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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 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 Turton.

MR TURTON: Yes.

MR STEWART: Yes. Good afternoon, Commissioner, for the record, Stewart, solicitor for Mr Turton. I've explained the provisions of section 38 declaration to him, he'd like a declaration and he'll be sworn.

THE COMMISSIONER: All right. Okay. Thank you very much.

10

Well, we might swear the witness in now.

THE COMMISSIONER: Now, Mr Turton, Mr Stewart, as you know, informed me that he's explained the provisions of section 38 to you.

---Yes, Commissioner.

Just let me repeat a couple of things. As a witness you must answer all questions truthfully.---Yes.

10

And you must produce any item described in your summons or required by me to be produced. Were there any documents described in the summons? I assume not?---No.

No. All right. The effect of a section 38 declaration is you don't have to object to questions as you go along, but even if you did object you'd still have to answer them. The section 38 declaration gives you some protection. It means that your answers or any items produced can't be used against you in any civil proceedings or, subject to two exceptions, in any criminal or disciplinary proceedings. You're still a serving officer?---No.

20

You're not. Are you still within Corrections?---No, I've resigned.

You've resigned, have you. When was that, can I ask?---Close to two weeks ago.

All right. Thank you. Don't have to worry about the fact that you're a public official?---Another government agency so I still am.

30 Well, I might explain it to you anyway. Okay. Now, the first exception to the coverage that a section 38 declaration gives you is that the protection doesn't 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. If you give false or misleading evidence the section 38 declaration doesn't protect you and your evidence can be used against you. Now, obviously giving false or misleading evidence to this Commission is very serious, it can lead to a penalty of imprisonment for up to five years. The second exception applies to New South Wales public officials. Evidence given by a New South Wales public official may be used in disciplinary proceedings against that public official if the commission makes a finding that the public official engaged in or attempted to engage in corrupt conduct. So I don't think that would apply in your case
40 - - -?---Okay.

- - - because your no longer with Corrections and what we're talking about is what happened there.---Okay.

So pursuant to section 38 of the Independent Commission Against Corruption Act 1988, 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.

10 **SO PURSUANT TO SECTION 38 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT 1988, 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.**

20 THE WITNESS: Thank you, Commissioner.

THE COMMISSIONER: Mr Duggan?

MR DUGGAN: Thank you, Commissioner.

Mr Turton, can you please state your full name for the Commission.---Philip Ian Turton.

30 And is that Philip with one L?---One L, yes.

Mr Turton, you understand that I want to ask you some questions about what happened in Lithgow in February 2014?---Yes.

How long had you been at Lithgow in February 2014?---Not long, approximately I'd say six months.

All right. And when did you leave Lithgow?---I left Lithgow in September 2017.

40 All right. And in February 2014, you were the sector manager in Unit 5. Is that right?---Yes.

And is that a position that you get rostered onto for a particular day, or were you the sector manager for - - - ?---I was a regular sector manager.

All right. What was your rank in February 2014?---Senior assistant superintendent.

THE COMMISSIONER: That's SAS, isn't it?---SAS. Yes, Commissioner.

MR DUGGAN: And do you recall being rostered on to work on 19 February 2014?---Yes.

And do you recall there was a lockdown of the centre on that day?---Yes.

And there was some searching going on in Unit 3.---Yes.

10 Where were you in the morning, do you remember?---After parade, which was 8 o'clock, I went up to the sector manager 2 office which was my office, which was above 5 Unit.

All right. Is that up in the same area as the IAT office?---Yes. There's the common toilet and meal room in between IAT and the sector manager's office.

All right. So that's an open plan office with other offices in there. Is that right?---Yes.

20

So, sorry, you were up in that office in the morning?---Yes. Yes.

And do you recall going downstairs at any point?---Yeah. I recall going for a walk with Ms Lohse, Jane Lohse. I can't remember where we were going but we went for a walk. It was a lockdown day, so normal routine doesn't really apply.

All right. And you went downstairs to the day room, did you?---I actually went out to the compound outside of 5 Unit.

30

All right. And did anything happen down there, or - - - ?---Not on the way out, no. No.

All right. And what about the way in?---Yeah. On the way back in, so we came through the day room door into 5.1 Unit.

Straight from the compound?---Straight from the compound, yes.

40 All right.---So myself and Jane entered and I could hear raised voices as we were opening the door to enter the day room.

All right. And when you came through the door, what could you see?---I could see Mr O'Shea yelling through cell 208. I now know it as 208, I didn't pay attention to the cell at the time. He was having a bit of a heated conversation with the inmates within cell 208.

All right. And to the best of your recollection, could you remember what was being said?---All I hear, all I remember hearing Mr O'Shea say was, "You think you're a tough cunt now? You won't be in a minute."

And was there a reply? Do you recall?---I couldn't hear.

You said there was some yelling. Is it fair to say there was yelling on both sides?---Yes.

10 Mr O'Shea, and - - - ?---Yes.

- - - an inmate within the cell?---Yes, I would say that.

And is that, did Mr O'Shea say more than, sorry, what were the exact words?---"You think you're a tough cunt now? You won't be in a minute."

Did he say anything other than that?---I don't know, because Jane and I looked at each other and one of us said, "Let's get out of here", and we went upstairs.

20

All right. And you wear a radio on your, as part of your uniform, I assume. ---Yes.

Did you hear anything on your radio at any point?---Yes, I heard a radio call for IAT to respond to 5 Unit.

All right. Now when you were in the day room, come into the day room and you've heard Mr O'Shea say what he said, who else was in the day room, if anybody, at that time?---I remember seeing Mr Peebles and Mr Taylor in the day room.

30

And how far from the cell door was Mr O'Shea approximately?---Right up against it.

All right. And the cell 208, or the cell you now know as 208, has a solid door and a grille door.---Correct.

Was the solid door open?---No.

40 So it was closed, was it?---Yes.

And so Mr O'Shea was yelling through that solid door, was he?---Sort of yelling, above each cell door there's a mesh grille which is how we yell through to talk to them when the solid door is shut, so he was talking sort of above himself.

All right. Do you recall if the flap was open?---No, I don't.

But was Mr O'Shea looking up to the grille, was he - - -?---Yes.

- - - when you saw him? All right. Now, where was Mr Peebles in relation to the cell door?---About, I'd say between two and three metres behind Mr O'Shea - - -

All right.--- - - - with Mr Taylor.

10 All right. And you said that Mr Taylor radioed for, was it - - -

MR HARRIS: I object to that, it wasn't actually - - -

THE COMMISSIONER: No, he didn't, he didn't say, I was going to ask him myself.

MR DUGGAN: Oh, sorry.

THE COMMISSIONER: No.

20 MR DUGGAN: My apologies.

THE COMMISSIONER: Who made the radio call, do you know?---Mr Taylor.

Thank you.

MR DUGGAN: I apologise for that to my friend. So a radio call was made. How do you know it was Mr Taylor?---I know his voice.

30 So do I assume from that, that you weren't in the day room at the time the radio call was made?---That's correct. Jane and I were probably halfway up to my office, I would imagine, so about 30 seconds to a minute after we passed through the day room.

All right. And how did you know it was Mr Taylor?---By his voice.

Right. And how did he sound on the radio call?---Quite urgent.

40 And was it a short message or a long message?---Short. It was something along the lines of, and I'm trying to recollect, MOS to IAT, attended 5.1 Unit immediately. Something like that.

Now, before the radio call was made you were in the day room.---Yes.

You and I assume that John Lohse entered the day room?---Yes, she did.

And Mr O'Shea was there at the door and Mr Peebles and Mr Taylor were a couple of metres back?---Correct.

Was there anyone else in the day room at that point?---I can't recall.

Now, you left the day room, did you?---Yes.

Why did you leave the day room?---I wasn't comfortable with where the conversation was heading - - -

All right.--- - - - between Mr O'Shea and the inmates.

10

Why did you have some level of discomfort?---I thought it was inappropriate conversation and I thought it was escalating to a point where it was going to become more inappropriate, so I left.

All right. Did Ms Lohse hang around?---No, she left with me, she agreed.

Was there some conversation, was there, between the two of you?---Yes.

20

What was said, do you recall?---One of us, I can't remember said, well, I think Jane said, "Let's get the fuck out of here," and I said, "I agree, I don't like where this is going."

All right. And you left the day room I assume?---Yes.

Did you leave through the compound door or did you go through the officers' station?---No, I went through the officers' station and I think from memory Jane stayed in the officers' station and I kept going upstairs.

30

All right. And where were you when you heard the radio call, do you remember?---I'd probably just left the day room ah, the officers' station and halfway between there and my office, probably, from cell 208 probably 30 metres, 40 metres, something like that.

All right. And so what sort of time period are we talking between you hearing Mr O'Shea shouting at the inmate and you hearing the radio call? ---If I had to guess, 45 seconds.

40

All right. Now, you heard the radio call, did you go back to the day room at any point?---No.

You were the area manager or the sector manager at the time for Unit 5? ---Yes.

You didn't have any interest on what might be going on down there?---No.

Right. So you went back up to your office, did you?---I did, yes.

Could you hear anything from up there?---I could hear muffled yelling which was, I couldn't determine where it was coming from, that's, you hear that all day from the inmates in the C Unit, so all day.

All right. And at any point did you hear about what had happened down in the day room?---No, not until about between 20 and 30 minutes later I suppose I received a phone call from Mr Peebles.

10 All right. And what did Mr Peebles say in that phone call?---He asked me to print out an injury questionnaire and go and complete the injury questionnaire on [REDACTED] [REDACTED] because he wanted a senior executive to do it.

All right. Is it normal for a senior executive to do an injury questionnaire? ---No.

And do you have any understanding or knowledge as to why you were asked to do this one?---No, I don't.

20 And did you take that injury questionnaire by yourself?---No, I took my assistant for the day which was AS Bowman, Michael Bowman.

All right. And you went to see the inmate?---I did, yes.

And you know the inmate as Mr [REDACTED] do you, or - - - ?---Yes.

Did you know who it was at the time?---No. I didn't.

30 But sorry, just to clarify, did you know [REDACTED] [REDACTED] at all in this period? ---No.

No. Hadn't come across your radar?---No, no more than any other inmate. No.

All right. I just want to take you to Exhibit 45, page 91. So, you can see there that that's an inmate assault injury questionnaire.---Yes.

And I'll just quickly take you to page 92. So, it says "completed by SAS Turton". Do you see that?---Yes.

40 Now it's not signed, but is that your handwriting?---Yes, it is.

And you filled out this questionnaire, did you?---Yes.

So, if we just go back to the first page, do you recall asking the questions and receiving the answers that you've recorded?---Yes.

There's an answer, the first question and answer is "describe the events", and the answer is "use of force". Do you see that?---Yes.

Do you recall what Mr [REDACTED] said in relation to that, or did he use words “use of force”?---That’s exactly what he said, I wrote down word for word.

All right. And then further down the page, the question is, “What was the cause of the injury?” And it says, “No comment.” Do you see that?---Yes.

Did you have any concern that there would be no comment in relation to cause of injury?---I don’t think I really thought about it at the time.

10

All right. Did he visibly have any injuries?---He was holding his ribs and I think at one stage he complained of having sore ribs but there were no other injuries that I could see at that time.

All right. And over the page, the question is, top question, “Who do you consider responsible for your injury?” And the answer is, “Myself”.---Yes.

Do you see that? Was there any discussion about further elaborating on how the injury might have occurred?---No there wasn't, he wasn't very talkative.

20

All right. Now did you have any better understanding of what had happened - - - ?---No.

- - - at this time?---No.

And I’ll just take you to page 102 if I may. So, you have in front of you an incident injury notification form. Do you see that?---Yes.

30 And is that your handwriting filling in those details?---Yes, I think it is.

And over the page at 103, this time I think we might even have your signature. Is that yours at the bottom of the page?---Yes it is.

And so this is 19 February 2014, so if we just go back to the first page of this document and the details of accident injury about two thirds of the way down the page indicate the time of the incident is at 9.15am. Do you see that?---Yes, I do.

40 And the time reported was 10.15am. So is that when you filled out this form?---That’s when I would’ve done the form, yes.

All right. So, within an hour of the incident actually occurring.---Yes.

And did you know that you were filling out an injury form in relation to the person who was in the cell who was yelling, having a yelling match with Mr O’Shea? Did you know it was the same person?---No.

No.---Not at that time, no.

So, for all you knew they could have been separate events?---Yes.

All right. And so you've filled this out and on the second page of it at 103, there's some ticks in the boxes and the activities in the cell - - - ?---Yes.

10 - - - for the first set of questions, and then the next set of questions, "Abrasion and bruise swelling". Was that something that you observed or you were told? Do you recall?---I can't recall.

All right. And then "Mechanism of injury", do you see there that "use of force" - - - ?---Yes.

- - - is ticked? And if you just go down the boxes about five boxes, it says "Fall from same level/slip, trip". Do you see that?---Yes. Yeah.

20 Was there anything suggested to you that that's how he might have injured himself?---No. He only told me it was use of force.

All right. Now, you would be aware that when there's a use of force, policy, Corrective Services' policy at the time was for an IRM to be completed.---Yes.

30 And so did you have any conversation with anyone about completing an IRM at that time?---Shortly after, yes. I telephoned Mr Peebles to tell him I'd completed that documentation that you just saw and I suggested I would now commence the IRM for the use of force. Mr Peebles told me there was no use of force, there would be no IRM.

All right. Did you respond at all to that?---I just said, "O.K. then", or words to that effect.

Was that an ordinary type of conversation, or - - - ?---No. That's when I started to get a little bit uneasy.

But it wasn't a heated exchange?---No, not at all.

40 No. But why did you feel uneasy about that conversation?---Because I knew that an IRM had to be done within two hours of the incident and the inmate had indicated that there was a use of force.

All right.

THE COMMISSIONER: Just on that, can we just go back to that form? And the tick boxes, if you look at "nature of injury" again and the first tick is "abrasion" and the second is "bruising, swelling", can we take it that they're things you observed?---I don't think I, I think it's what he told me.

Right.---Because I remember I couldn't see any bruises but he was complaining of his chest and his ribs.

O.K. Yes, thank you.

MR DUGGAN: And just while that's on the screen, so I didn't take you to this but you can see that the word "ribs" written in there about two thirds of the way down the page on the right hand side?---Yes. Yeah.

10

Yes. And at the left there are other bodily locations ticked, "eye, mouth, chest". Do you see those?---Yes.

So you think that he told you about those injuries at the time?---I think he told me because I can't recall seeing, I certainly didn't look at his chest, I didn't ask him to take his shirt off or anything.

All right.

20

THE COMMISSIONER: And there's a tick there too next line down, "treatment received", ticked, "chapter cell".---Chapter cell, yes.

What does that mean?---Our onsite nursing staff, they do all this treatment.

O.K. Thank you.

MR DUGGAN: And if an inmate is presenting or complaining of those injuries, irrespective of whether there was an actual use of force, would there need to be an IRM?---Yes.

30

Do you recall if there was a visit to Justice Health, or do you know - - - ?
---Yes. At some stage after that conversation with Mr Peebles, I can't remember if I walked [REDACTED] over or I had somebody escort [REDACTED] over to the clinic, but he certainly went to the clinic, and I remember a phone call and a conversation with an officer from the clinic, I can't recall who, who asked me to attend the clinic because he had some injuries which, again, is normal. So, I walked over to the clinic. I think Mr Bowman might've went with me again, I can't be 100 per cent on that and I spoke to the nursing unit manager and I think it was a lady, an acting NUM, she told me that [REDACTED]

40

[REDACTED] had to go to hospital for suspected broken ribs.

All right. And did you have any conversation with anyone about that?
---Yes. I went to the nurse's meal room to use the telephone.

Right.---And I called Mr Peebles again and I said, "We're going to have to do an IRM." He was a little bit more insistent this time, I remember him swearing at me and saying, "There is no fucking use of force", to which I replied, "No problems, Brad, but he's currently on the way to hospital with

suspected broken ribs.” Mr Peebles’ demeanour changed, he said, “Oh fuck”, and then said, “I’m telling you, you’re not to do the IRM. Tex is going to do the IRM.”

All right. And who did you understand Tex to be?---Terry Walker.

10 All right. When you say his demeanour changed, are you able to say from what to what?---From a business-like conversation the first time I suggested an IRM, to being annoyed and frustrated and angry that I was suggesting it again.

All right. So, are you talking about your earlier conversation with him?
---Yes.

And then you have this conversation, he seems annoyed, to use your words.
---Yes.

20 But then I think you said his demeanour changed when you said, well, he’s going to hospital, he’s - - - ?---Yeah. There was a little bit of a pause and a little bit of a, I don’t know if he reflected on maybe it was more serious than he first thought.

All right. And he said, what was it, “Oh, fuck”, and - - - ?---“Oh, fuck”.

And, “You’re not to do the IRM”.---I’m not to do the IRM, Tex will do the IRM.

30 All right. And was that the end of the conversation, or was there - - - ?
---Yeah. Pretty much it ended there. I became annoyed, however I still had duties to do so I organised the hospital escort for inmate [REDACTED] I organised for the section 24 movement order to be done and the risk assessment and then I went back to my office.

All right. Now, you were an SAS at the time.---Yes.

And Mr Peebles, do you recall what rank he was at the time?---Manager of security.

40 And do you recall whether he was on detached duty that day or not?---Yes he was.

All right. But in any event, he was your superior officer.---Yes.

Did you have any concerns about the fact you were directed not to do the IRM?---Yes.

What were those concerns?---Well, I was involved in the first instance to do the other paperwork. My recommendation for an IRM originally was

ignored and dismissed and now that there was an injury to the inmate, there was a need for an IRM so I was just a little bit suspicious, yes.

All right. And at this point, so this is after, I assume, there's been an assessment at the clinic, had you learned any more about how or why this inmate might've sustained some injury?---No.

And did you later that day learn about that fact?---I later learnt that day there was a use of force, yes.

10

And what were you told the use of force was, or how did you - - - ?---I don't recall, I just, I remember being told there was a use of force.

All right.---I don't remember any specifics about it.

Did you go and look up the IRM at any point?---No.

Did anyone tell you that he tripped over and landed on a toilet or anything like that?---No.

20

No. Did anyone say that he might've been assaulted by an officer?---No.

No. All right. If I can take you to page 94 of the Exhibit 45.

THE COMMISSIONER: Sorry Mr Duggan, what page was that?

MR DUGGAN: Ninety-four.

THE COMMISSIONER: Ninety-four. Thank you.

30

MR DUGGAN: So, you have an incident report in front of you?---Yes, an IRM.

And this is done on the OIMS - - - ?---Correct.

- - - system? And this IRM was filled out by yourself?---Yes.

At approximately 1.20?---Yes.

40

And it says here that [REDACTED] was escorted under section 24 to Lithgow Hospital for further assessment to injured ribs. Do you see that?---Yes.

And so that's consistent with what you said earlier about him going up to hospital.---Yes.

And a section 24, is that a form that you fill out for a hospital transfer, is it, or - - - ?---Yeah. It's a local leave order, it's signed off on locally.

All right. And then so do you recall anything further happening in relation to this inmate that day, or is that - - - ?---No, I had no more involvement, really.

All right. Now, you were rostered on to work the following day?---Yes.

And did you have any interaction with inmate [REDACTED] on the 20th?---No.

Excuse me one moment.

10

THE COMMISSIONER: One of the things that it says on the form is that it was submitted for review.---Yeah, with each IRM, Commissioner, it goes in, another manager in the centre is supposed to review it before it's finalised, just to make sure everything's fine and okay.

And is that supposed to be somebody senior to you?---It could be the same rank.

Same rank.---Yeah, but not below.

20

Do you know who reviewed this one?---No.

Thank you.

MR DUGGAN: Just going back to something you said earlier about your conversation with Mr Peebles and doing an IRM or not doing one, is it your recollection, I think you gave this evidence, that Mr Peebles was on detached duty that day?---Yes.

30

And the acting MOS was Mr Taylor. Is that - - -?---That's correct.

Why would Mr Peebles, if he's on detached duty, be making decisions about who was to do an IRM?---I don't know.

Does it strike you as, would that be unusual or does that happen?---Probably not because it's his centre, but if you're offline, you're offline I imagine, if you've got other duties to do, so I can't answer that.

40

All right. Can I put it this way. Would you expect to be having a conversation about what reporting is necessary, if you're going to deal with a superior, with the acting MOS who was Mr Taylor?---Yes.

All right. So I was asking you some questions about the 20th, and you were rostered on to work on that day?---Yes.

And were you upstairs at any point in the office?---Yes, I was in the sector manager's office again.

In the morning. And did you hear any more or find out any more about Mr [REDACTED] and what had happened the day before?---No. At some stage, I thought it was quite early on, but watching that video today on the search which was around lunchtime, it may have been later on in the morning, but at some stage in the morning as part of my duties I went down to speak to [REDACTED] [REDACTED] and I was met in the hallway by Mr McMurtrie and Mr Kennedy. Mr Kennedy asked where I was going, I told him where I was going, to see [REDACTED] [REDACTED] and he said, "No, you're not allowed." And I asked why and he said, "Because you were involved the previous day and it would be inappropriate to interact with him again." So I was told to go back upstairs.

All right. This is by Mr Kennedy, was it?---Yes.

And Mr Kennedy was a more senior officer than you, was he?---Yes.

And was this a fairly casual conversation or was it more of an order to go back upstairs?---It was, it was semi-formal. I don't know if that makes sense. It was, I knew the intention was to get upstairs. It wasn't a direction.

Why were you going to see Mr [REDACTED] I had to see every inmate in that unit, every segregation inmate or protection inmate on a daily basis, so as part of my duties.

All right. So it wasn't anything to do with the previous day, you were just - - -?---No, I had to see them.

And did you, when did you next go and see the inmates if it was part of your duty to see them?---I don't think I did that day.

All right. And that was because of - - -?---Because of being told to go upstairs.

Did you think that you'd had any involvement in what had happened the day before?---Not in the use of force, only in the documentation follow-up.

Right. Did you consider that there was a difficulty going to see Mr [REDACTED] at any point?---Not at all.

So did you have any thought process when you were sent upstairs?---Yeah, I thought I was deliberately being prevented from seeing Mr [REDACTED]

And do you have any understanding as to why you might have been prevented from seeing Mr [REDACTED] I don't think they wanted me to speak to him.

But do you know why, have you got any understanding as to why?---No, not really.

Did you have some concerns that you were being sidelined?---Yes.

Did you communicate those concerns to anybody?---Yes, Mr Taylor.

All right. So he was the, was he the acting MOS on the 20th?---He was.

10 All right. And so when did you speak to Mr Taylor?---After I was told to go upstairs, I went upstairs. I was a bit annoyed so I rang Mr Taylor immediately in his office, in the manager of security's office, and I told him that I'd just been sent upstairs and prevented from going and seeing the inmates, in particular [REDACTED] by Mr Kennedy and Mr McMurtrie, and told him I wasn't happy about it.

And what was his response?---He just said that, I think the words he use was, "Don't worry, Kenno's there to lead a search operation, he's running it, don't worry about it, just stay upstairs."

20 All right. You were the sector manager at the time?---Yes.

Were you briefed at all in relation to the search operation that was - - - ?
---No.

Is that unusual?---Yes.

When did you, did Mr Taylor tell you that there was a search operation going on?---Yeah. A search operation.

30 Is that when you first learned that there was - - - ?---Yes.

What was going on? And did you find out anything more at that point about the search operation?---No. I figured there was something going on because there were also officers in IAT here with Mr Kennedy.

All right. And you were the sector manager and you weren't briefed at all about it.---No.

40 Was there any security issue raised in relation to a weapon that might be in Mr [REDACTED] cell?---Not with me. No, not with me.

Have you ever heard that?---No.

So you were never informed that - - - ?---Not until way after the fact. No.

All right. Were you informed about a drug find?---No.

You weren't informed about a drug find on that day?---No.

THE COMMISSIONER: In your sector?---No. That's right.

MR DUGGAN: Maybe asking the obvious but do you consider that to be unusual?---Yes.

Now I assume you found out at some point there was a drug find.---Yes, I did.

10 How long after the event?---Probably, if I was being honest, that afternoon probably, from the IAT probably told me from memory.

All right.---Yeah.

But did Mr McMurtrie tell you?---No.

What about Mr Kennedy, who was leading the search? Did he tell you? ---No.

20 Mr Taylor?---No.

Mr O'Shea?---No.

I think the word that I used earlier was "sidelined" for the search operation. Is that a fair summary?---Yes.

Are you able to provide any reason as to why you might have been sidelined?---Yes, I can give very good reason. There was a trust issue that they had with me in relation to previous ICAC experiences.

30 All right. Is it fair to say that, I'll withdraw that. Before I ask you some more questions about that, did you ever have any conversations with a Mr Duffy about what had happened on the previous day, the 19th of February? ---Yes.

When did you have a conversation with Mr Duffy?---I think it was, if it wasn't on the 20th, it might've been the day after. It was within a very short period of time from the 19th.

40 All right. Do you remember where that conversation was?---Yeah, in the tower above the control room.

And that's not in Unit 5, I assume.---No, no, no. It's a different part of the gaol.

All right. And so were you there, did you meet him there, was he there?--- He radioed me for a phone location and I had a telephone conversation with him and he asked me to attend the tower to meet with him.

All right. And you did that?---Yes.

And do you recall what was said in that conversation?---Yeah. Mr Duffy expressed concerns about what he had seen in cell 208 on the 19th. He expressed concerns about things that had been said to him by other officers and his main concern was around his report that he'd written that in his opinion, wasn't wanted.

10 A report he'd written in relation to what event?---What, of the use of force in cell 208.

All right. So he told you he'd written one, did he?---Yes.

20 And, sorry, what was his concern about that?---He said that he was concerned that it had been basically binned or shredded or whatever term he used, by Mr O'Shea because from memory he told me he registered it with the dep's clerk on our report registering database and then I remember him saying he put it under Mr O'Shea's door up in his office in an envelope but it had gone missing or something like that, he'd never been called up about it.

All right. Did he tell you anything about any other officers involved in some way in the events of the 19th?---Yeah. My recollection is that Wes told me that Mr Duncan had used excessive force on [REDACTED] [REDACTED]

All right.---Kneeing him in the chest and from memory he used the word, "pole-driving," whatever that is.

30 All right. And that sounds as though – I'll withdraw that. So is this the first time that you heard about what had gone on in the cell?---Yes.

And at this point when you had the conversation had you, did anyone give you the understanding that there was a trip and fall or did you not know anything about the event?---I didn't know anything. I was not included in any conversations about it at all.

40 Did you have any discussion about any intelligence in this conversation? ---Yes. Mr Duffy expressed to me that he believed that Brian McMurtrie had submitted false intelligence reports to justify the officers going in to search [REDACTED] [REDACTED]

All right. And did he give you the basis for that submission or was anything - - -?---No.

That's all he said?---It was just a statement.

All right. Is there anything else in that conversation that you recall?---Just general concerns about what he should do.

Did you give him any advice?---I told him to be 100 per cent honest. He did relay to me that he'd come to me due to my similar past experiences and he trusted my judgement, so I told him to be 100 per cent honest and report what he saw.

All right. And again I'll ask you about it in a minute, but when you say similar past experiences, is that a reference to a prior ICAC inquiry?---Yes.

10 All right. So that was a conversation pretty close to the event itself. Did you have any conversations in the days or weeks or months that followed with the general manager, the governor, Mr O'Shea?---Yes. Not discussions with, I was present for discussions.

And are you able to tell us when and who and what was said?---Yeah. Each morning at that time we had a synopsis with all executive staff and all heads of departments I suppose, and that was at 10 o'clock in the manager of security's office every morning. I can't remember when, it was in the week or so, maybe two weeks after the 19th of February, at one point Mr O'Shea
20 made a statement that there were three PIDs had been put in by people unknown and at that stage Mr McMurtrie, and sorry, excuse me, Mr O'Shea asked Mr McMurtrie if he'd spoken to [REDACTED], and Mr McMurtrie replied, "Yes, I've spoken to [REDACTED], he's told me it's all going away." During the same conversation Mr O'Shea said at one point, "What are we going to do about this [REDACTED] Meaning inmate [REDACTED] Mr Peebles opened his top drawer, pulled out what appeared to be a gaol-made weapon, and said, "Plant this in his cell." And Mr O'Shea sort of pushed Mr Peebles and said, "Don't say that," while he was looking at me.

30 Do you have a recollection of whether Mr [REDACTED] was still at Lithgow at this point in time?---Yes, he was.

Excuse me one moment, Commissioner.

MR BRASCH: Commissioner, could I raise a matter, please, if I may?

THE COMMISSIONER: Yes.

MR BRASCH: The witness has mentioned the name [REDACTED]
40

THE COMMISSIONER: Yes.

MR BRASCH: He's a person who hasn't been, in a sense in an adverse way, he hasn't been given any notice.

THE COMMISSIONER: Yes.

MR BRASCH: I'd ask that there be an order pursuant to section 112 of his name.

THE COMMISSIONER: Yes, I'm prepared to do it, though for the moment, unless you've got a different view, Mr Duggan?

MR DUGGAN: No, that's just what I was considering, Commissioner. I think that's appropriate, particularly given he's not here.

10 THE COMMISSIONER: He's not here, is he? No. All right. Being satisfied that it is necessary and desirable in the public interest to do so, I direct pursuant to section 112 of the Independent Commission Against Corruption Act 1988 that the name Mr [REDACTED] will not be published or communicated except by Commission staff for statutory purposes, and that of course includes anyone from Corrective Services who is here.

20 **BEING SATISFIED THAT IT IS NECESSARY AND DESIRABLE IN THE PUBLIC INTEREST TO DO SO, I DIRECT PURSUANT TO SECTION 112 OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION ACT 1988 THAT THE NAME MR [REDACTED] WILL NOT BE PUBLISHED OR COMMUNICATED EXCEPT BY COMMISSION STAFF FOR STATUTORY PURPOSES, AND THAT OF COURSE INCLUDES ANYONE FROM CORRECTIVE SERVICES WHO IS HERE.**

30 THE COMMISSIONER: Thank you. That's not to say, you can explore this issue.

MR DUGGAN: Yes. Thank you, Commissioner. So, this is a conversation in the governor's office I think you said?---Manager of security's office.

Oh, it's the MOS office. All right. And was there anything further said in relation to that conversation?---Mr O'Shea left and it was myself, McMurtrie and Mr Peebles and they were basically exploring, trying to figure out who put in the PIDs. They were convinced there were three PIDs put in, in relation to [REDACTED] [REDACTED]

40 THE COMMISSIONER: And when you PID, you mean protective disclosure?---Yes.

MR DUGGAN: It is possible that this conversation was a bit further down the track?---It could have been. I didn't keep any sort of contemporaneous notes of any of this at the time because I, I didn't think about that I had to, so - - -

Now, that's a conversation on the MOS office. What about any other conversations with any other senior officers about the [REDACTED] incident? Do you recall any?---Yeah, I've had two. One with Terry Walker.

What was that conversation?---From memory, that was when I was filling out his exit interview I think. So, I can't remember the date for that. Mr Walker had resigned and he said - - -

10 This is last year some time?---Yes. Yeah. And he indicated to me that he was really annoyed with John O'Shea for dumping him and not looking after him and he made an off-the-cuff comment such as, "If I go down, O'Shea will go down after all I've done for him with [REDACTED] And it was carrying on like that.

And did you ask him what he meant or - - -?---No.

Did you know what he meant?---Yes.

20 What did you understand him to be talking about when he said that?---The way he said it and the things he said, I took it to mean that he'd covered up for John O'Shea in relation to [REDACTED] and the favour hadn't been returned and he was angry about it.

And is this, I assume, given it's last year, this was after the 2015 investigation?---Yes.

Do you know the outcome of that investigation?---Of the Corrective Services one?

30 Yes.---Yeah. I know that three people were fined for that.

And was anything said in this conversation with Mr Walker about that? ---Yes. That's right. Mr, he said that Mr O'Shea cost him a \$1000.

40 And I think you said there were two further conversations. So, that one was with Mr Walker.---Yeah. I had another one with Mr McMurtrie, and I'm trying to figure out the timeline but it was after McMurtrie had been in trouble for something else like an internal disciplinary thing. So, it was around 2015. We were in the manager of security's office. I was the acting manager of security. Brian was down in the dumps, talking about all his woes and he said, "That fucking O'Shea. After all I've done for that cunt with [REDACTED] everything I've done and he wants to dump me? I'll bring out the sink files."

All right. And what did you understand him to mean when he was talking about everything you've done for O'Shea with [REDACTED] Again, I believe that he had helped cover up something in relation to [REDACTED] and he felt that he was being wronged now by Mr O'Shea in some way.

All right. And did he elaborate at all in that conversation or not?---No.

All right. And you mentioned there the sink files. What did you think he meant by that?---It's one of Mr McMurtrie's little words, I suppose, he uses that quite a bit, sink files. He implies that if he gets in trouble, he's got evidence on other officers to get them in trouble.

10 All right. Now you said that you were the acting manager of security on this particular day. Was this conversation in the MOS office?---Yes.

Is that where the drug safe is?---That's correct.

And as the MOS, the acting MOS, did you have access to the safe?---Yes.

And obviously we don't know need to know the actual code but is it a code or a key, or - - - ?---It's a key.

20 A key.---So there's two safes, there's a main safe which I have, the MOS has on his key bunch. You open that one up to get the drug safe key out of that to open the drug safe.

All right. And so to get the key, is that with the MOS issued keys, is it?---I actually think the Intel manager also has keys. He certainly has a key to the MOS office on the Intel manager bunch.

All right.

30 THE COMMISSIONER: Who was the Intel manager, just remind me?
---Mr McMurtrie.

Right.

40 MR DUGGAN: So, if you're the acting MOS, do you have to be given that key, or once you're the MOS, that then goes on your bunch of keys?---No. They're in a, it's called a key watcher, it's an electronic key holding safe in the gate. So you put your code in and depending what rank you are, determines what keys you can pull out. So you just have your own code and I would've just pulled out the MOS bunch for the day.

All right. Now, you referred, all right. Can I ask you this question, have you ever seen the CCTV footage of the day room from 19 February 2014?
---No.

As the sector manager, would you have access to that footage during the day?---Yes, of course.

In the office upstairs in Unit 5 or somewhere else?---Not at, I don't think at that stage. That was installed later. In 2014 I don't think they had the monitors up there.

All right. But you didn't have a look at the footage?---No.

What about on the 20th of February, did you?---No.

10 All right. Now, earlier you gave some evidence about your ICAC investigation, or you referred to it.---Yes.

And that was a reference, was it, to having given some evidence before ICAC. Is that right?---Yes. That's correct.

And what consequences did that have for you, if any?---Many.

20 Are you able to highlight a few of them?---Lots of bullying and harassment. That was 2005, mind you. It's impacted on my career, I've had threats, I've had intimidation, you name it.

Where were you in 2005?---Parramatta Correctional Centre.

All right. And those consequences, did you receive, were you on the receiving end of some of those in Parramatta?---Yes.

And sorry, what year did you say you went to Lithgow?---2014.

30 So that's - - - ?---I've been at Lithgow before in 2007 when I was a senior correctional officer.

And then back there in 2014?---Back there in 2014.

All right. And was anything to do with your evidence at ICAC mentioned while you were at Lithgow?---Yes.

Who by?---Brian McMurtrie.

40 And how did he know about this evidence 10 years earlier?---It's common knowledge, I think everybody in Corrections knows about it.

All right. And what sort of consequences were there at Lithgow? Do you recall?---The worst one was I just finished a secondment at Cooma as the manager of security for three months, I came back and within a week, Mr McMurtrie had printed out the ICAC report from 2005. He placed that around Lithgow Correctional Centre and also spoken down about me to junior staff who brought it to my attention and reported it, and it just snowballed from there, the harassment and the fallout from that.

THE COMMISSIONER: Just remind me, when was that ICAC inquiry?
---2005.

And for how long did this bullying, harassment, threats, intimidation and the like - - - ?---Twelve years.

Doesn't sound like a very healthy culture, that's for sure.---Not at all.

No.

10

MR DUGGAN: And was it just the fact that you had to give evidence at ICAC, or were you perceived to have been a particular type of witness?---I was a dog, I've been put on the dog. I hate that term, but that's what I've, that's what's happened to me since then.

And there's been references directed at you using that sort of language.---I was, I don't know if I was technically a whistle-blower back in 2005 but I think I was, so that's the fallout from that.

20 And so you received some adverse treatment at Parramatta because of that?
---Yes.

And at Lithgow obviously?---Everywhere I've worked.

And so you were - - -

THE COMMISSIONER: Everywhere you've worked.---Yes.

30 Can you just run through the institutions where you've worked where this sort of behaviour was displayed to you?---Oh, boy.

To the best you can.---That's fine, that's not a problem, I've just got to think of a timeline. So, John Moroney, John Moroney Two, Silverwater, Silverwater Women's, Oberon, Lithgow obviously, Cooma, Dillwynia, there's 15 centres, Commissioner, I can't remember all of them offhand.

And this sort of behaviour happened at all of them?---Yes.

40 And no doubt there were different people involved?---Yes, of course.

Thank you.

MR DUGGAN: I want to ask you some questions now about some evidence you gave in a record of interview to ICAC.---Yes.

THE COMMISSIONER: Mr Duggan, is that on the restricted website, is it?

MR DUGGAN: Yes.

THE COMMISSIONER: Yes. Thank you. All that means is the restricted website is a website that's available to the lawyers, but it's not available to the public.---That's fine.

MR DUGGAN: So you recall that you gave that interview with some Commission officers in July last year?---I can't remember the month, but it was last year.

10 Mid last year?---Yes.

I might just take you to page six of the transcript of that interview. Have you seen the transcript of the interview?---Yes.

So just after line 10, you're being asked about the events of the 19th.---Yes.

And you say that you were walking through 5.2 Unit day room and that's where the inmate's cell was, and "Jane and I saw John O'Shea and Brad Peebles". Do you see that?---Yes.

20

And you think Steve Taylor as well.---Yes.

And you say there that "John O'Shea was having a big verbal altercation through the cell door with [REDACTED] and his cellmate."?---Yeah.

So you stand by that information?---Yes.

And it refers there to the fact that "And Jane told me that [REDACTED] had been abusing staff over the cellular alarm system." Do you see that?---Yes, I do.

30

Is that a reference to the intercom system or the knock-up system?---Yeah, the knock-up system.

And you didn't, I don't think you mentioned that earlier. Do you recall, was Lohse telling you that on the day?---I do recall that now, yes.

All right. And then in the next paragraph, you tell the officers, Commission officers, "What I heard was John O'Shea saying, "You're a smart cunt, you won't be too smart in a minute."" And then he got Steve Taylor, from memory, to radio for the IAT.---Yeah.

40

Do you see that? So, those words at least, I assume you stand by that? ---Yes, I do.

Being words to that effect. There's a suggestion there that, "And he got Steve Taylor to radio for the IAT." Were you there when that happened, as

I understood your evidence?---I don't recall that. I recall today I wasn't there when the radio call was made.

And then you say you looked at Jane, that's Jane Lohse, and said, "It's about time we left"?---Yep.

So you stand by that information?---Yes, I do.

10 Then over the page, at about line 18, you say you went, "After we went upstairs". Do you recall going upstairs with anyone else, or - - -?---No. I think it must have been Jane I was mentioning there, but from memory, on reflection today, Jane didn't come upstairs with me.

And it says, "It might have been 20 or 30 minutes later, Brad Peebles called me in my office."---That's correct.

And said, "You need to go down and interview [REDACTED] [REDACTED] Yes.

20 All right. And just over the page, page 8, at about line 10, you say, "Brad Peebles said, 'No, there was no use of force. There will be no IRM,' which immediately got my alarm bells going."---Yes.

So, you would stand by that information, would you?---Yes.

And then you challenged him on that and said, "So are you sure about that, Brad?" "Absolutely, there'll be no IRM."---Yes.

30 And, so that's the first conversation that you gave evidence about?---That's the first conversation.

Then there's another conversation. You refer to broken ribs and he had to go to hospital.---Yes.

So, you tell the Commission staff there, "So, I rung Brad from the clinic, from the nurses' meal room in the clinic," which is what you said a moment ago, I think.---Yes.

40 "And I said, 'Brad, about that IRM, we're going to have to do one.'" You say that that's where he got really abusive and said, "'You're not fucking doing one, I told you. Shut your mouth.'" - - -?---Yes.

- - - "all that kind of stuff and yelling abuse. And I said, 'Well, that's fine, Brad, but he's going to hospital with broken ribs.' So he went, 'Oh, fuck.' He's gone, 'Right, I'm directing you not to do the IRM. Terry Walker, Tex Walker will be doing the IRM.' I said, 'That's fine with me. No problem.'" So do you stand by that information?---Yes.

All right. Now, at page 10 at about line 13 or 14, you repeat a form of words from Mr O'Shea, which I assume you'd stand by, and then you refer to the fact that Mr Taylor makes a frantic radio call. Do you see that?
---Yes.

And you'd stand by that?---Yes.

If I can take you to page 22 and you're now being asked in this part of the transcript about 20 February, 2014, the next day.---Yes.

10

And the last paragraph on the page, at about line 26 or 7, "I'd been upstairs, we'd done all our checks. All inmates were alive. I was upstairs. I'd come downstairs. I was in the hallway between 5.2 Unit, where [REDACTED] lived, and 5.1 Unit." And then you go on to say, you were met, "I was met by Mark Kennedy and Brian McMurtrie in the hallway, and about four or five emergency like, IAT people." So, you stand by that I assume?---Yes.

20

And then over the page, "And Mark Kennedy said to me, 'Brian McMurtrie didn't say anything. He's gone. Go back upstairs.' I said, 'Why?' I said, because I don't get on with Mark either, I said, 'It's my sector. I'm going down to see him.'" Now, just at that point, does that give you any recollection as to whether you were going to see the inmates generally or whether you were going to see Mr [REDACTED] do you recall?---I was going to see inmates generally but I was probably going to start with [REDACTED]

But you don't have any stronger recollection than that, thinking about it now?---No.

30

No. "He's gone, 'Oh, no. No, you were involved in it yesterday, so you, it's inappropriate that you go down and see him.' I said, 'I wasn't involved in anything yesterday except for the injury questionnaire.' And he said, 'Get upstairs.' I said, 'All right.' So I went upstairs and sat down." So you stand by that?---Yes.

And then you go on to say in that paragraph, no, the next paragraph, rather, that you then rang Steve Taylor, who was the manager of security, and complained that you'd been kicked out of your sector.---Yes.

40

And he replied, "Don't worry. Kenno," being Mark Kennedy, "He's there to run this search. Like, they're, they were going down to search [REDACTED] with all the squad."---Yes.

And you'd stand by that evidence?---Yes.

And just lastly if I can go to page 42, and this is at about line 7, that line 7 starting, "So, look, I was acting manager of security."---Yes.

10 You say, "I'm, like again I can't remember a date because it wasn't my kind of thing, oh, I'd better make a note of that, it was just a conversation. Brian was sitting in my office and he's going on and on and on about our Commissioner, about the department, his wife, and then he says, 'Fucking O'Shea,' he's gone, 'I'm fucking dirty with that cunt,' that's exactly what he said, he's gone, 'He's got to realise the shit I've done for him,' he's gone, 'The [REDACTED] [REDACTED] shit that I sorted out for him and he wants to fuck with me. I'll get out the sink files.'" So is that consistent with your recollection of that conversation?---Yes.

Commissioner, given the suppression order I might reserve the tender of this record of interview for the moment so that appropriate redactions might be made, unless anyone thinks that it needs to be tendered right now, but I will indicate that I'll tender it at some stage. It's on the restricted website.

20 THE COMMISSIONER: Everyone's had access to it though, haven't they?

MR DUGGAN: Yes, yes.

THE COMMISSIONER: Yes, that's fine.

MR DUGGAN: In that case, Commissioner, I have no further questions of this witness at this point.

30 THE COMMISSIONER: How many years, Mr Turton, were you with Corrective Services?---Just over 18, Commissioner.

And I think you said you left about two weeks ago, was it?---About two weeks ago, yes.

And was there a reason for that?---No, I got a promotion with another agency.

Oh, did you?---Yes.

40

Good on you. Okay. Yes. Mr Madden, do you want to go first?

MR MADDEN: Yes, thank you, Commissioner.

Mr Turton, can you hear me all right?---Yes, I can.

When you gave your evidence you said that you'd gone to Lithgow about, I think you said about six or seven months prior to this?---Roughly.

Yes. In your interview at page 3 you said, "I arrived at Lithgow not long before the matter that you're looking at, so it was early 2014 I believe." So the two dates just don't seem to marry up.---It's probably just my memory.

Sorry?---Probably just my memory.

Your memory?---Yeah.

10 Right. We all have failing memories, especially as we get older, but is your memory generally good or generally not too good or - - -?---No, it's fine.

It's fine But you just – So what is it, you got there not long before February 2014 or some months before?---I can't recall an exact date.

Rightio. Okey-doke. Can I ask you about 20 February when you saw the officers going to do the search. In your interview you talk about them, I'll paraphrase, being kitted up and having, I think you referred to masks, you couldn't tell who they were?---Helmets and stuff from memory, yes.

20

Helmets, helmets, helmets, masks, so you couldn't, you couldn't see who, you couldn't even tell who they were?---No.

Rightio. And is your memory clear about that, is that - - -?---Yes.

Rightio. As I understand the, if I could call it the flavour of your evidence, you say that you weren't, well, you've never been liked anywhere in the Corrective Services since, was the ICAC investigation called Inca, was it Inca?---Yes, it was.

30

And were you involved in another investigation, a police investigation where some other officers were charged?---No.

Or was it just the one?---Just one.

Just the one. And, all right. And did you, did you give evidence for the Crown but essentially for ICAC?---Yes.

40 And during the, I don't know anything about Inca but was it an ongoing investigation? I guess that's a silly question.---What do you mean by that?

Well, that was a silly question, I know. I'll get to the point. At some stage during that Inca investigation, did you wear a listening device?---Yes.

And so you, did you record some other prison officers admitting to offences, or - - - ?---One prison officer.

One prison officer. Okey doke. So as far as you understood it, at Lithgow, you were not trusted.---Correct.

Right. And again, the flavour of your evidence is that you're, on the morning of the 19th of February, you're walking with, is it Ms Lohse, is that how she pronounces her name? Jane Lohse?---That's correct. Yes.

You're walking with her.---Yes.

10 Talking to her.---Yes.

You sure about that?---Yes.

And you say that you think something untoward is going to happen so you, you scurry off out of the area and go elsewhere.---Yes.

Yet according to your evidence, Mr Peebles later on asks you to go and do an injury questionnaire. Is that right?---Yes.

20 Rightio. So, on the face of it you'd agree, would you not, and I'm only asking you how you perceived it, not, you can't say what Mr Peebles was thinking, but as you perceive it, Mr Peebles trusted you to go and interview [REDACTED] about the injuries he'd received?---Obviously he did.

Obviously he did. With the, with the injury, with the IRM, that has to be completed by somebody who was involved in the incident, does it not?
---Yes.

30 Well you couldn't have completed it, could you? Because you weren't involved in the incident.---Well, I've done that many times.

No, but let's just go back to answer number one. It has to be completed by somebody who has been involved in the incident?---Not necessarily in all circumstances, no.

Right. Well how could you fill out the IRM if you hadn't been involved in the incident?---Through getting reports.

40 But you wouldn't, it just doesn't make sense, wouldn't you agree, for anyone to ask you to do the IRM. You had nothing to do with the incident.
---Nobody asked me to do the IRM, I volunteered.

Well, all right. You volunteered, but it would not be appropriate for you to do the IRM because you were not involved in the incident.---I'm not being argumentative, but not necessarily. There are circumstances where staff are unable to do an IRM, so a manager can do it. I've done it many times in the past.

Have you?---Yes.

Can I just have a second, Your Honour, Commissioner?

THE COMMISSIONER: I suppose, Mr Madden, he was involved in a sense anyway, wasn't he, because he went down and did the injury questionnaire which ultimately led to a report.

10 MR MADDEN: Well that may be your view, Commissioner, with respect to - - -

THE COMMISSIONER: No, I'm just raising with you, I'm not - - -

MR MADDEN: With respect, I don't agree with that proposition.

THE COMMISSIONER: Okay. Thank you.

20 MR MADDEN: When you were interviewed at page 20 around point 5, you were asked about, Mr Grainger said to you, "Is this, the IRM in normal circumstances done by a member of the IAT or the team who may have been involved in the incident?" You say, "Yeah, the general rule is whoever's involved in the IRM", and I understand you say "the general rule". "The, in terms and in respect of the IAT, the senior correctional officer, which was Tex, or Terry, he would either do the IRM or delegate it to someone that was involved in the incident. That's the whole point." "Yeah. You have to be involved in the incident." "If, for instance, there might be a, a reason they can't do it, it can be delegated to someone else to do it." "But normally it would be someone intimately involved in the incident because they've got first-hand knowledge of it?" "Yeah." There
30 was no reason that you know of on, in relation to the matter involving Mr [REDACTED] that someone involved in the incident couldn't do it?---No.

No. This, in your interview you say that on the day in question, on the 19th of February, you say Mr Peebles was in, involved in some other duties. Do you know what they were?---No.

40 Right. Perhaps, if I suggest to you what they were, it might jog your memory, it might not. Do you know that he was tasked with finding an extra 123 beds in the gaol?---Yeah, that sounds right.

Right. He had to manage transferring all the prisoners out of Wing 3 into Wing 6?---I don't recall that but it sounds fine, yeah.

And there were a number of industrial issues that he was involved in. Are you aware of that?---Not the industrial issues, no.

Not the industrial issues. All right. You have been asked some questions about a Mr [REDACTED]. You were, you were good friends with him.---Mr [REDACTED]?

Yeah.---No.

You weren't?---No.

You weren't good friends?---Not at all.

10

Well, at page, unless I'm completely missing the point, at page 44 of your record of interview down the bottom, Mr Grainger said to you, "Just before I finalise, anything else you want to clarify?" And then Mr Fox said, "Yeah, you mentioned [REDACTED] a couple of times", and you said, "Mmm." Mr Fox said, "Yeah, I just want to clarify a couple of things. Before this incident in February '14, had you ever had any direct dealings with [REDACTED] You said, "Yeah, big time. He was my contact for Operation Inca back in 2005. So, [REDACTED] was the manager of security for Task Force Skye at the time, which managed all the corruption stuff for

20 Corrective Services, so yeah, I, I, I know [REDACTED] very, very, very well. I've got his number in my phone, everything, like, so, yeah, I had, I had big dealings with [REDACTED]. Yeah."?---Yeah, yes.

Sorry?---What's the question, sorry?

Well, the question was he was a friend of yours and you absolutely rejected that out of hand.---He's not a friend.

THE COMMISSIONER: Mr Madden.

30

MR MADDEN: Yeah.

THE COMMISSIONER: I don't think anywhere in what you quoted to the witness suggested there was a friendship.

MR DUGGAN: Yes. And can I indicate the relevance of the next question and answer?

THE COMMISSIONER: Yes.

40

MR MADDEN: Well I think I, okey doke. Then you're asked, "You've spoken to him?" You said, "I've spoken to him twice. Well I don't really have one, I don't, like, I don't call him regularly, or", "So you don't have a professional relationship with him?" "No (not transcribable)" Okey doke, fair enough, but you have had a professional relationship with him?---He was the manager of security in charge of Task Force Skye. I was a senior correctional officer.

Right.---And throughout the corruption matters, I just dealt with him exclusively.

Rightio.---That was it.

But you, didn't you know him well enough to pick up the phone and ring him if you had some concerns about things that were going on at Lithgow that you weren't too happy about?---I wouldn't say so, no.

10 No. What about ringing ICAC? You could have telephoned ICAC?
---Probably could have.

Yeah. But you didn't?---No.

This incident you say where Mr Peebles said something about a, and I'm sorry, I couldn't quite hear what you said, but I think you were talking about the synopsis meeting. Is that right?---Yes.

20 And you allege that Mr O'Shea said something about "What are we going to do about [REDACTED] And you allege Mr Peebles produced something and said, "Well, put this in his cell or something."?---"Plant this in his cell."

Plant his cell, right. And when was this, this was, what, some months after the incident?---No, it wasn't months.

How long ago was it?---I can't recall the date.

Well, certainly not, certainly longer than a week?---Yes.

30 Certainly longer than two weeks?---I can't say.

All right. In your interview at page 29 point 25, you said it was around, around February, March. So you've got it at the end of February presumably, or early March.---Okay.

Is that right?---Yeah.

Rightio.

40 Mr Turton, let me just make it quite clear to you, on 19 February you had no conversation ever with Mr Peebles about the IRM?---That's incorrect.

In late February or early March, there was never any incident in the MOS office where Mr Peebles made some comment about planting a weapon or a shiv or something in [REDACTED] cell?---That's incorrect.

When you spoke to [REDACTED] didn't you see that his face, he had a black eye?---No.

You didn't see that he was bleeding?---No.

I'm sorry, Commissioner, I just lost - - -

THE COMMISSIONER: No, take your time. It's okay.

MR MADDEN: I just lost my place, Commissioner.

10 THE COMMISSIONER: That's okay. We all do that.

MR MADDEN: Oh, the story of my life. When was the last time you read your interview before you gave evidence here today?---The interview with the Commission?

Yes.---Oh, probably a week ago,

Right. All these, as I understand what you're saying, you, and correct me if I'm wrong because I realise that the questions I asked you about [REDACTED] were a little bit off the mark and I don't want to do it again. As I understand your evidence, you perceived that there may have been some problem with this [REDACTED] incident right from day one, is that right, from 19 February? ---Yeah. From, yeah, yes.

Yes. Did you make any notes at all about any of the conversations that you said you had with Mr Peebles on 19 February?---No.

Is there any reason for that?---Because they were just conversations.

30 But wouldn't you be taking notes?---About conversations?

Yes.---No. Not necessarily.

Are you taught when you train as a prison officer that you've always got to cover yourself and cover your back and keep notes and, aren't you taught that?---I suppose so, yeah.

Yes. Well, why didn't you do it in this case?---Just another thing.

40 What do you mean, "Just another thing?"---Well, at that point in time, I didn't realise the gravity of the situation.

Well, if you're telling the truth about what you say Mr Peebles did in late February/early March when he says, "We'll plant this in his cell," or something, you didn't think that was a grave suggestion by a senior prison officer?---Absolutely.

Well, why didn't you make a note of it?---Fear of reprisal.

Well, you weren't going to leave your notes lying around the office, were you?---No. It was the decision I made.

But why wouldn't you go home and make some notes. Just to cover yourself, just to keep some?---I don't know.

Well, there's one explanation and that is that this didn't happen.---That's incorrect.

10

Did you leave the Corrective Services bitter and twisted, Mr Turton?---No.

Sorry?---No.

No. All right. In your interview, at the top of page 43, a little bit's blacked out, so I can't, it's got, "The," and then there's two lines blacked out and it says, "But he," and you're referring to Mr McMurtrie, "But he threatened me with sink files." Did he threaten that he had a sink file on you?---That's how I took it, yes.

20

But you'd never done anything wrong so what could he possibly have on you?---I have no idea.

Well, why were you concerned about that?---I wasn't specifically concerned about his sink files.

You didn't make a note about that anywhere?---That's all in a report to the department.

30 Is it?---Yes.

And when did you submit that report?---It would have been around September/October 2016 as part of my complaint.

About, about McMurtrie?---Yes.

Right. I think I've complied with my obligations, Commissioner, I don't want to waste much more time on this. I'll just make sure I haven't overlooked - - -

40

THE COMMISSIONER: You can take it that I accept that you're not at one, that's for sure.

MR MADDEN: Oh, well, you know.

Did you say, did you see any of the officers going into cell 208 on the morning of the 19th of February?---No.

No. Did you see the officers assembling anywhere?---No.

Okey-doke. I put to you that this conversation that you say you had with Mr Peebles on the telephone where you say he swore at you and yelled at you, did not occur. You understand that I'm making it quite clear that you're being untruthful about that, but let me suggest this to you, if I can put to you as a fact. Mr Peebles was not an officer who used that sort of language at other officers at any time.---Are you asking for my opinion?

10

I'm just putting it to you, he - - -?---No, I disagree with that.

Do you? Right. Yes, thank you, Commissioner.

THE COMMISSIONER: Thanks, Mr Madden. Mr Willis?

MR WILLIS: Thank you, Commissioner. Mr Turton, just following on from something that Mr Madden just asked you a couple of minutes ago, had the IAT arrived in the day room area where cell 208 was in Unit 5.1 when you left that area?---Is that on the 19th, sir, sorry?

20

I'm sorry, on the 19th, yes.---No.

Okay. So as I understand it, you'd been out for a walk or you'd been walking around the complex with Jane Lohse?---Yes.

And you came back into Unit 5.1 via the doorway that leads directly back into that unit. Is that right?---Yes.

30

And when you came into that unit, you say you saw Mr O'Shea standing what, quite close to the door of that cell 208?---Yes.

And he was shouting up, looking up and, and shouting out, having a conversation in that way with the inmates in cell 208 through a grille at the, at the top of the door.---Yes.

Is that right?---Yes.

40

All right. He wasn't speaking through the flap in the door?---No, it's solid glass. There's no flap in the door that you can speak through.

There's no flap in the door?---There's a flap but it opens up to a glass panel.

I see. All right. In any event, you, as I understand it from that point you decided that you were just, you were going to get out of that area and go up to your office. Is that right?---Yes.

Did you see where Ms Lohse went?---I thought she dropped off into the officers' station.

In your interview with Mr Grainger from the ICAC on the 20th of July last year, and my friend Mr Madden has taken you to some parts of that interview. But can I take you to page, page 30 of that interview, where at the top of the page at about line 5, you talk about your relationship with Mr O'Shea and with Mr Peebles is quite unique. Is that right?---Yes.

10

So far as your relationship with Mr O'Shea is concerned, why was that relationship unique?---I think there I'm referring to mutual distrust.

Right. You wouldn't describe your relationship with Mr O'Shea at that time as being a good relationship, would you?---No.

Even on a working basis, you wouldn't suggest that it was a good working relationship?---I think we worked okay together but on a personal level, no.

20

No. Right. And you, did you have a similar unique relationship with other senior officers at Lithgow?---A few, yes.

Who were they?---Brian McMurtrie.

Anyone else?---Not really, no.

All right. What was your relationship like with Mr Walker, Terry Walker? ---I didn't mind Terry, he had a lot of issues. I didn't really have relationships outside of work at all.

30

All right. And, okay. So, you've told the Commissioner today about a conversation that you had with Mr Duffy. Is that right?---Yes.

And you referred to it in the interview that you had with Mr Grainger at page 33 of that interview, and I won't read it to you, but there you told Mr Grainger what Mr Duffy had said to you about what happened in the cell. Do you recall that?---Yes.

40

And in the course of telling you that, did Mr Duffy tell you anything about his own conduct in the cell?---No.

He didn't tell you, for example, as a, sorry, I withdraw that. He didn't mention to you getting Mr [REDACTED] in an arm bar?---No.

Or using his knee into Mr [REDACTED] ribs?---No.

And on this occasion that you had this conversation with Mr Duffy, was that just prior to him apparently being interviewed by officers from the ICAC?
---I don't know.

You don't know.---No.

You mentioned, you mentioned a conversation that you had with Mr Walker, I'm sorry, first of all with Mr O'Shea. I'm sorry, McMurtrie, I'll get it right. Mr, you mentioned a conversation that you'd had with Mr
10 McMurtrie. Is that right?---In relation to what, sorry?

Well, when Mr McMurtrie I think complained to you about the fact that he was unhappy with Mr O'Shea.---Yes.

And I think you told the Commission today that – I think you said you might have been doing the exit interview for Mr Walker at the time.---I think so, yes.

And he complained to you about Mr O'Shea costing him \$1,000, is that
20 right?---Yes.

Do you know why he was fined \$1,000?---I do. It was to do with the internal investigation into not doing an IRM or something similar.

So that was Mr – I'm sorry, just in case I've misled you there, that was Mr Walker who - - -?---That was Mr Walker, yes.

- - - complained about that?---Yes.

30 And you told the Commission that you formed the view that Mr Walker was complaining because he'd covered up for Mr O'Shea and that he was angry about him.---Yes.

Is that right? That's obviously just an opinion of yours, isn't it?---It is.

And is it an opinion of yours based upon just that conversation that you had with Mr Walker on that occasion?---No.

40 Did you have other conversations with Mr Walker?---No, not with Mr Walker.

Did you speak ever to Mr O'Shea about this matter?---No.

And again you told the Commission today about speaking to Mr McMurtrie about it, and about Mr McMurtrie complaining about Mr O'Shea.---Yes.

Words to the effect of, "After all I've done for him," and he mentioned the
■■■■ matter, is that right?--- Yes.

And you thought again that, I think you told the Commission that you believed that he'd covered up for Mr O'Shea regarding that matter, is that right?---That's the impression I got.

That was the impression that you got. And again that impression that you have, is that based upon just that conversation that you had with Mr McMurtrie?---No.

10 Well, what else is there, Mr Turton?---There's been lots and lots of talk about this since 2014. The internal investigation. Things came up that I was given information on and just general rumours.

So just rumour and scuttlebutt around Lithgow gaol. Is that what it amounted to?---Partly. Partly.

In part?---Yeah.

20 Did you ever document anywhere anything that you'd been told in relation to Mr McMurtrie covering up for Mr O'Shea?---No.

Did you ever document anywhere anything in relation to Mr Walker covering up for Mr O'Shea?---No.

So we've just got your word for it, have we?---Yes.

Yes, I have nothing further. Thank you, Commissioner.

30 THE COMMISSIONER: Thank you, Mr Willis. How about you, Mr Dunne?

MR DUNNE: Hopefully not too much, Commissioner.

THE COMMISSIONER: Mr Dunne appears for Mr McMurtrie.

MR DUNNE: Yes. My name is Dunne and I represent Mr McMurtrie. I think you agreed that you and Mr McMurtrie didn't get on, is that correct?---Yes.

40 Now, you spoke about Mr McMurtrie copying an ICAC report and leaving that lying around I think is your words.---Yes.

When was that? Was that before or after the conversation that you referred to, where Mr McMurtrie was complaining about Mr O'Shea?---After.

It was after?---Yes.

And when – sorry?---Yes.

And how do you know it was Mr McMurtrie who left the ICAC reports lying around?---Because it was in his locked office.

So they were just left in his locked office?---A copy was left on his desk, yes.

10 I'm sorry, I thought that your evidence was that he'd left them lying around and I took that impression, perhaps wrongly, that he'd left them lying around the facility?---I didn't mean to mislead you there. He left them lying around his office.

Left them lying around his office?---Yes.

I see. Thank you. Perhaps that was my mistake. Now, you also, in the conversation that you refer to that you had with Mr McMurtrie, he was sitting in your office. Is that right?---Yes.

20 And so, again, was that following an exit interview with Mr Walker?---No.

No.---No, no, no. Totally different - - -

Why was he in your office?---Mr McMurtrie?

Yes.---I've got no idea. He wanted to talk, I think.

But you're not friends?---No.

30 And you certainly don't, you'd agree you didn't share experiences within the facility with each other?---No.

And you refer to Mr McMurtie talking about sink files.---Yes.

But you don't believe they existed, do you?---Yes, I do.

You do. The reason I say that is, if I take you to the compulsory examination, page 43, if that could be shown, at point 15.---Yep.

40 Where Mr Grainger says, "All right. If they do exist?" And you say, "If they do. If they exist at all, exactly because I think he would have used them by now if he had them."---Yep.

Now that suggests that you don't think that he actually had any files, is that right?---It does, yes.

And if I can follow on from that, there's certainly been no examples that you're aware of where these sink files have been used?---Not that I'm aware of, no.

In fact, I want so suggest to you, and I'll ask you to agree or disagree with this, that in fact Mr McMurtrie did not say to you words to the effect about Mr O'Shea, that he was upset at him for all that he's done for him?---I disagree.

And I also want to suggest to you that he didn't say to you words to the effect of, "I'll bring out the sink file."---I disagree.

10 And following on from questions asked by Willis to you, you have, apart from rumour and innuendo, you have no evidence, firm evidence to suggest that Mr McMurtrie covered up or took any steps to cover up for Mr O'Shea per se?---No.

You agree with that or disagree?---I agree.

You agree. And secondly, in relation to – I'll leave it at that. No further questions.

20 THE COMMISSIONER: Thank you. Has anyone else got questions?

MR GREENHILL: Greenhill. I won't be long. I want to get out of here too.

THE COMMISSIONER: I'm happy to stay all night, if you - - -

MR GREENHILL: Sir, I appear for Mr Graf. You were the senior assistant supervisor at Lithgow?---Yes.

30 And you've been a serving correctional officer for a number of years? ---Yes.

Where did you stand in the hierarchy? There was the governor of the gaol. ---Yes. Governor, then manager of security, then me.

So, you were pretty high up the ladder?---Yes.

Of authority?---Locally, yes.

40 Now, tell me this, please, and I don't mean to embarrass you in any way. During the investigation, in relation to the matter involving Mr [REDACTED] were you ever fearful of reprisals?---Yes.

And during that investigation, did you fear for your own safety at any stage?---On one or two occasions, yes.

And I take it that wasn't from an inmate or inmates?---No.

Was it from, was it from somebody above you?---I'd say all of them above me.

And I've been in several gaols in the course of my career, not as a serving, not as serving a sentence, but it would be very easy, wouldn't it, for an officer such as yourself regarded as a dog to be placed in a position of danger?---Yes.

10 By a superior officer or fellow officers?---Yes.

In the gaol.---Yes.

And were you concerned during this investigation that you might be placed in such a situation of danger?--- Yes.

And has a particular officer who was senior to you ever threatened you? ---Yes.

20 Has a particular officer who was senior to you ever yelled at you?---Yes.

Has a particular officer who is senior to you ever screamed at you?---Yes.

And is that the officer, one of the officers who you were fearful of?---Yes.

THE COMMISSIONER: Who was that?---John O'Shea.

Thank you.

30 MR GREENHILL: I have no further questions. Thank you.

MR HARRIS: If I may, Commissioner.

THE COMMISSIONER: Yes.

40 MR HARRIS: All right. Mr Turton, my name's Harris for Steven Taylor. In your evidence today, if I can take you back to relatively earlier on, the evidence relating to 19 February 2014, please. You heard a radio call for IAT to respond to 5 Unit. And your evidence in relation to about that time was that you remember Mr Peebles and Mr Taylor in the day room.---Yes.

Your evidence today, thank you. I know that Counsel Assisting has referred you to this, but could I refer again, please, to page 6 of your interview last year? And it was that you were walking through, I'm paraphrasing somewhat, walking through 5.2 day room. "I saw John O'Shea with Brad Peebles. From memory, and I think, Steve Taylor." Can you see that at about point 15 or 18?---Sorry, hang on a minute.

Yes. Yeah. Yeah. Sorry, I didn't mean to rush you. "From memory, and I think, Steve Taylor".---Yes.

"He was the acting manager of security, I think he was in the room as well."---Yes.

You'd agree that's not as strong as your evidence earlier today, "I remember Mr Taylor"?---I agree with that, yes.

10

All right, thank you. And please don't think I'm being critical of you here, but you'll see in that paragraph around number 20 on page, line 20 on page 6, I'm sorry, that you thought at that time last year the inmate was Campbell or something like that, or Corrigan, and it started with a C. Correct?
---Yeah, I did. Yeah.

This is [REDACTED] [REDACTED] we're talking about, isn't it?---Yes. Yes.

Is that correct?---Yes.

20

All right. So as I said, I'm not being critical but you'd have to conceive, wouldn't you, that your memory is not perfect.---Well, I've probably interacted with about 20,000 inmates so I couldn't remember a name four years after.

And may I assure you, I'm not criticising you for that, but when was your first statement or interview to an investigator about the, in relation to the 19th of February, 2014?---I think it was 2015.

30 Yeah, all right. Were you involved in the internal one, were you?---Yes.

All right. Prior to that, had you ever made any notes about what you saw, or - - - ?---No.

All right. Thank you. And did you keep a copy of your interview or whatever - - - ?---Yeah, Corrective Services.

The 2015?---I don't think so.

40 All right. And in relation to the radio call, in your evidence today you said Mr Taylor made the radio call, "I know his voice".---Yes.

Yeah. But again, if I can just refer to page 6 of your interview last year, referring to John O'Shea, and this is about line 27 or so, "He", that's Mr O'Shea, "got Steve Taylor, from memory, to radio for the IAT."?---Yes.

All right. Am I right in thinking it's an assumption that Mr O'Shea, an assumption on your part, I'm sorry, that Mr O'Shea got Steve Taylor to make that radio call?---Yes.

Yeah. Because I think, and you'll correct me if I'm wrong here please, that later today when Counsel Assisting was questioning you, you said, my note, "I don't recall being there when the radio call was made." That was in, it's not in your - - - ?---Yes.

10 Yeah. It's in your evidence - - - ?---Yes, I understand.

Thank you. "I don't recall O'Shea telling Taylor to make a radio call." That's correct, isn't it?---Yes.

All right. And you'd agree with me wouldn't you that you're basing your voice recognition on six or seven words, isn't it?---Yes.

IAT to get to - - -?---Yes.

20 - - - 5.1, something along those lines. Just excuse me, Commissioner.

So again in your interview, just referring to page 9, this is the July last year, line 10, talking about the cell, Brad Peebles was probably three metres away, and you gave evidence of this today as well, "As was Steve Taylor, from memory." Steve Taylor was there. You could see, wouldn't you, you seem to have generally qualified your recollection that Mr Taylor was there by pointing out it's only from memory or what you think. Correct?---I can see that, yes.

30 You'd never watched the CCTV?---No.

All right. Thank you. To be fair I should point out that on page 10 of your interview you said, "Then I'm very confident that Steve, he instructed Steve Taylor to radio for the IAT." But again that's, can I put it this way, that's a confident assumption, isn't it?---Yes.

Thank you. Just in relation to the next day that this inquiry's focussing on, the 20th of February, 2014, you said you rang Mr Taylor about your concern that you were being sidelined by being told you were not going to speak to
40 Mr [REDACTED] he inmate?---Yes.

Yes. You rang Mr Taylor immediately, as said today, and Mr Taylor was acting manager of security that day.---Yes.

That's the second day, isn't it still - - -?---Yes.

- - - the 20th of February. And this is the point in your evidence where he said something along these lines, don't worry, Kenno's running the search, just stay upstairs.---Yes.

Is it the fact that Mr Taylor was also upstairs that day?---I can't, I don't know.

You don't know where he was when you called him?---MOS office.

10 Isn't that upstairs?---No.

All right. It's the case as far as you know that Mr Taylor was certainly not involved in anything to do with cell 208 that day?---That's what I believe, yes.

Huh?---No, I don't think he was, no.

Yes. Well, you were both being sidelined, weren't you?---I, I don't know.

20 You don't know. Why did you ring him?---Because he was the manager of security.

Yes. Would you not expect the manager of security might have been involved in the search of cell 208 that day? It's on his watch, isn't it?
---Not involved, but aware of definitely.

Mmm. You said that you think there was a trust issue, I'm just moving on here, about you and your colleagues because of various ICAC experiences
- - -?---Yes.

30 - - - arising, arising from 2005.---Yes.

Do you suggest that there was a trust issue between you and Mr Taylor?
---No.

No.---No.

40 Thank you. And do you agree with me, I want to clarify this, you were interviewed in 2015 for the internal?---Yes, I think it was 2015.

Yes. All right. And then again in July last year.---Yes.

By which time it's, by July, two and a half years on, isn't it, or three and a half years.---Three and a half, yeah.

Yes. Thank you. But no notes or - - -?---No.

Made by, all right. Mr Greenhill, just shortly before I rose to my feet here today, asked you about fearing reprisals from all your superior officers.
---Well, not all my superior officers but - - -

Yes. Well, you don't fear any reprisals from Stephen Taylor, surely?
---No, not at all.

All right. Thank you.

10

THE COMMISSIONER: Mr Taylor?

MR TAYLOR: Yes, I'll be very quick, Commissioner.

THE COMMISSIONER: That's okay, take your time. Take your time.

MR TAYLOR: Mr Turton, Michael Taylor's my name. I appear on behalf of Mr Walker.---Yes.

20

I just want you to direct your mind to the conversation, the evidence you've given about the conversation you had with Mr Walker. Did I understand you to say when you were asked questions by Mr Willis that you only had one conversation with Mr Walker where he expressed displeasure with Mr O'Shea - - -?---Yes.

- - - and being fined \$1,000?---Yes.

And I think you said that was, you thought, during an exit interview?---I think that's when it was, yes.

30

Could it have been much earlier than that, say, after the 2015 internal investigation was done?---I can't say it wasn't, but I took it to be exit interview.

And when you had that conversation with Mr Walker, did you say words to the effect to him that Mr O'Shea should pay the fine?---I don't recall that.

Is it possible you said something like that?---Possibly.

40

And in fairness to you, in your record of interview on the 20th of July last year when you were speaking about this interview with Mr Grainger, the investigator, this is at about line 20, you talk about Mr Walker's conversation, having a similar conversation in that and if you want it can be brought up on the screen, but I'll read it to you. The third last line you attributed this to Mr Walker, "And if he ever leaves the job, O'Shea's fucking going to know about it. That's what Terry said to me."?---Yeah.

Would that indicate to you that that conversation didn't take place during the course of the exit interview, it was at an earlier time?---Possibly, I don't know.

Thank you. Nothing further, Commissioner.

10 THE COMMISSIONER: All right. I'll call on you, Mr Stewart. Just a couple of things I wanted to raise with you and in raising these, I don't have a concluded view one way or the other, but one matter that is important to this Commission is the culture within the prison system, you'd understand that, wouldn't you?---Yes.

And perhaps a culture of cover-up. We heard some evidence the other day that there was a so-called boys' club where certain officers, including senior officers, would protect each other's backs and if you weren't part of the boys' club you were ostracised.---Yes.

20 Do you agree with that?---Yes.

I don't want you to name names, you've spoken about your own position but to your observation, has the sort of thing that you've experienced over the years been experienced by other officers within Corrective Services New South Wales?---Yes, Commissioner.

And would I be right in thinking it's not uncommon?---In my opinion it's not uncommon at all.

30 Mr Stewart, have you got any questions?

MR STEWART: No, I have no questions, Commissioner.

MR DUGGAN: I do have a couple of questions, if I may, and I won't be too long. Mr Turton, you've referred to the internal Correctives investigation in February 2015.---Yes.

Did you provide a statement in relation to that investigation? Do you recall?---Of sorts, yeah.

40 I might get it up on screen if I may. That's the first page. Is that your signature at the bottom of that page?---Yes.

And have you seen this document recently?---Yes.

I'll just show you the second page quickly and if you do need to read any of it for the purposes of my questions, let me know. But this statement goes to the events of 19 February 2014?---Yes.

And is it fair to say that this is a rather truncated version of what you've been telling us today?---Yes.

And in fact a lot of what you've told us today is not in this statement?
---That's correct.

10 Is there a reason why you didn't provide a more fulsome statement back in February 2015?---Yeah, there's a few reasons. Firstly, I hadn't entered into any public interest disclosure and I was afraid that I might face reprisals. Secondly, this statement was actually sent to me, originally written for me before I'd been interviewed and I was asked to sign it by investigations officers, and I refused to do so, so [REDACTED] sent out some investigators to interview me after the statement was written, and I did not feel comfortable adding to it or discussing it with them, given what I'd heard about Mr [REDACTED] previously, and where they had me sitting was also pretty close to Mr O'Shea's office, so for all of those reasons I didn't really change.

20 All right. Was Mr O'Shea around at the time? Do you recall?---Yes.

Commissioner, I tender that statement.

THE COMMISSIONER: Thank you. That'll be Exhibit 74.

#EXH-074 – CSNSW STATEMENT BY PHILIP TURTON DATED 25 FEBRUARY 2015

30 MR DUGGAN: And I just want to ask you about a different topic. I'll take you to some photographs if I may. Can I take you to Exhibit 45 at page 300 Now, you were asked some questions about some yelling at Mr O'Shea through a grille?---Yes.

I just want to take you to page, sorry, it might be 301. Now, these photographs were taken in 2015, as you can see in the bottom right, so at the time of the internal investigation.---Yes.

40 Can you see there that you, you're looking from the back of the cell into the day room?---Yes.

And if you can assume that this is cell 208?---Yes.

And you can see above the door, you can see some light coming through at the very top?---Yes.

Is that what you're talking about?---Yes, it is.

So, you can communicate through those holes, if you will?---Yes.

And if you can see right through the door, past that person to the other side, to the door and the cell on the other side, can you see that?---Yes.

And you can see there that you can't actually see the holes?---That's correct.

10 I'll just take you quickly now to Exhibit 51. Now, these were some photographs taken earlier this month. So, if you think anything has changed in terms of layout, please let me know. I'll go to page 10 of this bundle, if I may. So, that is cell 208, do you see there on the right hand side?---Yes.

And you can see that, I'm not quite sure how to describe it, but above the door, there seems to be, I'm not sure what word you'd use for that but you can't see the grille, it obscures the grille?---That's correct, yep.

20 But do you have any recollection as to whether that was there at the time?
---I can't recall. I think it was. That's to stop water being thrown, and stuff.

Right. But I think you can see the flap with the Perspex you said you can't talk through?---Yes.

But is your evidence that you can communicate through the grille above the door?---Yes.

30 All right. I understand. I have no further questions in relation to that, Commissioner.

THE COMMISSIONER: Mr Brasch.

MR BRASCH: Sorry, in light of just some of the re-examination, may I just have some leave to just ask a few questions?

THE COMMISSIONER: Yes, sure.

40 MR BRASCH: Thank you. Mr Turton, just, you gave some evidence shortly, a short while ago just about the statement that you made to investigators, that's right?---Yes.

And you said it was sent to you, is that right?---It was emailed to me, yes.

It was emailed through. It was emailed with a covering note, wasn't it?
---Yes.

Which, in effect, asked you to look over it and confirm whether it's true and correct, that's right?---Yes.

And if there was anything you wanted to change, you could change it, that's right?---Correct.

And what it basically reflected, that statement in its initial form, was what you had in fact, yourself put in that 48 hour incident report, correct?---Oh, I'd have to look. I don't know. But from memory, yes.

10 And then the investigators came and actually spoke to you at your request, that's correct?---After I complained, yes.

Yes. And when you ultimately signed that statement, it was largely in the form that it had originally been sent to you, that's correct?---Correct.

And you added something about Mr Peebles, being the last paragraph of that statement?---Yes.

That's right?---That's correct.

20 And you didn't tell the investigators anything further about your involvement, that's correct?---That's correct.

Yes. Thank you.

THE COMMISSIONER: Thank you, Mr Brasch. Who do we have tomorrow?

MR DUGGAN: Mr Taylor and Mr Kennedy. I don't think I'll reach Mr McMurtrie, so he'll be on Wednesday.

30 THE COMMISSIONER: Okay. And there's no reason why Mr Turton can't be released from his summons?

MR DUGGAN: There's no reason, Commissioner.

THE COMMISSIONER: Mr Turton, you're released from your summons which means your free to go and thank you for your evidence. ---Thank you.

40

THE WITNESS EXCUSED

[4.10pm]

MR GREENHILL: Commissioner, tomorrow I'll be accompanied by a brand new reader who's coming down to see the efficiency of this establishment. Might she sit here at the bar table with me, so - - -

THE COMMISSIONER: Of course, of course.

MR GREENHILL: Thank you.

THE COMMISSIONER: And is this reader your reader or somebody else's reader?

MR GREENHILL: Oh, no. She's somebody else's reader but I'm assisting with the reading program.

10 THE COMMISSIONER: Well, she's most welcome.

MR GREENHILL: Thank you.

THE COMMISSIONER: I'll now adjourn.

**AT 4.10PM THE MATTER WAS ADJOURNED ACCORDINGLY
[4.10pm]**