

INDEPENDENT COMMISSION AGAINST CORRUPTION

5 **RECORD OF INTERVIEW BETWEEN SENIOR INVESTIGATOR PAUL GRAINGER OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION AND MS TONI MUIR CONDUCTED AT HER PREMISES KNOWN TO THE ICAC ON 31 JANUARY 2018**

TIME: 13.05PM

10 **ALSO PRESENT: SIMON BERRY, INVESTIGTOR, ICAC**

GRAINGER: This is a recorded interview between Senior Investigator Paul Grainger of the ICAC and Toni Muir being conducted at her residential address known to the Commission. For the purpose of voice identification, I will ask each person to state their name.

15 BERRY: Simon Berry.

MUIR: Toni Muir.

GRAINGER: The date is the 31st January 2018. The time is now 1.05pm.

20 Toni, just prior to the interview we had a short discussion about an investigation the Commission's conducting into the circumstances surrounding a assault upon an inmate at Lithgow Correctional Centre on the 19th of February 2014. Toni you have consented to take part in this interview?

MUIR: Yeah.

25 GRAINGER: Okay. Just for the record you have some concerns about your safety in relation to this matter and I've informed you that there are penalties under the ICAC Act for people who take any action against witnesses or people who assist the Commission. If such action is taken against you, please let either myself or Simon know and we'll make sure that appropriate steps are taken. Toni can I just get your full name please?

30 MUIR: Toni Anne Muir.

GRAINGER: Your date of birth?

MUIR:

GRAINGER: And the best contact number for you Toni?

MUIR:

35 GRAINGER: And Toni is spelt T-O-N-I?

MUIR: Yes it is.

GRAINGER: Okay. Now Toni at some point you were previously a registered nurse working within Justice Health, is that right?

MUIR: Yeah.

GRAINGER: And when was that? How long did you work for Justice Health for?

5 MUIR: Eleven years and I retired two years ago.

GRAINGER: Were a – sorry nurse in general – in the Department of Health before that?

MUIR: Yes I was.

GRAINGER: Where were you based at?

MUIR: Lithgow Hospital.

10 GRAINGER: How long?

MUIR: I was there oh worked for Lithgow Hospital about 30 years.

GRAINGER: Okay. So is it a case that the Justice Health staff are seconded from New South Wales Health to work in the prisons or is it a separate department?

MUIR: It's actually a separate department, the Department of Health.

15 GRAINGER: Okay and the incident in question is the 19th of February 2014. I have a set of medical records here but what I might do is just get you to tell me what you recall happened on that day in relation to this prisoner.

MUIR: All I can remember is that I was called over to I think it was 5 Unit to assess a patient – that they (UNDECIPHERABLE) force? on. And when

20 I got there I assessed him and I wasn't happy with some of the things that I found on him, well not that I can really remember a lot about him now. But I've told the officers that he needed to go into the hospital to see a doctor. Management weren't happy with that and didn't really want to send him in and I just asked them to you know put it in writing why they

25 didn't want him to go in. And if they end up agreeing for him to go him but I do remember that he a foot, a boot mark on his face and he had sore ribs and a couple of red marks around his rib area. And yeah I just said – told them that he needed to be go in and be assessed by a doctor.

GRAINGER: Okay just to go back to the start of that, who were you working with on that day do you remember?

30 MUIR: No I can't remember.

GRAINGER: Okay. Who were the other nurses that were working in the clinic?

MUIR: Oh I wouldn't have a clue I can't remember.

GRAINGER: Actually generally is there more than like 5 or 10?

35 MUIR: Oh there's usually about 3 or 4 working in the clinic depending upon availability of staff.

GRAINGER: Hmm – Hmm. Does the – the name Annette Sinclair ring any bells to you?

MUIR: Anne Sinclair?

GRAINGER: Anne Sinclair –

MUIR: Yeah sure – I think she was - might have been the NUM at the time.

5 GRAINGER: So the NUM is the Nurse Unit Manager?

MUIR: Yeah.

GRAINGER: Okay is there always a NUM on duty?

MUIR: No.

10 GRAINGER: Okay. And it's our understanding that one of the other RN's in the clinic was in a relationship with Tex Walker, one of the prison officers.

MUIR: Yeah Leanne -

GRAINGER: And who is that Leanne?

MUIR: Leanne Ferguson.

GRAINGER: Okay. Do you recall if she was on duty that day?

15 MUIR: I'm not sure, I can't remember.

GRAINGER: Now you said that the – you were called to 5.1 Unit, how – how were called to go there?

MUIR: One of the officers must have rung the clinic and then we were asked to go over and assess.

20 GRAINGER: Are you escorted across there with Correctional officers?

MUIR: Yes we are.

GRAINGER: Okay so did you do to your particular location in 5.1 Unit?

MUIR: We usually go to the office first over there and then they say – let us know what's happened and then we go in and assess the patient.

25 GRAINGER: So what did they tell you had occurred, do you remember?

MUIR: That they had to use force on him.

GRAINGER: Hmm – Hmm.

MUIR: I don't know why they had to use force on him. Yeah and when they took me in there he was out in the – he wasn't in the actual cell he was in the yard at the back of the cell.

30 GRAINGER: Hmm – Hmm.

MUIR: And there was officers out there and he was cuffed.

GRAINGER: Do you recall any of the officers who were there?

MUIR: No I can't remember.

GRAINGER: Do you know their names, any of the officers or -

5 MUIR: No I can't remember that far back.

GRAINGER: Okay. And you said that you assessed the patient?

MUIR: Yes.

GRAINGER: Did you speak to him?

MUIR: Yes.

10 GRAINGER: Do you remember what he told you?

MUIR: No cause he didn't talk much at all. I can remember that. I did ask him if he was all right and he said, "I'm fine". But he – there was no eye contact when he – he spoke –

GRAINGER: Hmm – Hmm.

15 MUIR: And he was too busy looking at the officers.

GRAINGER: Okay. And just tell me what you recall the injuries to the inmate being.

MUIR: He said he had trouble breathing. He was sore around the rib area which had red marks on them, I can't remember if it was both sides or just one side. And when I listened to his chest it just didn't sound right so – he had a dirt – an imprint of a boot on his face so I thought, oh it might have been a head injury too so –

20 GRAINGER: Hmm – Hmm

MUIR: He needed to be assessed.

GRAINGER: So you – you formed a view you told us was that he needed to be looked at by a doctor?

25 MUIR: Yes I did.

GRAINGER: And what was the base of that clinical decision?

MUIR: Well if he – if he – in case he'd had a head injury - had some more injuries to his lungs or ribs. Cause if he was complaining of having trouble breathing you know there could've been damage done to his lungs or his ribs.

30 GRAINGER: Okay you then – do you remember what happened then did you go back to the clinic?

MUIR: Yes.

GRAINGER: Okay and you indicated before that you'd expressed your view, clinically that the person needed to be transported to hospital for assessment?

MUIR: Yes.

GRAINGER: Who did you express that to?

5 MUIR: I think it was either Tex or Mr O'Shea I'm not sure, and I just did say that, 'you need to go out'.

GRAINGER: Okay so was it in person, by phone?

MUIR: In – in person.

GRAINGER: In the clinic?

10 MUIR: Yep – no and it was actually in the 5.1 Unit then.

GRAINGER: In the 5.1 Unit –

MUIR: Yeah –

GRAINGER: Okay, so one of those two you think were there at the time?

MUIR: Yeah.

15 GRAINGER: Okay. Was that in – at the back of the exercise yard opposite the cell or somewhere else in the cell?

MUIR: In the office part.

GRAINGER: So the day room type area.

MUIR: Yeah.

20 GRAINGER: Of the complex?

MUIR: Yeah.

GRAINGER: Was anyone – any other prison officers at the time do you remember?

MUIR: Um there was a few others but I can't remember who was in there.

GRAINGER: Okay. And you indicated they didn't want him to go to hospital so?

25 MUIR: Yeah. They didn't say why they didn't want him to go.

GRAINGER: What exactly did they say to you?

MUIR: They just said, "Oh we don't really want him to go, does he have to go?", and I said, "Yes". And they just said, "Oh we don't really want him to go".

30 GRAINGER: Hmm – Hmm.

MUIR: And I said, “Well if – put it in writing why you’s don’t him to go. I said, “I’ve got to cover myself”.

GRAINGER: Okay so is it an unusual statement for someone to say that they don’t want the prisoner to have further medical attention?

5 MUIR: It has happened before but there was a security issue –

GRAINGER: Hmm – Hmm.

MUIR: I don’t feel that it was a security issue at the time but that’s not my call. Mine was a medical side.

GRAINGER: Okay. Did they ultimately put something in writing?

10 MUIR: No.

GRAINGER: Okay.

MUIR: They said they ended up taking him out.

GRAINGER: With your assessment of the prisoner, do you make clinical notes of what you saw?

15 MUIR: Usually yes.

GRAINGER: Okay, do you recall making notes on this occasion?

MUIR: Probably did yes.

GRAINGER: And those notes would be with who, within Health – Justice Health?

MUIR: Justice Health.

20 GRAINGER: Okay. Did you have any further involvement with the – the prisoner on that day?

MUIR: No not that I can recall.

GRAINGER: All right. Well what I’m going to do is show you the clinical notes that I have. I’d ask you to read them. You did, did you go to the hospital with the inmate –

25 MUIR: No –

GRAINGER: Were you –

MUIR: No we never go to the hospital.

GRAINGER: This is a set of clinical notes we’ve been provided by Justice Health. The first 3 pages are perhaps the most relevant, I’ll just get you to read those if you could please.

30 MUIR: I can’t see properly, sorry.

GRAINGER: Right.

(Sound of papers rustling then nil talking for short while)

MUIR: It's – I can't read the writing –

GRAINGER: Okay –

MUIR: My eyes are too bad.

5 GRAINGER: The - I'll read it to you then okay.

MUIR: Hmm – Hmm.

GRAINGER: It's dated the 19th of the 2nd 2014 – 10.45am.

10 It says in "Senior 5 Unit post use of force. Lacerated and swollen lip left side. Contusion to left eye and cheek-bone. Tender, slightly swollen area right flank over ribs inflamed and tender to touch. Patient states some difficulty taking deep breaths. H dash X, I'm not sure what that actually means, of anxiety.

MUIR: Hmm – Hmm, history.

15 GRAINGER: History of asthma which maybe contributing as observed to take deep breaths on request with no physical difficulty. Pupils equally reactive to light. The left-side of face very sore. He stated left-side lip lacerated in and outside of mouth. Considerable swelling apparently down the jaw. Full mobility and no obvious damage to teeth upon examination. Spewing blood – blood probably from lip and mouth injury as no cough apparent.
20 Given cold pack wrapped Incident form completed, will be brought to the clinic after lunch for full examination organised by Phil Turtin CSNSW, and signed NUM Sinclair.

MUIR: Hmm – Hmm.

GRAINGER: Now.

25 MUIR: She – I think she actually might've come with me that day.

GRAINGER: Hmm – Hmm.

MUIR: Hmm – Hmm.

GRAINGER: And additional, clean? nurses to provide paracetamol when in 5 Unit, again by Sinclair.

30 12.50 Seen in clinic. Examination form completed. Taken to Lithgow Hospital for further investigation. Question mark ribs. NM aware Nurse Manager, is that a word?

MUIR: Hmm – Hmm.

35 GRAINGER: NUM Sinclair signed. And on the same day 15:00, primary health returned from Lithgow District Hospital. Full investigations. No abnormalities detected. Script for Panadeine Forte. Medical officer on call, Dr Hadrick?

for Panadeine Forte by 2. QID up to something 20 tabs, again signed by W Constable? is it?

MUIR: Constable.

GRAINGER: Who was that?

5 MUIR: Wendy Constable.

GRAINGER: Okay.

MUIR: She's also retired too.

GRAINGER: Now.

MUIR: Usually if two people go –

10 GRAINGER: Yeah –

MUIR: One will do the assessment and one will do the writing.

GRAINGER: Okay so it's –

MUIR: And you'd just say what you've seen and –

GRAINGER: Hmm.

15 MUIR: They document it.

GRAINGER: Is that consistent with your recollection of the events?

MUIR: Yeah.

GRAINGER: Okay. This other document I have is an incident form. It seems to be a lot more generic shall we say then the – the clinical notes –

20 MUIR: Hmm.

GRAINGER: That are kept here. And it says that the (UNINTELLIGIBLE) was treated in the centre clinic and given a cold pack and paracetamol post injury use of force.

MUIR: But we'd seen him in – over in the Unit.

25 GRAINGER: Again this is signed by Sinclair on that day.

MUIR: Hmm.

GRAINGER: This document formed part of the full use of force package that was submitted –

MUIR: Yeah well I didn't see it I don't think.

30 GRAINGER: Well - Sinclair says that she has – that it's completed the assessment form is completed which I assume is this form here. From my reading of the 2 there's somewhat of a difference –

MUIR: Hmm.

GRAINGER: This one tends to downplay the injuries perhaps more than this one does. And this document here the clinical notes are not a record kept by Corrective Services. The clinical notes are kept by Health.

5 MUIR: Hmm.

GRAINGER: In your discussions with the management about this person going do you recall Anne Sinclair having any involvement?

MUIR: Yes she would've been – yes she would've been there, no I don't think so. Cause usually whoever makes that call about sending them in –

10 GRAINGER: Hmm – Hmm.

MUIR: The other person doesn't say, no you're not going to send them in or whatever. It's a professional thing.

GRAINGER: Yep.

MUIR: Yeah so, I don't know why she's contradicted herself.

15 GRAINGER: The – we've received information that someone, a medical staff member either at the Justice Health or at Lithgow Base Hospital, told the inmate that he had broken ribs.

MUIR: Hmm – Hmm.

GRAINGER: Do you recall telling the inmate that at all?

20 MUIR: No.

GRAINGER: Okay. The –

MUIR: You can't really say –

GRAINGER: Yeah –

MUIR: Until you see an x-ray.

25 GRAINGER: The med records, the clinical notes indicated that later on there was some x-rays done which appears there's no fractures. But we're just trying to identify actually who told him that he had broken ribs.

MUIR: Unless he's got it mixed up with (UNINTELLIGIBLE) the hospital, oh we're just going to do an x-ray to see if you've got any broken ribs, I don't know.

30 GRAINGER: After the event, do you recall having any further conversations with management, as you said, about him?

MUIR: (UNINTELLIGIBLE)

GRAINGER: Okay. So, it's your recollection that the conversation happened when you went to check – to 5.1 Unit, shortly thereafter you spoke with either

35

O'Shea or Walker and they were displeased that you wanted him transported?

MUIR: Yeah.

5 GRAINGER: So based on the timing of these notes, you indicated the examination is at 10.45-

MUIR: Hmm – Hmm.

GRAINGER: He's not seen in the clinic until 12:50 which is 2 hours later.

MUIR: Hmm. Well sometimes it takes that long to organise or for Corrective Service to organise staff for them to go out to the hospital with the patient.

10 GRAINGER: Would the notes indicate was that – he came back at 15:00 –

MUIR: Hmm.

GRAINGER: But he went – 12:50 he was in the clinic – sometime after between 12:50 and 3 he's been transported and returned –

MUIR: Hmm.

15 GRAINGER: So the 2 hours before 10:45 and 12:50 we've got no idea where he is.

MUIR: I don't know if he - I don't he – I don't think he did come over to the clinic. I'm sure he went from 5.1 Unit.

GRAINGER: We've also have also received information about, did you know Senior Assistant Superintendent Turtin? Phil Turtin?

20 MUIR: Only briefly – from him working there.

GRAINGER: Do you recall him attending the clinic on that day?

MUIR: No I can't – I don't remember.

GRAINGER: All right.

MUIR: Unless he did go there and spoke to Ian, I'm not sure.

25 GRAINGER: Okay. The – obviously your work in the clinic is rostered, you're rostered on certain shifts are you?

MUIR: Yeah.

GRAINGER: So who maintains those rosters, Health, Justice Health?

MUIR: Justice Health yeah.

30 GRAINGER: Okay, and those rosters indicate who was on what day, at what time –

MUIR: Yes.

GRAINGER: All right. Well Toni I've got nothing further to ask you at this stage. If after we finish you sort've reflect on something you think maybe relevant
—

MUIR: Hmm – Hmm

5 GRAINGER: If you let me know that would be appreciated. Thank you for taking part
—

MUIR: Hmm.

GRAINGER: The time is now 1:26pm I will terminate this interview.

10 **INTERVIEW ENDS**

Facility:

Location/Ward:

PROGRESS / CLINICAL NOTES

COMPLETE ALL DETAILS ON AFFIX PATIENT LABEL HERE

Date and Time
(use 24 hr clock)

Note: All entries must be legible, written in black pen and include the health care provider's printed name, designation and signature.

thick
cont

Had been using Seritide thrly.
Advised to use B.D.
RN Carter booked pt via PAS for Doctors
list & Physic. As I have no access.

19/02/14
1045

PRIMARY HEALTH Seen in Sund post use of force.
Lacerated & swollen lip (L) side, contusion
to (L) eye & cheekbone; tender, slightly
swollen area (R) flank over ribs inflamed
& tender to touch. Pt states some
difficulty taking deep breath. Hx of anxiety
and asthma which may be contributing
as observed to take deep breath, on
request, with no physical difficulty.
Pupils equal & reactive to light. (L) side
face very "sore" he stated. (L) side lip
lacerated in & outside mouth considerable
swelling apparent down to jaw. Full
mobility & no obvious damage to teeth
upon examination. "Spitting blood" probably
from lip/mouth injury as no cough apparent.
Given cold pack - wrapped. Incident form
completed. Will be brought to clinic after
lunch for full Ax. Organised with P. Burton
CSNSW (S/WCLAR)

ADDIT

Clinic nurses to provide paracetamol when
in 5 unit (S/WCLAR)

1250

Seen in clinic, clinical Ax form completed
Taken to Withgaw Hospital for further investigation
? #ribs, NM aware (S/WCLAR)

19.2.14

1500 HRS. PRIMARY HEALTH: Return from LPH.
All investigations NAD Script for Paracetamol
Forte MO on call Dr. Haddick - for
Paracetamol Forte x2 Q.I.D. up to max 20 tabs

NO WRITING

W. Costello RN CON 4 of 2

PROGRESS / CLINICAL NOTES

SMR050.001

BINDING MARGIN - NO WRITING

NH606513 161109

SMR050001