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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 MONDAY 28 MAY, 2018

AT 10.15AM

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

THE COMMISSIONER: Can I just raise one housekeeping matter. I think Exhibit 69 was Mr [REDACTED] record, and for obvious reasons, although it's on the restricted website it wasn't to be circulated. I understand that it may have been the case that someone or maybe more than one person left it lying around on the weekend, so can you just take a bit of care in relation to documents like that. When I say lying around, lying around on the desk or the bar table. So just take a little bit of care. Yes, Mr Brasch.

10 MR BRASCH: Commissioner, as I recall, Commissioner, you indicated that you would ask the parties to return that document to the Commission. Was that the intention?

THE COMMISSIONER: It was the intention, although it's on the restricted website, isn't it?

MR BRASCH: I haven't checked.

MR DUGGAN: Is it on the restricted website?

20 MR BRASCH: I didn't think so.

THE COMMISSIONER: Let's leave it for the moment.

MR BRASCH: Thank you.

30 THE COMMISSIONER: And I mean I suppose the difficulty I have, if people want to use it in terms of submissions later on, then I'm happy for that to happen, but I just ask you to be a little bit careful about leaving things around and I may indeed ask for it back, particularly if it's on the restricted website, there's no real reason to have hard copies. But don't worry about it now, we can deal with it later. Who's the next witness?

MR REITANO: If it please the Commission, might I seek leave to appear for Mr Dippel. My name is Reitano.

THE COMMISSIONER: Yes, Mr Reitano. Leave is granted.

MR REITANO: Thank you.

40 MR DUGGAN: Mr Murdoch is the next witness.

THE COMMISSIONER: Is Mr Murdoch represented?

MR DUGGAN: I don't believe he is.

MALE SPEAKER: No, Commissioner.

THE COMMISSIONER: Okay. Come forward, Mr Murdoch. Are you going to take an oath or an affirmation

MR MURDOCH: Affirmation.

THE COMMISSIONER: Yes, we'll do that now.

THE COMMISSIONER: Take a seat.---Thank you, Commissioner.

What's your full name?---It's Allan Murdoch.

And your current occupation?---I'm a police officer.

10 Let me just explain a little bit about your rights and obligations. As witness you must answer all questions truthfully.---Yes.

And you must produce any item described in your summons, I assume there weren't any items that were any items that you were required to produce?
---No, Commissioner, no.

No. You're also required, if I require you to produce any material during the course of your evidence, then you must produce it. Now, you may object to answering the question or producing an item. The effect of any
20 objection is that although you must still answer the question or produce the item, your answer or the item produced cannot be used against you in any civil proceedings and subject to one exception, in any criminal proceedings. The protection of taking an objection does not prevent your evidence from being used against you in a prosecution for an offence against the ICAC Act, most importantly an offence of giving false or misleading evidence. So, although the effect of an objection is to protect you in relation to other general proceedings, if you tell fibs then that protection doesn't apply and the consequences can be quite serious. It can lead to a penalty of imprisonment for up to five years. Now I can make a declaration that all
30 answers given by you and any items that you produce to the Commission will be regarded as having been given on objection or produced on objection, and that means you don't have to object with respect to each answer or the production of any items that I ask you to produce. Would you like me to make such a declaration?---I'll take the objection, yeah.

So I'll make a declaration which means you don't have to object. The effect of it is you get that protection anyway.---Okay.

40 Pursuant to section 38 of the Independent Commission Against Corruption Act 1988, I declare that all answers given by this witness and all documents or things produced by him during the course of his 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.

**PURSUANT TO SECTION 38 OF THE INDEPENDENT
COMMISSION AGAINST CORRUPTION ACT 1988, I DECLARE**

THAT ALL ANSWERS GIVEN BY THIS WITNESS AND ALL DOCUMENTS OR THINGS PRODUCED BY HIM DURING THE COURSE OF HIS 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 THE COMMISSIONER: Yes, Mr Duggan.

MR DUGGAN: Thank you, Commissioner. Can you please state your full name for the Commission?---Sure. It's Allan Glen Murdoch.

And you're currently a police officer?---That's correct. Yeah.

And when did you leave Corrective Services?---I think it was 2016.

20 All right. And in 2014, you were with the IAT. Is that right?---That's correct. Yeah.

Based in Lithgow.---That's right.

How long had you been with the IAT based in Lithgow at that time?---At that point I was very junior, so I can't tell you how long it was but it was about, it was only a small amount of time.

30 All right. Were you at Lithgow for long?---Before that, at a guess it'd probably be anywhere from six to 12 months and before that I was at Yarra Correctional Centre.

All right. Now, you understand that you're here today to answer some questions about 20 February 2014?---Yes. Yeah.

And I don't think you were rostered on the day before. Is that correct? ---That's correct.

40 All right. Now on 20 February you were involved in a targeted search. Do you recall that?---Yes, I do recall that.

And that was in relation to a Mr [REDACTED] in Unit 5, does that - - - ?---That's correct.

And you were part of the IAT on that day?---I was.

Do you recall who else was rostered on as IAT?---From memory, Troy Dippel. I can't remember who the third officer was that day.

All right. And do you recall receiving a briefing in relation to the search operation?---I don't recall receiving a briefing, I recall a phone call to say that we had to go and search that cell. That's all I can recall.

All right. And who did you receive the phone call from?---I didn't personally receive the phone call, another officer did. I was just told third hand that we had to go and search that cell.

10 All right. And who received the phone call? Do you remember?---I can't, I honestly can't remember.

Was it Mr Dippel or someone else?---It could be Mr Dippel but I don't want to say a name because I can't recall because it was a few years ago, so - - -

Am I correct in saying that you were up in the IAT room and someone received a call?---That's correct, yes.

20 And do you have any recollection as to whether you were told the person who had made that call?---No, I don't. No.

All right. And so it was communicated to you that you had to participate in a targeted search.---That's right, yeah.

Were you told anything about the search and what you were searching for at that time?---Not what we were searching for. I believe, all I remember being told was that the day before there was a use of force and some officers couldn't be involved in that search on that day, so that's all I was told.

30 All right.

THE COMMISSIONER: Does that mean you went into the cell not knowing what you were looking for?---Well, yes. Yes.

Right.

40 MR DUGGAN: Do you recall who participated in the search?---It was Troy, myself, just trying to remember who else was there. I do remember Brian McMurtrie being there, I remember Mark Kennedy being there, Mr Watson, I can't remember his first name sorry, the canine handler.

So that's Michael or Mick Watson from SOG?---Yes. Yeah. That's correct. Yeah.

All right. And you said he was the canine handler. Did he have his dog on that day?---I don't think so.

All right. It would be unlikely for him to have his dog if there were some personal searches. Would that be right?---Not with personal searches, I don't think so. I don't think that's the protocol but I can't remember.

Do you recall you were the cameraman in relation to the search?---Yeah. That's correct.

And do you recall the participants in the search being introduced on camera?---Yes.

10

Including yourself?---Yes. Yeah.

Do you recall whether Mr McMurtrie was introduced on camera?---I can't recall, sorry.

All right.---Yeah.

If I suggested to you that he wasn't initially introduced on camera, would there be any explanation that you can think of for that?---No. Sorry.

20

If he participated in the search, would it be ordinary procedure for him to be introduced as - - - ?---Yeah, most definitely.

All right. Just in terms of what actually happened with the search, do you recall that there were two inmates in the particular cell?---I don't think there was two inmates in the cell at that point. I don't recall two inmates being at the cell when we did the cell search.

30

You don't recall two inmates being taken out of the cell for the searching operation?---I don't think so, I can't remember. I thought there was only one. I could be wrong.

All right.---Yeah.

I want to suggest to you that there was a Mr [REDACTED] who was taken out of the cell and put in the phone cage for a period.---Yeah, he's a really short inmate, I think he's a really short inmate, yes, I do recall that.

40

That would be Mr [REDACTED] Yep, yep.

And there was another inmate, a Mr [REDACTED] who was also taken out. ---Yeah. I, I recall that. Yeah.

All right.---Sorry, it was a few years ago, so - - -

That's all right. And you were the cameraman. Do you recall participating in the strip search as the cameraman for Mr [REDACTED] Yes. Yes I do. Yeah.

All right. And during the strip search of Mr [REDACTED] who else do you recall participating in that strip search?---It was myself, Troy and Mr Watson.

All right. And do you recall that being in a different part of the unit?
---Yeah.

10 Do you recall whether there was any particular reason why Mr [REDACTED] was taken into a different part of the unit?---I don't recall. I, I don't know the reason. As I said I was pretty junior in IAT, so I kind of just went with the flow really.

So if I'm understanding this correctly, where he would be searched wasn't a decision which would have been made by you?---That's correct.

Now, you said earlier I think that any member of the IAT who was involved in the previous day couldn't be involved in the search. Do you recall that?
---I do recall that, yeah.

20 And to your understanding that was because there was a use of force the previous day. Is that right?---That's right, yeah.

Do you recall who told you or how you learnt that that was the case?---I think it was Troy.

All right.---Yeah.

30 So in terms of the strip search, do you recall whether – sorry, I've remembered the question I was going to ask. Do you know why someone from SOG would have been participating in the search operation?
---Oh, I don't know why but it was quite often they'd come in to help us out, so I don't know the reasons behind it on that day.

Particularly someone from the Dog Unit. Do you have any understanding as to why someone from the Dog Unit would be assisting, without their dog?
---No, I don't, sorry, no. I actually didn't even have second thoughts about that, sorry, so - - -

40 Do you recall there being a security issue in relation to the search?
---A security issue?

As in can I suggest to you that it wasn't a search for drugs, that it was a search for a weapon? Does that accord with your memory?---Oh, I honestly can't recall what the search was for, I just, I just know that we had to go search the cell and being junior I just, I just went along with it and I thought it was just another search, just another cell search.

All right.

THE COMMISSIONER: It would be pretty unusual though wouldn't it if you were going into a cell where the prisoner was suspected of having a weapon, not to be told?---Yeah, yeah, that would, yeah, you're right, Commissioner. I mean I could have been told on the day but I just can't recall.

That's okay.---Yeah.

10 Yes.

MR DUGGAN: And just going back to the strip search, do you recall the strip search taking place?---Yes.

And you recorded it on camera?---Yes, I did.

Do you recall the inmate, do you know him by the name Mr [REDACTED] Oh, the first time I'd seen him was that day so - - -

20 Right.---Yeah.

Did you notice that he had any injuries?---I noticed he was kind of clutching at his, his rib area.

And did he have some discomfort in terms of the search being undertaken? ---Yes, he did, yeah.

Was there anything said about that to your recollection?---Not to me, no.

30 Did you think about the fact that you'd been told there was a use of force the previous day and Mr [REDACTED] appeared to be injured?---I mean, yeah, I thought about it but I just thought it was a use of force, I didn't know the ins and outs of it so I just thought it was a use of force that had happened the day before and that's all I, I knew basically.

You also knew that IAT officers couldn't participate in the search?---Yes.

Was there anything discussed about that fact?---No, not to me, no.

40 Were you told at that point or sometime later how Mr [REDACTED] sustained his injuries?---So I heard from rumours, just guessing, days or even weeks later that he, he'd been assaulted by correctional officers, so - - -

All right. Anyone, is this general prison gossip or is this coming from someone who was involved in the event?---No, this was general prison gossip, like it was a rumour to me.

Okay.---And I also heard that it'd been reported so - - -

So your understanding was that whatever happened had been properly reported?---Yes, yeah.

Do you recall coming back from the search of Mr [REDACTED] to the cell?
---So we did the strip search, we then escorted, is it [REDACTED] Mr [REDACTED] down to the other 5 Unit area into a dry cell, so he was placed into the dry cell, and then the camera was turned off because the search was over, then we went back to the, to the ah, to the cell where he was housed.

10

All right. And Mr [REDACTED] wasn't anywhere near the cell when that occurred, when - - -?---No, no.

When you approached the cell and the camera was turned off, there's an area outside the cell called the day room, the day room.---That's correct, that's correct.

Do you recall seeing anything in the day room at that time?---Well, my memory, this is how my memory serves me, I remember walking back into that day room, day unit area and all his items were on the floor. I just thought that was a bit bizarre because all his items were out on the floor and there was already officers going through the cell, so - - -

20

THE COMMISSIONER: Why did you think it was bizarre?---It just, it wasn't something that we'd usually done, but having said that, I wasn't in IAT for that long, so I just thought it was a little bizarre, but you know, not being in IAT for very long I just thought maybe it's something they did, I, yeah.

30 MR DUGGAN: You mentioned earlier the participants in the search were Mr Kennedy, Mr McMurtrie, Mr Dippel, Mick Watson and yourself. Do you recall that?---That's correct.

So when you say there were officers in the cell when you came back - - - ?
---Yeah.

- - - do you recall who they were?---The only faces I can recall is Mr McMurtrie and Mr Kennedy. I can't remember anybody else. I mean, there could've been but I can't recall.

40

And they were in the cell when you returned from strip searching Mr [REDACTED] were they?---Yeah, in the cell and day room area, kind of floating in between both.

All right. And when you say floating between the two of them, obviously the day room leads into the cell.---Yeah, yeah. That's right.

And do you know, do you have any personal recollection as to whether when you were off searching Mr [REDACTED] whether the cell door was secured at all times?---I don't have any recollection. I don't want to say it was or it wasn't because I don't know.

You don't know.---Yeah.

10 And in fact, on my understanding of your evidence, it obviously wouldn't have been secured or closed when you saw Mr McMurtrie and Mr Kennedy moving to and from the - - - ?---That's correct.

Did you go into the cell and search the cell at any point?---No. No. I stayed out in the day room area.

All right. So you didn't remove anything from the cell at any time?---Not that I can recall, no.

And you have no recollection of going in the cell?---No I don't, no.

20 So, you said there were items outside in the day room.---Mmm hmm.

Were they searched at any point?---Yes. So, Troy and I from memory started searching those items and I recall, I can't recall who it was but I recall someone saying, "Oh, Al, can you just look in that clear plastic bag and have a look in the puffer?" So, I started searching that area and I picked up the puffer and opened the canister and inside was one small tablet wrapped in a little piece of paper.

30 All right. So when you say a small plastic bag - - - ?---Yeah, it's called an inmate's, I can't recall what they're called, but a clear plastic bag where they inmates hold their items for security purposes.

So your attention was specifically directed to the bag?---Yes.

And you also said specifically to the puffer in the bag. Is that right?---Yeah, but I can't recall who said that.

40 All right.---I think it was just like a passing comment, "Oh, could you check in the puffer?" Or something like that.

THE COMMISSIONER: What are the possibilities? You don't recall who it was, but what are the possibilities?---Well, there was Mr Kennedy there, there was Mr McMurtrie and Mr Watson, I think. I can't, I can't recall who else was there, but - - -

Okay, thank you.---I guess those are possibilities.

MR DUGGAN: Well, we talked about the participants in the search earlier and you said they were Mr Kennedy, Mr McMurtrie, Mr Dippel, Mick Watson and yourself. Is that right?---That's correct, yeah.

Was it Mr Dippel?---No, it wasn't Mr Dippel.

No.---No.

10 So does that mean it was one of either Mr Kennedy, McMurtrie or Mick Watson?---That's correct.

Do you recall anyone wearing a stab vest during the search?---I honestly can't recall that.

All right. We'll go to the video - - - ?---Sure.

- - - in a minute, and I'm not trying to trick you.---Yeah.

20 But if you can assume that Mr Watson from SOG was wearing a stab vest. ---Okay.

And you were wearing a vest of some kind which may be a stab vest.---It quite possibly can be, I just can't recall. Yeah.

Is it the vest that IAT usually wears with the chemical munitions on it, and - - - ?---That's correct.

30 - - - various accoutrements. Is that what you would describe as the stab vest or is the stab vest a different type?---Stab vest is a different vest.

All right.---It's just a plain looking black vest with thick Teflon or something, I suppose, oh, Kevlar. Sorry.

THE COMMISSIONER: Kevlar.---Yeah.

Yes.

40 MR DUGGAN: All right. And I want to suggest to you that the purpose of the search was to find a possible weapon, a shiv or a knife.---Okay.

And that was based on a telephone call which had been intercepted where Mr ██████ suggested that he might - - -?---Okay.

Does that accord with your recollection at all?---No, I don't recall any of that, sorry. I mean it's not to say that didn't happen, I just can't recall it.

If you assume that you were looking for a weapon - - -?---Ah hmm.

- - - it would be unusual to look for that weapon in a puffer, wouldn't it?
---That's correct, yes.

Do you remember thinking it odd at the time that you were looking for a miniature weapon in a puffer, or did you not think about it?---I honestly didn't think about it.

You were just told - - -?---Yeah, yeah.

10 - - - to look at the puffer.---Yeah, yeah.

And you're doing your usual - - -?---Yeah.

- - - opening up and inspecting whatever is there.---Basically, yeah.

THE COMMISSIONER: It would have to be a miniscule weapon, wouldn't it, to fit in the top of a puffer, I think?

20 MR DUGGAN: It would, a bonsai.

THE COMMISSIONER: A bonsai knife, yes.

THE WITNESS: They are pretty creative though, some of the inmates.

MR DUGGAN: Now, you said that your attention was directed towards a shopping bag or a bag.---Ah hmm, yep.

A plastic bag I think you said?---Yep.

30 Do you know who put that bag in the day room?---No, I don't, sorry.

Did you see it, when you came back from the search of Mr [REDACTED] did you see the bag in the day room or any bags, do you recall?---I saw a bunch of items, I didn't specifically see that bag, so just to generalise, I saw a bunch of bags, or a bunch of items, yeah.

I just want to show you a puffer, because it's easier to show you than to ask you questions about it - - -?---Sure.

40 - - - in the abstract. Are you an asthmatic, Mr Murdoch?---No.

No.---Thank you.

Now, you've got a puffer in your hands. Is that the sort of puffer that you recall?---That's correct. The exact same one. Oh, well, not this one, but one like this.

All right. Are you able to indicate where the contraband was found in the puffer?---Yes. So I took the canister out and it was wedged down inside the, the actual casing of the puffer.

All right. Can I suggest to you that it's very difficult to wedge anything in the top of that?---Oh, yeah, most definitely.

10 Are you sure about that, is it possible that the contraband was found in the top part of the puffer under the cap?---Oh, see, it kind of leads into there anyway, so it's all open, so it's one piece so it could have been pushed down in through there, yeah, of course. Is that what you're suggesting, that it was pushed in through that way?

I'm just, yes, I'm just trying to get your best recollection.---Oh, okay. My best recollection is that I pulled that out and it was just down inside the canister, the casing, sorry.

All right.---That was, that's my best recollection.

20 Do you have a recollection of whether the canister was loose or was it in position?---I think it was in position, from my best memory.

And if you just look at the puffer and you look at it when it's in position - - - ?---Yep.

- - - does that give you any better recollection as to where the contraband might have been? Because I'm just suggesting there's not a lot of space there.---Oh, with, with the canister in there.

30 Yes.---I mean, I mean taking the lid off and looking inside, there is a bit of room to fit a tablet I suppose, yes.

But I'm just, in terms of - oh, I see, so you say that it might have been placed through the top, but on the top of the canister.---Yeah, that's quite possible I guess, yeah.

I understand. That might be handed back if it's possible and I don't need to tender that as an exhibit.

40 THE COMMISSIONER: Are you going to tender that?

MR DUGGAN: I don't need to tender the puffer as an exhibit.

THE COMMISSIONER: No, okay.

MR DUGGAN: In terms of your understanding of search techniques, is it usually beneficial to have an inmate present at a cell?---Yes.

And is the reason for that to avoid any suggestion that something might've been planted?---That's correct.

And in terms of the videoing of the search operation, again, particularly of a cell and belongings, one of the reasons you would video it is to avoid the suggestion that anything improper had taken place?---Yeah, totally. Yes.

Do you recall that the video, you were instructed to cease the video at some point?---Yes.

10

And do you recall that that was at the very point where the cell search, or the searching the items at least in the day room was about to be commenced?---I, I can't, from memory, so we ceased the video recording after Mr [REDACTED] was secured in his cell back in the other 5 Room area.

20

Not his cell but some other cell?---Yeah, some other cell. So we ceased the video recording there. We headed back and just began the cell search without initiating the video recording. Once I'd found the drugs I, I said to Troy, "Look, I've just found this", and because I was fairly new he said, "O.K. I'll do all the procedure of, you know, doing the drugs on the camera and everything, you just do the video recording", so that's when we commenced the video recording. I didn't know the actual procedure in finding drugs and weighing it and all the spiel on the camera, so I initiated the camera, he took over and did the procedure of the drug find.

All right. I'll ask you - - - ?---Sorry, did I go too far forward? Sorry.

No, that's all right.

30 THE COMMISSIONER: No, you're all right.

MR DUGGAN: It's all right. I will ask you about that - - - ?---Yeah.

- - - in a minute, but in terms of being told to cease the video at the very moment you're about to search the property, did you think that was unusual timing to be told to stop recording or did you not think about it?---Again, because I was so new in IAT I didn't really know the procedures and protocol, so I didn't question it, so - - -

40 All right.

THE COMMISSIONER: But you're serving as a police officer now.---I am, yes.

And it would be an odd thing to do, wouldn't it?---Yes. Yes.

MR DUGGAN: Now, as I understand your evidence, you're the cameraman on the day.---That's correct.

You're told to cease recording at part of the search.---Yeah.

And then you, I assume you put the camera in your pocket or put it down and participated in the search.---Yeah, that's correct.

And the camera's off for a period and that was when you were told to look in the puffer.---Yeah, that's correct. Yep.

10 And then you found the item, you weren't quite sure what the procedure was and so the camera was turned back on but Mr Dippel did the explanation as to where the contraband was found.---That's correct. Yep.

Can I take you to, actually, before I do that, do you recall any, before the camera was turned back on, do you recall any discussion not with Mr Dippel but with any other members of the search party in relation to the find?---No, I don't recall any conversations. No.

20 Do you recall usually with search operations like this, if an officer finds something they yell out "find, find, find", or something like that?---I'm not sure if I've seen anyone do that, but - - -

Okay. Just in the movies.---Yeah, no. Maybe just the movies, but that didn't happen, no.

All right. All right. So did you tell anyone? You'd probably want to get it off the chest when you opened up the puffer and seen something?---Yeah, I told Troy. I said, "Hey Troy, this is what I found." Words to that effect.

30 All right. And then did either you or Troy tell the other senior searching officers?---I assume we would have but I can't recall.

You can't recall that.---Yeah.

All right. And can I take you to Exhibit 45 at page 135?

THE COMMISSIONER: Sorry, what page was that?

MR DUGGAN: 135.

40

THE COMMISSIONER: Thank you.

MR DUGGAN: It's just obscured a little bit in the bottom right, but a document will come up on the screen.---Okay.

If it all works.---Yep.

So you recognise this document?---I do.

It's a misconduct report in relation to Mr [REDACTED] That's correct.

And this would be a standard report that you would do if you had a contraband find?---Yeah, that's correct.

And that, is that your signature at the bottom of the page?---Yes, it is.

10 And so that would accord with your recollection that you signed this record on 20 February 2014?---That's correct, yeah.

So, if you just go to the body of the report - - - ?---Mmm hmm.

- - - it refers there to "Whilst conducting the search of inmate [REDACTED] cell, a blue asthma spray was located in a white plastic bag." So that would accord with your memory, that it was in some sort of plastic bag?---Yeah, that's correct. Yeah.

20 "Also containing letters addressed to inmate [REDACTED] Do you see that? ---Yes.

Do you remember that, that it was amongst Mr [REDACTED] personal belongings?---I do, yes.

And it says there, "On inspection of the blue asthma spray, a small parcel was located within the asthma spray, secreted inside."?---Mmm hmm.

30 And then it says "The parcel was opened by first class correctional officer Dippel". Do you think?---Yes, I do. Yeah.

Now, do I understand from your evidence that that's not in fact correct?---In terms of when I found the drugs? Is that what you're asking, sorry?

Well, as I understand it, you took apart the puffer and found the drug. ---Yeah.

40 Was the puffer then put back together and then Mr Dippel opened it?---No, sorry. So, I, I think from memory I've taken the small parcel out of the puffer, or, even, sorry, this is, it's hard to recall, it's so many years ago.

I understand.---So one of us, I found it, I actually found the item inside the puffer spray, and either Troy or myself has pulled the actual tablet out of the little parcel.

That's my mistake, by parcel you mean the contraband.---Yes, yes. Sorry, yeah.

That's all right, it's my mistake. And then in that appeared to be a white broken tablet. Do you see that?---Yes.

Now, by white broken tablet, does that mean that it was, part of it was crushed up? Do you recall?---So, it was a little broken up, it was probably in maybe three pieces, two or three pieces, and in itself that was a little bit weird to me. I think if an inmate has drugs, they're going to use them, they're not going to hide them in the puffer and wait to use it. I think they use them straight away, especially one little tablet that's broken up, but I
10 could be wrong, I mean, yeah.

All right. And then it says, "Officer Dippel then proceeded to collect the evidence and place the contraband into the evidence sealed bag." Do you see that?---Yes, I do.

And that was videoed by yourself I think at the time?---Yeah, that's correct. Yeah.

Now, it says, "Inmate [REDACTED] admitted ownership on camera of the
20 contraband." Do you see that?---Yes, I do. Yeah.

Can I suggest to you that what he, what he did was to admit that the puffer was his, but not necessarily that the drug was his? Do you accept that? ---Yeah, of course. Yeah, that's quite possible. Yeah.

All right. Do you recall knowing anything about Mr [REDACTED] or any intel about Mr [REDACTED] at this point?---No, I don't.

Now, I think that some questions were asked of him about whether the drug
30 was his. Do you recall that?---Yeah, I vaguely recall that. Yes.

Did you know that at that time or did anyone tell you that Mr [REDACTED] himself had some addiction issues?---It's quite possible. A lot of inmates do, so yeah. It's quite possible.

And is that something that you would inquire into if you had a drug find in a two out cell?---I, probably, I mean it's probably something that should be looked into.

Just because a puffer is found in one inmate's belongings, it doesn't mean
40 the other inmate hasn't put it there?---That's exactly right. Exactly, that's right.

All right. I also want to suggest to you that Mr [REDACTED] never said anything himself about smoking bupe or any other drug?---I can't recall that.

You have no recollection at all?---No I don't, sorry.

I just want to play now some of your video footage - - -?---Sure.

- - - if I may and then I'll ask you a couple of questions about it if that's all right.---Sure.

It's video 2 at three and a half minutes. So just while that's being brought up on the screen and to orientate you, there's been a short introductory video where everybody names themselves on camera.---Okay.

10 And then you go and get Mr [REDACTED] out.---Yeah.

And you can see him across the day room with Mr Watson from SOG. ---Yeah.

And then we'll just, we'll watch a minute and a half if we can.---Sure.

VIDEO RECORDING PLAYED

[11.06am]

20

MR DUGGAN: So just pause there, can we pause there. So that's Mr Dippel there, is it?---That's correct.

And are you able to tell me whether that's a stab vest or the usual IAT vest? ---That's a stab vest.

That's a stab vest.---Yeah.

30 **VIDEO RECORDING PLAYED**

[11.06am]

MR DUGGAN: So you could see there that Mr [REDACTED] is he the shorter inmate that you were referring to?---Yeah, that's correct, yeah.

Did you see him being taken out - - -?---I did, yeah.

- - - of the cell? And I just want to show you a photograph if I may which is a still of the video, and I just want you to identify for me the person who is
40 on the video, and this is at I think 3 minutes and 47 seconds.---Just, sorry, everybody in the video?

Sorry, so you've got a photograph there. Who is the officer on the left-hand side of that?---Brian McMurtrie.

That's Mr McMurtrie, is it?---Yep.

Now, in that footage that we just played, Mr [REDACTED] is taken out of the day room and through a door. Is that the officers' station, as I understand it?
---That's correct, yeah.

And Mr Dippel I think is leading him out and Mr Mick Watson follows as well.---That's correct, yeah.

10 And you obviously follow because you're the cameraman - - -?---That's correct.

- - - filming the footage. Now, that photograph or the still shot that I've just shown shows Mr McMurtrie, so he was at the door when Mr [REDACTED] was taken out of the cell.---That's correct.

Now, you, Mr Watson, Mr Dippel and Mr [REDACTED] leave the day room but Mr McMurtrie doesn't appear to leave the day room in the footage. Did you notice that?---Not that I can remember, no.

20 Is it your recollection that he didn't follow you to participate in that part of the strip search with Mr [REDACTED] No, he didn't follow us, no.

I tender that photograph, Commissioner, or the screenshot rather.

THE COMMISSIONER: Thank you, screenshot, yes, thank you. That will be Exhibit 70.

30 **#EXH-070 – STILL SHOT OF VIDEO 2 OF EXH-048 AT 03:47**

MR DUGGAN: Now, I'll just play you, we'll just move forward a little bit in the video to about 10 and a half minutes. So, this is five and a half minutes after the place we've just stopped at.---Sure.

VIDEO RECORDING PLAYED

[11.10am]

40 MR DUGGAN: Thank you. So, if I can tell you that the bit that we haven't played is the strip search.---Yeah.

So this is the end of the strip search.---Yeah.

That accords with your recollection?---Yes.

Now, did you recognise that deep voice?---Yeah, that was Mr McMurtrie.

All right. And he says during that last few seconds, Mr [REDACTED] asks him, "Will I be going back to my cell or staying here?" And Mr McMurtrie says, "We'll be leaving here, conducting the cell search, okay".---Yeah.

"I'll inform you, inform you of the outcome at the end of it".---Yes, I do recall hearing that. Yes.

So that's consistent with your understanding that Mr McMurtrie was involved in this cell search?---Yes.

10

And he's saying to the inmate that we'll leave here, we'll do the search and then we'll let you know.---Yeah.

And is that your recollection of what happened? Mr [REDACTED] stayed in that area and then - - - ?---Yeah. Like I said, I have a vague memory of it but after seeing the video it refreshes my memory, so yes.

All right. And it's also consistent with your recollection that Mr McMurtrie did then in fact become involved in the search?---Yes. Yeah.

20

We'll just take you to the end of this video.---Sure.

VIDEO RECORDING PLAYED

[11.14am]

MR DUGGAN: So this is coming back into the day room. Do you recall, can you see two items at the end of the day room?---I can, yes.

30 Do you recall seeing those when you came back into the day room?---I can't recall, sorry.

All right. Do you have any idea who would have put those bags there?---I have no idea.

All right. Do you recall going and getting those bags as part of the search? ---No, I don't sorry. No.

40 Can I just show you a screenshot of what is effectively on screen at the moment? Can I please show you that document?

THE COMMISSIONER: Thanks.

MR DUGGAN: The resolution is not fantastic but - - -?---Yeah.

- - - do you agree that that's effectively what is on the screen at the moment?---Yes, I do, yeah.

And it appears to be two white plastic bags at the end of the day room?
---It does, yeah.

And the one on the left-hand side appears to have some colour of yellow in it. Do you accept that?---Yeah.

I tender that photograph, Commissioner, or screenshot.

10 THE COMMISSIONER: Thank you, Mr Duggan. That will be Exhibit 71.

#EXH-071 – STILL SHOT OF VIDEO 2 OF EXH-048 AT 17:57

MR DUGGAN: We'll just continue playing this one to the end.

VIDEO RECORDING PLAYED [11.15am]

20 MR DUGGAN: So we just see the end there, that that's the direction to you to turn the camera off, is it?---Yeah, that's correct.

And now I think you've given some evidence about what happened when the camera was off and you said you didn't go in the cell yourself.---Yeah.

And you were asked to search some items out in the day area and then someone directed your specific attention to a plastic bag and then the puffer.
---That's correct.

30 Is it possible that one of the plastic bags that you looked at was one of the bags at the back of the day room?---Look, to be honest, I don't think it was. That, that looks like rubbish to me, it looks like bags of rubbish, it doesn't actually look like inmates' items.

All right.---Yeah, I'll be honest, I don't think it is.

40 Is it usual for bags of rubbish to be lying around the day area like that?
---In that, in that unit I think it was somewhat usual because inmates would put their rubbish out for officers to take out to the bins, so it would sometimes lay around there, yeah.

All right. And would that be done at a particular time of the day?
---Oh, from memory I think it may have been done at the end of the day, I mean it could have been done at all different times, depending on what staff are there I suppose.

All right. And whose responsibility was it to remove rubbish - - -?---Oh, any officer that was working in that unit in that designated area.

Right. Does inmates' rubbish get checked at all or how does it work?
---No, no, it's usually just thrown straight out to the bin, bigger bins.

All right. And the inmates put the rubbish out themselves, do they, or they have it in a bin?---No, in that area they've got a caged part in the door with a little hole and generally they'll just feed it through the little hole in the
10 cage part of the door and give it to officers.

Right. So there would be some communication between an inmate and - - -
?---Yeah, yeah.

All right. Can I go to video 3, please.

VIDEO RECORDING PLAYED

[11.18am]

20

MR DUGGAN: At the beginning of that passage, Mr McMurtrie says that he's confirmed with the clinic that [REDACTED] is on a puffer. Do you recall that?---Sorry, I didn't hear that part, but - - -

It might be the next bit.

VIDEO RECORDING PLAYED

[11.23am]

30

MR DUGGAN: We'll pause there for a moment. Do you see that there's some Express Post Envelopes in there?---I do, yeah.

You see they have a distinct yellow colour, obviously?---They do, yes.

And now you've seen the bag. Is it possible that that bin bag is one of the two bin bags at the back of the day room, and - - - ?---Yeah, I mean, it's quite possible. All I remember is walking in and seeing some bags.

Whether it was those bags or other bags, that's all I remember. So it is
40 possible. Yeah. Yeah.

All right. And do you see there's actually a second puffer in the top left hand corner?---Yes.

Do you know whose puffer that was?---No I don't, sorry.

Or, is? Do you recall being specifically asked to look at that puffer as well, or - - - ?---No, I don't recall.

I just want to show you a photograph or a screenshot. We haven't precisely paused it at the right moment, but you'd admit that that's fairly close to the image on the screen at the moment?---Yes, yes.

Can I suggest to you that Mr McMurtrie said this, after Mr Dippel introduced the puffer find, "Verified by the clinic, [REDACTED] is on a puffer and issued with Ventolin spray." Do you recall him saying that?---No, I don't, sorry.

10

So I assume you don't have any recollection with him checking with the clinic?---No, I don't, sorry.

Now, he seems to say that quite quickly after Mr Dippel makes his find. You don't have any recollection of that being inquired into during the 10 minutes while the camera's off?---No, I don't, sorry, no.

The last thing I might just ask if video 1 could be played, please. It's a short one or two-minute video.---Sure.

20

This is the beginning of the search.

VIDEO RECORDING PLAYED

[11.26am]

MR DUGGAN: So does that accord with your memory about looking for a search for a sharp implement rather than a drug?---Yeah, sorry, it does now, yeah.

30

And I'm not sure whether you heard mention of the fact that Mr [REDACTED] was to be placed in a phone cage?---I did hear that, yes.

And not Mr [REDACTED] Is there any reason why it might be one but not the other?---I have no idea, to be honest.

Not something you would have thought about at the time I assume?---No, no.

40

Now, I asked you to identify Mr McMurtrie at the cell door in an earlier photo, do you have any explanation as to why Mr McMurtrie wouldn't have been part of that?---I honestly don't have any explanation, sorry.

Does it strike you as unusual that - - -?---It does, really does, yeah.

Commissioner, I have no further questions for this witness.

THE COMMISSIONER: Thank you. I noticed that, I think it was Mr Dippel, was wearing what you described as a stab vest.---Yes, Commissioner.

Was anyone else wearing a stab vest?---I'd have to review the footage, sorry, Commissioner. It would be the case if, if Troy was wearing one I'd say we, we were all wearing one, myself and whoever was on IAT on that day.

10 Okay. And a stab vest is something different from the usual IAT uniform?
---Yeah, that's correct, yeah.

Yes. And what, can you remember now what sort of kit was with the IAT, the full IAT uniform? I mean you had gas canisters for example?---Yeah, we had chemical munitions like in pockets, there was like grenades, we had a fogger which is CS gas, a baton, sorry, it's been a while.

That's okay, take your time.---And I think a gas pistol, I think one member wore a gas pistol.
20

Right. One of the things that you haven't seen on the video and you probably don't need to see it, but the tablet was weighed on a set of scales and I think it came out about point two grams.---Yeah.

Where would the scales have come from?---So, I'd say we'd either have it in one of the vests but none of us had the IAT vest on us obviously, or it's in the IAT office which is literally just upstairs from the actual unit we were working in.

30 But can I assume that if nobody was wearing the full IAT vest, and it wasn't in a stab vest no doubt?---No. That's correct.

So it came from somewhere, and your best guess is it came from the IAT office upstairs?---Yeah, I actually can't recall where it came from.

That's okay.---I guess it's the case that someone maybe just ran upstairs and got it or something.

40 All right. And I think you said a little while ago, in fact, some time ago, and I may be misquoting you and if I am, please correct me, but you made reference to the broken up tablet and you said it was odd, or unusual, did you, of the fact that the tablet was broken up?---Yeah. I just thought it was a little unusual but again I say this a lot, sorry, I apologise, I was quite new.

That's okay.---So I just thought it was a little unusual.

Why?---I just, it's a broken up tablet, I just thought if an inmate's got a tablet, they're going to use it, not have it all in little broken pieces. I just

thought it was a little unusual. You know, you just, I just had a gut feeling basically.

Okay. Yes. Anything arising from that, and does anyone else want to ask some questions? I think Mr Dunne says he does.

MR DUGGAN: But very quickly, do you recall Mr Graf being there or thereabouts at any point during the search?---I do recall Mr Graf being in the actual unit, the station officer unit.

10

The officer's station?---Yeah, officer's station, sorry.

All right. He was watching the search from there, was he?---I think so, yeah.

All right. Did he grab the scales, do you recall, or is it possible?---I can't, I can't recall who did it. I mean, it's quite possible that he did.

20 All right. Do you know why he would've been watching the search?---I think he was one of the officers instructed not to be involved.

All right. So he was standing back but watching.---Yeah, yeah.

Commissioner, I neglected to tender the last screenshot and I'll do that now.

THE COMMISSIONER: Of course, yes. That's the one of the bag, is it?

MR DUGGAN: Yeah, the open bag. Yes.

30 THE COMMISSIONER: That will be marked Exhibit 72.

#EXH-072 – STILL SHOT OF VIDEO 3 OF EXH-048 AT 04:48

MR DUGGAN: Thank you, Commissioner.

THE COMMISSIONER: Mr Dunne.

40 MR DUNNE: Thank you, Commissioner. Mr Murdoch, my name is Dunne. I represent Mr McMurtrie.---Sure.

You were asked some questions about video number two, which amongst other things, includes you recording the trip from the day room to where the strip search was taken.---Yeah.

Now, I don't think you'll need to see the video, but if it's of assistance, please let me know.---Sure.

And you were asked some questions when you were leaving the day room to head to the area where the strip search was taken, and in response to those questions you gave answers to the effect of "It didn't appear that Mr McMurtrie left the day room". Do you recall saying that?---Yes. Yes.

And he didn't appear to follow to the search area where the search was taking place. Is that right?---Yes, that's the best of my recollection. Yes.

10 But it would be more accurate, wouldn't you agree, to say that Mr McMurtrie didn't leave the day room in front of you where you were focusing your attention videoing Mr [REDACTED] Well, of course that's possible. Yes.

And it would also be accurate to say that he didn't follow to the search room in front of you.---That is correct, yes.

It's entirely possible that he followed behind you?---It is entirely possible, yes. It is, yes.
20

And in fact you were taken and asked some questions, taken to and asked questions by Counsel Assisting about some comments Mr McMurtrie gave or directions he gave to Mr [REDACTED] after the strip search had taken place. Do you recall those?---Yes, I do.

Those were, to the effect, that his privileges for a visit on the weekend?
---That's correct. But I also recall it was five minutes after the fact.

That's right. But he was in the search area at that time.---I guess it's possible, yeah.
30

Well he was when he made those comments?---Yeah.

And your only evidence that you can give is he didn't leave in front of you.
---To the best of my recollection, yes.

Yes. Thank you. You were also asked some questions earlier by Counsel Assisting about, I think, you returned from the strip search area when you came back into the day cell, and I think you said that you saw there were items on the floor - - - ?---Yeah.
40

- - - in the day room? And you referred to Mr McMurtrie and Mr Kennedy floating in the area. Do you recall?---I mean, again, that was the best of my recollection. This is what - - -

So you don't have a clear recollection of either Mr McMurtrie or Mr Kennedy in Mr [REDACTED] cell?---Not a clear recollection but I vaguely remember them being in that area, yes.

In that area?---Yes.

But no recollection of them being in Mr [REDACTED] cell?---I'm sure they were at one point, yeah.

Why are you sure they were?---They were there the entire time basically.

10 But you have no recollection of them actually being in the cell, or seeing them in the cell?---It was quite a few years ago, so - - -

I make no criticism.---Yeah.

All right. Your memory is as good as it can be.---Yeah. Yeah.

But you don't have a clear recollection of them being in the cell, do you, either Mr McMurtrie or Mr Kennedy?---I guess not, no.

20 Thank you. And you were also asked some questions about examining the puffer and initially you asked questions concerning whether, I think, you thought you would look at a puffer for a weapon, use, the word weapon was used. Do you remember that being used originally?---I don't remember the word weapon being used, no.

By Counsel Assisting.---Okay. Yes. Yes.

30 Today, sorry. He asked you questions about the puffer, and I think it was in the context of would you expect to find a weapon in the puffer, something along those lines. Do you remember being asked questions along - - - ?
---Yeah, yeah, yeah, yeah.

And towards the end of your examination by Counsel Assisting, you were shown a video which, in fact, referred to a sharpened implement rather than a weapon. Do you recall that? When Mr Kennedy was on screen?---No I don't recall that, sorry. There was a sharpened implement?

No. Mr Kennedy referred to the - - - ?---Yes, sorry.

40 - - - search for a sharpened implement?---Yes, sorry.

THE COMMISSIONER: That was right at the beginning, or before the search took place.

MR DUNNE: Yes. Yes. Yes. In, in the, in the, I think, the last video that was shown to him. And although you agreed originally with Counsel Assisting that perhaps it was strange to be looking in a puffer for a weapon, would you agree that it would not be unusual to look in a puffer for a sharpened implement?---Yes, I agree.

Or a blade, for example?---I agree completely but in that respect, whether we're looking for a weapon or not, we're still going to search a whole cell and all the contents in the cell for other contraband.

I see. For other contraband?---Yes.

Even though there might be a targeted search, you're not limited.---That's correct, yes.

10

Thank you. And just finally, the film of the search is as good as it can be. ---Pretty much, yeah.

But photographs of what was found in the puffer - - - ?---Mmm hmm.

- - - would you agree comprised at least two, if not three, pieces of a tablet? ---Yes, that's correct.

20

And I will describe relatively a large piece, a smaller piece and perhaps a very small piece.---Yeah, that's correct. Yeah.

But there's no, would you agree with me that there's no way that you could describe what was found as a white powder?---You couldn't describe it as a white powder, no.

You couldn't describe it as white powder.---No, you could describe it as a white tablet, a broken white tablet.

30

It would have to be a broken white tablet. Yes. Thank you.

Just bear with me a moment, please.---No worries, yeah.

Yes, thank you. No further questions.

THE COMMISSIONER: Does anyone else have questions of this - - -

MULTIPLE SPEAKERS: No questions.

40

THE COMMISSIONER: There's no reason why Mr Murdoch can't be released from his summons, is there?

MR DUGGAN: No, there's not, Commissioner.

THE COMMISSIONER: Right. Thank you very much, Mr Murdoch. ---Thank you, Commissioner, thank you.

You're released from your summons and you're free to go.---Thank you. Thank you.

THE WITNESS EXCUSED

[11.40am]

THE COMMISSIONER: We'll take the morning adjournment,.

SHORT ADJOURNMENT

[11.40am]

10

THE COMMISSIONER: Mr Duggan.

MR DUGGAN: Commissioner, the next witness is Mr Dippel.

THE COMMISSIONER: All right. And he is represented by Mr Reitano.

MR DUGGAN: That's correct.

20 THE COMMISSIONER: Do you take an oath or an affirmation, sir?

MR DIPPEL: An oath.

THE COMMISSIONER: Mr Reitano, do you seek a section 38 declaration?---Yes, Commissioner.

Mr Dippel, as a witness before the Commission you must answer all questions truthfully and you must produce any item described in your summons if there were any, or which are required by me to be produced.

10 Your counsel has asked that I make a, what's called a section 38 declaration. That gives you a degree of protection. It means that any answer you give or item produced can't be used against you in any civil proceedings or criminal proceedings, subject to exceptions. Are you a current - - - ?---Yes.

- - - officer of Corrective Services? All right. Then there are two exceptions that this section 38 declaration won't protect you against. One is an offence against the ICAC Act which, in the context of the hearing, really means giving false or misleading evidence. So if you give false or misleading evidence to us, the section 38 declaration won't protect you and it's a very serious offence with penalties, a penalty can be imposed of imprisonment for up to five years.---Yeah.

20 So it's very important you tell the truth.---Yeah.

The second exception applies to you because you're a New South Wales public official, being a Corrections officer.---Mmm hmm.

The evidence given by a New South Wales public official may be used in disciplinary proceedings against you if the Commission makes a finding that you have engaged in, or attempted to engage in, corrupt conduct.---Yeah.

30 So subject to those two exceptions, the declaration I'm about to make gives you protection. Pursuant to section 38 of the Independent Commission Against Corruption Act, I declare that all answers given by you and all documents and things produced by you during the course of your evidence at this public inquiry are to be regarded as having been given or produced on objection and there is no need for you to make objection in respect of any particular answer given or document or thing produced as a result of that declaration.

40

PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT, I DECLARE THAT ALL ANSWERS GIVEN BY YOU AND ALL DOCUMENTS AND THINGS PRODUCED BY YOU DURING THE COURSE OF YOUR EVIDENCE AT THIS PUBLIC INQUIRY ARE TO BE REGARDED AS HAVING BEEN GIVEN OR PRODUCED ON OBJECTION AND THERE IS NO NEED FOR YOU TO MAKE OBJECTION IN

RESPECT OF ANY PARTICULAR ANSWER GIVEN OR DOCUMENT OR THING PRODUCED AS A RESULT OF THAT DECLARATION.

THE WITNESS: Yeah. Thank you.

THE COMMISSIONER: Do you understand?---Yes.

10 Thank you. Yes, Mr Duggan.

MR DUGGAN: Thank you, Commissioner. Can you please state your full name for the Commission?---Troy Graeme Dippel.

And Mr Dippel, in 2014 you were a member of the IAT at Lithgow.---That's correct.

20 How long had you been a member with the IAT at that point?---I think I came there roughly in 2011 and probably six months to a year after that that I started working in IAT.

All right. And so you started at Lithgow in 2011. Is that right?---Roughly I think, yeah.

And when did you finish with Lithgow?---It was about three years later.

Three years after 2011?---Yeah, yeah.

30 So around 2014?---Yeah, it wasn't long after that. Maybe early 2015 moved on.

Now, you understand you're here today to answer questions about 20 February 2014?---Yes.

And a search operation that took place on that day?---Yes.

Were you at work on 19, do you recall?---I was on duty, yes, but I wasn't IAT.

40 All right. Now, were you in court this morning, sorry, in the hearing room this morning?---Yes, I was.

And you may have seen, I'll go back a step. My apologies. Now, the search operation that you were involved in on 20 February, do you remember who was part of that search?---Yeah. I recall Mr Murdoch and Mr Watson being part of the search. Yes.

All right. And Mr Murdoch is in the IAT and Mr Watson was with SOG?
---To my recollection, Mr Murdoch wasn't rostered IAT that day but he filled in.

All right. So he was IAT trained, so - - - ?---Yes. And yes, Mr Watson was from SOG.

10 All right. Do you have any understanding as to why someone from the SOG Dog Unit was assisting in the search that day?---No. I'm not sure why he was there.

All right. Does it strike you, given you were at Lithgow for a few years, does it strike you as a bit unusual that Mr Watson and the Dog Unit would have been assisting in that search without his dog?---No, it's not unusual. They used to (not transcribable)

20 You said that Mr Watson and Mr Murdoch were involved in the search. Who was the officer in charge of the search?---Oh, well, from viewing the video, and I've seen it prior in an interview before, I'm aware that it was Mr Kennedy was the I think most senior officer there in the briefing.

All right. I think he was a deputy superintendent at the time or the deputy governor, does that ring a bell?---I'm not sure. I think possibly that was his rank.

He's a fairly senior officer to be involved in a routine search. Is that a fair statement?---I wouldn't say that he was involved in the search per se but he was like, to my recollection he was just like overseeing it.

30 All right. But is that standard practice, that someone of his rank would be overseeing a standard search?---Yes, yeah, in regard to the nature of, of the search, yeah.

All right. Did you have much to do with Mr Kennedy while he was at Lithgow?---No, not really, just a working relationship, that's it.

But he was on detached duty at the time I think, is that your recollection?
---I'm not sure, sir.

40 And do you recall anyone else being involved in the search operation?---Just from viewing the video I know that Mr McMurtrie was there.

All right. And you would have seen from the introductory aspect of the video that the people who were involved in the search identified themselves, including the cameraman?---That's correct.

Are you able to provide any reason as to why Mr McMurtrie would not have been introduced as part of that?---No, I'm not sure why.

THE COMMISSIONER: He should have been though, shouldn't he?
---Sorry?

He should have been?---I'm not sure what involvement he had, like, prior to it or, like, the lead-up to it, so I mean if he, if he wasn't aware at the time that that was done, I'm not sure, sir.

10 MR DUGGAN: When the inmates were removed from the cell he was in the day room, you could see that from the video?---Yes.

And he was also seen or heard at least on the video talking to Mr [REDACTED] during the search at some point?---That's correct, yeah, I saw that, yeah.

What about the search of the actual cell, do you recall Mr McMurtrie being in the vicinity during that process?---I believe that, yeah, I do recollect him being in the, the area.

20 And when you say in the area?---Like so, yeah, in the day room area.

Did you see him in the cell at all?---Not to my recollection, no.

Is it possible he was in there?---It's possible, yes.

And was he with anyone at the time when you saw him?---Not that I can remember, no.

30 And in terms of the inmates being taken out, Mr [REDACTED] was taken to a different area - - -?---Yes.

- - - of Unit 5?---Yeah.

And Mr [REDACTED] for some time at least was in the phone cage which is in the day room?---Yes.

And his strip search was conducted in the cell?---Yes.

40 During the period in which Mr [REDACTED] was strip searched in another area, you assisted with that part, did you?---That's correct, sir.

Was there any discussion about whether the cell door was securely locked at that time?---The cell that he was housed in?

No, his cell, so cell 208, the cell that was the subject of the search?---No, I don't recall any conversation about that.

Was there any conversation about whether Mr [REDACTED] should be present for the search of his cell?---Not that I can remember, no.

Is there any reason why Mr [REDACTED] was the one who was put in the phone cage and not Mr [REDACTED]? No. To my way of thinking it could have been either one, as long as they weren't in the cell.

Mr [REDACTED] in the introductory video was identified as the one who would go in the phone cage. Does that refresh your memory as to whether there was any discussion about - - -? No. I saw it on the video but I don't remember it being discussed.

10

Right. Would that sort of detail be identified prior to the cell removal taking place usually? Where, where they would be housed?

Yes. During the search? There might be some, yeah, there might be some discussion as to what the plan's going to be, yeah.

And is it fair to say that that sort of operational detail is a matter for the superior officer of the search? Oh, it could be just like a group discussion to be honest, like whatever the best, everyone deems to be the best approach, safest way to do it.

20

But Mr Kennedy indicated at the commencement that that's where Mr [REDACTED] would go, but you don't recall any discussion about that? No, I don't know, yeah, any, any conversation about it prior.

All right. Now, there were two strip searches you were involved in, Mr [REDACTED] and Mr [REDACTED] I can only recall searching [REDACTED]

30

Right. Is it possible that you searched [REDACTED] as well? It's possible, yes.

And then Mr [REDACTED] was left in the other area of Unit 5 and you went to the day room area to search the cell. Is that your recollection? That's correct.

So when you came into the day room area, I assume you came through the officers' station? Yeah.

When you came into the day room area to search the cell, do you recall what you could see? No, I, I don't really have a recollection of, like, coming straight into the day room or anything like that. I do remember at some stage there was, like, letters and stuff strewn on the floor outside the cell and that's, yeah, the main memory I have of the search.

40

And were those letters contained in anything, or could you see whether they'd been - - -? From my memory they were just loose.

All right. I just want to show you a photograph. Can I show you, or a screenshot rather, of the search video. It's Exhibit 72.

THE COMMISSIONER: Exhibit 72, did you say?

MR DUGGAN: Thank you.

THE COMMISSIONER: Thank you.

10 MR DUGGAN: Is that what you're referring to, or is it possible there was some other personal material in the day room?---Yeah. I, I don't remember any express post, I just remember ordinary white envelopes in my memory on the floor and they weren't in a bag.

All right. Whilst you've got that photograph, does that refresh your memory as to the find in relation to the puffer?---What do you mean by that?

Let me ask the question this way. Do you recall opening that bag?---No, I don't remember.

20 Is it possible that you did open it?---It's possible, yes.

Now, I think you said you were present this morning and you may have seen a video played after the search of the cell.---Yeah.

And you were seen on that video identifying the find.---Yes, correct.

Do you recall that?---Yeah.

30 And I think you say you've just come across this puffer, or something along those lines?---Yes.

Did you find the contraband in the puffer?---No, I did not.

Who did?---Mr Murdoch.

And are you able to provide me with, or are you able to, did you witness the circumstances in which he found the puffer, the contraband in the puffer? ---I can't remember, no, I was there but I can't remember him specifically finding it.

40 All right. Do you remember how you found out that there was something? ---No, I don't. I'm assuming that Allan would've just told me.

All right. But you don't recall?---No, I don't remember.

And do you recall whether Mr Murdoch was told to search specific items? ---No, I don't remember at all.

All right. So you have no recollection either way as to whether he was told to specifically look in a plastic bag and specifically to look in the puffer?
---No, I don't.

And why was it that you indicated on the video that you'd just come across the puffer when Mr Murdoch was the one who made the find? Do you recall?---I don't know that there's a reason for it, it's just the way that I said it.

10 But ordinarily the finding officer, I assume, would put the item down, you'd start the video and so that the item was as close to its found location as possible?---Yeah, that's correct. I was just trying to assist Mr Murdoch.

All right. And why were you trying to assist Mr Murdoch?---He was a junior member of IAT and I just was trying to sort of walk him through the process so he could see how it was done.

All right. But just to be clear, you had no doubt in your mind that Mr Murdoch had found the item?---Yes, from, yeah.
20

And you were, when the video was turned on you were assisting him by explaining the process of taking the puffer apart and the like?---That's correct. Yes.

And, sorry, in particular the contraband find?---The package that was concealed inside, yes.

I just want to take you to your report of the incident which is at page 136 of Exhibit 45. Is that your signature at the bottom of the page?---Yes, it looks like it.
30

And do you recall doing an incident report in relation to the contraband find?---Not specifically but I would've done one, yes.

All right. You have no reason to doubt that this is your report?---No, I don't.

All right. So this says that, I'm talking about the main body of it, "Based on a phone call made by an inmate now known to me as [REDACTED] [REDACTED] information was gathered that inmate [REDACTED] had a gaol made weapon in his possession." Do you see that?---Yes, I do.
40

"And that he intended on using this weapon to harm members of staff." Do you see that?---That's correct.

So was it your understanding that the search operation related to some sort of weapon?---Yes.

And do you recall wearing a stab vest in relation to the operation?---Yes, I was wearing a stab vest. Yes.

All right. And do you recall others wearing a stab vest as well?---Correct. Yeah.

And that, I assume, was because the intel indicated that this inmate might have a weapon and might intend to harm staff.---Yes.

10 It goes on to say that, I withdraw that. So was it your understanding that this search operation was to look for that gaol made weapon?---Yeah. That was the reason that we were going to the cell, yes.

It wasn't for any drug intel or search for drugs on your understanding?---No. It was on the basis of that phone call, for a weapon.

All right. So, it goes on to say, "As a result of a search that was conducted in cell 208", and then that sentence doesn't seem to go anywhere, but then it says, "During the cell search, an asthma puffer concealing a small white
20 package was found amongst a bag of mail." Do you see that?---Yes.

I've just shown you Exhibit 72, does that refresh your memory at all as to whether you recall a puffer coming from that bag?---No. I still don't remember it specifically being found in that bag, no.

All right. It goes on to say about midway through, "Inmate [REDACTED] admitted ownership of the puffer and its contents." Do you see that?---Yes, I do.

30 Is it possible that he admitted that the puffer was his but not necessarily that the drug was his?---No, I believe in a later, in later questioning of him, he admitted to having got the contraband from someone else at another centre.

And are you referring to a conversation that was recorded on the search video?---Yes, that's correct.

So, that will record what it records.---Yeah.

40 Are you aware of any conversation which took place about the ownership of the contents of the puffer that was not recorded on video and that you were present at?---Not that, not that I can recall. No.

All right. So, whatever was said was recorded, to your understanding. ---Yeah. The question, me questioning the inmate was done on the video camera. Yes.

Yes. And I think in fairness to you, it does go on to refer to the [REDACTED] [REDACTED] - - ?---Yes.

- - - in the balance of your report. The item was weighed in front of [REDACTED]
Do you see that?---Yes.

Do you recall whether anyone got the scales to weigh?---No. I'm not, I can't remember where, exactly where that came from.

Do you accept that you wouldn't have had any if you weren't wearing your usual IAT vest?---That's correct. I wouldn't have had them on me.

10 THE COMMISSIONER: Did anyone leave the area in or around the day room when you were there?---Not that I can remember, Commissioner. Oh, to get the scales you mean?

Yes.---Not that I can remember, no.

Thank you.

MR DUGGAN: Do you recall Mr McMurtrie confirming that he'd contacted the clinic and that Mr [REDACTED] had had a puffer issued to him?
20 ---I remember that from the video this morning, yes.

Do you recall hearing it at the time?---No, not at the time.

Do you know whether he made any inquiries about whether Mr [REDACTED] for example also had a puffer issued to him?---I can't, I'm not sure, sir.

Your note then goes on to say the contraband was then secured in evidence bag number B-6-4-8-2-0-1 and in fact that was done on video.---Yes.

30 And then it says, "And submitted to the deputy governor for placement in a drug exhibit safe." Who is your reference to the deputy governor to?
---I can't remember who it was on the day, to be honest.

Would that be Mr Kennedy?---Possibly, if his rank was that of a MOS, but I can't remember who it was.

Right. He wasn't the usual MOS for Lithgow at the time though, was he?
---No.

40 And in fact I think his rank at the time might have been deputy superintendent. Does that accord with your recollection?---MOS, it's effectively the same as a deputy governor, if that's what you mean.

All right. Who else might that be a reference to or could it only be Mr Kennedy?---It could have been any of the senior assistant superintendents acting up on the day or if it was a regular one it would have been Mr Peebles.

All right. So deputy governor is a phrase that you use or the manager of security, is it?---Yes, it's changed a couple of times, but yeah.

Right.---I think it's back to being deputy governor now I think, I'm not sure.

Right. So am I correct in saying deputy governor is the phrase you use for second-in-charge?---Yeah, at the centre, yes.

10 Which as you say has from time to time been called the manager of security.---Yes, that's correct.

Do you have a recollection of handing that over?---I don't.

Sorry, no?---No, I don't, sorry.

20 So is it likely that that would have been handed over in Unit 5 or would you have attended the MOS's office or gone somewhere else?---I can't remember like handing it over, to be honest. I can't. I'm not sure where it would have been done.

Is there any procedure that you're aware of about that?---Well, usually any contraband that's found goes into that drug exhibit safe, that reference, and that's in the manager of security's office, to my knowledge.

Would you have access to that safe to put the drug in there?---No.

Who to your understanding has access to that safe?---The manager of security.

30 And that's it?---To my knowledge, yes.

Right. Now, I've taken you to Exhibit 72 which is an open bag. In the top left corner do you see there's another puffer?---Yes, I can see that.

Do you recall there seeing that there was a second puffer?---No, I don't.

40 Do you recall whether or not you asked Mr [REDACTED] whether he was on a puffer or used a puffer?---Not specifically, no, just remember from the video asking about the contraband.

Can I ask the question this way perhaps. Did you have any discussion with either inmate that wasn't recorded on camera?---Not that I can remember, no.

So the only real bit that wasn't on camera is the 10 minutes of the cell search.---That's - - -

Is that your understanding?---Yes.

Just thinking about that time frame, did you go into the cell at that stage?
---Well, I was there to do the cell search, I can't remember going into the cell specifically but I assume that I would have 'cause I was there to search it.

10 All right. Do you recall bringing any items out of the cell to search them outside in the day room?---No. I, like I said to you before, I remember that there was mail and stuff on the floor. I'm not sure whether I had brang anything out or, because I can't remember that being necessarily there when I got there. I just remember mail being on the floor.

And that's when you walked into the day room after the strip search.
---That's what I'm saying, I'm not sure whether it was there when we walked, as soon as we walked in or not. I just have, like, a recollection of mail being all out on the floor, it was just outside that cell.

20 Is it fair to say that the search of the cell commenced before you got there, if there are items out in the day room?---Well, I'm not sure if they were out there in the, in the day room when I rocked up but it's possible, yes.

Sorry, I thought what you were saying was that you were, conducted the strip search of Mr [REDACTED] in another part of Unit 5.---Yeah.

30 You left in there, you went to the cell, you came through the officer's station and into the day room and when you came into the day room, I thought your evidence was that there were items on the floor at that point, or was that not - - - ?---I don't, I don't remember them being in there as soon as we walked into the day room but I'm saying I do have a recollection of, like, a lot of mail and paperwork being on the floor outside the cell.

All right. Can I take you to Exhibit 71, please? Now, this is a screenshot and it's a little bit blurry because of the camera movement, but do you see in the back, in the left hand side of the photograph there appear to be two plastic bags? Do you see that?---Yes.

40 Now this is a time period just after you have searched Mr [REDACTED] and you're coming back into the day room. Do you recall seeing those bags there?
---Not from memory, no.

You were at Lithgow for some years. Is it fairly standard to have items like that sitting around in the day room?---Yeah, well, like, as I've said, yes, earlier, inmates would come out of the, out of their cell, either they'd, they would give it to the officers, depending what they're doing. If they were going to go to the phone cage, you would, when you let them out they usually walk out and just drop their rubbish there for it to be picked up later.

All right. Now, you've seen Exhibit 72 and you probably still have it in front of you.---Yeah.

Is it possible that those two bags include the one that's been opened on the day room floor in Exhibit 72?---It's possible, yes.

Do you have a recollection of taking those bags out of the cell and putting them against the back wall?---No, I don't.

10 Do you have any knowledge of who might've put those bags there?---
Against the wall?

Yes.---No.

And do you have any recollection of, I've probably asked this question but do you have any recollection of searching those bags?---No I don't.

20 And do you have a recollection of the people that were around participating
in this part of the cell search?---I can mainly just remember Mr Murdoch
and Mr Watson and, like I said earlier, I remember that Mr McMurtrie was
in the area.

All right. I just want to take you to another document in Exhibit 45, please.
So it's at page 150 of the exhibit. Now, this is an email from Mr Watson to
yourself, Mr McMurtrie, Mr O'Shea and Mr Kennedy. Do you see that?
---Yeah. I can't see my name on it, but I can - - -

30 Sorry. I think this is an example of where someone has redacted too much.
So where there's a white space there in the two, can you assume from me
that it says - - - ?---Yes.

- - - Dippel, Troy?---Okay.

And Mr O'Shea is also included and where it says "Rie, Brian", that's
actually McMurtrie, Brian.---Okay.

40 And it's just attaching a document, but I'll take you to page 151 and if you
need to look at the hard copy, please ask for it. This appears to be a report
and his name is on the last page, from Mr Mick Watson.---Mmm hmm.
Yeah.

And it appears to be a report to his boss within SOG.---Okay.

Do you recall receiving this report at all?---No. I don't have a recollection
of seeing it at all.

All right. But it's possible that it was emailed to you?---Yeah. It's possible,
yes.

Just at the bottom, I'll just ask you a question first. Mr Murdoch made the find in relation to the contraband in the puffer.---Yeah.

But he didn't open up the small tissue paper or parcel.---Yeah.

Am I correct in saying that you opened that up?---Yes, I opened it up.

10 Now, Mr Watson in this report says that, "On the 20 February, members of the SOG Western attended Lithgow to conduct standby duties, et cetera, with the following results." And then over the page at 152, "His duties include conduct target cell search in 5.1 Unit." Do you see that, about the fifth bullet point?---Whereabouts am I looking?

So it's about the fifth bullet point under "Duties".---Right, sorry. Yeah. I was looking at the, the paragraph.

That's all right.---Yeah.

20 So target cell search of Mr [REDACTED] was in 5.1.---Yes.

And then he refers to the incident and it says, "Whilst monitoring calls, I listened to a call from [REDACTED] to his father", and then he says that [REDACTED] stated that he was armed up.---Yes.

"And next time the squad came in he was going to turn it on." Do you see that?---Yeah.

30 Which is a summary of the weapon and - - - ?---Yes.

- - - might use it.---Yeah.

And then it says, "After a short conversation with assistant superintendent (Intel), IAT and MOS Mr Kennedy, it was decided that a comprehensive search of inmate [REDACTED] et cetera, be conducted immediately." Do you see that?---Yes.

40 Do you have any recollection of that conversation or is it possible that that's what is recorded in the introductory video?---No. I don't have any recollection of the actual conversation. I remember being, like, alerted to the phone call, I wasn't sure who that was at the time.

All right. And then it goes on in the next paragraph to say, "Nil weapons found, cell search on cell 208 was conducted with nil weapons found, however during the course of the search, point two grams consisting of one half of an unknown tablet and a small amount of white powder was found wrapped in a, in paper, secreted in an asthma puffer." Do you see that?---Yes.

Now that would accord with your recollection at least in terms of unwrapping something?---Yes.

And is it your recollection that it was part of a tablet and small white powder?---To my recollection it was just a broken tablet, I don't know whether some of that had sort of disintegrated into a powder or not but I don't remember specifically seeing it, I just remember that there was a tablet.

10

All right. Is it possible that some of the tablet had disintegrated into powder?---It's possible, yeah, if it was broken already, maybe a smaller piece got crushed into a powder.

All right. And then Mr Watson goes on to say that [REDACTED] made full admittance and I think your evidence is that whatever conversation that he had with you about that, it's recorded on the video?---Yes, that's correct.

20

And it says that Mr [REDACTED] stated that he doesn't know what sort of drug it is but he smokes it. Now I want to suggest to you that he never said that he smoked the drug. Are you in a position - - - ?---No. I, I can't remember, I'd have to see the footage.

And again, whatever he says in the footage he said and you don't recall any conversation outside of that?---No. Not with me, no.

THE COMMISSIONER: He didn't say that on the footage, did he?

30

MR DUGGAN: No.

THE COMMISSIONER: All right.

MR DUGGAN: Can I just take you now to page 155 of this exhibit. We have up on the screen an incident report. Do you see that?---Yeah, I can see it.

And can you see the date, 20 February, 2014?---Yeah.

40

And please feel free to read as much as you need to, but do you accept that this is the incident report in relation to the contraband find and Mr [REDACTED] ---Yes.

Do you have any knowledge as to who drafted that incident report? ---I believe it was me.

You believe or do you have a recollection or - - -?---Yeah, I have a vague recollection of doing the most, like, the incident report and the IRM.

All right. And this is the document you refer to as the IRM?---That's correct, yes.

And are you able to explain why this was entered into under Simon Graf's login?---Oh, I can't, I'm not sure exactly of the reason. I can assume that was just, maybe he was logged in at the time and to a time-saving exercise I just done it on that, on his OIMS.

10 Does that commonly occur?---There's only two computers in the office so sometimes it does, yeah, to get the stuff done in time.

How long does it take you to log out of the system with one user and log in with another?---It's hard to say. It's not so much logging off, it's just the waiting for it to log back in.

Which is, are you able to estimate how long that takes?---Oh, I don't know, five or 10 minutes, five minutes maybe probably, yeah, I'd say five.

20 Five minutes to log in?---Yeah, 'cause it's a, it's, you go into an initial like a desktop and then from there you've got load up the OIMS application. I'm estimating.

You can't just log out of OIMS and log in with someone else without rebooting the whole system?---I'm not sure. Maybe you could, I'm not sure.

30 Now, you understand the reason behind why you would need to log in under a particular login name for an incident report?---Sorry, I'm not sure what you mean.

So this incident report records that Mr Graf made this entry.---Yes, yeah.

And anyone other than yourself and perhaps Mr Graf who might have seen it or someone else who saw this - - -?---Yeah.

- - - one would assume that Mr Graf is reporting this.---Yeah, I understand, sorry, I know what you mean.

40 So the purpose of having to log in in your own name is so that when one goes to look at a record like this, one can tell who's made the entry. ---That's correct, yes.

And were you aware of any protocol that existed in terms of using someone else's login details or providing someone else with your password?---Oh, not specifically but I understand that's probably not something you're meant to do.

But you say that, or do you say that you have a recollection of doing this at the time for your own convenience?---Yeah, I vaguely remember doing the IRM and the, and the incident report, yes.

You have a recollection do you that Mr Graf was part of the IAT on this particular day?---Yeah, he was one of the officers that was asked to sit out.

Right. And do you recall why he was asked to sit out?---Because he had been involved in the incident the day prior.

10

Did you think that that might create a difficulty if you were using his login to make this entry, if he had to sit out of the exercise?---I didn't think of it, to be honest.

Right. But you have no doubt that you made this whole entry?---Yes.

And I think by and large that the effect of what you say in this is recorded in your report, incident report that I took you to earlier?---Yeah.

20

If you go to two-thirds of the way down the page, the question and answer details, and it says, "Was the incident videoed?"---Yep.

"Yes." "Disc given to MOS?" Do you see that?---Yes.

Do you recall providing the disc to the manager of security?---No, I don't recall, no.

30

Does that give you any idea as to which individual you might be referring to there?---Not, not by person, no. Just, just the rank. Like I said before, I'm not sure who it was on the day.

Now, just at the bottom of the page, the last line refers to the offender, "██████████ in possession of contraband, OIC pending." Do you see that? ---Yes.

And OIC is sometimes referred to as officer in charge, but there it refers to offence in custody. Do you accept that?---Yes.

40

And it says "pending".---Yeah.

Do you have any recollection as to whether Mr ██████████ was charged for the contraband find?---I don't remember specifically, no, but I assume that Al, having been the one who found it, would submit the misconduct.

And you'd assume he'd be charged for the offence?---Yes.

And that that would be recorded on his disciplinary sheet?---I assume so, yes.

And there may or may not be some penalty of withdrawing buy-ups for a week or something, or visits or some other penalty?---Something like that, yeah.

And you can't think of any explanation as to why he wouldn't be charged for that sort of find?---No. Unless they couldn't prove that it was him.

But your report says that he made admissions.---That's correct, yeah.

10

And the video says at least that the puffer was his, even if there might be, I would suggest, no statement in relation to the actual contraband.---Sorry, what's the question?

So the – I'll withdraw it. That's not necessary. Do you understand the procedure to be with a contraband find that you had to contact the police and ask them whether or not they wanted to be involved?---I'm not sure of procedure. It was, like, in my experience it just, like, varied depending upon the find.

20

And if someone was going to contact the police, then is that a decision that would be made by the manager of security or the officer in charge of the search or who?---Yeah, I would say probably manager of security or one of the executive staff.

That's not a decision you were in a position to make in 2014?---No.

Do you have any knowledge as to whether the police were contacted in relation to this find?---No, I'm not sure whether they were or not.

30

And you don't have any recollection as to whether you attended the MOS's office to put the drug in the safe?---No, I can't remember doing it, no.

But in any event you wouldn't have had access to the safe? Someone else would have had to have put it in.---Yeah.

Would you ever make an entry into the exhibit book?---Well, when it's logged, yes.

40

Do you have any recollection of making an exhibit book entry in relation to a contraband find of Mr [REDACTED] ---No, I don't have any recollection of doing that, no.

Is it possible that you did?---It's possible, yeah.

I just want to show you an exhibit book entry. Do you see there under Description it refers to a contraband find?---Yes.

Is that your handwriting?---No.

I tender that exhibit book page, Commissioner.

THE COMMISSIONER: Thank you. That's Exhibit 73.

**#EXH-073 – COPY OF EXHIBIT BOOK ENTRY DATED 20
FEBRUARY 2014**

10

MR DUGGAN: I just want to take you to page 142 of the exhibit, if I may. You see that it's an email from Simon Graf to Michael Watson - - - ?---Yes.

- - - on 20 February, and the comment is, "Here Mick, just doing the IRM now." And attached to it as an incident report template.---Yes.

On the next page, just to show you. Do you see that? Now, I took you a moment ago to the IRM in relation to this incident, and the IRM report was opened at 3.02pm.---Mmm hmm.

20

If you need to go back to it, let me know. And this is an email being sent at 2.57pm. Do you see that?---Yes, yeah.

Yeah. So only a few minutes before the IRM entry was commenced. ---Yeah.

Do you have any idea of whether Mr Graf emailed this to Mr Watson or not?---No, I'm not sure. It could've been me.

30

So, you've given some evidence about OIMS.---Yeah.

And using Mr Graf's login for OIMS.---Yeah.

OIMS doesn't contain an email program, does it?---No.

Do you use Outlook or some other - - - ?---Yes, I think we use Outlook, that's the email program. Yeah.

40 So it's one thing to use someone's OIMS login. Is it possible that you also used Mr Graf's email?---It's possible, yeah, that I've said that I'm doing the IRM now, so - - -

Is it normal for you to be going into someone else's email program?---It's not normal, no.

Would you have spoken to Mr Graf about that?---Yeah. I wouldn't have gone in there without asking if it was all right for me to use his computer.

All right. Do you have any recollection of doing that?---No, not specifically.

Was it something you did often with Mr Graf or would this be isolated?
---Yeah, I don't remember doing it often. No.

Did you know Mick Watson, Michael Watson?---Just from working with him, yeah.

10

Can you think of any other reason why you would have used Mr Graf's Outlook email other than your own convenience?---No, I can't.

Again, you can see a difficulty using an email for work purposes but using someone else's?---Yes.

Can I just take you to page 154, lastly? Do you have any recollection of sending the IRM to Mr Watson?---No, not that I can remember exactly. No.

20

So, I've just taken you to an email just before 3.00pm and the IRM summary entry at least is 3.11pm, the IRM being opened at 3.02pm. This is an email now at 3.39pm. Mr Graf to Mr Watson. Do you have any knowledge or understanding as to, sorry, I should go to the second page because this just annexes a document. If you can assume that that's the attachment?---Yeah.

And I think your evidence was that you don't have any recollection of sending Mr Watson the IRM. Is that your evidence?---I can't specifically remember sending him that. No.

30

Given your previous evidence about using Mr Graf's email - - - ?---Yeah.

- - - do you have any knowledge or understanding as to whether you sent this email using his email address?---It's possible if I was doing the IRM.

But the IRM entry is at 3.11pm, this is now at 3.39pm.---Mmm.

It's likely that you finished the IRM some time before this.---Yes.

40

Yes.---Yes.

Is your evidence that you're still using Mr Graf's email for convenience some 40 minutes later?---I can't remember specifically sending him that.

But it's your evidence that it's possible.---Yeah. I, I vaguely remember being on his, on his login, so - - -

Why would you be sending the IRM to Mr Watson?---He's an involved party, maybe just for his information.

Was that common for IAT or other Corrective officers to send stuff to each other or to SOG, just so everyone was up to date, or not?---Yeah. In my experience, if SOG would come in and assist us some, because they would sometimes do an IRM separate to the one we would do to, like, record their involvement and we might send them the details of our own or whatever just so, like, to culminate all the documentation.

10

Commissioner, I have no further questions of this witness.

THE COMMISSIONER: Anyone else?

MALE SPEAKER: No, Commissioner, thank you.

THE COMMISSIONER: Mr Dippel, you are excused from this summons. ---Thank you, Commissioner.

20

So, you're free to go.---Yeah.

THE WITNESS EXCUSED

[12.57pm]

THE COMMISSIONER: Who's next?

MR DUGGAN: Commissioner, the next witness will be Mr Turton and I'm happy for him to be sworn at 2 o'clock or whatever's convenient.

30

THE COMMISSIONER: Why don't we adjourn now but come back at five to 2.00 if that's -- sorry, Mr Reitano.

MR REITANO: Might I be excused?

THE COMMISSIONER: Of course you can.

MR REITANO: Thank you.

40

THE COMMISSIONER: So we'll adjourn now and we will come back at five to 2.00.

LUNCHEON ADJOURNMENT

[12.57pm]