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INDEPENDENT COMMISSION AGAINST CORRUPTION

STEPHEN RUSHTON SC
COMMISSIONER

PUBLIC HEARING

OPERATION ESTRY

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TRANSCRIPT OF PROCEEDINGS

AT SYDNEY

ON FRIDAY 25 MAY, 2018

AT 2.00PM

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: Mr Duggan.

MR DUGGAN: Commissioner, can I indicate that I don't have any further questions for this witness at this stage but I understand that there are others who may want to ask some questions. Or at least Mr Watson's representative.

10

THE COMMISSIONER: Certainly. I can indicate that I'm not proposing to release this witness from his summons. That doesn't mean you will necessarily be coming back but you may have to. I'm happy if anyone wants to ask some questions now and perhaps it's better because I can't guarantee he will be coming back.

MR GREENHILL: I have no questions, Commissioner.

THE COMMISSIONER: Thank you, Mr Greenhill.

20

MR WILLIS: I have no questions, Commissioner

MR DUNNE: I have no questions, Commissioner.

MALE SPEAKER: I have no questions.

MALE SPEAKER: No questions.

MALE SPEAKER: Likewise, thank you.

30

MALE SPEAKER: No questions, thank you, Commissioner.

MR PATTERSON: Thank you, Commissioner. Might the witness be shown the document which is the section 12.4 Operation Procedures Manual that was put on the screen this morning. Unfortunately I didn't make a note of the exhibit number.

MR DUGGAN: 47, Commissioner.

40

THE COMMISSIONER: Thank you.

MR PATTERSON: And Mr Watson was taken by my friend to paragraph 12.4.16 subject heading Cell Searching. It's up on the screen now, Mr Watson. Could you just look at the top right-hand corner of the screen. What date do you see there?---February 2015.

And when was the search conducted?---2014.

Do you have any knowledge of what the relevant operational requirement was as at the date of the search?---No.

Are you able to say it was different to February 2015 version?---No.

You have no occasion to direct your mind to that?---No.

You were asked some questions by - - -

10 MR DUGGAN: I might just interrupt my friend. There is a suppression order at the moment over all of the policies. It might need to be lifted in relation to the evidence that was just given in my submission. There's nothing in clause 12.4.16 or the searching procedures that I've asked about or my friend's asked about that needs to be suppressed in the public interest and I would submit to the extent that that evidence is out there, it doesn't need to be suppressed.

THE COMMISSIONER: I think I agree with you. Are you comfortable with that, Mr Brasch?

20

MR BRASCH: Excuse me, I'm comfortable with that, Commissioner.

THE COMMISSIONER: Thank you. The section 112 order that I previously made in relation to policies is varied to the extent that questions have been asked by Mr Duggan and are being asked presently.

30 **VARIATION OF SUPPRESSION ORDER: SECTION 112 ORDER PREVIOUSLY MADE IN RELATION TO POLICIES IS VARIED TO THE EXTENT THAT QUESTIONS HAVE BEEN ASKED BY MR DUGGAN**

THE COMMISSIONER: So, go ahead, you can - - -

MR PATTERSON: Thank you, Commissioner. Mr Watson, yesterday afternoon do you recall being asked some questions about what you observed of inmate [REDACTED] when he came out of the cell during the course of your search of him?---Yes.

40

And you were asked this question by my learned friend, "Given all of those things, you would ask him about how he got his injuries, wouldn't you?" Do you remember that?---Yes.

And do you recall your answer?---Not verbatim.

It's none of my business. Would you agree with that?---Yes.

And subsequently it was put to you by my learned friend that, as follows, “And you were shutting your eyes to Mr [REDACTED] injuries and their cause, weren't you?” And after some hesitation you said words to the effect, “It was none of my concern.” Do you adhere to that evidence?---Yes.

Mr Watson, do you agree with me that Department of Corrective Services is a disciplined force?---Yes.

10 You're subject to a chain of command?---That's correct.

And in earlier evidence this morning you referred to the commander and the 2IC?---Yes.

What was, what did you think your reason was to be present at the cell on 20 February?---Wholly and solely as a search officer.

You were shown film of that incident yesterday.---Yes.

20 Are you able to say if there were senior officers present?---I believe there was, yes.

And would they have been Officers Kennedy and McMurtrie?---Yes.

And in your opinion were they in charge of the operation?---Overall, yes.

In the presence of senior commissioned officers, was it your function, in your view, to ask questions of the inmate as to what may have occurred to him?---Definitely not.

30 Can I suggest to you that it would be an extraordinary thing for you to intervene in that way. Would you agree with that?---Yes.

And indeed that may have amounted to insubordination. Would that be right?---Yes.

Thank you. One further question. You were asked some questions this morning about your direction for video to cease. Do you recall that?---Yes.

40 Why did you give that direction at the time that you gave it?---There was no need to keep videotaping the cell search.

And why is that?---It's just general procedure, we don't need to, unless it's under circumstances, yeah.

And was it your belief that the search had been completed?---The search of the inmates had been completed, yes.

Thank you. No further questions, Commissioner.

THE COMMISSIONER: Thank you.

Anything arising, Mr Duggan?

MR DUGGAN: No, Commissioner.

10 THE COMMISSIONER: Sir, I'm not going to excuse you from your
summons, but as you heard, it may be the case that you don't have to come
back. As soon as that becomes clear one way or the other, we'll let you
know.---Okay.

But you're free to go today.---Thank you, sir.

THE WITNESS WITHDREW

[2.17pm]

20 MR TAYLOR: May I be excused unless and until he is recalled,
Commissioner?

THE COMMISSIONER: Of course.

MR TAYLOR: Thank you.

MR DUGGAN: Commissioner, I recall Simon Graf.

THE COMMISSIONER: Thank you.

30 Mr Graf, come forward. Mr Graf, I'll have you re-sworn.

THE COMMISSIONER: Mr Graf, the section 38 declaration I made in relation to you the other day continues to apply, but I remind you again about the importance of telling the truth.---Yes, sir.

So Mr Willis I think it is, isn't it, yes.

10 MR WILLIS: Yes, Your Honour. Commissioner, sorry.

Mr Graf, yesterday in the evidence that you gave to the Commission you said that you had never spoken to Mr O'Shea about this matter.---That's - - -

Is that correct?---That's correct.

And you also told the Commission about Mr Walker insinuating that everyone was involved, words to that effect?---Yes.

20 And that he also said to you that Mr O'Shea would ruin your career. Is that right?---That's correct.

And the only – is it the case that the only references to any involvement of Mr O'Shea in this matter, so far as you're aware, have come from what has been, I think you used the word insinuated to you by Mr Walker?---That's correct.

Yes. Thank you. I have no further questions, Commissioner.

30 THE COMMISSIONER: Thank you, Mr Willis.

Mr Taylor?

MR TAYLOR: Commissioner, I seek to ask some questions. Thank you. Mr Graf, I appear on behalf of Mr Walker. My name is Taylor. Just taking up that last point, when did Mr Walker first insinuate that everyone was involved?---I believe it was sometime on the day of the incident.

On the day of the incident?---I believe so.

40

Was it before or after you say he told you to take Mr Duffy out of your report?---It, it may have been when he was telling me to take him out, in that conversation sometime. I can't be sure.

And that's a conversation you can't remember the precise details of. Is that correct?---I know the body of the discussion, yes.

And it's clearly your evidence that Mr Walker, you say, threatened you if you didn't take Mr Duffy out of the statement?---That's right.

I want to put it to you that that just didn't happen, do you agree with that or not?---No, I wouldn't agree with that.

10 Now, you were asked some questions yesterday by Counsel Assisting in relation to the IRM. Just to paraphrase your evidence, you basically say you know nothing about that.---That's correct.

You didn't see anyone prepare one, certainly didn't see Mr Walker prepare one?---That's correct.

Did see Mr Peebles prepare one?---That's correct.

20 And you deny, do you, being in the block M upper office near the meal room where Mr Peebles was on the computer, Mr Walker yourself and Mr Duncan were present?---That's right.

It just did not happen, correct?---Did not happen.

I want to suggest to you that it did actually happen and that Mr Peebles typed the IRM out in your presence with Mr Duncan and Mr Walker. You disagree with that, don't you?---I don't agree with that, no.

30 You gave some evidence about Mr Dippel logging on and doing an IRM in relation to the search the following day, that's correct, isn't it?---That's correct.

Was that a common occurrence?---Not really, no.

How regularly would other officers log in under other officers' details?---I can't answer that. I wouldn't know.

Well, you saw it happen at least once?---Yes.

More than 10 times?---No.

40 Less than 10 times?---I'd say so, yeah.

Did you ever do that yourself?---Not that I can recall, no.

Does that leave open the possibility that you have done that?---No. I can't answer that either way.

Well, that's be a serious breach of your obligations as an officer, wouldn't it?---I don't believe so, no.

Would it be a breach of your obligations as an officer to log in under another officer's name?---No. I don't believe so.

You can't recall whether you've ever done it, is that right?---I don't think so, no.

THE COMMISSIONER: But you know it goes on?

10 MR TAYLOR: Well, you've seen others do it?---I would imagine it would happen, yes.

THE COMMISSIONER: What does that mean?---I'm sure if someone was logged into the computer, they'd just, they would use, they could use their IRM access to, or their OIMS access to fill in an IRM, yes.

Well, let me ask you this. Do you know the, or have you in the past known the passwords of other officers?---No.

20 Have you given your password to other officers or anything?---No. I'd say I would have been logged on that day and he's just used it because it was already logged on.

I see. Thank you. Sorry, Mr Taylor.

MR TAYLOR: That's fine, Commissioner. So you've never given your logon details to anybody else?---I don't believe so, no.

30 Not to Mr Dippel?---No.

And in relation to the boys' club culture, if I can use that term, that was the term that was used yesterday.---Yes.

Do you remember the questions about that?---Yes.

Do you say that still exists in Corrective Services?---I would imagine it would, yes.

40 Well, it's not really answering by question. Do you know if it exists or don't you?---I believe it does, yes.

And once again, to paraphrase your evidence, you're not saying you put in the false report and gave misleading answers to questions at the internal inquiry on the basis of the boys' culture. It was all down to Mr Walker, is that correct?---That's correct.

How often did he threaten you?---Whenever it was spoken about.

I think in some part of your evidence you said you'd never seen Mr Walker be violent towards anyone. Do you remember that evidence?---Not physically, no.

So, when you say he made these threats which had an effect on you, was that purely on the basis of a reputation?---No. I've seen him lose his temper on many, many occasions.

10 Well, we all lose our temper, don't we?---Yes. We do.

You've lost your temper from time to time?---Yes.

That didn't cause you to put in a false report, did it, the fact that he lost his temper from time to time?---No. But - - -

And he made, you say, subsequent threats?---Yes, he did.

Not to roll over, those sorts of things?---Yes.

20 And at that stage, you hadn't seen him being violent?---No.

Now, at one stage I think you said that you had concerns for your family. ---That's correct.

Did Mr Walker ever mention your family?---No.

So that's something you just brought to your own consideration of what would happen if you didn't toe the line, so to speak?---Yes, that's right.

30 Now, I understand that – I'll withdraw that. So no one else has put any pressure on you to - - -?---Ah, no, no.

Just let me finish. No one else has put any pressure on you to make a false report?---No.

No one's ever, other than Mr Walker, put pressure on you to tell lies in interviews to - - -?---No.

40 - - - investigators?---No.

No one's pressured you to give the evidence you've given here in the Commission?---No.

Okay. Now, you're currently in the Security Unit. Is that correct?---That's correct.

You've just recently been appointed?---Yes.

Does that mean you're on probation?---Yes.

How long are you on probation for?---I couldn't tell you that.

No idea?---No idea.

Commissioner, pardon me. And is that position that you're now holding a higher-ranking position than what you had previously?---No.

10 Is it a higher grade?---No.

More pay involved or anything of that nature?---Less.

Okay.

THE COMMISSIONER: Is it a lesser grade?---Yes, it is.

How did that happen?---I dropped rank to apply for the job.

20 I see.

MR TAYLOR: It's with the Dog Unit, is it, or - - -?---That's correct.

Do you have any fears that if – I withdraw that. I want to suggest to you that at no stage Mr Walker threatened you on 19 February to change your report. Do you agree with that or not?---No, I don't agree with that at all.

I want to suggest to you that you've embellished your evidence and that he has not threatened you as you have said on a number of occasions without going into the specifics, since that time, not to roll over, as it were.
30 ---What was your actual question, sorry?

I put it to you, you either agree or disagree with this proposition, that Mr Walker hasn't made other threats to you after 19 February not to roll over, as it were.---He has said that, yes.

Has anyone else been present when these threats were made?---On the first day I'd say yes.

40 Who was that?---I believe Mr Duncan was in the room.

Anyone else?---I'm not sure if Mr Duffy was there at that stage or not. I can't be sure of that.

And it's the circumstances you've not reported any of these threats at any time to anyone?---I mentioned it to Mr Duffy, that was it.

You haven't mentioned it to Mr Duncan?---I don't believe so.

You haven't mentioned it to any superior officer?---No, no.

Is that correct? Nothing stopping you doing that, was there?---Only worry what Mr Walker would do.

But if - - -

10 THE COMMISSIONER: What did you think he was going to do?---I don't know what he would do.

MR TAYLOR: But if this was a situation of Mr Walker going off on a frolic of his own, you had nothing to fear from reporting it up the chain of command, did you?---Yes, from him.

But if you went above his rank and went to senior Corrective Services staff, which you were quite capable of doing if you wanted to - - -?---That's correct.

20 - - - you had nothing to fear from them, that is the superiors, did you?
---No, not from them, but from him, yes.

That was sufficient to keep you mute effectively for nearly four years - - -?
---Yes, it was.

- - - about your false report?---Yes, it was.

I want to suggest to you that's not truthful evidence. Would you agree with that or not?---No, I don't agree at all.

30 Thank you, Commissioner.

THE COMMISSIONER: Thank you, Mr Taylor.

Mr Brasch, have you got any questions?

MR BRASH: No questions, thank you.

40 THE COMMISSIONER: Anyone else? Mr Duggan?

MR GREENHILL: I was going to ask some, if I may.

THE COMMISSIONER: Oh, by all means.

MR GREENHILL: Sir, did Mr Walker know the address at which you live back then when this incident occurred?---Yes, he would have.

You've since changed your address?---That's correct.

So does he know that new address at which you live?---Yes, he does.

And are you married?---Yes, I am.

And were you married back then in February?---That's correct.

And did you have any children then?---Yes.

10 How many have you got now?---Three.

And did you treat the threat as being serious by Mr Walker?---Definitely did.

Yes, thank you.

MR DUGGAN: Commissioner, I just have a couple of quick questions arising out of that.

20 THE COMMISSIONER: Yes, of course.

MR DUGGAN: Firstly you were asked some questions about an insinuation that arose because of something Mr Walker said. Now, you gave some evidence yesterday at page 352 of the transcript. You were asked, "Is there a reason you didn't go above Mr Walker's head and complain about the chain of command?" And you said, "Because Mr Walker insinuated it was, everyone was involved in it."---That's correct.

30 And then I asked you, "Did he say something to that effect?" And your answer was, "Yeah, he just, he said something along the lines of, I don't know whether it was on the day or not long after, he said, 'O'Shea will ruin you.'" Do you remember that?---That's right.

Is that all he said that gave you to think that everyone was involved or did he say other things?---No. That's, each time he said it, it was something along those lines.

40 So how many times would Mr Walker have said something along the lines of "O'Shea will ruin you"?---Maybe five or six times over the course of the proceeding few years.

And was it the same phrase each time or did he say different things but with the same general intent?---Similar. Similar. Not the same, probably.

Are you able to think of another form of words that he used or not?---Just "You won't be going anywhere," that kind of stuff.

And what did you think he meant by O'Shea would ruin you?---Just that my career would be finished.

And did you think that was a possibility?---I believed what Mr Walker said at the time, yes.

10 But how did you think that that would come about, that your career would be limited?---Just I wouldn't be getting any more, I wouldn't get any promotions.

And what was it about that comment that made you think that everyone was involved?---I can't answer that, sorry. Just assumption, I guess.

Now, you'd be aware that Mr Walker ceased with Corrective Services in the middle of last year? You're aware of that?---Yes.

20 And you had an interview with this Commission in August 2017, August last year?---Yes.

And you had a compulsory examination in March of this year.---Yes, correct.

Were you still motivated by a fear of something Mr Walker had said to you at that, on those two occasions?---Yes.

30 And given that he was no longer with Corrective Services, why were you motivated by that fear?---More of a personal fear than the job fear.

I have no further questions, Commissioner.

THE COMMISSIONER: I'm just having a little bit of difficulty about this threat. As I understand what you say, he didn't say, "I'm going to limit your career opportunities," but Mr O'Shea would.---He used that threat, yes.

40 Is it really a threat? He's suggesting to you that some third party is going to have an adverse effect on your career in some way.---That was one part of it, yes.

And how do you think that was going to be achieved?---Just by – I had no promotional opportunities.

But you had no promotional opportunities because Mr O'Shea wouldn't give them to you.---I don't know that that – yeah, that was the least of my concerns at the time.

I'm sorry, your evidence suggested yesterday that it was a concern. In fact -
- -?---It was a concern but not the primary one.

Well, it was put forward, as I recall it, as the primary one yesterday. Am I
incorrect in suggesting that, Mr Duggan? That was my impression.

MR DUGGAN: That the primary concern was Mr Walker and his threat?
Yes. That was my understanding.

10 THE COMMISSIONER: Yes. I just don't understand why you'd find that
threatening if he said to you, another party, Mr O'Shea would limit your
career in some way.---You mean physically threatening?

No. To limit your career. I mean, did you believe, for example, that Mr
O'Shea would limit your career if you spilt the beans?---I'm not sure
whether I, I suppose so, yeah.

Yes. And why did you form that view?---Because he was a general
manager.

20

Yes. But as I understand your evidence, as far as you were concerned he
wasn't involved in any of it.---No, that's right.

Well, then how was he going to limit, what motivation would he - - -?---I
don't know what Mr Walker, he just, his main threats were to keep quiet or
else and then other threats were that, "Mr O'Shea would ruin you."

Yes. Anything arising out of that? And not just you - - -

30 MR DUGGAN: No.

THE COMMISSIONER: - - - by anybody else? No?

MALE SPEAKER: No, thank you.

THE COMMISSIONER: Can this witness be excused?

MR DUGGAN: Yes, Commissioner.

40 THE COMMISSIONER: You're released from your summons, sir, so
you're free to go.---Thank you.

THE WITNESS EXCUSED

[2.36pm]

Yes, Mr Duggan.

MR DUGGAN: The next witness is Cameron Watson, Commissioner.

THE COMMISSIONER: Thank you. Mr Watson, are you there? Come forward, please. Will you take an oath or an affirmation?

MR WATSON: An affirmation, please.

THE COMMISSIONER: Affirmation.

THE COMMISSIONER: I can't quite recall, Mr Watson, have you a representative?---Yes.

MR GIBIAN: Yes. Gibian, Commissioner. I am here for Mr Watson.

THE COMMISSIONER: Gideon, is it?

10

MR GIBIAN: Gibian. G-i-b-i-a-n, initial M.

THE COMMISSIONER: Thank you, Mr Gibian. Do you seek a section 38?

MR GIBIAN: I do. Yes.

THE COMMISSIONER: And you've explained?

20

MR GIBIAN: I have, yes.

THE COMMISSIONER: I may be repeating what your solicitor's already said but I need to let you know what your rights and obligations are. As a witness, you must answer all questions truthfully and you must produce any item described in your summons. I don't know whether there were any. Or any item required by me to be produced as a consequence of your evidence. A section 38 declaration means that the effect of, it has the following effect, that anything you produce or anything you say in evidence can't be used against you in any civil proceedings or subject to two exceptions, in any criminal or disciplinary proceeding. Are currently a serving officer?---I am, yes.

30

Then I'll raise both matters with you. The first exception is that this protection does not prevent your evidence from being used against you in a prosecution for an offence under the ICAC Act, most importantly an offence of giving false or misleading evidence. And I've told all witnesses who have so far appeared that such an offence is a serious one and can carry a penalty of imprisonment for up to five years. Do you understand that? ---Yes.

40

The second exception applies because you are a New South Wales public official due to the consequence of the fact that you are a Corrections officer. The evidence given by you may be used in disciplinary proceedings against you if this Commission makes a finding that you engaged in or attempted to engage in corrupt conduct. Do you understand that?---Yes.

Thank you, sir. Pursuant to section 38 of the Independent Commission Against Corruption Act, 1988, I declare that all answers given by this

witness and all documents and things produced by the witness during this course of the witnesses evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for the witness to make objection in respect of any particular answer given or document or thing produced.

10 **PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, 1988, I DECLARE THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS AND THINGS PRODUCED BY THE WITNESS DURING THIS COURSE OF THE WITNESSES EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR THE WITNESS TO MAKE OBJECTION IN RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED.**

20 THE COMMISSIONER: Before you proceed, Mr Duggan, there's just a query I want to raise with Mr Brasch. I made a non-publication order in relation to the CCTV footage. Is it still necessary to continue that?

MR BRASCH: No, my instructions are that the material has been secured, Commissioner.

THE COMMISSIONER: All right. In those circumstances I revoke the section 112 direction that I made in relation to the CCTV footage.

30 **VARIATION OF SUPPRESSION ORDER: SECTION 112 DIRECTION REVOKED IN RELATION TO CCTV FOOTAGE**

THE COMMISSIONER: Yes, Mr Duggan.

MR DUGGAN: Thank you, Commissioner.

40 Mr Watson, can you please state your full name for the Commission?
---Cameron Kenneth Watson.

Thank you. And, Mr Watson, you were rostered on, on 19 February, 2014?
---Yes.

And you know you've been asked to come here today to answer some questions about that day?---Yes.

Now, do you recall being up in Unit 3 in the morning in a planned search operation?---Yes.

And do you recall coming down from Unit 3 to attend Unit 5 at some point?
---Yes, I do.

Did you come down with others or did you come down by yourself?---With a group of people, I think it was the three IAT guys and Wes Duffy I believe.

10

All right. So you're talking about Mr Walker, Mr Graf and Mr Duncan?
---Yes.

All right. So you entered into the day room with them I assume in Unit 5?
---I think they were in front of me, yeah.

All right. And was there anyone in the day room when the group of you entered into it?---I don't believe there was anyone in the day room, no.

20

Did you walk towards the office?---Towards the office, yes.

And was there anyone in the office?---I remember seeing Mr O'Shea in the office and other than that I don't remember seeing other faces in there.

Is it the case you remember there being other people and you don't remember who they are or you just don't recall either way?---I don't recall, no.

30

All right. But Mr O'Shea was in there?---Yes.

And did you go into the office or wait outside?---No, I think I was outside of the office.

All right. And did you see anyone go into the office?---I can't recall. I believe Mr Walker probably would have went into the office, yes.

All right. And then Mr Walker came out of the office I assume?---Yes.

40

And did Mr O'Shea come out of the office?---I can't recall seeing - - -
Right.---I can't recall seeing him walking out of the office.

All right. And when Mr Walker came out of the office, did anyone tell you what was going to happen next?---No, not, no one said anything to me, no.

Now, you're IAT-trained as I understand it?---That's correct, yes.

But you weren't rostered on for IAT that day?---No.

But were you attached to an IAT unit for the search operation in Unit 3?
---I think I was assigned to a group that was searching 3 Unit which might have been up to 10, 15 people, and IAT were there at the time assisting with that search in 3.

All right. Do you remember why you went down to Unit 5?---There was a radio call for IAT to go down to Unit 5.

10 All right. And did you consider that to be a call that included you because you were IAT-trained?---No. I said to the guys, "Do you want me to come down to help?" And then said yes. Can't recall who I spoke to about that though.

Okay. So you're in the day room and Mr Walker's come out of the office. Did anyone tell you what was to happen next?---No.

20 Did Mr Walker walk towards the cell door?---I believe everyone walked towards the cell door, I remember being at the back of everyone because the IAT guys are usually the ones that deal with any issues, I thought I'd just be there if they needed help.

Right. You were holding back to see if there was additional assistance required?---Basically, yes.

And do you remember who opened the door, the solid door?---No. I remember Mr Walker being at the front and then Mr O'Shea being down near the front door as well, the cell door.

30 All right. When you say down near the front, are you saying it in terms of the area in the day room?---Yeah. I would have been standing a couple of metres back maybe in the middle of the day room with the three IAT guys, I think Wes Duffy in front of me and I remember seeing down near the door Mr O'Shea as well.

All right. And so how far would Mr O'Shea have been from the door?
---Oh, right next to it.

40 Right. And so the solid door was opened, I assume at some point?
---It did get opened at some point, yes.

And it got opened while you were there?---Yes.

And do you recall any conversation between the grille door?---I don't recall any of the conversation, no.

Do you remember whether there was conversation or yelling or anything?
---No, I don't. I don't recall if there was or not.

And I assume that the grille door was opened.---It got opened, yes.

Yes. Do you remember who opened the grille door?---No, I don't. I wouldn't have been able to see. I had the guys all standing in front of me.

And you're referring to the two junior officers of the IAT and - - -?---Yes, Mr Duncan, Mr Walker, Mr Graf. Mr O'Shea is down the front.

10 Yes.---I think Mr Duffy was in front of me.

So your view of the door would have been fairly obscured.---Yes.

And do you recall Mr Michael Watson, or Mick Watson, of the Dog Unit?
---I do recall the, the dog handler being sort of back to my right, behind, well, not behind me directly, but to my right and back a little bit, yes.

And just to be clear about your position. So do you have a recollection that the cell door was at the compound end of the day room?---Yes, I believe it was.
20

And you're between the group and the office, are you?---Sorry?

You're between the cell door and the office.---No, I would have been more in between cell 208 that we're talking about and cells on the other side. So in the middle of the day room.

Right. I understand. All right. And so the grille was opened.---Yeah.

30 And what did you see once the grille was opened?---I seen the officers enter. I think it was basically all the officers that were in front of me go into the cell. Mr Graf and I don't know who was the other officer at the time grabbed the inmate off the top bunk and pulled him out into the day room from there.

And did you see that they secured him in a position or - - -?---No, he was on, I remember him being on the ground and that's when I knelt down beside him and just put my hands on his back so - because I didn't know what was happening in the cell - so that he couldn't get up or anything like that. I didn't know what was happening or - - -
40

And so where exactly did you have him on the ground?---Back from the cell, probably towards the middle of the day room. And if you're looking at the cell door from the outside, to the left a little bit.

And do you recall Mr Taylor being in the day room at any point?---I don't recall seeing him, no.

Do you recall Mr Peebles being there at any point?---I don't remember seeing his face, no.

Is it possible that they were there?---Yeah, it's possible they were there.

So you have – did you know the names of the inmates, by any chance?
---No, not, I've only since learned about the inmates in there, yeah.

So you had the first inmate to come out of the cell on the ground.---Yeah.

10

And then no doubt you're keeping your eye out for what else is happening in the day room.---Oh, I just had him on the ground, had my hands on him, and I was just watching him. That was all.

Did you see the second inmate come out of the cell at all?---No.

Did you see any commotion going on inside the cell, either before or after you secured the first inmate?---I couldn't see inside the cell, no, but I could hear commotion inside the cell.

20

What could you hear?---I heard sort of the crash and bang of furniture and that sort of stuff. I heard Mr Walker say, "Don't try and assault me." And, yeah, just more of furniture and stuff banging around.

And did you hear the inmate say anything?---No, I didn't. Only the inmate on the ground with me, I remember him looking up at me and saying, "It wasn't me. It wasn't me."

The inmate that you had secured?---Yeah.

30

And did you see the second inmate exit the cell at any point?---No, I don't recall him coming out.

You don't recall him being taken across the day room into a cell over the other side?---No, I don't remember that, no.

Is it fair to say that once the grille door was open, things happened fairly quickly?---Yes.

40

How long did you have the first inmate on the ground for?---I don't really recall. I, I remember saying during my interview, and I've spoken about it with my barrister, that's the last thing I can remember was holding him on the ground with my hands on his back.

All right.---That's the last memory of that that I have.

THE COMMISSIONER: How soon after the officers entered the cell did you hear some crashing and banging?---Within a couple of seconds.

Right. Okay. Thank you. Sorry, there's one more question I want to ask too.

MR DUGGAN: Yes, certainly.

THE COMMISSIONER: You gave some evidence a little while ago that all of the officers went in. Did that include Mr O'Shea?---No, he didn't enter the cell.

10

Where was he?---I believe he stood to the right of the cell.

Right.---When the door had been opened and the guys went through.

And was he present to your recollection when this crashing and banging was going on?---I don't recall, 'cause I walked towards the cell when all the guys went in and as the inmate was being brought out of the cell I had to step back out of the way when he was being brought out.

20 But if the crashing and banging happened within a matter of seconds, do you agree it's likely that Mr O'Shea was in the vicinity?---Would have been in the vicinity, yes.

Yes, thank you. Sorry, Mr Duggan.

MR DUGGAN: No, that's okay. Thank you.

Mr Watson, can I take you to your record of interview. You recall that on 2 August last year you had an interview with officers of this Commission?

30 ---Yes.

And you may recall that you were interviewed for some time and then there was a break in the interview and then it resumed.---Yes.

Do you recall that?---Yeah.

40 And this is at page 16 of the transcript of that interview, and if you need me to show you in hard copy I can. It was said to you, "Cameron, do you recall when I started the interview I told you some things we had to do about this and I told you it was implicit upon you to be truthful to us?" And you said, "Yeah." And you were told, "Now, I'll give you the opportunity now if you want to add anything to what you said or change anything, now is the time, okay. So I'm happy to suspend the interview for a period if you want to have a think about it. Okay.---Yes.

You remember that being said to you?---Yeah.

And then there was a break in the interview.---Yeah.

And then I think you were asked to confirm whether the fact that there was no conversation during the break in the interview?---Yeah, yeah.

And then the interview resumed.---Yes.

10 And then there were some question and answers and it's just on the screen in front of you from about line 5, and you're asked whether you have had a chance to reflect on the answers you'd given previously in the interview and you said you had.---Yeah.

And you were asked whether you wanted to add or subtract or change anything.---Yes.

20 And your answer is this. "The only thing I think, I think I can see that Mr O'Shea was down there at the cell, I'm just trying to, I can see, like, from looking at the cell door, being down towards the front on the right. I don't know what, I don't know what part he's had there, I remember seeing him standing down near the front of the cell before it was opened." And then I think you give some more evidence to that effect down the page. Now, you would stand by what you said in your record of interview?---That Mr O'Shea was there?

Yes.---Yes.

And it's consistent with the evidence you've given - - -?---Yes.

- - - five minutes ago.---Yep.

30 What I want to ask you is this. Did you have some reluctance to give that evidence when you were interviewed in August last year?---No, I hadn't put, well, I hadn't thought about the incident the whole time, it hadn't really struck me, 'cause it's something, I had a minimal part in it and, yeah, just putting more thought, even more thought since the interview I've been able to remember a bit more, so that was just something that I remembered, yeah.

All right. So maybe I'll ask you a little more directly. What was it during the break which was, it was a five-minute break, it was a short break, you recall?---Yes, yep.

40 What was it during that break that made you think about the fact Mr O'Shea was at the cell door, do you recall?---Because I remember saying in the interview that I wasn't sure if he was there or not and I just was doubting it in my head and at that time I was thinking about it and I thought I do remember him seeing, from where I'd stood down near the front right near the cell.

So it wasn't any reluctance, it was just digging deeper into your memory?---
Yes, yes.

And you said you've dug deeper into your memory since the interview as well.---Yes.

And you've remembered some more things?---Yes.

10 What do they relate to?---Oh, the main thing was that I remember inmate
[REDACTED] looking up at me, saying, "It wasn't me. It wasn't me."

Is there anything else that you wish to add?---Not that I can think of off the top of my head right now, no. No, not right now. I don't think there's anything else.

You gave an answer earlier which suggested that things were a little bit hazy after you had the first inmate on the ground. Am I correct in that assumption?---Yes, yeah.

20 Is your memory poor after that point for some reason?---It is. I completely cannot remember after. I've even spoken to my barrister. I feel stupid for it, but the last memory I have was having my hands on inmate [REDACTED] back.

So you don't know where he ended up?---No.

Now although you were not rostered on with the IAT that day, where would you usually break for lunch or keep your things?---Wherever I was rostered to that day. Being a search day, I was likely rostered in one of the units, so that's where my bag and everything would be.

30 Do you remember where you did your reporting that day?---Reporting?

Yes, did you prepare some reports at some point?---I didn't. No, I didn't.

Do you remember having lunch with the IAT guys that day?---No.

Do you remember any conversation that day or after about what had happened inside the cell?---No.

40 Didn't ask any questions about the commotion that you'd heard?---No. I, I was a junior staff member at Lithgow at the time. I'd been at Oberon for five and a half years before that, and I just, it wasn't any of my business, I suppose. I just stayed out of it. I thought if I needed to do a report then I would be asked to do it.

Did you think you might need to ask someone whether you needed to do a report in relation to that incident?---I wasn't sure. In that whole time I was at Oberon, I'd never used force and didn't know whether just having my

hands on his back would be, need to do a report for it or – I wasn't sure. But I thought that, yeah, if I needed to do a report, then someone would have said to me you need to do it.

But what about the commotion inside the cell and having a concern that you might be part of a broader incident?---I didn't put much thought to it.

I mean, it's pretty obvious something's happened inside the cell because the gates open and there's crashing of furniture and commotion.---Yeah.

10

You accept that?---Yes.

But you didn't think that you might need to do just a witness statement?---At the time, I, I didn't. I just thought if the guys wanted me to do one, then I would do one.

Did you think about the CCTV footage?---Just, well, I presumed, I knew that I would be on the CCTV so that if it was reviewed and someone wanted me to do a use of force, then definitely they would ask me to do a report because I was there.

20

But did it give you some comfort that whatever your involvement was it had all been recorded on camera?---Oh - - -

Or you didn't think about it?---I didn't think too much because all I did was just have my hands on his back, so - - -

Have you ever seen the CCTV footage of what happened?---No.

30

Have you ever heard any suggestion it had been deleted or anything to that effect?---I have heard suggestions of that, yes.

Who has made those suggestions?---I can't recall but I do remember I think Tex has said it before that he believed that Mr McMurtrie had deleted the footage.

When did he tell you that?---I couldn't recall.

40

Are we talking six months ago or 2014?---I don't recall. It could have been at any time between there, I'm not sure.

THE COMMISSIONER: It wasn't recently, though?---Sorry?

It wasn't recently?---No.

Now, your memory is a little bit hazy in terms of how the incident closed out. Do you remember going back up to Unit 3?---I don't really remember going back up there, no.

MR DUGGAN: I want to show you a document, please. Can you see there's an IRM on the screen?---Yes.

And it's of 19 February, 2014, do you see that?---Yes.

And that's the same day as the incident that I've just been asking you about?---Yes.

10 And the report appears to have been completed by yourself, do you see that?---Yes, yep.

At 2.28pm?---Yep.

At least that's when the report starts?---Yes.

And am I correct in assuming that this incident relates to a contraband find in Unit 3?---Yes.

20 So, where it has location details LGW 3.2 Unit, that's Unit 3?---Yep.

And the summary is entered under your username. Do you see that?---Yes.

And it says, "During cell search I found 0.2 grams of bupe concealed in packaging, a small folded yellow package. Inmate admitted ownership during interview." Do you see that?---Yes.

Do you recall making this find on 19 February?---I don't recall that, not off the top of my head, no.

30

Do you remember an inmate [REDACTED]?---Yes. I had, I had dealt with him before when I was working with the Community Compliance Group. I do know him. Yes.

I'm not sure I see his name. Oh, yes, down the bottom.---Yeah, down the bottom.

And that's the one you're thinking of?---Yeah, I know who that inmate is, yes.

40

You do?---Yes, yes.

Does that refresh your memory in relation to this contraband find?---Not particularly, no. I can't remember that.

Now, just to, in terms of the search type, it has "Type of search." Do you see that?---Yes.

Now, do I assume from that that Mr [REDACTED] was included in the search operation that day, is that a fair assumption?---He would have been residing in 3 Unit, yes.

And the category of the contraband is drugs and then you've selected buprenorphine as the nominated drugs. Do you see that?---Yes.

And the weight is 0.2 grams, do you see that?---Yes.

10 And then a few lines down, there's a question, "Where is the contraband now?" And the answer is, "MOS." Do you see that?---Yes.

Now do you accept that you prepared this IRM?---I don't remember doing this IRM.

But it's likely that you've entered these details into IRM under your username?---Being that it's my username, yeah.

20 There's nothing to think that someone else would have done that?---I don't know how anyone else could have, no. I've never given out the password for it.

THE COMMISSIONER: MOS means manager of security?---Correct, yes.

Who was that at the time?---The manager of security at that time would have been Brad Peebles.

30 And when it says, "Where is the contraband now?" And you've said, "MOS," manager of security, what does it actually mean? Does that mean that you handed it over to him?---I would imagine it would have been taken to the manager of security's office, if that's what's on there, yes.

Thank you. Correct me if I'm wrong, Mr Duggan, that's the same weight, isn't it, as the drugs which were found the next day in - - -

MR DUGGAN: It is. The other details refer to 0.2 grams of bupe. The video actually initially has 0.3 but I think it's weighed a second time and it's, because it's such a small weight, there is 0.2 gram, yes.

40 THE COMMISSIONER: Thank you.

MR DUGGAN: Mr Watson, you said a second ago that you've never given out your password to anyone, was that your evidence?---I'm pretty sure I've never told anyone.

Are you aware of any policy that you're not supposed to give out your password?---Yeah, you're not supposed to, yes.

It would be a pretty uncommon thing and a contravention of that policy to hand out your log in details?---Yes.

Now, it says here that the contraband is given to the MOS. Do you have a recollection, and I know this is some time ago, but a recollection that the usual manager of security was Mr Peebles but that at this time the acting manager of security was Mr Taylor, do you have that recollection?---No, I don't.

10 All right. If that scenario occurred, would it be likely that you would give it to the person who is acting in the position on the day, whoever that was?
---Yeah, whoever was in the manager of security's office. Whoever was manager of security that day.

All right. And it says that there was the incident videoed and it says no. When you find contraband like that do you usually photograph it or - - -?
---Yes, always.

20 Do you recall whether you took photographs of this find?---I don't remember the find. I don't even remember doing this IRM.

All right. Would the photographs be mentioned on the IRM anywhere?
---I'm not sure.

If you took photographs – I'll go back a step. So for a use of force package, when there's a use of force there's a suite of documents and that might include still photos and the like.---Yes.

30 Does the same thing happen with a contraband find?---Yes. You usually radio IAT and they'll come and, with a camera and tend to take possession of it, the, whatever the find is.

So let's be clear about this. Are you suggesting that they would take the contraband, IAT?---That would normally be the case because we don't carry evidence bags on just general staff. The IAT officers are the ones that - - -

40 Oh, I see. You need them to bring the evidence bag down?---And, yeah, they'll bring an evidence bag and they'll have the video camera and then they'll take possession and usually seal it in front of the inmate, the evidence bag that is.

THE COMMISSIONER: Do they also take down a little set of scales?
---Yes, they do have them in the vest.

MR DUGGAN: So your standard procedure at this time on making the find would have been to contact IAT?---Yes.

And say I've got a find?---Yeah.

And they'd come down with the exhibit bag, the scales?---Yes, yeah.

And then who would, once they do that would it be you who would deliver the exhibit bag to the manager of security's office?---No. I'd imagine I would usually stay wherever I was supposed to for that day and then the IAT officers would take it down there.

10 All right. You don't have any recollection of that happening in relation to this?---No. I'd assume if, if this has happened then I would have done an incident report which would have stated exactly what I've done in that.

All right. Well, let's go to that.

THE COMMISSIONER: Before we do, can we just go back to one thing.

MR DUGGAN: Certainly, yes.

20 THE COMMISSIONER: Down the bottom of the page you will see there is a heading Involved Parties. See that?---Yes.

And it's go the offender and the staff member, which is you. Next to the inmate's name there's "role in possession of contraband". Do you see that? ---Yes.

Then next to that it says "OIC pending".---Yes.

30 What does that mean?---I believe offence in custody or internal charge pending.

Internal charge?---Yes.

Thank you. And that's what normally happens if contraband is found within a prison cell?---Yes.

There will be an internal charge?---Yes.

Thank you. Sorry, Mr Duggan. You go on.

40 MR DUGGAN: No, that's all right. Thank you, Commissioner. So if I can take you now to your report. Is this your report in relation to that IRM? ---Yes, I do remember this report.

All right.---Yes.

Now, it refers there at the top to "The inmate has been locked in his cell pending adjudication." Do you see that?---Yes.

And by adjudication you mean determination of the internal charge.---Yeah, that's, that's standard on every, when you generate this document, that automatically comes up and you either change it from "inmate has been locked in" or "not locked in".

All right.---Yeah.

And it goes on to refer to the date, obviously.---Yeah.

10 You were performing your duties with search team 2 at Unit 3. Do you see that?---Yes.

And you say that you were going through the belongings of [REDACTED] and another inmate?---Yes.

And you found a folded packet of Clive of India tea. Do you see that?---Yes.

20 And you opened the package and it contained an amount of white powder. Do you see that?---Yes.

Do you have any recollection of - - -?---I do now, yes. I remember with the Clive of India package. It's a, it's what the inmates' tea bags come in.

And then inmate [REDACTED] was brought into the cell and asked some questions about it and you initially said, "Don't play games. You know what it is."---Yeah.

30 And you said, "Well, tell me." And he said, "You know what it is. Send it off, and when you find out what it is I'll own up to it." And then it was placed on the scale and weighed at two grams. Do you see that?---Yes.

And I assume that you did that with IAT?---Yeah, I, I don't remember exactly doing that, but that's how it would have been done.

40 Is it the case that you wouldn't have had to have called IAT because this is a targeted search operation and they would have been - - -?---I don't recall whether they were in the unit at the time or whether they've been called to the unit because of this, but they would have been there to weigh that item because there's not scales around the gaol. It's only in the IAT vests, I believe.

And does that refresh your memory as to who on IAT might have assisted you to do this?---No, no. I don't remember weighing those, the drugs.

But [REDACTED] was then asked to read the scales and then he replied, "I'm not playing games. You know it's fucking bupe." Just, do you see that?---Yeah, I see that.

And then the item was placed into an evidence bag. Do you see that?---Yes.

Do you recall doing that?---I don't recall doing that, no.

So you wouldn't recall whether you sealed the evidence bag?---I don't recall whether I would have done it or whether someone else would have done that.

10 But it was either done by you or in your presence, I assume?---Yeah.

Because it's in your report.---Yeah. Yeah.

And you don't have a recollection as to whether it was sealed?---The item was placed in the evidence bag. I imagine it would have been sealed. I can't see any reason why it wouldn't be.

But you don't have any recollection?---No.

20 And now you've got both documents, do you have a recollection as to whether this find was photographed or videoed?---I'm not sure. I imagine there would have been still photos taken of it but I can't be sure.

And now we've explored this a little bit more and refreshed your memory a little bit more with this report, do you now have a recollection as to whether you attended the office of the MOS to deliver this item?---No, I don't recall, no.

30 Do you know where the MOS keeps contraband finds?---I believe there's a safe in the manager of security's office, where it's kept with a register.

Have you seen the safe?---I think I have. I think it sits on the desk inside there, approximately 30 centimetres by 30 centimetres by 30.

Inside the office of the MOS?---Yes.

And did you say the exhibit book sits next to the safe or on top of the safe? ---I'm pretty sure there's a register in there for anything that goes into it, yes.

40 And have you ever had to put anything into the safe and enter it into the exhibit book?---I wouldn't be the one that enters it into the exhibit book. I remember, not around this time but later on I remember a day, Mr Turton being manager of security, and I've, I remember being down there when they found strips of – I can't think of what it was called, whether it was - - -

Suboxone?---Yeah, it's like an orange waxy material, I think that's what it is, inside an inmate's undies that had been posted into the gaol, and I

remember seeing him put them in, secure them and then placed into the safe there.

Right. And do you know whether access to the safe is limited?---I believe it would be, I believe only the manager of security or higher would be able to get into it.

10 All right. All right. You've never, obviously I wouldn't want to know it, but you wouldn't have a code or you wouldn't know how to get into the safe?---No, no.

Do you know whether the drug was sent off for testing?---No, I don't know.

And do you know whether that happens?---I think for larger amounts of it it would, for police charges and things like that, but I'm not sure with smaller amounts if that's what happens or not.

20 Is that why this inmate is perhaps trying to escape a charge by saying, "Send it off and you'll find out what it is," knowing that you might not do that?
---Basically, yeah, he's, if he tells me what it is, then I can write that and then he'll be charged with what it is, so yeah, they, they won't, they seem to not tell you what it is to make you have to work to be able to end up they get the charge for it.

Right.

THE COMMISSIONER: Do you know whether he was charged?---I don't know, no.

30 No, that's all right.---Never followed it up, never.

Whose responsibility would it be to decide whether or not he would be charged?---I believe it would be the general manager that would hear the charge or either the general manager or the manager of security.

Thank you.---I think they have a hearing and the inmate pleads guilty or not guilty.

40 Thank you.

MR DUGGAN: Commissioner, I don't think I tendered the IRM, but I'm happy for the two pages to be tendered together, if that is the convenient course.

THE COMMISSIONER: That's fine. That will be marked Exhibit 68.

#EXH-068 – IRM 92724 BY CAMERON WATSON DATED 19 FEBRUARY 2014 AND ASSOCIATED MISCONDUCT REPORT BY CAMERON WATSON ALSO DATED 19 FEBRUARY 2014

THE COMMISSIONER: And while we're on it, I think the first witness this morning, we were dealing with that profile document.

MR DUGGAN: Yes.

10

THE COMMISSIONER: Do you wish to tender that as a confidential exhibit?

MR DUGGAN: Yes, I do.

THE COMMISSIONER: I just might check how that's done. We'll mark that report as Exhibit 69 but it should be noted that it's confidential, so it won't be published.

20

#EXH-069 – INMATE PROFILE DOCUMENT FOR INMATE B DATED 9 MAY 2018

MR DUGGAN: Commissioner, while we're on that topic it might be convenient to remind everybody there's a suppression order in relation to all inmates' names and that would include Inmate [REDACTED] that I've referred to in cross-examination and on these exhibits.

30

THE COMMISSIONER: Quite, yes. The order I made previously in relation to the two inmates will extend to Mr [REDACTED]

VARIATION OF SUPPRESSION ORDER: SECTION 112 DIRECTION MADE PREVIOUSLY IS EXTENDED TO MR [REDACTED]

40

MR DUGGAN: I have nothing further for Mr Watson, Commissioner.

THE COMMISSIONER: You may have answered this, sir, but you said that you went down to Unit 5 in response to a radio call.---Yes, that's correct.

Who made the radio call?---I don't know the voice, who it was.

You don't know. How long had you been in Lithgow at the time of this incident roughly?---Six to seven months.

I think you said - - -?---I think it was mid-2013 I transferred from Oberon to Lithgow.

Okay. And how long had you been in Oberon?---Five and a half years.

Is that where you started?---Yes.

There's no reason why this witness can't be excused, is there?

10

MR DUGGAN: No.

THE COMMISSIONER: Thank you very - - -

MR DUGGAN: Unless there's cross-examination from others.

THE COMMISSIONER: Oh, I'm sorry. I do that every afternoon. It's not because I'm trying to avoid it. Mr Madden, you must be first.

20 MR MADDEN: Sorry?

THE COMMISSIONER: Are you first?

MR MADDEN: I'm first. I've got no questions.

THE COMMISSIONER: Mr Willis?

MR WILLIS: Just briefly, Commissioner. Mr Watson, you were taken to an interview that you had with investigators from the Commission last year.
30 Do you recall being asked questions about that in the evidence that you've given today?---Yes.

And I think you said initially, in relation to that, and you were taken to page 7 at about line 15, and initially when you were asked questions about whether Mr O'Shea was present, you were, I think your answer was that you thought you could see him being in the office or words to that effect. Is that right?---Yes.

40 And when, when you referred there to the office, did you mean the officers' station?---Correct.

In that area?---Yes.

All right. And then you, later on, when you were given an opportunity, I think, to consider the questions that you'd asked, you'd been asked, and the answers that you'd given, you came back to that topic and you then, I think, had a recollection of Mr O'Shea being in the day room area.---Correct.

Near the door of the cell?---Correct.

Cell 208?---Yep.

And I think your recollection, at least as it's recorded in that interview, was that your recollection of seeing Mr O'Shea there was prior to the door of the cell being opened. Is that right?---And when the cell door was open, I think he was still there.

10

And so if you'd said differently in the interview, would you, how would you account for that? You might have been mistaken at some point?---I'm sorry. What was the question?

Yeah, it wasn't very good. If you'd said in your interview that you had a recollection of Mr O'Shea being there, but before the door was open, is that your best recollection of what happened on the occasion in terms of Mr O'Shea's presence?---Of being there before the door was opened?

20

Yeah.---He was there before the door was open and when the door was open, yes.

And I take it that when the door was opened, the first prisoner came, the first inmate came out, is that right?---Yes.

And he was more or less put into your charge, was he?---Yes.

And your attention, I assume, would have been taken up with managing him?---Correct.

30

And I take it that you don't know whether, when you were looking after that inmate, Mr O'Shea was still there or whether he'd left at some time?---That would be correct. I don't remember when he left or seeing him leave.

Thank you, Mr Watson.

THE COMMISSIONER: Thank you, Mr Willis. Mr Dunne?

40

MR DUNNE: Yes. Thank you. Mr Watson, my name's Dunne. I'm representing Mr McMurtrie.---Yes.

Commissioner, if I could ask for Exhibit 68 to be shown - - -

THE COMMISSIONER: Sure.

MR DUNNE: - - - to the witness? Yes. Thank you. My understanding was that there were two pages to that exhibit. The second page being the misconduct report. If the witness can be shown - - -

THE COMMISSIONER: Yes, there is a second page. - - -

MR DUNNE: I'm sorry?

THE COMMISSIONER: Are you after the second page?

MR DUNNE: Yes. The second page, thank you. Mr Watson, you're the author of that unsigned report, you agree to that?---Correct.

10

And if I can take you to the substantiative part of the report, which is about midway through the page, and it says, it's commencing at approximately 9.00am, about the fifth line down there's a middle of a sentence commencing, "Contained an amount of white powder."---Correct.

Now, you know the difference between powder and a tablet?---Yep.

And so if you recorded that it contained an amount of white powder, would I be correct in saying that it would be loose powder?---Yeah.

20

It could have been flour, something - - -?---Oh, yeah, like a, yeah, powder. Like a sugary substance, maybe like a flour.

That's right. Individual little molecules.---Yes.

All loose, not clumped together.---No.

If they had have been clumped together, if it was a tablet or half of a tablet - - -?---Yeah, would have said.

30

- - - you would have recorded that, is that correct?---Yes. Yes.

Thank you.

THE COMMISSIONER: Thank you, Mr Dunne. Who else? Anyone else?

MR HARRIS: Commissioner, Harris, if I may.

THE COMMISSIONER: Thank you.

40

MR HARRIS: Thank you. Mr Watson, my name is Harris, representing Mr Taylor. Can I just clarify a couple of aspects of your report. Your evidence here today, I'm sorry. I'll take you back to where you gave a reasonably detailed description of the movement from the office in what we're calling the day room towards cell 208. You remember that evidence?---Yes.

About who was in front and who was where?---Yes.

Did you say – and I just didn't catch this – you hadn't viewed the CCTV again?---Correct.

But you were interviewed about this in August last year, correct?---Yes.

10 And you were asked here today – I think it's to do with the time of, that time around first approaching the office and then approaching the cell – that you were asked here today by Counsel Assisting, “Do you recall Mr Taylor being there?” and I think your evidence was words to the effect, “Don't remember seeing him.”---Correct.

And I think you said, the gist of your evidence was likewise Mr Peebles. ---Correct.

And you said possibly they were there.---It's possibly they may have been there but I don't recall seeing their faces.

20 No. So could I just, on that aspect, take you then to your record of interview. You're welcome to look at it again or I'll just let you know page 7, Mr Commissioner, of the record of interview of the 2nd of August, 2017.

THE COMMISSIONER: Thank you.

MR HARRIS: And again you were asked there about the time period, which is when you've gone to the office in 5 Unit and then to cell 208, and you were asked questions, given names, for example, just for example - - -

30 THE COMMISSIONER: We might just put it up on the screen if we can.

MR HARRIS: Yes, that would help me, rather than quote verbatim. Thank you, Commissioner. If you have a look at around line number 20. Do you see that on the left?---Yes.

And they're asking – you're being asked there, “Mark Kennedy?” “No, I don't remember seeing Mark there anyway.”---Yeah.

40 And then Mr Grainger asks, “Steve Taylor?” And your answer there was, “No, not from what I can remember, no.”---Correct.

That remains your evidence, doesn't it?---Correct, yes.

And I'll move on – thank you, Commissioner – to the evidence about the find in 3 Unit on 19 February, 2014, when you reported finding this powder. And you were asked here today about the manager of security at that time, and you said words to this effect, “I would imagine the contraband was taken to Mr Peebles.” Am I right in assuming it's not or, I'm sorry, it was not and is not part of your duty to take it yourself when you make a find?

---No, generally not, no. It'd be IAT that take control of any exhibits.

They've got the scales. They've got the bag.---Yes.

That's why, is it, you say, "Well, I would imagine the contraband was taken to Mr Peebles"?---Yeah, correct. When I say Mr Peebles, I probably should have said the manager of security's office.

Well, yes, to be fair, you were asked - - -?---Yeah.

10

- - - a question, "At this time the acting manager of security was Mr Taylor?" And then you said, "Well, yes, whoever was the manager of security that day."---Yes.

You would imagine it'd been taken to him, correct?---Correct.

But you don't know?---I don't know, no.

Thank you, Commissioner.

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THE COMMISSIONER: Thank you, Mr Harris. Mr Greenhill?

MR GREENHILL: Nothing, thank you.

THE COMMISSIONER: Anyone else apart from Mr Gibian?

MR TAYLOR: No, thank you, Commissioner.

THE COMMISSIONER: Mr Gibian, have you got any questions?

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MR GIBIAN: I just have two matters. Just in relation to IAT training, you had said, you were asked and you confirmed that you are IAT-trained.

---Correct.

Did that occur when you were at Lithgow or when you were at Oberon?

---When I was at Oberon in about 2010.

And I think you said you moved to Lithgow in around the middle part of 2014?---Correct.

40

Are you able to recall whether you'd been assigned to IAT duties at any time prior to, at Lithgow I should say, at any time prior to February 2014? ---Very unlikely that I would have done many shifts. They had the regular staff at that time, and if there was someone sick maybe I'd fill in but would probably say that it'd be lucky to be a handful of times that I might have done it before that. If I had, I'm not sure.

Now, in relation to the Exhibit 68 of the report that you prepared in relation to the find that occurred, you were asked and gave some evidence about scales about evidence bags being items that you would not have had on that day because you were not doing IAT work?---Yes, correct.

10 You were then asked about whether the find would have been filmed or photographed and I think you referred to the possibility that still photographs may have been taken?---I believe that most finds, wherever the item was, put it in situ and that's where you take the photo of.

Who would have the camera in that situation?---IAT.

Nothing further.

THE COMMISSIONER: Thank you, Mr Gibian.

MR DUGGAN: Commissioner, there is just one further question I have that I didn't ask earlier but if I may? Your report, Mr Watson - - -
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THE COMMISSIONER: Can you just give me the page reference for that again? The page reference in the, oh there is none.

MR DUGGAN: Page 2 of the new exhibit.

THE COMMISSIONER: Thank you.

MR DUGGAN: There is a hard copy exhibit the associate has, I think.

30 THE COMMISSIONER: Yes. Thank you. Thank you. Sorry, Mr Duggan.

MR DUGGAN: Can I go to page, sorry, it's not that document I was referring to. Search team 2 doesn't refer to IAT?---No. There would have been, going off the roster that day, there would have been designated search teams, so a cluster of maybe, I would guess roughly around 10 or so staff assigned to, I'm guessing it was a lockdown search day for the gaol and there would be probably 5 to 10 staff assigned to each unit. And yeah, you'd be team 1, team 2, team 3, team 4 and they would all go their separate units and do the searches.
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Can I take you to page 41, please, of Exhibit 45. Parts of this are obviously redacted but this is the roster from 19 February, 2014. Do you see that?
---Correct.

And if you need to see some of the unredacted parts to answer the question, please let me know, but see in the top right corner, it has "Security," in the second box?---Yes, yes, yes.

And there are three IAT officers. Do you see that?---Yes, yep.

So, is it the case that it would have been one of those officers that you would have given the contraband find to?---I believe so, yeah. I believe all three would have been there because they usually all stay together.

But just try and think back to what happened on this day. You were up in Unit 3 and then you attended Unit 5, obviously with these three officers?
10 ---Yep.

Does that give you any recollection as to providing one of those officers with the contraband find in relation to [REDACTED]?---No. Sorry, it doesn't.

Thank you, Commissioner, no further questions.

THE COMMISSIONER: Thank you, Mr Watson, for your assistance and you're excused from your summons and free to go.---Thank you very much.

20 You are too, Mr Gibian.

MR GIBIAN: I will take that leave as well.

THE WITNESS EXCUSED

[3.34pm]

THE COMMISSIONER: Do we have another witness today?

30 MR DUGGAN: No, we don't for today, Commissioner.

THE COMMISSIONER: Now, can I just remind all present that next week's witness list is now published on the website and I'd ask the lawyers obviously, to check it and I ask you also to keep in mind that it's subject to change. Sometimes things are a little bit outside our control, but we'll do our best to advise in advance if there is a change, but I ask that you all be ready to ask your questions of the witnesses who are going to called next week. Anything else? I'm sorry, Mr Brasch.

40 MR BRASCH: Commissioner, can I advise you, Commissioner, pursuant to Your Honour's, your Commissioner's direction earlier today that steps are being taken by Assistant Commissioner James Koulouris to have the requested material secured by way of the director of investigations, New South Wales Corrective Services Governance and Continuance Improvement Branch. That material is being downloaded now, if not already completed, and I expect that it will be able to be delivered to the ICAC by Monday.

THE COMMISSIONER: That's terrific. What I was going to do as a formality was to issue a notice anyway. There's some other bits and pieces I want as well but if that can be done on Monday that's terrific but you'll get a notice requesting that anyway. But thank you very much for that and you can pass my thanks on to the Commissioner.

MR BRASCH: Thank you, Commissioner.

THE COMMISSIONER: And the Assistant Commissioner.

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MR BRASCH: I could also indicate that other steps have also been taken which I won't go into in relation to the security of the inmate and as well some further investigations (not transcribable)

THE COMMISSIONER: Thank you. Thank you all for your assistance and I will now adjourn.

AT 3.36PM THE MATTER WAS ADJOURNED ACCORDINGLY

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[3.36pm]