions about the circumstances in which you came to meet Ms XXXXX, being a XXXXX lady?---Yeah.

Do you recall that at all?---(NO AUDIBLE REPLY)

10 All right. Can I just ask you then to go to page 67 I think it is. Now, could I just direct your attention to, on I think it is line 29 where this is said and this is a question now, "Just, there are a couple of questions that I missed. I just want to go back. You told us earlier that XXXXX gave you a telephone number so that you can contact about a loan?---Yes." "Did you make contact with that person?---Yes." "What, what discussions did you have with that person?---When the girl turned up she was in the XXXX car and I'd already applied for a loan through XXXXX and didn't get it so I just told her thanks very much for your time." "Where did you meet her?---At the service station at Windsor Downs." "Is there a reason why you, who chose the venue?---I did." "Is there a reason why you asked her to come to a service station for a discussion?" Answer, "Close to work." "When did that occur?---At a guess June, July." Do you see that?---Yeah.

20

Now that evidence about what caused you to meet with the lady in the XXXXX car was false. Correct?---Yes.

And you agree that the person that you went, sorry, you were meeting with the person in the XXXX car was for you to obtain the, amongst other things, the red container for the purposes of taking in to Mr XXXX?---Yes.

And again you're aware at this time that you gave these answers that you're under obligation to tell the truth?---Yes.

30

And that you chose not to. Is that correct?---Yes.

All right. Can I then just take you back to page 62. All right. Now you'll see at the start of the page and again if you need to see the earlier pages, please tell me. You're being asked some questions about what you did after you picked up the items for Mr XXXXX on 25 January. Do you see that? ---Yes.

40 And you say reading down that you went to Windsor Toyota, dropped the car off for a service. Did you have the contents with you then? Yes. Then at line 19, Why did you take those containers to work? Answer, Because I was going to give them, hand them in to the Governor and explain the whole story. Do you see that?---Yes.

I suggest to you that that answer was false as well wasn't it?---Yes.

And that you had no intention of giving the items to the Governor on 25 January. Correct?---Correct.

You intended to give them to Mr XXXXX. Correct?---Yep.

Just pardon me one moment, Mr Commissioner. All right. If we can just go back to the very start of that transcript, please. Do you recall that prior to coming to the compulsory examination, Mr Wade, there was an issue about the \$510 being located in your car and where you'd got that money from. Do you recall that?---Yes. You asked me that before.

10 Okay. And, and I think that you would agree with me that at least, sorry, that \$300 of the \$510 was money that Mr XXXXX had given to you. Correct?---Correct.

All right. Now do you recall that prior to coming to the compulsory examination on 26 February, 2010, you were concerned to prove to the Commission that the \$510 did not include any payments that had been received in relation to taking money into the correctional centre?---Yes.

20 And indeed either you yourself prepared or you caused to be prepared a document setting out a series of cash, cash transactions that you had engaged in. Correct?---Yes.

And you, if one goes to page 51 of the transcript, do you recall that at the start of the compulsory examination either you or your legal advisor handed across to the Commission a copy of a document that either you had prepared or had been prepared for you?---Yes.

30 Can I just show you, and I'm sorry we don't have, as I, we don't have soft copies of this. Can I just show the witness and with a copy for you, Mr Commissioner - - -

THE COMMISSIONER: And Mr Russell.

MR PIKE: Yes, certainly. Just have a look at that document if you would, please Mr Wade, the three pages. Do you recognise that document?---Yes.

40 It was a document that either you prepared or you caused to be prepared shortly prior to attending before the Commission on 26 February, 2010. Correct?---Yes.

And it was done so as to support your then statement that none of the \$510 that was located in your vehicle on 25 January, was in relation to payments for bringing items into the correction centre. Correct?---Yes.

And I want to suggest to you the document was false. Correct?---Well, the document's legit.

All right. You didn't include in it did you any reference to the \$300 that you had received - - -?---No.

- - - from Mr XXXXX that morning. Correct?---No.

And an honest, well if the document had been intended by you to tell the truth, it would've included the \$300. Correct?---Correct.

10 Just in relation to the, there's an item down the bottom of the first page saying 4L swing cradle of Jim Beam \$200?---Yeah. It was actually only, yeah, sorry, yeah, that's right.

All right. Now are you, by handing this document over were you intending to convey to the Commission that you had received \$200 from a person in respect of a 4L swing cradle Jim Beam?---I'd actually used it to pay a bloke cash.

20 Right. You had provided had you not, to a person who had prepared, or made for you a stainless steel bench top. Correct?---That's correct.

You owed him, I think, \$170 as part payment for the work that that person did for you?---That's correct.

And you, with an agreement with him, rather than give him \$170 in cash, agreed to give him this Jim Beam bottle on a cradle?---Yes.

As payment for the \$170?---Yes.

30 All right. You are intending to convey, are you not, from this document that you had in fact received \$200 from that person for the sale of the Jim Beam bottle in a cradle?---Yes.

And that's false isn't it?---Mmm.

And you knew at the time that it was false. Correct?---(NO AUDIBLE REPLY)

I tender that document, Mr Commissioner.

40 THE COMMISSIONER: What do I call it?

MR PIKE: I think it should be described as a document prepared by Mr Wade and provided to the Commission on 26 February, 2010.

THE COMMISSIONER: And a list of cash sales is another financial matter is it?

MR PIKE: Yes.

THE COMMISSIONER: All right. Exhibit 30 is a list of cash sales and financial matters provided by Mr Wade to the Commission on what date? What date Mr Pike?

MR PIKE: 26 February, 2010.

THE COMMISSIONER: On 26 February, 2010.

10

#EXHIBIT 30 - LIST OF CASH SALES PROVIDED BY MR WADE ON 26 FEBRUARY 2010

THE COMMISSIONER: Mr Pike, I think we need to tender those pages of the transcript of the CE, Compulsory Examination about which you cross-examined Mr Wade. Now my associate has given me a list of the pages and I will proceed to describe the Exhibits. If you can just check what I'm doing.

20

MR PIKE: Yes.

THE COMMISSIONER: If I make a mistake, if you could just correct me, please.

MR PIKE: Certainly.

THE COMMISSIONER: Exhibit 31 is page 55, line 17 of the Compulsory Examination of Mr Wade of 26 February, 2010.

30

#EXHIBIT 31 - PAGE 55 LINE 17 -25 OF MR WADE'S COMPULSORY EXAMINATION TRANSCRIPT DATED 26/2/2010

THE COMMISSIONER: Exhibit 32 is page 57, line 21 of that transcript.

40 **#EXHIBIT 32 - PAGE 57 LINE 21 -36 OF MR WADE'S COMPULSORY EXAMINATION TRANSCRIPT DATED 26/2/2010**

THE COMMISSIONER: Exhibit 33 is page 67 of that transcript.

#EXHIBIT 33 - PAGE 67 LINE 29-50 OF MR WADE'S COMPULSORY EXAMINATION TRANSCRIPT DATED 26/2/2010

THE COMMISSIONER: Exhibit 34 is page 52 of that transcript.

**#EXHIBIT 34 - PAGE 62 LINES 19 – 20 OF MR WADE’S
COMPULSORY EXAMINATION TRANSCRIPT DATED 26/2/2010**

10 MR PIKE: Is that 62 or 52?

THE COMMISSIONER: 52.

MR PIKE: I think it was 62 and I took - - -

THE COMMISSIONER: It was 62.

MR PIKE: It was 62, in particular at lines 19 and 20.

20 THE COMMISSIONER: Lines 18 and 20. So, if we can go back to Exhibit 33, which is page 67, does that have particular lines?

MR PIKE: I think each of them have, well, certainly 67 has - - -

THE COMMISSIONER: Well, let's start again. Can we start at 55, which is Exhibit 31. I've got line 17. Is that the only line?

MR PIKE: No. It is line, it begins at line 17 and goes through to line 25.

30 THE COMMISSIONER: Exhibit 32 I said page 57, line 21 and where does it go through to?

MR PIKE: It goes through to line 36.

THE COMMISSIONER: And Exhibit 33 is page 67 and what are the lines?

MR PIKE: They were lines 29 through to line 50 which is at the bottom of the page.

40 THE COMMISSIONER: Sorry, line 30?

MR PIKE: 50 which is the bottom of the page.

THE COMMISSIONER: And Exhibit 34 is 62 lines - - -

MR PIKE: 62 lines, 19 to 20.

THE COMMISSIONER: And then we've got Exhibit 35 and is that page 51 or 61?

**#EXHIBIT 35 - PAGE 51 LINE 8-32 OF MR WADE'S
COMPULSORY EXAMINATION TRANSCRIPT DATED 26/2/2010**

MR PIKE: It's 51.

THE COMMISSIONER: Page 51.

10

MR PIKE: And it is, it really is from line 8 down to 32.

THE COMMISSIONER: All right. Yes, thank you. Is there anything else for Mr Wade?

MR PIKE: No, not from my - - -

THE COMMISSIONER: Do you wish to ask any questions, Mr Russell?

20

MR RUSSELL: No thank you.

THE COMMISSIONER: Thank you, Mr Wade, you may return. You are now finally finished.

WITNESS WITHDREW

[12.31pm]

30

MR PIKE: Mr Commissioner, the only other witness that I propose to call is Mr Woodham.

THE COMMISSIONER: The Commissioner - - -

MR PIKE: The Commissioner for Corrective Services, Commissioner Woodham. It was hoped that he would be here at 2 o'clock and we relayed that to Commissioner Woodham's legal representatives yesterday afternoon. I then had a discussion with the senior counsel who represents Mr Woodham in which it was indicated that it would be difficult for Mr Woodham to be here today and that Mr Woodham - - -

40

THE COMMISSIONER: More than difficult, as I understand it.

MR PIKE: Yes. There are a number of reasons why Mr Woodham can't be here today. There are also a number of reasons why Mr Woodham can't be here tomorrow and that - - -

THE COMMISSIONER: Reasons outside his control.

MR PIKE: Correct. And so that Friday is the date unfortunately for Mr Woodham.

THE COMMISSIONER: All right. We will adjourn till 10.00am on Friday to hear Commissioner Woodham's evidence. Mr Russell, well, as far as all counsel are concerned, well, some counsel may not wish to be here on Friday because the evidence really concerns the procedures, the evidence intending, intended to be led from Commissioner Woodham concerns the procedures at the prison which facilitate or do not facilitate the kind of
10 conduct into which the Commission has been inquiring. There will be no evidence relating, which will be aimed at any finding and any particular person. Is that correct, Mr Pike?

MR PIKE: That is correct, Mr Commissioner.

THE COMMISSIONER: So that those counsel representing particular persons other than Commissioner Woodham, may decide that they have no interest in being here. That being so, I think that I would like to make
20 arrangements now for closing addresses. Now, closing, the practice in this Commission is for closing addresses to be (not transcribable) in writing and not orally and the practice is also for those to be delivered as soon as possible. Mr Pike, when will you be in a position to provide your closing address?

MR PIKE: If the evidence finishes on Friday as I expect it will, either Monday afternoon or perhaps more conservatively Tuesday afternoon.

THE COMMISSIONER: All right. That's Tuesday, what date is that?

30 MR PIKE: It's the 4th, I think, of May, Mr Commissioner.

THE COMMISSIONER: Well, so the submissions by counsel assisting the Commission will be delivered to the Commission and to counsel for, the legal representatives of the other parties by close of business on 4 May.

MR PIKE: Yes.

THE COMMISSIONER: Yes. Well, I would prefer if closing submissions
40 for the other parties could be filed with the Commission by close of business on Friday, 7 May. Is there a problem with that for anybody?

MR PIKE: No, Mr Commissioner.

MR RUSSELL: Just on my part, your Honour, because I may have perhaps more to say than some others and I am due to start a trial that's due to run for maybe a week or just a little over a week next, next week.

THE COMMISSIONER: I've been trained in the Court of Appeal, Mr Russell.

MR RUSSELL: Not a good enough excuse?

THE COMMISSIONER: I'll give you till Monday, the 8th, Monday, the 10th.

10 MR RUSSELL: That would provide some breathing space, thank you, Monday, the 8th.

THE COMMISSIONER: Is that all right? You can cope with that?

MR RUSSELL: I don't think I'm going to do any better am I, Commissioner?

THE COMMISSIONER: No.

20 MR RUSSELL: No, thank you.

THE COMMISSIONER: Once Mr Russell has until close of business on 10 May I'll give the same date to all other counsel. Mr Russell, you may, in dealing with the issues with which you are concerned, you will no doubt deal with Mr Wade's position as an affected person but I would invite you to, in the course of your submissions to make submissions as to whether the, whether the Commission should include in its report an opinion of the kind referred to in section 74(A)(2). Do you understand what I'm talking about?

30 MR RUSSELL: I'll - - -

THE COMMISSIONER: Do you have the Act there?

MR RUSSELL: I don't have the Act with me at the moment but - - -

THE COMMISSIONER: 74(A)(2) provides that in reporting to, perhaps you can read it, do you have it there?

MR RUSSELL: Yes, I do now.

40 THE COMMISSIONER: 74(2). The report is the report to Parliament. That is in effect the report that the Commission issues.

MR RUSSELL: Yes.

THE COMMISSIONER: Do you understand what I'm talking about?

MR RUSSELL: I do, I do.

THE COMMISSIONER: In other words, I'm saying that there is a prospect that the Commission will find that Mr Wade did do what Mr Pike submitted he did when opening or some of the things that Mr Pike submitted. It doesn't necessarily follow that in making those findings the Commission will decide to express an opinion that advice should be obtained, for example, from the Director of Public Prosecutions. That is a second issue, second and separate issue to the first. I'm inviting you to make submissions as to both issues.

10 MR RUSSELL: I understand.

THE COMMISSIONER: You understand.

MR RUSSELL: Yes.

THE COMMISSIONER: The Commission will adjourn until 10.00am on Monday.

20 MR PIKE: Can I just raise one matter, Mr Commissioner - - -

THE COMMISSIONER: Yes.

MR PIKE: - - - for the benefit of the other legal representatives? There are, on Friday morning I would also propose to tender a number of statements that have been taken by officers of the Commission and in large part it deals with matters going to the systems and practices at Corrective Services. Some of the statements perhaps do relate to the events or background matters the subject of the, Mr Wade's involvement.

30 THE COMMISSIONER: Yes. Perhaps you can indicate to the persons concerned - - -

MR PIKE: What we would propose to do is by tomorrow morning we would give to each of the legal representatives a copy of those statements and then if, in light of our proposed tender of those documents if they wish to turn up on Friday so as to say something about that - - -

THE COMMISSIONER: Yes.

40 MR PIKE: - - - they can but we will do it by tomorrow morning.

THE COMMISSIONER: All right.

MR RUSSELL: Well, can I just say this, that despite being told by counsel assisting that the three persons who have figured in these proceedings, being prisoners XXXX, XXXXX and, and XXXXX, XXXXX, and being told that at least two of those persons would be called to give evidence in these proceedings - - -

THE COMMISSIONER: Yes.

- - - MR RUSSELL: - - - my friend has now decided not to call them. If, if those, if any of those persons are, are the authors of the statements that my friend is referring to well, then I'd object to them without those persons being called because obviously - - -

10 THE COMMISSIONER: I understand, Mr Russell - - -

MR RUSSELL: - - - quite obviously - - -

THE COMMISSIONER: I understand the point (not transcribable).

MR RUSSELL: Yes, and in relation to what your Honour said, said earlier to me about section 74(A), my friend's decision would obviously affect what I need to say in relation to that.

20 THE COMMISSIONER: Of course.

MR RUSSELL: Yes, thank you.

THE COMMISSIONER: Mr Pike?

MR PIKE: I can, I can put Mr Russell at ease that, that none of the statements are from the three persons who he identified.

THE COMMISSIONER: We'll adjourn until 10.00am on Monday.

30 MR PIKE: On Friday.

AT 12.40pm THE MATTER WAS ADJOURNED ACCORDINGLY[12.40pm]