

CORRUPTION AND CRIME COMMISSION

OF WESTERN AUSTRALIA

ACTING COMMISSIONER SCOTT ELLIS

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON MONDAY, 16 NOVEMBER 2020, AT 2.01 PM

COUNSEL:

MS NADIA PANTANO

WITNESS: KENNETH BROWN

WITNESS COUNSEL:

MR DAVID JONES

1 **BROWN, KENNETH CALLED AT 12.19 AM:**  
2  
3 **THE ACTING COMMISSIONER:** Please be seated.  
4  
5 **THE ASSOCIATE:** Before your examination begins it is  
6 necessary for you to take an oath. Please stand, take the  
7 Bible and card in your right hand and read the oath out loud.  
8  
9 **BROWN, KENNETH SWORN AT 12.20 PM:**  
10  
11 **THE ASSOCIATE:** Thank you. You may be seated.  
12  
13 **THE ACTING COMMISSIONER:** Mr Brown, I see you have received  
14 and signed the notice to witnesses?---Yes, sir.  
15  
16 Thank you. I've appointed Ms Pantano as counsel assisting  
17 the Commission, she'll be asking questions on my behalf?---  
18 Thank you.  
19  
20 Mr Jones, do you seek leave to appear?  
21  
22 **JONES, MR:** I do, your Honour.  
23  
24 **THE ACTING COMMISSIONER:** Leave is granted.  
25  
26 **JONES, MR:** Commissioner.  
27  
28 **THE ACTING COMMISSIONER:** Yes, Ms Pantano?  
29  
30 **PANTANO, MS:** Can you please state your full  
31 name?---Kenneth Brown.  
32  
33 And are you currently employed?---As a prison officer.  
34  
35 How long have you been a prison officer for?---24 years.  
36  
37 Okay. At the one prison or various prisons?---Canning Vale  
38 and then subsequently Hakea where they amalgamated the  
39 prison. So the same site, basically.  
40  
41 Sorry?---Same site. Same prisoners.  
42  
43 And are you currently on secondment?---I am.  
44  
45 To?---To the union, the West Australian Prison Officers  
46 Union.  
47  
48 Okay. And in what role do you hold there?---I'm the  
49 president of the union.  
50

1 And how long have you held that role for?---President for  
2 10 years probably, nearly 10 years.

3  
4 Okay. So have you been on secondment that entire time?---  
5 No, I've been on secondment - we're - at the moment we're  
6 doing an enterprise bargain agreement and I'm seconded  
7 because of the amount of meetings it takes to do that. I'm  
8 seconded to - to see the EBA through which is nearly at  
9 completion now, so.

10  
11 Right. So you said you were a prison officer for 24 years.  
12 Is that including some of the time that you've been seconded  
13 into the union?---Inclusive. Yes, inclusive.

14  
15 Inclusive. Okay. So 10 of the 24 years you've been president  
16 of the union?---Not for 24 years, no. I've been a prison  
17 officer for 24 years.

18  
19 Yes?---President - - -

20  
21 Ten of those years - - -?---Yes. Yes.

22  
23 - - - you've been the president?---Yes.

24  
25 Okay.

26  
27 **THE ACTING COMMISSIONER:** And are you paid for being the  
28 president?---Pardon, sir?

29  
30 Are you paid? Does the presidency a paid position?---No,  
31 sir. It's a voluntary role.

32  
33 Right?---It's unpaid.

34  
35 **PANTANO, MS:** And as president, describe for me briefly  
36 what duties you're involved in?---Simply really to oversee  
37 the good governance and order of the union and to make sure  
38 we're compliant; along with the secretary, that we're  
39 compliant with the Registered Organisation Commission  
40 and that all the processes are - are carried out. We're a  
41 pretty democratic union.

42  
43 So you oversee that all processes are carried out. What do  
44 you mean by that?---Well, there are meetings that - regular  
45 meetings that are held, twice a month. One is for the  
46 Executive Council of the union and the other one is the State  
47 Council of the union where members, the representatives from  
48 each prison come to State Council and issues throughout the  
49 State are discussed at that meeting.

50

1 Okay. Do you ever act as an industrial officer as well in  
2 your time as president?---No. No, that's not my role.

3  
4 Do you ever meet with members on individual issues that they  
5 may have?---Rarely I could, but very rarely. Because  
6 normally I'd just recommend them to a - an industrial officer  
7 who is responsible for that prison.

8  
9 And you said very rarely would you meet with members. On  
10 what occasions would you meet with members?---I get contacted  
11 if an officer is - is - receives a letter or any disciplinary  
12 matter and I would just say to them, well, you need to speak  
13 to - and refer them to that - I - I don't - up to six years  
14 ago I used to do the advocacy for prison - prison officers  
15 that were part of disciplinary charges and I would do the  
16 advocacy for that. But the Act then changed, the Prisons  
17 Act, and it's now part of the Public Sector Management Act  
18 so my role ceased as from then and industrial officers now  
19 take that role.

20  
21 The advocacy role?---Pardon?

22  
23 The advocacy role that you were talking about, now the  
24 industrial officers take them?---Yes, or - or we refer them  
25 to - to the legal people for that. But I - I personally  
26 don't do that anymore. I haven't done that for five or six  
27 years now.

28  
29 So I just want to go back to my question in relation to  
30 occasions when you would meet with members. Admittedly you  
31 said it was very rarely but on occasions where you would be  
32 there specific occasions where you, I guess, make it a point  
33 that you will meet with a member on a certain  
34 issue?---As I said, it'd be very rarely now. Because the  
35 normal procedure now and as accepted, I think, by majority  
36 of their members that, you know, we contact the industrial  
37 officer and they deal with it now.

38  
39 And what, sorry?---And they would deal with it.

40  
41 Do you report to anybody?---From the union view? I'm the  
42 president, so. I - I've got a close liaison with the  
43 secretary who is - who is employed by the union and we sort  
44 of plan the union's future, if you like, and - and we - we  
45 meet to discuss things like our - that we're doing at the  
46 moment, the EBA, together with the people that are selected  
47 to be on the panel to negotiate the EBA. So we'll meet on  
48 a regular basis for that purpose.

49  
50 And prior to you becoming president, were you ever a union  
51 delegate?---Yes.

1  
2 How long for?---I first became a delegate I think around  
3 2000. I was a delegate for Hakea Prison when it became  
4 Hakea. I was then vice president for a few years, and then  
5 president.  
6  
7 Okay. And how long were you a union delegate for can you  
8 recall, approximately?---Well, I've been involved with the  
9 union since 2000 so probably the best part of 20 years.  
10  
11 Do you - when you then became vice president and then later  
12 president, do you maintain that union delegate position  
13 or - - -?---No.  
14  
15 - - - does that then get passed on to somebody else?---That  
16 goes to someone else.  
17  
18 Okay?---You can't fulfil two roles, so.  
19  
20 Right. So then approximately how long would have you have  
21 then been a union delegate? How long would you have been in  
22 that role for?---Seven or eight years, maybe.  
23  
24 Okay. And again, just briefly describe what - what did your  
25 duties entail as a union delegate?---As a - as a local  
26 delegate? To deal with local issues, anything to do -  
27 industrial issues. Safe staffing levels, which are always  
28 a concern for the union. To make sure that the - the  
29 management of the prison are complying with agreements with  
30 the union, and basically just industrial matters.  
31  
32 And when you were a union delegate, did you have to report  
33 to anybody?---Well, I reported to the union basically at  
34 State Council. That would be a monthly meeting and that's  
35 where you discuss issues that have arisen from your location.  
36  
37 Okay. And while you were the union delegate, you were - is  
38 the case, sorry, that you were also a prison officer at  
39 Hakea?---Yes.  
40  
41 Okay. So you performed both roles?---Yes, the union delegate  
42 role or anything from the floor is unpaid. So it's all  
43 purely voluntary.  
44  
45 The delegate role?---The delegate role. Vice president.  
46 President.  
47  
48 So you said as a delegate, one of - or some of your duties  
49 were to deal with local issues, predominantly industrial  
50 matters?---Yes.  
51

1 What about any sort of disciplinary matters, would you be  
2 involved in any of those sorts of issues?---Yeah. Well,  
3 people will come to me with a disciplinary matter and prior  
4 to the Act changing I would probably be the person that  
5 represented them in a hearing.

6  
7 That was that advocacy role you mentioned earlier?---Yes.  
8 Yes.

9  
10 Okay. And prior - sorry, the whole time that you were a  
11 prison officer at Hakea were you also a union delegate for  
12 that entire time?---Not for the entire time. For the first  
13 three or four years I was an officer and then took on the  
14 union role, so.

15  
16 And prior to becoming a prison officer at Hakea, you said  
17 also at Canning Vale, but were you also a prison officer  
18 elsewhere?---No.

19  
20 Were you ever a prison officer at Fremantle Prison?---No.

21  
22 So the 24 years in total, just to confirm, is inclusive of  
23 your time as president?---Yes. Yes.

24  
25 I just want to take you back to the time when you were  
26 operating as a prison officer and a union delegate at Hakea  
27 Prison. You said that was for approximately seven to eight  
28 years. What I now want to ask you is did you ever have any  
29 occasion - or, sorry, just before I ask that question, while  
30 you were a prison officer is it correct to say that you were  
31 bound by the Department of Justice's code of conduct?---  
32 Absolutely.

33  
34 Okay. And that code of conduct sets out the minimum  
35 behavioural standards to which all officers were bound, is  
36 that correct?---Absolutely.

37  
38 Okay. And I'll take you to the current one. It's 0036^,  
39 please.

40  
41 0036^

42  
43 **PANTANO, MS:** This is the Department of Justice code of  
44 conduct?---Yes.

45  
46 And if we can just turn over to the next page, it's the  
47 contents page. And then page 3. This is a message from the  
48 Director General. And you'll see that middle of that page,  
49 it says:

50

1 This code of conduct sets out the minimum behavioural  
2 standards to which we are all bound.

3

4 And the second last paragraph:

5

6 As a member of our diverse workforce, you must comply with  
7 the terms of this code of conduct and relevant supporting  
8 legislation, policies and procedures.

9

10 You will see there that it's been signed by the Director  
11 General and dated - scroll down - June 2019?---Yes.

12

13 Now, granted that this is the one that's in place now and  
14 not the one that was necessarily in place when you were a  
15 prison officer at Hakea, but there would have been a version  
16 that was similar?---I - I think there's another policy coming  
17 out following this one at the moment. I think it's under -  
18 underway.

19

20 Yes?---So yes, that's true. It would be the previous one  
21 (indistinct) yep.

22

23 And if I can just go to page 9, please? And it's paragraph  
24 3.8.

25

26 The title it's "Reporting Suspected Breaches of the Code".  
27 And it says in the second paragraph that:

28

29 We report any actual or potentially fraudulent, corrupt or  
30 illegal activities and any suspected breaches of the code of  
31 which we become aware and discuss with our manager or  
32 relevant officer of the Department.

33

34 Now, can you recall back when you were a prison officer  
35 whether there was such a similar requirement upon you to  
36 report suspected breaches of the code?---I - I - I think in  
37 our job, there's always been that expectation of officers.  
38 And - and so there should.

39

40 Yes?---I've had instances myself where I - I - there was an  
41 incident once where a - a prisoner gave me information in  
42 regards to an officer that was trafficking into the prison.  
43 And I was the union delegate at the time. I went to the  
44 security at Hakea Prison, informed them of - of the  
45 information I had. And I was told "Don't go near there.  
46 It's way over your head". So I wasn't very happy with that  
47 answer. Because if this bloke was doing that, then we need  
48 to get it stopped. I then contacted the security manager at  
49 head office the same day. And told my superintendent that  
50 I was going to head office. I went there and spoke to the  
51 Deputy Commissioner, Jon Peach, at that time. And informed

1 him of the trafficking that was going on, the information I  
2 had. The next day, Jon Peach organised for the police to  
3 raid the house and the officer was subsequently arrested and  
4 dismissed. So do I condone that? No way whatsoever. I'll  
5 - I'll be the first one - I can assure you I'll be the first  
6 one. I - I don't like corrupt officers. I don't think  
7 anyone likes corrupt officers. But there are bad apples in  
8 every barrel. And it happens. So but if it comes to my  
9 knowledge, I'll - I'll stop it straightaway or do my best  
10 to.

11

12 And how then as again taking you back to your time as prison  
13 officer and union delegate, was there ever a time that you  
14 can recall where there was - say a potential conflict between  
15 your prison officer where you've got these obligations under  
16 the code to report suspected corruption or misconduct with  
17 your role as a union delegate. Did you ever see there was  
18 any conflict between those two roles?---Not that I can  
19 recall, no. You - you try and keep both those things  
20 separate. You know, I mean, the code of conduct is the code  
21 of conduct. If someone contravenes that, I'm not going to  
22 - I'm not going to support that. So yeah, it - and the union  
23 stuff is - is - as I said before, basically industrial  
24 matters, where - where staff say if they're concerned on  
25 where our safety is and - and staffing levels are agreed to,  
26 that they are maintained. Because they are our safety.  
27 Staff are the safety in a prison.

28

29 I'm finished with that document, thank you.

30

31 You said "I don't like corrupt officer" and that you don't  
32 condone that sort of behaviour. In your current role as  
33 President, what do you do to, I guess, uphold those - those  
34 beliefs and values?---Well, in my current role, I - I  
35 sometimes get occasion to speak to officers that have been  
36 recruited in the academy. And - and we get an opportunity  
37 to speak to them from the union view. And - and I advise  
38 them - I speak to them not in depth, but I do say to them,  
39 you know, be aware of grooming that can on from prisoners,  
40 because they can ask you completely innocuous questions like  
41 "Do you live north or south of the river". You answer that  
42 and they know you live north. And they'll wait a few days  
43 and they'll say to you "Are you married". So slowly and  
44 surely, they'll ask these little questions about your life.  
45 And slowly they build a dossier up. And they've got more -  
46 quite a lot of detail about you. So I try and explain to  
47 these young people that, you know, be aware that you can be  
48 groomed. Don't answer - if a prisoner asked me those  
49 questions, I'll always - I'll be quite honest, I'll tell  
50 them if the officer - if I live north of the river, if they  
51 ask me where I live, I say south, so - and I'm not married



1 and I - I am married. And I've got children. And I tell  
2 them - I'll give the opposite answer. So they - they don't  
3 get a chance with me. And I try and explain to the young  
4 people, be aware that this goes on. Because prisoners have  
5 got a long time to do that. A long time. They've got years  
6 just to ask the question once. They'll wait till the next  
7 week, ask the next question. They're gaining - gleaning  
8 that information. And then I'll tell them the best advice  
9 is I leave them. I always say to them, the best advice I  
10 can give you is take nothing prison into a prison and take  
11 nothing out of a prison. And that's the - that's the context  
12 of what I speak to them about.

13  
14 Okay. Is there anything that you do in your current role to  
15 that effect?---Not really, no. You know, officers are  
16 expected to perform in a certain manner and - and so they  
17 should. You know, I'm - I've always remained in my 24 years,  
18 so - - -

19  
20 And how does the union, in your opinion, give that message?  
21 You said that you go and speak to recruits. Is there anything  
22 else that the union does in your opinion that reinforces  
23 that message that you don't condone corrupt officer or  
24 condone that sort of behaviour?---Well, we've had officer  
25 that have approached us for - for - who have been corrupt  
26 and admitted that - that they've been caught with drugs and  
27 that sort of thing. And there's no way I would, or the State  
28 or the executive would support - support for those people  
29 legally. So I think part of the union membership, you're  
30 given half an hour legal advice free, which is part of the  
31 normal membership. So we give them that and then we sort of  
32 cut them loose. It's up to them then. So we're not going  
33 to condone or endorse of that (indistinct).

34  
35 So you said that you'd been approached by officers in the  
36 past who may have engaged in criminal conduct, what do you  
37 then do in those instances?---If they - sorry, if they?

38  
39 You said that in the past you'd been approached by officers  
40 who've engaged in - in - in conduct - questionable conduct.  
41 That's my word (indistinct)?---If there's allegations  
42 against them?

43  
44 Yes?---Well - well I'll ask them - first thing I to say to  
45 any - any officer is "You need to be honest with me and  
46 truthful". That's the first thing I say to them. So  
47 (indistinct) pertained to when I was the advocate for them,  
48 you know, if they're going to lie to me, I'm not going to  
49 defend them, you know, so - but they were advised by me,  
50 always tell the truth. Always tell the truth. You can make  
51 mistakes. People make mistakes. Our environment is - when

1 things happen in our environment, they happen very quickly.  
2 Because we deal with people that are in a place that they  
3 don't want to be. They resent our presence because we are  
4 - they look at us as the people that are keeping them. And  
5 - and we are, quite - and we are. But that's what the  
6 society demands so that's what we do. But in regards to -  
7 I'm sorry, I lost the - the gist of question there, what you  
8 were saying.

9  
10 The question was around where you said that you have been  
11 approached by officers in the past who've admitted that  
12 they've done something that may be of a criminal nature,  
13 what, my question was then, because you said earlier you  
14 don't condone corrupt officer or their behaviour - - -?---  
15 If it - - -

16  
17 - - - what do you then do?---Sorry, I - I thought you were  
18 talking about internal (indistinct). If it was a criminal  
19 affair, straightaway, we just refer them to the lawyer for  
20 that half an hour. And they make a determination, if it was  
21 work-related, if it's work-related, then we would support  
22 those officers legally. If it's not work-related, then we  
23 don't do that.

24  
25 So when you said if it is work-related you support those  
26 officer legally - - -?---Yes.

27  
28 - - - what do you mean by that?---Well, we - we've got a  
29 lawyer that we use to put them in contact with. And if it  
30 goes through outside court proceedings, that lawyer would  
31 represent them.

32  
33 And who covers the bill?---And charge the union.

34  
35 Charge the union?---Yes.

36  
37 Okay. And you said earlier that you always encourage your  
38 members to tell the truth?---Yes.

39  
40 Tell the truth to whom?---Well, if they were asked questions.  
41 If - if the investigators come in and ask questions, tell  
42 them the truth. If your superintendent asks you the  
43 questions, tell them the truth. People do make mistakes.  
44 People make mistakes. It's whether you make sure - you don't  
45 make that mistake again is the important thing. If you're  
46 completely - if you keep making the same mistakes, then the  
47 - you know, there's something wrong with you, so it might  
48 be.

49

1 Is your advice on telling the truth to tell members to tell  
2 the truth even in circumstances where it might result in a  
3 member calling out a member for potential wrongdoing?---Yes.  
4  
5 That would still be your advice?---Tell the truth.  
6  
7 What about in - - -?---Sorry, I say to people, don't  
8 compromise yourself and your job for someone else. That's  
9 what I say. Tell the truth.  
10  
11 What about in telling the truth to Professional Standards?  
12 What's your advice to members in relation to that?---Tell  
13 the truth.  
14  
15 And what if you became aware that a union employee for  
16 example was not upholding these same values that you say  
17 adhere to, what would you do?---I would certainly take - a  
18 union employee?  
19  
20 Union employee?---I would take action to - to get that  
21 resolved.  
22  
23 Okay. And how would you go about that?---Probably have a  
24 conversation with them first of all. And if that didn't  
25 work, then I'd look at probably removing them from the union.  
26  
27 And what about a union delegate? If you became aware that  
28 a union was not upholding these same values that you - you  
29 hold, what would you do?---Tell them what the expectancy of  
30 the union would be and we want you to start acting in that  
31 way. And - and if that wasn't done, then we would address  
32 that at State Council.  
33  
34 Now, the Commission has heard that there is no current code  
35 of conduct in place within the union, that one's currently  
36 being written?---Yes.  
37  
38 Is that correct?---Yes.  
39  
40 Okay. So what, I guess, guidance do union employees have in  
41 upholding these values that you've been speaking about? What  
42 have they got reference to?---Well, to go with the secretary,  
43 we try and instil that into them at State Council what our  
44 expectancy is and the way they should - behaving.  
45  
46 So when you say you try and instil that in them at State  
47 Council, just elaborate on that for me?---Well, to be  
48 ethical. Really, to be ethical. And to be polite people  
49 that they're in meeting with. You know, I've - I've been in  
50 a meeting with a delegate once who was very rude to the  
51 superintendent. And I pulled him out the meeting and said

1 "You know, you need to respect the rank regardless of your  
2 - your feelings. You need to respect that's the  
3 superintendent. And I'm prepared to sit in a meeting while  
4 you're talking like that. And I told them. I told them  
5 that.

6  
7 So other than just telling union employees or others that  
8 you come in contact with about being ethical and respecting  
9 rank, is there anything else that the union does to inform  
10 its employees of expected standards of behaviour?---I think  
11 with the work we do and the work they do, it's a given. And  
12 I think they understand that pretty well. And I mean, the  
13 industrial officers we've got at the moment, I think they're  
14 a pretty good bunch. And I think they're all sort of -  
15 they're - they're all - they're a pretty good bunch of  
16 people. And dedicated.

17  
18 What about union delegates? How are they advised of what  
19 their role is meant to sort of entail?---Well, it - it - it  
20 - normal - the - the normal way of the delegate getting a  
21 position is elected by the members of that prison. It's a  
22 democratic process. We have a vote. The one that wins the  
23 most votes gets that position. Now, normally there's a  
24 substantive union rep in that prison. Because these  
25 positions don't come up en masse. So if there's two or three  
26 in a prison, one vacancy would happen and the other two  
27 delegates would normally educate. And we also give them a  
28 training program at the union of how to be a delegate. How  
29 to - to go into meetings. What we expect of them. So it's  
30 a training course that we put on. And it's a three-day  
31 course, so - - -

32  
33 And who facilitates that?---The union have a training  
34 officer.

35  
36 Okay. And who's the current training officer?---At the  
37 moment - - -

38  
39 Or do you get someone from external Is it an internal  
40 training officer to the union?---No, it's our - we employ  
41 the training officer.

42  
43 Right?---His name is Greg Holder. He's a recent employee  
44 because our previous training officer had a baby and went  
45 back to Queensland to his family, so we've recently employed  
46 Greg Holder, who's turned out to be an asset fortunately.

47  
48 And he's your training officer?---He's the training - the  
49 union training officer.

50

1 And does every delegate go through this three-day training?--  
2 --Yes.

3  
4 Now, I asked you if you became aware that someone within the  
5 union was not acting in the - or upholding the same values  
6 that you yourself hold. And when I say someone within the  
7 union, I mean a union employee, has there ever been an  
8 occasion where this has occurred to your knowledge, where  
9 you've had to deal with it?---No, there's been occasion where  
10 I spoke to an industrial officer in regards to the way he  
11 spoke to people. But otherwise, with ethics and that sort,  
12 no.

13  
14 What about union delegates? Has there ever been an occasion  
15 where you've become aware that your union delegates have not  
16 been upholding these same values that the union holds?---  
17 Well, I've - I've been aware that there is a union - or at  
18 the moment there's a union delegate who's not very popular  
19 at the moment. There's a faction in the prison - although  
20 he was elected democratically, there's a faction that's  
21 appeared that seems to undermine all that he tries to do.  
22 So there's a bit of conflict there but we're trying to deal  
23 with that internally.

24  
25 What role do you see the union playing? Who's interests,  
26 above all else, would you say the union are serving?---I  
27 think it's a very important role, especially with our job.  
28 Our role is to make sure that any - the agreements that occur  
29 are adhered to. Our role is secure pay rises for prison  
30 officers, conditions for prison officers. And they're not  
31 always the best in our job, so - and our role is ongoing, I  
32 think, just for the betterment of prison officers.

33  
34 Okay. So would you say the interests - your - the interests  
35 of the people that you're serving are the union members?---  
36 The interests are, sorry?

37  
38 Of the people that you're - of the people that the union are  
39 serving, are those union members?---Yes, and they're very  
40 well represented.

41  
42 What do you consider the union's role to be with DoJ? How  
43 do - how do - Corrective Services, rather. How do you see  
44 the interplay between the two?---Well, I think we will -  
45 part of the link industrially, where we get stuff done, you  
46 know? We're not a militant union. We're - we're pretty -  
47 we're pretty - we're certainly not militant. So we try to  
48 get everything done by negotiation. I would much rather get  
49 a negotiated outcome than (indistinct). So my role is, I  
50 liaise well with commissioners, assistant commissioners. We  
51 meet with the commissioners on a regular basis once a month

1 in a meeting called the - the PCC, which is the Prisons  
2 Constative Committee. We might at high level with them and  
3 we try and get resolved issues that have not been resolved  
4 locally. So that's a higher level to get stuff resolved.  
5  
6 And who attends those meetings?---The commissioners, the HR  
7 and industrial relations people from head office, myself,  
8 the secretary and one other - or the assistant secretary and  
9 one other from the executive.  
10  
11 Of the union?---Of the union, yeah. We also meet with the  
12 Minister on a once a month basis in regards to issues with  
13 prisons.  
14  
15 And who meets with the Minister monthly?---Myself, Andy  
16 Smith, the secretary, Paul Ledingham and Mike Crompton, who is  
17 the vice president. On a regular basis. There have been  
18 other attendees, but basically, it was those two.  
19  
20 Okay. And what's the purpose of that meeting with the  
21 Minister?---To discuss what's going on within the prisons.  
22 Because he's not always told the truth.  
23  
24 Who's not always told the truth?---The Minister.  
25  
26 And how do you know that?---Well, because of the  
27 misinformation that he - he - he tells us something and we  
28 know that's not happening. So we try and ensure that he -  
29 he is aware of those things.  
30  
31 And sorry, just to go back to the PCC, is that a standard  
32 once a month meeting, like it's a regular - - -?---It's the  
33 - it's the - the - yeah, it's the - it's the fourth Tuesday  
34 of every month on a regular basis, every month.  
35  
36 And where are the - those meetings held?---That's at the  
37 Justice McCormack Centre(?) in Perth. They normally last  
38 for about an hour and a half.  
39  
40 And are minutes taken of those meetings?---They are minuted,  
41 yes.  
42  
43 Okay. And the - the monthly meeting with the Minister, do  
44 you know, is that meeting minuted as well?---No, his two  
45 advisors are there in the room with him. I think it's - Tom  
46 is his adviser and Rebecca Martin(?) is another one that is.  
47  
48 Okay. So no minutes to your knowledge?---Just those three  
49 we normally meet with. And there's normally four of us.  
50 Sometimes five.  
51

1 So sorry, there are or there aren't meetings - minutes kept  
2 of the meeting with the Minister?---Not that I'm aware of.  
3 The Minister makes notes. But there's no official record of  
4 - and there's no minutes that we can - we can obtain. It's  
5 just an informal sort of meeting. We're given an hour. And  
6 we discuss issues and he'll discuss his - his proposal of  
7 what he's trying to do and - and it's - it's a very amicable  
8 arrangement.

9  
10 Very amicable, did you say?---Very amicable.

11  
12 Okay. And would you say that it's the same arrangement  
13 between a union and the Commissioner for Corrective  
14 Services?---Yeah, we get on really well.

15  
16 You touched on this earlier when you said about respecting  
17 rank when you'd overheard another officer at some point,  
18 maybe disrespecting a superintendent. It leads me to some  
19 questions I want to ask you about this hierarchical system  
20 within prisons. Just describe it for me. Give - give me a  
21 picture of - of this hierarchical system as you understand  
22 it to be?---It's - the prison service is a - sort of  
23 paramilitary organisation. You know, people come in as a  
24 probationary officer but then after their nine-month  
25 probation they progress to an officer. From them step up is  
26 there used to be a 1st class officer rank, which has been  
27 abolished by the Department. And now you become an assistant  
28 senior officer. And then you're ranked as a senior officer.  
29 The ultimate rank - uniform rank is of principal officer.  
30 That (indistinct) people that we represent as a union. And  
31 from then on, you would - you would step over into the public  
32 service. So there's the probationer, one (indistinct)  
33 officer, assistant senior officer, senior and principal. So  
34 there are basically five grades that we represent.

35  
36 Okay. I might have to cut these examinations. I've been  
37 aware there's maybe some technical issues that we will need  
38 to sort out. So we'll call an earlier adjournment than  
39 usual. If we could adjourn till - - -

40  
41 **THE ACTING COMMISSIONER:** It's pretty much lunchtime. When  
42 would you like to - when would it be convenient to resume?

43  
44 **PANTANO, MS:** 2pm.

45  
46 **THE ACTING COMMISSIONER:** 2 pm.

47  
48 We'll adjourn till 2 pm.

49  
50 (THE WITNESS WITHDREW)

51

1 (LUNCHEON ADJOURNMENT)  
2  
3 (TIMESTAMP) / 12.52.27 PM



1 **BROWN, KENNETH RECALLED ON FORMER OATH AT 02.01 PM:**

2  
3 **THE ACTING COMMISSIONER:** Please be seated.

4  
5 Ms Pantano?

6  
7 **PANTANO, MS:** Mr Brown, before we left off the break earlier  
8 we were discussing the hierarchical system within prisons  
9 and you were describing the various, I guess, ranks, for  
10 want of a better word, within the system. I just wanted to  
11 ask you some quite specific questions. How would you  
12 describe the influence of senior officers and senior  
13 management on the younger or more junior officers within the  
14 prison system?---I think the senior officers would be a role  
15 model for those people and - and - and in respect to newer  
16 staff they should help mentor those people and I think  
17 generally they do that pretty well, generally.

18  
19 Okay. And would you say that in that as the senior officers  
20 and senior management take on that role model, I guess, type  
21 role do you - would you say that they also provide advice  
22 and guidance to the younger officers?---I think more so  
23 senior officers than senior management because senior  
24 management, we don't often see those around the units whereas  
25 the SOs have direct contact with those officers who are  
26 working in the units with them.

27  
28 So in your experience, how would you describe then the  
29 influence of senior officers on the junior  
30 officers?---Well, just as a - more or less as I said as a  
31 mentor and to explain things. If they're doing things in a  
32 wrong way, to - to explain it to them how it should be done  
33 and the correct procedure for doing it. But each unit varies  
34 so each one will have a different routine, so.

35  
36 And would you say, again in your experience, that the younger  
37 officers would look up to the senior officers?---Would they  
38 be looked after?

39  
40 Look up. Look up to the senior officers?---Absolutely.  
41 Absolutely.

42  
43 So how important, again in your opinion, would you say it is  
44 for senior officers to set I guess the right - the right  
45 example to the junior officers on - on appropriate ways to  
46 behave within the workplace?---I think - I would say that's  
47 imperative, in my view.

48  
49 Yes? And I appreciate this is just your opinion, again based  
50 on your experience within the prison system. I'm going to  
51 ask you some general questions now, we've touched on a couple

1 of these. Within the union itself you said that there -  
2 well, I asked you rather that there was - I put to you that  
3 there had been no code of conduct previously within the union  
4 but that was being currently drafted, is that - - -?---We're  
5 - we're rewriting the whole rules for the union at this  
6 moment so we're doing - it's current.

7  
8 Okay. And what are your - what's your awareness of the  
9 union's obligations regarding members, regarding  
10 confidentiality of members? If they come to the union and  
11 divulge certain information, what's your understanding of  
12 the confidentiality that needs to be maintained?---I think  
13 it is, pretty well is maintained - confidentiality.

14  
15 Yes?---Pretty well is. I mean, of the - I've heard  
16 industrial officers speaking to each other and they don't  
17 refer to the - the person, they'll refer to "a member" and  
18 - and that's how it should be. That's how it should be.

19  
20 So even amongst industrial officers within the union, is it  
21 your evidence that they shouldn't be disclosing individual's  
22 names?---Well - - -

23  
24 Of members they're representing?---Yeah, generally, unless  
25 they are seeking advice of another industrial officer who -  
26 who's had previous dealings with that, then they would do  
27 that.

28  
29 Yes?---Then they would do that.

30  
31 What about in instances where you've got an incident that's  
32 occurred and there are multiple officers who are involved in  
33 the one incident? Is it the case, in your experience, that  
34 different industrial officers would be assigned to represent  
35 different members?---If - if they, the industrial officers,  
36 deemed there'd be a conflict of interest, yes, they would.

37  
38 And who makes that determination?---Normally it's done by  
39 the industrial officers but they would consult with Andy  
40 Smith and he would make the ultimate decision if it was  
41 required. Andy would make a direction. But if - if it was  
42 representing different members who were in a - a conflict  
43 situation, then it would be assigned to two different people.

44  
45 And what would be the necessity for that?---As I said, if  
46 there was conflict between two members or disagreement or  
47 whatever.

48  
49 And why - and, sorry, I'll rephrase this. Why do you think  
50 it would be important in those situations for there to be  
51 different industrial officers representing different members

1 where there may be a conflict?---Well, it wouldn't be proper  
2 for the same person to be representing both people. That  
3 wouldn't be - so we wouldn't - there's no way we would have  
4 condoned that to happen. So there would be a conflict.  
5 There would be.

6  
7 Okay. And for example where you've got multiple officers  
8 involved - sorry, multiple members who were involved in one  
9 incident could the situation arise of a potential conflict  
10 where you've got differing versions for example of the one  
11 incident?---No, I think if there were different versions of  
12 the one incident I - I don't think the industrial officer  
13 would take the conflict between the two people on himself,  
14 probably refer it on somewhere. And I think that would be  
15 the appropriate thing to do.

16  
17 In that instance - and again I appreciate we're talking  
18 hypotheticals at the moment but would you foresee that there  
19 could be a conflict situation where you've got multiple  
20 members involved in the one incident and they've got  
21 different versions of that one incident, would you see that  
22 there could be a conflict between the one industrial officer  
23 representing the interests of each of those members?---Yes,  
24 I do. Yeah.

25  
26 And you've said how you would deal with that conflict is  
27 that different industrial officers would be assigned  
28 different members?---Well, the - the industrial officer can  
29 only deal with the information he's given. So if it's given  
30 by one member and if - if it was a conflict to the other  
31 member or there was direct conflict with each other, as a  
32 member, then they would obviously hand it on to someone else.  
33 But people have got different versions of different things  
34 when things happen in prisons so there could - that's not  
35 unusual for there to be - not to be all consistent because  
36 everyone sees their own view of it.

37  
38 Right?---So - and if there's an incident, as I said before  
39 incidents in prisons happen very fast, people's adrenaline's  
40 running and there's a - there's a - and I'm not very happy  
41 with it, there's a sort of a demand on officers to put their  
42 report in immediately after, as soon as you can after the  
43 incident. So I don't think that's the right way to do it  
44 because you need time to sit back and reflect and see what  
45 actually happened. Whereas they're writing it, the  
46 adrenaline's still flowing, they're still keyed up from what  
47 happened and - and obviously there's going to be  
48 inaccuracies. And that's what happens, people - I've had  
49 incidents myself where I've had a - a hanging, self-harm  
50 thing and all I wanted to do after I'd deal with it, dealt  
51 with it, was to go home. And I was told don't leave the

1 prison till you've put a report in. So you're doing it under  
2 stress. So are you recalling all of that with a hundred  
3 per cent accuracy? I couldn't guarantee that. But they  
4 want you to do that report before you leave which, to me,  
5 sometimes people need to go away and had time to - to - to  
6 calm down and get over it rather than just told put your  
7 report in.

8  
9 In instances where you've got again various members coming  
10 to the union, seeking advice on the one incident, would it  
11 be your practice to advise the member that you were  
12 representing or advising of what another member had said  
13 about the incident?---No.

14  
15 And why wouldn't that be okay?---Because I wouldn't consider  
16 that's very professional to do that, so there was no way I'd  
17 condone it. If that was happening I would - I wouldn't  
18 condone that, so.

19  
20 You wouldn't condone it?---Absolutely not, no.

21  
22 And you said it wouldn't be very professional, but also do  
23 you see any issues with breaches of confidentiality of your  
24 members if you were doing that?---I would imagine it would  
25 be seen to be, yeah.

26  
27 Now I want to ask you about the process that we've just  
28 talked about but in the context of CCC involvement. Does  
29 what you've described, does - the advice that you give to  
30 members does that change in any way once you become aware  
31 that the CCC are involved?---Not at all. No.

32  
33 What about in relation to confidentiality? So if you for  
34 example were made aware that one member was approached by  
35 the CCC and served with a summons, would it be okay to advise  
36 another member of the fact that this other member had been  
37 served with a summons to attend the CCC? Would you disclose  
38 that?---No.

39  
40 Okay. And why not?---Because of the confidentiality issue.  
41 Normally if - we've had instances and I think quite recently  
42 there have been a group of officers that have been summoned  
43 to appear before the CCC. They contact the union office. I  
44 don't ask - if they ask me - only one person out of that  
45 group asked me. I didn't ask him what the - what the - the  
46 context of it was. All I did was that if it's a CCC thing  
47 I - "I'll refer you to Paul Ledingham who will give you the  
48 email link for Legal Aid," and that's all I say to them.  
49 That's all I say. It's not for me to find out after that  
50 and if - if it's subject to a CCC thing then so be it, but  
51 it's not for me to ask why.

1  
2 Okay. In order for a member to be referred to a lawyer would  
3 the industrial officer, for example in this case  
4 Mr Ledingham, would he need to know why that person was being  
5 summonsed?---Would he need to know why he was being summoned?  
6  
7 Before referring that member to a lawyer?---No, no. It's  
8 just once they contact the office and they say it's a CCC  
9 matter, then the legal - they are given the Legal Aid number.  
10 But the reason why? You'd have to ask Mr Ledingham but that  
11 wouldn't be - - -  
12  
13 Well, I'm just asking again hypothetically?---Yeah.  
14  
15 So if a member contacted the union and said that they had  
16 received a summons from the CCC would you expect that the  
17 union rep dealing with that member, would you expect that  
18 that union rep would need to know, say, the scope and purpose  
19 on that summons - - -?---No.  
20  
21 - - - before referring that member to legal advice?---As I  
22 said the one member that contacted me and said he had a  
23 summons from Legal Aid, I referred it to Paul Ledingham for  
24 the link to the lawyer. I didn't ask him any questions.  
25 It's not my concern.  
26  
27 Yes?---So - and I think Paul Ledingham would act accordingly  
28 as well, so.  
29  
30 Sorry, you would think?---I would think Paul would act the  
31 same way.  
32  
33 Right. So that Paul in that instance he wouldn't need to  
34 know what the scope and purpose was on the summons in order  
35 for him to refer that person for legal advice?---No, once  
36 the person asks for legal advice then that's our - that -  
37 that - that's our bit done as I see it. You know, we've  
38 done what we are duty bound to do.  
39  
40 They don't need - so is it the case - is it your evidence,  
41 sorry, that the union rep wouldn't need to know any other  
42 details about the summons before they referred that person  
43 for legal representation?---Well, not in - in my opinion,  
44 no. But if they've done that, then I can't answer. I don't  
45 know that but I can only say - - -  
46  
47 And I'm not asking you that, Mr Brown?---Yeah. No, I  
48 understand that but there's no way I would say that's okay  
49 for you to do that because as far as I see it it's not and  
50 - and I told you my experience, what I did so - - -  
51

1 Yes? And why - why do you - why do you say that you don't  
2 think it's okay to ask for any additional details once you  
3 know the CCC are involved?---Of the - - -  
4  
5 Of that individual member?---Because of what the CCC is. And  
6 it's a CCC inquiry and - and I'm - and this is a public  
7 inquiry. I just walked downstairs and I had the press taking  
8 photographs of me and I - I - I've assumed I was in it as a  
9 private entity. But it is what it is but, you know, once  
10 that gets out there and the press see that and it is - it's  
11 public knowledge then and that's what we can't stop. That's  
12 what we can't stop.  
13  
14 If you had been made aware that other people involved in an  
15 incident had been summonsed by the CCC, do you think it would  
16 be okay to disclose the fact that they had been summonsed to  
17 another member who hadn't been  
18 summonsed?---No.  
19  
20 And why not?---Because of the confidentiality thing. It's  
21 just - it's - it's just me. It's just the way I do things.  
22  
23 Okay. And if you were to find out that another union rep,  
24 say, had disclosed that sort of information, that being that  
25 someone else, other members, had been summonsed to the CCC  
26 and they had disclosed that fact to another member who may  
27 not have been summonsed by the CCC, what would be your  
28 opinion on that? What should be - how should that officer  
29 be dealt with?---Well - well, I would counsel them and say  
30 you need to err on the side of caution with these things.  
31  
32 And why would it be your advice to that person that they  
33 would need to err on the side of caution with these things?--  
34 --The simple fact that CCC things are supposed to be  
35 confidential.  
36  
37 Yes? Any other reasons why you wouldn't disclose that  
38 information?---Not that I can think of, no.  
39  
40 What about the integrity of the CCC's investigation,  
41 interfering with that process?---Well, that - that's why I  
42 said the confidentiality should - should remain.  
43  
44 Are you aware, Mr Brown, that there is a - on some summonses  
45 that the Commission serves that there is what they call a  
46 section 99 notation on those  
47 summonses - - -?---Yes.  
48  
49 - - - preventing the further disclosure of any  
50 information - - -?---Yes.  
51

1 - - - other than to a lawyer? You're aware of that?---Yes.

2

3 Okay. And what's your understanding of the effect of that  
4 99 notation on, for example, a union rep who hasn't been  
5 served with the summons but a member has been served with  
6 that, with a summons containing one of those notations?  
7 What's your understanding of the obligations it then puts on  
8 the union rep who becomes aware of that summons?---Well -  
9 well, until I was served my summons I wasn't aware of the  
10 section 99 part of the summons. I was not aware of that and  
11 I think that it wasn't general knowledge what the section 99  
12 is until you actually read it. And once you read what it  
13 says then you comply with what it says, obviously.

14

15 Right. But prior to you being served with your summons, was  
16 it still your understanding though that if you became aware  
17 that a member had been served with a summons that you  
18 shouldn't disclose that fact to somebody else?---Well, if I  
19 knew that the section 99 existed, yes. But I've always -  
20 always said to people with the CCC stuff that it should be  
21 treated with discretion, so. But until the section 99 stuff,  
22 you actually read it and you see the implications of it and  
23 that's when - and I think people would start to comply with  
24 that now they fully realise, but I think you need to be woken  
25 up to the fact that it does exist.

26

27 So prior to you being served with your summons to attend  
28 today, what's the advice that you've given people who have  
29 come to the union and been served - sorry, and said that  
30 they've been served with a summons to attend the  
31 CCC?---I've only had one person come to me and that's the  
32 one I referred to Paul Ledingham to refer to the lawyer.

33

34 Okay. And was it your understanding that you could still  
35 have dealings with that person?---Well, I didn't discuss  
36 anything with that person and haven't since.

37

38 Okay. So you may not have discussed anything further with  
39 them but what's your understanding of whether you can still  
40 maintain contact with that person once they've been served  
41 with a summons?---Well, if I know the person there's not -  
42 nothing to me to stop contact with the person, as long as I  
43 don't discuss any of these issues, so - - -

44

45 Right?---I would think it would be appropriate for me to  
46 keep up - if it was a friend or an acquaintance, there's no  
47 reason why the CCC should stop me being a friend with  
48 someone. So yeah, I would converse with them, but as regards  
49 to the - the content, (indistinct), no I wouldn't do that.

50

1 And what about if the person, the member, wasn't a friend,  
2 they were just a member, and you knew them only as a member,  
3 once they had been served with a summons, would - is it your  
4 opinion as a union rep that you would still be able to be a  
5 contact or, say, a support person for that particular  
6 member?---As long as the issue wasn't discussed, or anything  
7 to do with the CCC being discussed, it wouldn't be  
8 inappropriate, I don't think.

9  
10 Because the Commission has heard evidence earlier today,  
11 Mr Brown, that indicated that it was one person's view that  
12 - from the union - that if, as soon as the union rep was  
13 made aware that a member had been served with a summons from  
14 the CCC, then the union should back away and have nothing  
15 further to do with it, once they've referred them for legal  
16 advice?---And so they should. If it's - if it's the CCC,  
17 the subject of CCC stuff, but if - if there's other  
18 industrial issues that obviously need to be resolved, then  
19 it would be appropriate - still okay to deal with that.

20  
21 Right?---So - - -

22  
23 Okay. Mr Brown, I want to show you some exhibits, and before  
24 I do, I just want to explain the context around these  
25 exhibits. So the context around the exhibits I'll be showing  
26 you shortly is that you and others from the union, or the  
27 Commission understand that you and others from the union had  
28 previously met with a number of individuals who had been  
29 stood down in August of this year, following a suspected  
30 assault of a prisoner by a prison officer. And further,  
31 there was a suspicion that those officers then covered up  
32 the involvement of one particular prison officer, and  
33 covered up the actual events around what occurred back in  
34 November 2018.

35  
36 Can I have 0235-2^ please.

37  
38 0235-2^

39  
40 Mr Brown, you will hear some audio and you'll also see a  
41 document on the screen in front of you.

42  
43 START TELEPHONE INTERCEPT

44  
45 Part conversation from 11:12:11 to 11:12:39

46  
47 BROWN: I reckon the worst thing that can happen really

48  
49 [REDACTED]: Yeah.

50



1 BROWN: is they'll probably dismiss you is the worst thing,  
2 the worst thing. But that's down the track mate

3  
4 [REDACTED]: Yep.

5  
6 BROWN: we need to deal with things as they come up one by  
7 one.

8  
9 [REDACTED]: Okay (indistinct).

10  
11 BROWN: I'll give you my mobile, just ring me and we'll- but  
12 don't please, [REDACTED] don't tell people you're ringing me.

13  
14 [REDACTED]: A hundred per cent.

15  
16 BROWN: Because if it does go to the others the other mob  
17 triple C, you know, they'll be checking stuff, so

18  
19 [REDACTED]: yeah.

20  
21 BROWN: ringing me for support, basically, alright?

22  
23 END TELEPHONE INTERCEPT

24  
25 **PANTANO, MS:** This is a portion of a call between yourself  
26 and another individual on 20 August this year, and you've  
27 said to him, "Don't tell people you're ringing me". Why?--  
28 --Because - so that it would remain confidential between the  
29 two of us.

30  
31 Why? Why did it need to remain confidential?---Because I  
32 wouldn't discuss his incident with anybody else.

33  
34 Pardon?---Because I wouldn't discuss his incident with  
35 anybody else, just don't tell people you're ringing me.

36  
37 And why wouldn't you discuss - sorry, why wouldn't you  
38 discuss - did you say "his incident" or "this incident"?---  
39 At the time I can't recall, I just said - - -

40  
41 No, no, no, your evidence just now, you said, "I wouldn't  
42 discuss" - I didn't hear whether you said "his incident with  
43 anyone else," or "this incident with anyone else". What was  
44 the evidence you just gave?---I said, "I'll give you my  
45 mobile. Ring me, but don't let other people know you're  
46 ringing me," so I would just be dealing with you, and no one  
47 else - that's what was the inference there.

48  
49 But why wouldn't he be able to let other people know that  
50 he's speaking with you?---Well, that was to stop him speaking

1 to other people, to tell them. "Don't tell other people  
2 you're ringing me".

3  
4 But why? Why - why couldn't he tell other people that he's  
5 speaking to you as a union rep?---Because I was dealing with  
6 him, and him only.

7  
8 Right?---And that's what I said there. There's no other  
9 inference in it, I just said, "Make sure - don't tell people  
10 you're ringing me," so I'll deal with it for you.

11  
12 Yes, I know that's what you - - -?---Because, otherwise, if  
13 there are other people involved, I'm going to get phone calls  
14 from everyone, so - - -

15  
16 And what would be the problem with that?---Well, because  
17 then it starts to be conflict stuff, you've got all the other  
18 people starting to tell me the same thing.

19  
20 At the day that this phone call, 28 August, the Commission  
21 is aware that yourself and Mr Smith had already met with  
22 several individuals who were involved in this alleged assault  
23 and cover-up, so you had already met with various individuals  
24 at different times?---But can I just say - when you say "the  
25 assault and cover-up" - - -

26  
27 Alleged assault and cover-up, yes?---And that's the bit that  
28 confuses me, because there were conflicting stories that  
29 day, and Mr Smith and I discussed that, the varied facts and  
30 we said, well, it will just pan itself out, and that's  
31 exactly what it did do. But Mr [REDACTED] wasn't travelling very  
32 well at the time. He was - I did have subsequent phone calls  
33 from him where he was - sounded very distressed, and I did  
34 say to him, "You need to contact staff support people"  
35 (indistinct).

36  
37 All right, but what I'm interested in is why Mr [REDACTED], why  
38 you were telling Mr [REDACTED], that he shouldn't tell other  
39 people that he's ringing you?---Because I didn't want to get  
40 involved with all the other people in the same incident.

41  
42 Which you already had, because you had already met with them  
43 all?---Yeah, but I didn't tell them to ring me. I didn't  
44 have any other further conversation with them. My  
45 conversation with them was at the office and it finished at  
46 the office. I didn't really want to get involved with all  
47 - the whole party of them, so I just said to [REDACTED], "Well,  
48 just call me, but don't tell the others you're calling me".  
49 That was the inference in why I said that.

50

1 Because if it goes to the others, the other mob, you know,  
2 CCC, you know, they'll be checking stuff  
3  
4 ?---Yeah.  
5  
6 So ringing me for support, basically, all right  
7  
8 ?---Yeah.  
9  
10 What did you mean by that?---Well, if he ring - because I  
11 know he wasn't travelling well, and if needs to have a  
12 conversation, just call me.  
13  
14 Yes, but at line 12:  
15  
16 Because if it does go to the others, the other mob, CCC, you  
17 know, they'll be checking stuff  
18  
19 ?---Yeah.  
20  
21 What did you mean by that?---Well, because that's what does  
22 happen.  
23  
24 What - what happens?---Well, stuff gets checked.  
25  
26 What stuff gets checked?---Well, I don't know. I don't know  
27 what you're trying to read into that, so - - -  
28  
29 I'm asking you to tell me what you meant, because you're the  
30 one who said it?---Well, I just said, because if it goes to  
31 the others, the CCC, you know, they'll be checking stuff,  
32 so - - -  
33  
34 What were you implying was going to be checked?---They were  
35 checking reports, obviously.  
36  
37 Checking what reports?---Well, the reports from the alleged  
38 incident.  
39  
40 Can I have 0234-1^ please.  
41  
42 0234-1^  
43  
44 It's another call - - -  
45  
46 START TELEPHONE INTERCEPT  
47  
48 Part conversation from 15:59:05 to 15:59:39  
49  
50 BROWN: Did Paul give you the lawyer's number?  
51

1 [REDACTED] [REDACTED]: Ah no cause they haven't contacted me yet  
2 (indistinct).  
3  
4 BROWN: Ah right, okay, alright.  
5  
6 [REDACTED] [REDACTED]: Yeah, so. But that's why I rang you cause I  
7 kind of gather that once they  
8 BROWN: (background noise)  
9  
10 [REDACTED] [REDACTED]: contact me I'm not gonna be able to contact  
11 you so.  
12  
13 BROWN: Yeah, well. (dog barking and female talking in  
14 background). That's right, that's right, yeah it will go  
15 through the lawyer  
16  
17 [REDACTED]: Yep.  
18  
19 BROWN: but as you said, you can still use me as a support  
20 person or whatever, so.  
21  
22 [REDACTED]: Yeah, yeah.  
23  
24 BROWN: So.  
25  
26 [REDACTED]: Uhm, yeah, yeah yeah just.  
27  
28 BROWN: You're not officially supposed to discuss it but we  
29 can always meet for a cup of coffee somewhere.  
30  
31 [REDACTED]: Yeah, yeah, yeah.  
32  
33 END TELEPHONE INTERCEPT  
34  
35 If you weren't supposed to be having contact with this  
36 individual once he had been contacted by the CCC, why are  
37 you advising him that you could still catch up for a coffee?--  
38 --I don't think he had been by then, had he.  
39  
40 No, he hadn't?---No.  
41  
42 But you said, "Once you do" - you say at line 15:  
43  
44 You're not officially supposed to discuss it, but we can  
45 always meet for a cup of coffee somewhere  
46  
47 That's right. So we're not supposed to discuss it, but we  
48 can have a cup of coffee and have a chat.  
49

1 Was he a friend of yours?---No, he doesn't work in my unit.  
2 I know him from work, as I know a hundred other officers in  
3 there.  
4  
5 Yes. Had you caught up with him socially before?---No,  
6 never. No, never, it's just that when he called me up, and  
7 he sounded a bit down on the phone, and I said, "If you want  
8 to catch up for a coffee, I'll have a cup of coffee with  
9 you. We can't discuss it, you're not officially supposed to  
10 discuss it," so - - -  
11  
12 Is that all you were suggesting then?---Absolutely.  
13  
14 Can I have 0234-2^  
15  
16 0234-2^  
17  
18 This is the same call but just a different portion.  
19  
20 START TELEPHONE INTERCEPT  
21  
22 Part conversation from 15:59:41 to 15:59:56  
23  
24 [REDACTED] [REDACTED]: Just cause Andy seemed really angry at me  
25 when he  
26  
27 BROWN: Yeah.  
28  
29 [REDACTED]: when I spoke to him before, but  
30  
31 BROWN: Yeah I think that when we said to you on Monday, you  
32 know tell us  
33  
34 [REDACTED]: Yeah yeah.  
35  
36 BROWN: it all because we're on your side and we are on your  
37 side [REDACTED]  
38  
39 [REDACTED]: Yeah a hundred per cent.  
40  
41 BROWN: you need to understand now.  
42  
43 [REDACTED]: A hundred per cent Brownny.  
44  
45 END TELEPHONE INTERCEPT  
46  
47 So you said that you're on his side?---Yeah.  
48  
49 What was the other side?---He was - there was the fact that  
50 when we spoke to the other individuals who were involved in  
51 it, as I said before there were conflicting stories, and

1 that made Andy Smith angry and myself angry that they had  
2 lied to us, so - - -

3

4 **THE ACTING COMMISSIONER:** That they had lied to you?---  
5 Pardon, sir?

6

7 You said you were angry because they had lied to you?---  
8 Well, not lied, but they'd come up with different - - -

9

10 No, just checking, because what you said was - - -?---We  
11 were angry that they had come up with - - -

12

13 - - - you were angry because they had lied to you. That was  
14 the evidence you gave?---We were angry that they gave us  
15 different stories. That was the anger, really, that - you  
16 know, if you're going to be honest with people, you need to  
17 - we are your union, we're trying to represent you, you need  
18 to be open and honest with us.

19

20 Well, what you said was, you were angry that they had lied,  
21 i.e. the people other than - the person you were speaking to  
22 in this call?---Well, the other people that were involved in  
23 this incident, sir, because we spoke to a few of them. They  
24 came to the union office for advice.

25

26 Mm?---And there conflicting stories.

27

28 You didn't say you were angry because you lied? Why did you  
29 assume that the other people had lied?---Because of the  
30 conflicting stories, sir.

31

32 Because of the conflicting stories, you assumed that they  
33 had lied? Is that what you're telling me?---Well, someone  
34 wasn't telling the truth, that's the way I looked at it,  
35 that someone somewhere was not telling us exactly what was  
36 going on, and that was the bit that made us both annoyed, I  
37 think.

38

39 **PANTANO, MS:** But - well, actually, this call seemed to  
40 indicate, at line 2, that Andy was angry at one person, that  
41 being the person in this call, that being the person the  
42 centre of this alleged assault?---Yeah.

43

44 Not angry at the others who allegedly came forward and  
45 allegedly told the truth about what actually happened?---I  
46 think where is there, Andy seemed very angry - I can't  
47 comment on Andy being angry, but I know after we finished  
48 the conversation, I wasn't very happy myself.

49

50 **THE ACTING COMMISSIONER:** Which conversation?

51

1 **PANTANO, MS:** After you finished what conversation?---  
2 Pardon, sir?  
3  
4 **THE ACTING COMMISSIONER:** We asked the same question.  
5  
6 **PANTANO, MS:** We asked the same question.  
7  
8 After what conversation were you angry?---We had spoken to  
9 [REDACTED] and then subsequently another couple of people came in  
10 and spoke to us.  
11  
12 Mm hmm?---And the stories were conflicting.  
13  
14 Mm hmm?---And I think we said to him, both at the same time,  
15 "You need to be truthful with us".  
16  
17 Mm hmm?---And that's why I think - I said Andy was angry -  
18 Andrew probably was angry at him, and I was a bit upset  
19 myself to think they were messing with us, because - you  
20 know, you need to be truthful with these things.  
21  
22 Who do you think had lied?---Well, I didn't know, because it  
23 wasn't for me to judge, it was just the conflicting stuff,  
24 (indistinct) we investigated to find the truth.  
25  
26 Who did you think was telling the correct story?---I couldn't  
27 form an opinion, because there was - all three different  
28 stories.  
29  
30 Yes, but the Commission is aware that several individuals,  
31 not just one, but several, had quite a different version  
32 than this individual that you're speaking to on the  
33 phone - - -?---Yes.  
34  
35 - - - and that his story was the one that differed the most?--  
36 --That was the one with the biggest holes in it, yeah,  
37 absolutely.  
38  
39 Yes, it was, and he was the one who was allegedly at the  
40 centre of it all, so why then, if his was the one who had  
41 the biggest holes in it - that was your evidence - why are  
42 you saying to him, "We are on your side"?---Because the  
43 unions support people. That's what we do. Disciplinary or  
44 not, we will support you.  
45  
46 You said earlier that you don't condone certain types  
47 of - - -?---I don't.  
48  
49 - - - behaviour?---No, I don't.  
50

1 Now - - -?---But they're still entitled to due process,  
2 which we provide.  
3  
4 Yes?---So that's why I say, "Yeah, we're on your side,"  
5 because we're providing you with what you need.  
6  
7 How could you be on his side as well as others involved in  
8 this incident who had conflicting reports? How were you  
9 able to de-conflict and adequately represent two - or more  
10 than two - conflicting versions of stories? How were you  
11 able to do that?---I wasn't because we referred them to legal  
12 - to the legal team. We didn't deal with - didn't deal with  
13 it any further. I don't think Andy Smith dealt with it any  
14 further. It was all dealt with by the legal people, and the  
15 inquiry subsequently took place.  
16  
17 If you thought there were so many holes in his story, why  
18 are you reassuring him that you're still on his side?---  
19 We're still supporting him. If there is holes in his story,  
20 they'll be exposed anyway. The investigation will come out  
21 with that, but I just need to let the bloke know - he wasn't  
22 travelling very well, for sure, and I just said to him,  
23 "We're on your side, don't worry. We're on your side".  
24 That's what we're supposed to do for every member.  
25  
26 Even where you think they're lying?---It's not for me to  
27 determine if I think they're lying. It's for somebody else  
28 to make that decision. I'm not an investigator, I'm just a  
29 prison officer.  
30  
31 No, but you said that you won't stand by - you don't like  
32 corrupt officers of condone certain behaviour?---No, I  
33 don't. No, I don't.  
34  
35 So you will still stand by an officer you - - -?---No, no,  
36 if it was proven that there was misconduct committed, I  
37 wouldn't stand by, I wouldn't condone that.  
38  
39 But what about prior to being proven, where you've got other  
40 members coming to you and telling you a very different story,  
41 which the Commission knows went on?---Yeah.  
42  
43 The Commission is aware that other members came to you and  
44 Mr Smith and gave you a very different version - - -?---Yes,  
45 they did.  
46  
47 - - - than what this individual did?---Yes, they did, but we  
48 supported those people, and we supported this one, because  
49 it was the same incident. We had to be seen to be supporting  
50 - we can't be the judge and jury of the members, you have to



1 support each member individually to the best of your ability.  
2 And that's what the union should do.

3  
4 **THE ACTING COMMISSIONER:** You gave evidence that there were  
5 occasions on which a member had come to you and you had  
6 advised that member to resign because the case against them,  
7 presumably, was overwhelming. Why didn't you offer similar  
8 sort of advice to the person in the phone call here?---I  
9 think that the advice that I was giving people in those days,  
10 sir, was prior to the Prisons Act changing, it was prior to,  
11 I think, 16 - 17, the Act was changed, and the disciplinary  
12 process came then under the Public Sector Management Act.

13  
14 Right?---So I would give advice to people that I was  
15 representing - if I was going the advocacy for them, I would  
16 give them advice.

17  
18 And so, because of the change in the legislation, you felt  
19 you no longer had that duty to give frank advice?---Well, I  
20 haven't got that - I haven't got that responsibility anymore,  
21 because it's changed.

22  
23 Ms Pantano?

24  
25 **THE WITNESS:** But we still refer members to legal people  
26 when there's - an investigation is being carried out. That's  
27 what we do.

28  
29 **PANTANO, MS:** And so is it your evidence, Mr Brown, that  
30 despite being made aware by other members that somebody  
31 wasn't telling the truth in their version, and that that  
32 person likely was the person in this conversation, you were  
33 still willing to stand by them?---Until such things had been  
34 proven, of course.

35  
36 Even in the face of evidence from multiple other people that  
37 this individual was lying, you were still happy to stand by  
38 him?---Well, I don't know about multiple. I only spoke to  
39 two or three, I think.

40  
41 Yes, so two or three versus one? You were still happy to  
42 stand by him?---It's not a matter of standing by him. It's  
43 what the union is bound to do. It's not me personally  
44 standing by him, it's what the union is supposed to do, and  
45 that is to represent the members to the best of their  
46 ability, so that would all come out eventually, all the truth  
47 would come out, and then obviously the legal system would  
48 start. But at that time, we are duty bound to support every  
49 member we can if they're in trouble, and that's what we do.

1 Did you advise this individual at any point that he needed  
2 to come forward and tell the truth?---No.  
3  
4 Why?---Because I said to him the first morning, the meeting,  
5 the first meeting, I said, "Tell us the truth".  
6  
7 Right?---That's what I said to him.  
8  
9 And then you met with individuals after you initially met  
10 with him - - -?---Said the same to them, "Tell me the truth".  
11  
12 Who told you a different story?---Absolutely.  
13  
14 Implicated this individual in some other behaviour? So why  
15 then, in your subsequent conversations with this individual,  
16 did you not tell him to come forward and tell the truth?---  
17 Because it would have breached the other people's  
18 confidentiality. If I had gone to him and said, "The others  
19 have said you've done this," that's not my role to do that,  
20 to tell you the truth, and I'm not the advocate and the judge  
21 for him anymore, that needs to go through the process. The  
22 investigation will discover all that stuff.  
23  
24 Just on the point of confidentiality, I want to take you to  
25 another exhibit - 0210-1 please.  
26  
27 0210-1^  
28  
29 START TELEPHONE INTERCEPT  
30  
31 Part conversation 16:51:03 to 16:51:28  
32  
33 BROWN: I mean, from what I can make out the triple C have  
34 made contact with people that weren't even on duty that day.  
35  
36 [REDACTED]: They weren't  
37  
38 BROWN: So.  
39  
40 [REDACTED]: even on duty?  
41  
42 BROWN: They weren't even on duty that day. So. So I don't  
43 get it, I don't know whether they're trying to paint a  
44 picture of the unit or I, I just don't see what they're  
45 trying to do. Me and Andy can't, we can't get it. You know  
46 we're trying to think well normally they just do this, this  
47 and this but this thing's fuckin' different for some reason.  
48  
49 END TELEPHONE INTERCEPT  
50

1   **PANTANO, MS:**           So you were just talking about  
2   confidentiality - - -?---Yeah.  
3  
4   - - - and you didn't want to breach anybody else's  
5   confidentiality that they had told you a different story, so  
6   why are you telling him that the CCC have made contact with  
7   people that weren't even on duty that day?---With people?  
8  
9   Mm?---That's not - there's no names there.  
10  
11   No?---There's no confidentiality - - -  
12  
13   No. But the next call there is, Mr Brown. I'll play it for  
14   you.  
15  
16   0210-2?  
17  
18   0210-2^  
19  
20   START TELEPHONE INTERCEPT:  
21  
22   Part conversation 16:59:25 to 17:00:49  
23  
24   BROWN: We've had a couple more contact us for the triple C  
25   stuff.  
26  
27   ██████████: Yeah, yeah.  
28  
29   BROWN: So, I'll, gotta keep it to yourself and do you know  
30   who it is? Do you know who's been contacted?  
31  
32   ██████████: Nuh.  
33  
34   BROWN: Well ██████████ has been contacted.  
35  
36   ██████████: Oh yeah.  
37  
38   BROWN: And ██████████.  
39  
40   ██████████: ████████?  
41  
42   BROWN: Yeah but they're not, they're, they're not asking  
43   them about any of the incident, they're just, they just want  
44   to interview 'em I think.  
45  
46   ██████████: Oh Jesus.  
47  
48   BROWN: I think they're just tryin' to get a feel about the  
49   unit functions, you know.  
50  
51   ██████████: Yeah.

1  
2 BROWN: So but we put them in contact with legal people as  
3 well.  
4  
5 [REDACTED]: Yeah.  
6  
7 BROWN: So 'cos when the triple C like on the peripheral  
8 stuff, there's legal, like a Legal Aid people you can use  
9 for that.  
10  
11 [REDACTED]: Yeah.  
12  
13 BROWN: 'Cos they're not involved in it, they're on the  
14 periphery. So we use the Legal Aid people for that.  
15  
16 [REDACTED]: Yeah.  
17  
18 BROWN: Oh so, I think, I think today they both got the  
19 numbers of it. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]  
20 [REDACTED].  
21  
22 [REDACTED] [REDACTED]: Yeah he just [REDACTED] [REDACTED] [REDACTED] [REDACTED]. He, he  
23 had  
24  
25 BROWN: Yeah so he  
26  
27 [REDACTED]: [REDACTED]  
28  
29 BROWN: Yeah.  
30  
31 [REDACTED]: had when this thing happened.  
32  
33 BROWN: Yeah well he just [REDACTED].  
34  
35 [REDACTED]: Yeah.  
36  
37 BROWN: So yeah he was a bit concerned. [REDACTED] [REDACTED] was  
38 'cos I said listen, don't worry about it, we'll get legal  
39 people onto it, you know, nothing can be done at the moment,  
40 just, just see where they're coming from. You know.  
41  
42 [REDACTED]: Yeah.  
43  
44 BROWN: So but keep that to yourself [REDACTED] for God's sake,  
45 keep it to yourself.  
46  
47 [REDACTED]: Hundred percent.  
48  
49 END TELEPHONE INTERCEPT.  
50

1 **PANTANO, MS:** You've talked at length about confidentiality  
2 and when I played you the first part of that call you said  
3 didn't name any names?---Yeah.  
4  
5 I wouldn't even say - in your earlier answers you said that  
6 you wouldn't tell Mr - this individual to come forward and  
7 to tell the truth because you wouldn't want to give away  
8 what other members had told you. Why did you tell him who  
9 had been summonsed by the CCC?---Because I knew those people  
10 were not involved in the incident.  
11  
12 How does that make a difference?---Well, I don't know. But  
13 I know those people weren't involved in the incident and  
14 that's why I disclosed those names, cos I didn't think it  
15 was anything to do with what - the incident he was involved  
16 in.  
17  
18 How did you know for certain that they were not involved in  
19 the incident?---Because they weren't the ones that came to  
20 us for advice in the union office.  
21  
22 Right?---Neither of them.  
23  
24 But how do you know that they may not have had some  
25 involvement at some point?---Well, because one was in  
26 hospital having an operation and the other bloke doesn't -  
27 didn't hardly work in that unit so I wouldn't think he'd  
28 have been there anyway.  
29  
30 Is that how you justified the disclosure?---As I said I  
31 thought it was a thing into - an investigation into Unit 1  
32 for some reason, so.  
33  
34 Were you authorised to disclose those people's names?---No,  
35 but I'd not been told that I couldn't disclose those names.  
36  
37 So why at the end of that portion of that call:  
38  
39 So but keep that to yourself, [REDACTED]. For God's sake, keep  
40 it to yourself  
41  
42 ?---That's right.  
43  
44 Why?---It's just to maintain the confidentiality between us  
45 two.  
46  
47 What about Mr [REDACTED] confidentiality? What about  
48 Mr [REDACTED] confidentiality?---Mr [REDACTED] and Mr [REDACTED] had  
49 both been in contact with me and I referred them on.  
50

1 Right. But where was their confidentiality in you not  
2 disclosing to other people - - -?---Yeah, you're probably  
3 right. You're probably right.  
4  
5 I'm probably right? In what?---In - in me disclosing their  
6 confidentiality. I broke the confidentiality of it.  
7  
8 I know in fact you did disclose it because we just heard  
9 that you disclosed it, but was that okay for you to do?---  
10 Well, you do different things at different times. I don't  
11 think it was - there was no intent in doing that.  
12  
13 What was your intent?---Because - well, there was no intent.  
14  
15 Well, why did you disclose it?---Because those people had  
16 just contacted me that day, I think, in regards to it.  
17  
18 Right. So why did you disclose their names?---I don't know.  
19 I really can't answer that.  
20  
21 Well, take your time?---Well, it was - well, I'll just say  
22 it. I don't know. It was foolish of me to have done that.  
23  
24 Mr Brown, you're the president of the union. Members contact  
25 the union, including yourself, because they - they entrust  
26 you with certain information by virtue of your role as  
27 president and you have then gone and breached their  
28 confidentiality by disclosing the fact that they've been  
29 summonsed to the CCC. Did you have their permission to  
30 disclose that information?---Well, I just said to you it was  
31 a stupid thing to do.  
32  
33 Did you have their permission to disclose that information?--  
34 --No.  
35  
36 Right?---As I said, it was a stupid thing to do.  
37  
38 How does that align with your obligations to maintain the  
39 confidentiality of your members, Mr Brown?---Well, it aligns  
40 pretty well, I think. I don't see where there's a conflict  
41 with it.  
42  
43 Sorry, you don't see what?---I don't think that it stops me  
44 being confidential with my members.  
45  
46 What doesn't stop you from being confidential with your  
47 members?---Well, your question does it align with it. So  
48 probably not from doing that, no.  
49  
50 Have you done that before?---Not that I'm aware of.  
51

1 Well, have you or haven't you disclosed confidential  
2 information about your members to other members?---Not that  
3 I'm aware of.  
4  
5 Would you be aware if you had disclosed other members'  
6 confidential details to other members?---I may be. I said  
7 I've not that I'm aware of, so.  
8  
9 Why were you telling this individual to keep this information  
10 to himself?---So he wouldn't discuss it with other people,  
11 I suppose.  
12  
13 Why, though? Why wouldn't he, shouldn't he? Why were you  
14 telling him that?---Well, because really I shouldn't have  
15 told him it in the first place probably. So I'm asking him  
16 not to breach my confidentiality.  
17  
18 Pardon?---Although I breached it with those other two people.  
19 I fully appreciate that.  
20  
21 What did Mr [REDACTED] tell you?---In regards to?  
22  
23 Being summonsed by the CCC?---You've just told me. He said  
24 he received a summons to appear before the CCC.  
25  
26 Anything else?---Not that I'm aware of. Not that I can  
27 recall.  
28  
29 Did he tell you why?---No.  
30  
31 Did he tell you about what was contained within his scope  
32 and purpose on the summons?---No.  
33  
34 Are you sure about that?---I don't think he did. Not that  
35 I can recall. He may have done but I don't recall.  
36  
37 What about Mr [REDACTED]?---Mr [REDACTED]?  
38  
39 Did he tell you? Sorry, what did he tell you?---That he had  
40 received a summons to appear before the CCC.  
41  
42 Yes? Did he tell you why?---No.  
43  
44 You know that for certain?---Well, he seemed to say - I think  
45 Mr [REDACTED] said to me I've received a summons - summons  
46 from the CCC and I said, "Do you know what it's about?" and  
47 he said "Not sure". So I referred him to Paul Ledingham who  
48 did the normal stuff to refer him.  
49  
50 I'm finished with that call.  
51

1 Mr Brown, the Commission has got a wealth of information  
2 which all points to the union, including yourself, advising  
3 members in this instance that despite the fact that you  
4 personally were aware of differing versions within the report  
5 - sorry, differing versions with people's stories on this  
6 one incident that you advised them to stick with their  
7 reports. Did you give that advice?---I always advise people  
8 to stay with your - if you put a report in the report is  
9 supposed to be truthful and honest. You stick with your  
10 report.

11  
12 The context around this incident, though, is that you had  
13 two to three members - the Commission's information is more  
14 than that but we'll go with two to three members, that's  
15 your evidence - who came to you and told you personally of  
16 differing versions than what was contained in their report.  
17 Not that they couldn't remember or that their memory had  
18 faded, but that they remembered that the incident was  
19 different to what they had put in their reports. So what  
20 I'm asking you is in light of that was your advice to those  
21 members to still stick with their reports?---My advice would  
22 be to them to - well, of course. If they put a report in  
23 why - why would you change your report later? And if you  
24 put a report in - - -

25  
26 **THE ACTING COMMISSIONER:** Because it's not true?---I can't  
27 see why if - if you put a report in after an incident that's  
28 the report, unless you - unless you've found other stuff  
29 that you can add to that report

30  
31 **PANTANO, MS:** Or in this case where there was discussions  
32 and a calculated and deliberate attempt to put in reports  
33 that were not accurate, to cover up what actually happened?--  
34 --Why would you say - if that's your report you'd put in  
35 that's what - that's what needs to be investigated, that  
36 report and the facts on that report. And if there's several  
37 reports, you weigh up all the facts and then come to a  
38 determination.

39  
40 I'll - I'll ask you - - -?---But from the union view it's  
41 not really - from a union view it's not for me to say that's  
42 what you've got to do. You know? Well - - -

43  
44 Aren't they coming to you for advice, Mr Brown?---Well,  
45 they're coming to me saying that they need help legally and  
46 we just supply that legal advice. I - I - I'm not there to  
47 investigate the incident or to - or to pass judgment on them.  
48 That's not my role. My role is to give them the guidance of  
49 legal advice.

50  
51 You're to give members guidance on legal advice?---Yes.



1  
2 Are you a lawyer?---No. To - I don't mean on legal advice.  
3 To refer them for legal advice. To refer them.  
4  
5 So are you telling me the union's role is simply in this  
6 instance to hand-ball the matter off to a  
7 lawyer?---Exactly. Exactly. It's not the union's role to  
8 a determination of guilt or innocence.  
9  
10 And there is no - there's been no suggestion that that is  
11 the union's role but it's to provide guidance as you said.  
12 Now, you met with several of these individuals and what I'm  
13 putting to you, Mr Brown, is that even though - the  
14 Commission has information whereby even though you were made  
15 aware that there were differing versions of this one incident  
16 and that the details were different than what had been put  
17 in these members' incident reports, that your advice or  
18 guidance was, "Just stick with what you've written. Don't  
19 worry about what the real truth was. Don't worry about what  
20 really happened. Just stick with what you wrote in your  
21 report." Did that occur?---I did say to them stick by your  
22 report. Because there was two or three people in the room,  
23 I think. For me to make a judgment as to which one of those  
24 three - unless the other three were telling the lies, it  
25 wasn't for me to determine that. It was put your report in,  
26 submit your report and stick by your report. If there is  
27 discrepancies in that report, Professional Standards  
28 normally find those things.  
29  
30 The problem was, Mr Brown, there were virtually no  
31 discrepancies in these reports because they'd all got  
32 together and - - -?---I'd - - -  
33  
34 - - - decided what to write?---I'd never seen those reports.  
35 I didn't see them on that day.  
36  
37 And there's no suggestion that you did?---No.  
38  
39 The suggestion is and what I'm putting to you is that members  
40 came to see you at various different times and told you  
41 something different than what actually occurred that day.  
42 What was reported, rather, that day?---But as I said it's  
43 their versions of what took place that day. It's not for me  
44 to cast judgment on those versions. So if they'd all put  
45 their own reports in with their own version of what actually  
46 took place that's not for me to determine, as the union  
47 president, whether those reports are correct or incorrect  
48 because I wasn't at the incident. So all I can do is say to  
49 them if that's what you wrote and you believed that to be  
50 true at the time, you submit that incident.  
51

1 But what I'm putting to you, Mr Brown, is that's not what  
2 they came in and said. It's that several members came in  
3 and said we've got our reports that say A, B and C, but what  
4 actually happened is X, Y and Z?---They didn't come to me  
5 with their reports.

6

7 Okay. I'll start again. Mr Brown, the Commission is not  
8 suggesting that you have - saw the reports at the time or  
9 have even seen the reports since, so we'll make that clear?--  
10 --Yeah.

11

12 What I'm putting to you is that incident reports in relation  
13 to this incident in November 2018 said A, B and C and that  
14 several members came to the union and met with you and said  
15 my report says A, B and C but what actually happened is X,  
16 Y and Z and that your advice was don't worry about the X, Y  
17 and Z, stick with the A, B and C that's in your reports. Is  
18 that correct?---Well, it's right. Because if the majority  
19 of them reports all reflected the same, when someone came to  
20 peruse those reports they would see there's a common thread,  
21 that these three people are this way and this person is not.  
22 So that would be for them to determine. It's not for me to  
23 determine that, I'm afraid.

24

25 **THE ACTING COMMISSIONER:** So if one of your members came to  
26 you and said, "I made a report, it wasn't true," your advice  
27 would be, "Stick with your report"?---No, sir.

28

29 That seems to be what you're saying?---No. Because at the  
30 time they submitted their reports they never mentioned to me  
31 on that interview - - -

32

33 No, they come to you afterwards?---Yes.

34

35 After they've submitted the reports, some months later, they  
36 say, "Some months ago I submitted a report, it's not right,"  
37 the evidence you've been giving so far seems to suggest that  
38 your evidence would be that you'd tell them, "Stick with  
39 your reports"?---Yeah.

40

41 Even though they'd said that their report wasn't right?---I  
42 don't think their reports were - - -

43

44 Do I understand your position?---I don't think the reports  
45 were ever mentioned to me, sir. It was the actual incident  
46 and walking through the incident that was mentioned to me.  
47 I don't - I can't recall a conversation about reports. I  
48 can't recall that happening.

49

50 **PANTANO, MS:** Okay?---But if that would be the case, that  
51 they submitted a report, I would say if - if the reports are

1 pretty consistent and there's one that's not consistent,  
2 someone would pick that up. So regardless, if your report  
3 was true it was true. If it wasn't it wasn't.  
4  
5 Mr Brown, this incident is all around incident description  
6 reports. This is what this whole investigation came down  
7 to. So are you sitting there today telling me that you had  
8 no idea this had anything to do with any reports?---The  
9 summons I was given didn't mention anything about incident  
10 reports.  
11  
12 I appreciate that. But my questions that I'm asking you and  
13 I prefaced me showing you any exhibits with - I explained  
14 the context to you, being several officers came to see you  
15 in August of this year following stand-down notices and that  
16 they related to an incident or an alleged assault and cover-  
17 up that occurred back in November 2018. So I appreciate  
18 that your summons didn't say that but that's the context in  
19 which I'm asking you this set of questions?---Right.  
20  
21 Right. So perhaps we'll go to some TI and that might help  
22 to jog your memory.  
23  
24 Can I have 0171-1, please?  
25  
26 These are calls not between yourself but by others.  
27  
28 0171-1^  
29  
30 START TELEPHONE INTERCEPT:  
31  
32 Part conversation from 21:11:35 to 21:12:50  
33  
34 [REDACTED]: Just 'cos he tried to call me and I don't know what,  
35 do I tell him that we told them or, I don't know (laughs).  
36  
37 [REDACTED]: Nah.  
38  
39 BROWN: Just don't contact him like you guys aren't meant to  
40 speak aren't ya?  
41  
42 [REDACTED]: No but he's trying to call me, he like called me  
43 like three times.  
44  
45 [REDACTED]: Has he? He hasn't tried calling me three times.  
46  
47 [REDACTED]: (indistinct)  
48  
49 [REDACTED]: Doesn't matter if we tell, we just told him the truth  
50 because that's what he wanted to know.  
51

1 BAWDEN: Mm.  
2  
3 [REDACTED]: Mm.  
4  
5 [REDACTED]: (indistinct)  
6  
7 [REDACTED]: As far as, as far as [REDACTED] aware, we're saying what  
8 the report is.  
9  
10 BAWDEN: Mm.  
11  
12 [REDACTED]: Yeah okay. So you reckon just tell him that like  
13 yeah we told them but they ment, like they, but they said  
14 stick by your report and just, oh fuck I'm fucken over him  
15 man.  
16  
17 [REDACTED]: Yeah just say we  
18  
19 BAWDEN: Just stick to your report.  
20  
21 [REDACTED]: we told them what happened and they just said stick  
22 with our reports. That's all he needs to know. At the end of  
23 the day we're covering for him remember so he should be quite  
24 thankful that that's what we've done.  
25  
26 [REDACTED]: Yeah.  
27  
28 [REDACTED]: Don't stress over it, I'm not stressed after today.  
29  
30 [REDACTED]: No it's not that, I just don't want to deal with  
31 [REDACTED] being like ahh at me.  
32  
33 END TELEPHONE INTERCEPT.  
34  
35 **PANTANO, MS:** So now I appreciate your name's not mentioned  
36 in here, nor is the union. However, the Commission  
37 understands that this discussion occurred following a  
38 meeting between several members with you and Mr Smith and  
39 that at - if we can go to line 16 and 17 it said:  
40  
41 But they said, 'Stick by your report'.  
42  
43 And then if we can turn over to page 2 at line 21 it says:  
44  
45 We told 'em what happened and they just said stick with our  
46 reports, that's all he needs to know. At the end of the day  
47 we're covering for him remember, so he should be quite  
48 thankful that that's what we've done.  
49  
50 Now, the information that the Commission has is that this  
51 covering up was disclosed to you and Mr Smith and that

1 despite that your advice was, "Stick with your reports"?---  
2 And a cover-up wasn't discussed, suggested to me and  
3 Mr Smith. No one ever said there's a different version sort  
4 of to this, to my report.  
5  
6 No one said what, sorry?---No one said there's a different  
7 version or my report's wrong, I need to change my report.  
8 No one ever said that to me.  
9  
10 Can I have 0195-1^, please?  
11  
12 0195-1^  
13  
14 Again, not a call involving you, but you're referenced.  
15  
16 START TELEPHONE INTERCEPT  
17  
18 Part conversation 15:03:30 to 15:03:38  
19  
20 [REDACTED]: I don't know if Kenny and that told you if we  
21 stick to our reports and we stick together there's fuck all  
22 they can do to us.  
23  
24 [REDACTED]: Nothin' mate. Not a thing.  
25  
26 END TELEPHONE INTERCEPT  
27  
28 **PANTANO, MS:** Did you give that advice?---No. No. No.  
29  
30 Nothing remotely similar?---Nope. (Indistinct) before.  
31 Just say to people, stick to your reports. The truth will  
32 come out. It always does. And if people are not happy with  
33 their reports, they want to go and change them, why didn't  
34 these people go and change their reports? I can't tell  
35 people what to do with it.  
36  
37 No, but these are junior officers who have come to the union  
38 for guidance and for advice. And we've got more calls to  
39 play, Mr Brown, where the message is consistent. That the  
40 takeaway message from all of these officers, or many of these  
41 officers, was that the union said stick with your reports.  
42 And that was - the advice was given in the context of the  
43 union, you and Mr Smith, knowing that what was in those  
44 reports was potentially not accurate and not correct?---  
45 Potentially not accurate.  
46  
47 You had heard differing version?---Yeah, we'd heard there's  
48 different versions.  
49  
50 But despite that, you - the messages throughout a lot of  
51 these calls is that you still advised these officers.

1 Doesn't matter if there's a - if there's a difference between  
2 what actually happened and what's in your report. Just go  
3 with what's in your report?---It's not for me to determine.  
4 I just say to them, go to - go with your report. You put a  
5 report in, that's your report. That's all I say. That's  
6 your report. That's your report.  
7  
8 Perhaps now might be an appropriate time for a 15-minute  
9 adjournment.  
10  
11 **THE ACTING COMMISSIONER:** Certainly.  
12  
13 We'll adjourn for 15 minutes.  
14  
15 (THE WITNESS WITHDREW)  
16  
17 (Short Adjournment)  
18  
19 (TIMESTAMP) / 03.01.12 PM

1 BROWN, KENNETH RECALLED ON FORMER OATH AT 03.17 PM:

2

3 THE ACTING COMMISSIONER: Please be seated.

4

5 PANTANO, MS: So Mr Brown, I just want to confirm that you  
6 agree that your advice to the members, in relation to the  
7 November 2018 incident, was that they should stick to their  
8 reports?---Yes.

9

10 Okay. The flow-on effect of that, Mr Brown, is that that is  
11 in fact what these members attempted to do, was to stick  
12 with their reports, despite the fact that many of them knew  
13 and were aware that something else had actually occurred  
14 that day that wasn't described in their incident description  
15 reports, and that they appeared to be continuing on with an  
16 alleged cover-up.

17

18 If I can have 0175-9^ please.

19

20 0175-9^

21

22 A telephone call not involving yourself, but other parties.

23

24 START TELEPHONE INTERCEPT

25

26 Part conversation 13:27:35 to 13:28:16

27

28 [REDACTED]: 'Cos we got that [REDACTED] thing off our chest. That's the  
29 main thing that's basically been plaguing, plaguing us.

30

31 BROWN: Yeah I don't blame you for that, that would stress me  
32 out.

33

34 [REDACTED]: If the union weren't concerned about it then that  
35 doesn't concern me now. It takes the weight off my chest.

36

37 BROWN: Yeah.

38

39 [REDACTED]: Just that I was worried about that we were gonna go  
40 into the union and tell them the same story that we were  
41 rollin' with was, even though we told 'em and they didn't  
42 really care anyway 'cos they were just like no that's all  
43 good, I'm, I'm glad you told us but you're gonna roll with  
44 this anyway. They can't prove fuck all.

45

46 BROWN: Good.

47

48 [REDACTED]: Unless one of you fuckin' changes your story  
49 dramatically, they can't prove fuck all.

50

51 END TELEPHONE INTERCEPT

1  
2 **PANTANO, MS:** So the flow-on effect, the impact of that  
3 advice - - -?---Can I just state, that that never took place,  
4 that conversation.  
5  
6 What conversation?---Number 8.  
7  
8 What conversation didn't take place?---Well, where you were  
9 saying what the union said, that's not true.  
10  
11 What's not true?---They didn't really care anyway, because  
12 they were just like, "No, that's all good. I'm glad you  
13 told us. We're going to roll with that anyway".  
14  
15 What part of that is not true?---All of that bit. I don't  
16 recall - if that conversation took place, it certainly wasn't  
17 with me.  
18  
19 Well, where that certain individual in this call did meet  
20 with you?---Pardon.  
21  
22 The Commission is aware that individuals who are party to  
23 this call did in fact meet with you?---Meet with me?  
24  
25 Yes, at the union office?---They did meet with me, yes.  
26  
27 Yes?---But that conversation never took place. The context  
28 of that is not true.  
29  
30 How was it incorrect?---Well, because that's not - "We're  
31 going to roll with it anyway," they can't prove that bit.  
32 That's not the way we say that to people, but - - -  
33  
34 Well, you may not have said those exact words?---No. That's  
35 what I'm trying to say.  
36  
37 This individual's interpretation of what you and Mr Smith  
38 advised him, so granted it may not be your words, but it's  
39 his interpretation of what you told him?---Yeah, I think  
40 he's got a wrong interpretation. I don't think that was -  
41 that may have been taken - the way he said that, I don't  
42 know why he said it that way - but I think he may be telling  
43 a lie there, so - - -  
44  
45 Can I have 0192-3^ please.  
46  
47 0192-3^  
48  
49 START TELEPHONE INTERCEPT  
50  
51 Part conversation 18:37:03 to 18:37:26



1  
2 [REDACTED]: But what, what they're, he's trying to allege that  
3 fuckin' uhm [REDACTED] was the one that did it all to him.  
4  
5 POPE: What, assaulted him?  
6  
7 [REDACTED]: Yeah, assaulted him.  
8  
9 POPE: Yeah, uhm ah youse are all as long as you all stick to  
10 the same story  
11  
12 [REDACTED]: Yeah, that's  
13  
14 POPE: that is not what happened, he did not assault him, it  
15 all happened when he hit the ground.  
16  
17 [REDACTED]: And that's what the union's tellin' us to do as long  
18 as you say  
19  
20 POPE Is that what the story  
21  
22 [REDACTED]: as per my fuckin' report.  
23  
24 POPE: is that what the story, paperwork said?  
25  
26 END TELEPHONE INTERCEPT  
27  
28 **PANTANO, MS:** That was a little bit confusing when you hear  
29 the audio, but you can hear - sorry, you can read what's  
30 been said, and at line 10:  
31  
32 And that's what the union's telling us to do. As long as  
33 you say as per my fucking report.  
34  
35 So again, the message - this is a different call on a  
36 different day, but the message is consistent that what their  
37 take-away from the union is, is that you've just go to stick  
38 with what's in your report?---Because, obviously, there were  
39 conflicting reports, so the truth would have come out  
40 eventually. It would - - -  
41  
42 There weren't conflicting reports, Mr Brown?---Well, if  
43 they're all saying different - you said there were different  
44 stories, and [REDACTED] put a different story in, then there would  
45 be different stories, so - - -  
46  
47 The reports were very similar. What was different is what  
48 the members came and advised you and Mr Smith of what  
49 actually occurred?---But we've never seen those reports.  
50 I've never seen the reports.  
51

1 The Commission understands that, Mr Brown, but what the  
2 Commission also understands is that these members came to  
3 your office, the union's office, and said to you words to  
4 the effect of, "We've got reports that say one thing, but  
5 what actually happened was something different"?---I don't  
6 recall them saying that to me, that the report says one thing  
7 and I'm saying something different". I don't recall that  
8 ever being said.

9  
10 Mr Brown, the Commission has got a lot of evidence from  
11 various individuals - - -?---I don't know - with all due  
12 respect, I don't doubt that, but I - I can't recall that  
13 being said. I really can't.

14  
15 Can I have 0172-1^ please.

16  
17 0172-1^

18  
19 A different call, different day.

20  
21 START TELEPHONE INTERCEPT

22  
23 Part conversation from 21:13:34 to 21:14:28

24  
25 [REDACTED]: I don't wanna, I don't wanna lie anymore, I don't  
26 lie, I'm not a liar, like.

27  
28 [REDACTED]: We, we're not lying, we told 'em the truth today.

29  
30 [REDACTED]: Exactly (indistinct)

31  
32 [REDACTED]: I feel good after that.

33  
34 [REDACTED]: Yeah.

35  
36 [REDACTED]: If he wants to keep going with the lie it's gonna  
37 fuck us over. Oh, it won't actually 'cos we're rolling with  
38 the reports but he's just gonna make himself look like a  
39 dick to the union.

40  
41 [REDACTED]: Yeah.

42  
43 [REDACTED]: That's why I said to him he's probably not going to  
44 tell you the full truth which he didn't by the sounds of it.

45  
46 [REDACTED]: Yeah, by the sounds of it definitely.

47  
48 [REDACTED]: It's up to him what he tells them. We've told 'em the  
49 truth and we feel better for it.

50  
51 [REDACTED]: Yeah and they're on our side so.

1  
2 [REDACTED]: Exactly. I had no issue telling them. I would have an  
3 issue telling Professional Standards that same thing, they  
4 definitely wouldn't have it.

5  
6 [REDACTED]: Yeah, yep.

7  
8 [REDACTED]: Yeah 'cos they're out to try and take our jobs, the  
9 Union are trying to help us keep them.

10  
11 [REDACTED]: Yeah, that's it.

12  
13 [REDACTED]: Yeah.

14  
15 END TELEPHONE INTERCEPT

16  
17 **PANTANO, MS:** Again, Mr Brown, different call, one of the  
18 parties is the same as some of the other calls that I've  
19 played you, but again the message is very consistent, that  
20 they've told you the truth, but you're sticking with your  
21 reports anyway?---(Indistinct)3.25.33 run with the reports,  
22 but he's just going to make himself look like a dick to the  
23 union, so when we find out that he's liar, that's what he's  
24 intimating there.

25  
26 Yes, when - - -?---So - did it come out that he is lying -  
27 so - - -

28  
29 Yes, the union may find out that he's lying, but no one else  
30 would necessarily find that out?---No, I don't - - -

31  
32 I would have an issue telling Professional Standards that  
33 same thing, they definitely wouldn't have it, yeah, because  
34 they're out to try and take our jobs, the union are trying  
35 to help us keep them

36  
37 ?---Yeah. That's true.

38  
39 So the take-away is that these members feel very comfortable  
40 to come - or many members - feel comfortable coming to you  
41 at the union and telling the truth, because you're going to  
42 help keep their jobs, but they wouldn't tell Professional  
43 Standards the truth, because they're out to try and take our  
44 jobs, so what in your opinion do you think that you're doing  
45 differently than what Professional Standards are doing that  
46 you're going - you're able to help these members keep their  
47 jobs?---Well, I'm not the advocate for them. I don't know  
48 what took place that day. All I can do is based on what  
49 members tell me, so if they come to me and say, "I put a  
50 report in that's wrong," then they don't need to tell me,  
51 they should go to the administrators in the prison and say,

1 "I submitted a wrong report". That's not my role, so they  
2 need to go elsewhere with that. I'm not the judge of them.  
3  
4 No?---When I say to them, "If you put a report in," and I  
5 always say to them, and I've said before, be honest with  
6 your reports. If they come and say, "I put a false report  
7 in," - leave your report, there's conflicting reports,  
8 obviously with it, it will all come to the surface.  
9  
10 You keep saying "conflicting reports", Mr Brown, the reports  
11 were not that conflicting?---Well, as I said, I don't know,  
12 because I haven't seen the reports.  
13  
14 I appreciate that, but Mr Brown, the message is, there was  
15 reports done in relation to an incident that allegedly did  
16 not accurately reflect what happened. Five members got  
17 together, allegedly, came up with a version, put that version  
18 in their reports. They then got stood down, they've come to  
19 see you, and they've told you a different version - and I  
20 understand you haven't seen the reports, but the information  
21 that the Commission has is that several members told you and  
22 Mr Smith that what we've written in our reports is not right.  
23 What we've written in our reports is not actually what  
24 happened that day, and told you the actual version of what  
25 happened. That's what the information the Commission has,  
26 that's what's coming out of these telephone intercepts, is  
27 that these individuals came to you and told you what actually  
28 happened, and that that was different to what they had all  
29 written in their reports and that, despite you knowing that,  
30 you still advised them, "Stick with your reports anyway"?--  
31 -Because there were - because there were so many conflicting  
32 stories. We heard - I heard from three people in one session  
33 and one in the first one, so when we heard the different  
34 variations of it, I said, "Well, it's all going to come on  
35 top with the reports anyway," that's what I said to Andy  
36 Smith.  
37  
38 The only way, Mr Brown, that it would have been able to come  
39 out is if these members came forward and where honest and  
40 said what actually happened, because their reports did not,  
41 allegedly, accurately reflect what happened?---But why  
42 didn't they go the administrator of the prison? Why did  
43 they come to me, to the union, to Andy Smith?  
44  
45 Mr Brown, these members got stood down and, following the  
46 receipt of their stand-down notice, they came to their union  
47 for guidance - - -?---Yeah.  
48  
49 - - - and for advice?---Yeah.  
50

1 And what's coming through the telephone intercepts, the  
2 take-away message that these members got was that they needed  
3 to, despite the fact that their reports said something that  
4 was inaccurate, that their take-away message was from you,  
5 "We're going to stick with them anyway". Do you agree with  
6 that?---The take-away message from me was that the truth  
7 will out in the end.

8

9 Okay?---So if there's conflict, there's conflict.

10

11 I'm finished with that document.

12

13 Mr Brown, do you have an opinion as to whether or not you  
14 have any - or the union has any impact on the disciplinary  
15 process within PSD?---Do we have any impact?

16

17 In the advice you give your members?---No. No.

18

19 None? You don't think that any advice that you give your  
20 members has any impact on the disciplinary process within  
21 PSD?---How do you mean any advice we give our members - in  
22 regards to?

23

24 Do you think that advice that you give your members has any  
25 flow-on impact - and I'm just asking your opinion - has any  
26 flow-on impact with PSD disciplinary processes?---It may. I  
27 can't answer that for sure, but it may.

28

29 Obviously, you're not going to answer definitely, but I'm  
30 just asking your opinion, whether you see the advice that  
31 you give your members having any impact on PSD's subsequent  
32 disciplinary processes?---I suppose it could be seen to be,  
33 yes.

34

35 In what way?---Because we give advice to members who are  
36 under disciplinary process. That's what we do, we give them  
37 advice.

38

39 So if advice was being given to members involved in a  
40 disciplinary process with PSD, and that advice was to not  
41 tell the truth, do you see that that would have an impact on  
42 PSD's disciplinary process?---I've never advised anyone not  
43 to tell the truth.

44

45 And I'm not saying in that question that you have, I'm asking  
46 you if advice was given to members to not tell the truth by  
47 the union, do you see how that could have an impact on PSD's  
48 disciplinary processes?---Yeah, they could, possibly.

49

1 In your opinion, do you think the union are doing anything  
2 that may erode members' confidence in PSD's disciplinary  
3 processes?---No.

4  
5 Mr Brown, what's your awareness of the culture within - or  
6 amongst prison officers when it comes to standing by fellow  
7 prison officers, even in the face of wrongdoing?---I think  
8 prison officers stand together because the environment we  
9 work in is a peculiar environment, it's unique, but I think  
10 we rule by consent - there were probably 90 officers in Hakea  
11 Prison and 850-odd prisoners at one time, so the thing - it  
12 would seem that it's pretty imperative that you work as a  
13 team in a prison, just for cohesiveness and because of the  
14 nature of the beast that we deal with. Things happen  
15 quickly, people respond quickly, so I think there is a - if  
16 there's a culture in there, it's a culture of team-wise,  
17 that each unit looks after each other, and then you get a  
18 response. You know you're going to get response from other  
19 people, because things happen quickly. There's two ways you  
20 go to work in a prison. You go to work in car and go home  
21 in your car, or you go to work in your car and you go home  
22 in an ambulance. So it's a matter of surviving, really, in  
23 some respects where it goes on like that, so when things do  
24 happen, they escalate quickly. People get injured very  
25 quickly, so people need - you need to know people will be  
26 around you to respond. You can walk down the wing with 50  
27 prisoners with it, and be down the far end. If they close  
28 ranks on me, I'm trapped down that wing. So we're sufficient  
29 - always make sure the staff in the prisons - the department  
30 have just put an overtime cap in, in prisons, so the  
31 administration still wants you to carry out the full duties  
32 with - if you were due to get six staff, you've probably got  
33 four or five - or seven, you've probably got five - and the  
34 admin still want the same duties carried out, the same  
35 searches carried out, the same urinalysis tests carried out,  
36 so there's a - there's a dependency on staff to get it done,  
37 so - and I think that even that makes it even more of a  
38 camaraderie with each other, that you're all trying to work  
39 under stressful conditions, and act under stressful  
40 conditions.

41  
42 I can appreciate the camaraderie that occurs, and there's a  
43 place for it, but what I - my question was around the  
44 camaraderie or the standing by fellow officers, even in the  
45 fact of an officer, or officers having done the wrong thing,  
46 what's your awareness of the culture around that?---I'm not  
47 aware that there of people supporting people doing the wrong  
48 thing. I'm not sure there is. As I said before, people  
49 make mistakes, things happen quickly, and for me it's making  
50 sure we learn from that mistake and try not to repeat it,  
51 but it happens, people do make mistakes.

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Mr Brown, the Commission is aware of information that officers won't have each other's back and may make other officers' lives difficult at work if an officer stands up against potential wrongdoing. Are you aware of a culture around that?---No. No, I've never witnessed that myself.

And I've put some of these to you in - I guess, throughout my questioning this afternoon, but in fairness, I want to put these questions to you, and the reason for that is because the Commission has information indicating that some of these things may have occurred, and so I want to put them to you to give you an opportunity to respond. The Commission has information suggesting that in relation to this incident, union reps have advised officers to stick with their reports, even when the actual events are different than what has been reported. What do you - - ?---They were advised to stick to their reports. I wasn't aware of the conflict of things that had been reported. That's all I can say on it.

The Commission has information suggesting that in relation to this incident union reps advised officers that Professional Standards can't prove anything unless someone rolls, or changes their story dramatically. What do you have to say about that?---I don't recall that conversation.

And that union reps have advised that your reports are a sword, and you live and die by it?---I've never used that terminology myself.

That if you stick to your reports and officers stick together, there is nothing anyone can do to them?---That - that may have been said, but you're trying to reassure members, so - if you know there's discrepancies yourself, or think one is going to come out, it's going to come out. Remember, these people, they're under stress, they're under stress when they come to us.

Is it the case, Mr Brown, that the union's focus when there is an investigation is to advise members to offer no additional or conflicting information beyond what they've said in their reports?---No.

Is the union's - or is one of the union's focus on keeping officers in their jobs, rather than encouraging members to help Professional Standards to get to the truth?---I can't answer that. I don't - can't see the - the tie up with the - the question.

Sorry?---I can't see where the question is linked with Professional Standards. Do we encourage our members to - to

1 cooperate with Professional Standards? Of course we do. Of  
2 course we do. We've got a slight problem with Professional  
3 Standards with some of the - the - some of the practice  
4 they've been carrying out of late, which is a - which caused  
5 animosity with members.

6  
7 What's some of those practices?---Well, there was a search  
8 in Albany going back probably a year now, where two females  
9 were stripped naked at the front gate of the prison. One in  
10 a room in - which was in full sight of other people. So one  
11 lady was - never returned to work and one's still not  
12 travelling very well because of the experience. So that  
13 causes bad feeling between - you know, and I think it - it's  
14 getting worse. The culture's getting worse because there  
15 are lots of - just an example, we - we - that really stepping  
16 breathalysing and drug testing and urinalysis tests on  
17 officers. During the COVID stuff when all prisons stopped  
18 visitors coming in, during that process, there was 115 I  
19 think urinalysis tests done on staff - on prisoners sorry,  
20 on prisoners. And there was only three that were  
21 undetermined out of that 115. The others were all clean.  
22 Whereas normally, you would get a 40 per cent back or dirty  
23 urinalysis. So even (indistinct) it just shows that officers  
24 don't traffic stuff into prisoners. Because it's proved,  
25 once the public come back in, urinalysis dirty tests went  
26 back up again. So it just that the Professional Standards  
27 keep on testing, testing, testing officers when it's been -  
28 there's a prime example there, it's not officers. Look at  
29 the visitors that are coming in. look at other reasons for  
30 that happening. But Professional Standards at the moment  
31 has gone through a (indistinct). I think where there used  
32 to be six, I think there's 51 now. So it's a - it's a  
33 division on its own. And it definitely targets prison  
34 officers without a doubt. Without a doubt. It doesn't  
35 target administrators in prisons. It's uniformed staff.

36  
37 Mr Brown, how do you forward that knowing that some union  
38 members make the work life of other members difficult or  
39 unbearable because there is a pressure to maintain a closed  
40 shop and to close rank?---I don't know any of that.

41  
42 Okay. One moment?---When you say a closed shop, sorry, did  
43 you mean union-wise?

44  
45 No, amongst prison officers. Union members who are prison  
46 officers. Prison officers who are union members, sorry, the  
47 other way around?---Well, as I said, it's a - it's a - it's  
48 a team job. So I would find that to be not the norm for  
49 that to happen.



1 Commissioner, I have no further questions. And I ask that  
2 Mr Brown not be released from his summons.  
3  
4 **THE ACTING COMMISSIONER:** Thank you.  
5  
6 Mr Jones?  
7  
8 **JONES, MR:** Yes, I'll certainly ask some questions.  
9  
10 **THE ACTING COMMISSIONER:** Yes?  
11  
12 **JONES, MR:** But what I would ask, just by way of an  
13 indulgence, is perhaps 15 minutes or so with Mr Brown so I  
14 can take some instructions and clarification.  
15  
16 **THE ACTING COMMISSIONER:** How long do you think you will be  
17 after that?  
18  
19 **JONES, MR:** Probably no more than 15, Commissioner.  
20  
21 **THE ACTING COMMISSIONER:** We'll adjourn for 15 minutes.  
22  
23 **JONES, MR:** Thank you.  
24  
25 (THE WITNESS WITHDREW)  
26  
27 (Short adjournment)  
28  
29 (TIMESTAMP) / 03.42.36 PM

1 **BROWN, KENNETH RECALLED ON FORMER OATH AT 04.17 PM:**

2

3 **THE ACTING COMMISSIONER:** Please be seated.

4

5 Mr Jones?

6

7 **JONES, MR:** Thank you, Commissioner. I have no questions  
8 for the witness.

9

10 **THE ACTING COMMISSIONER:** Thank you very much.

11

12 Mr Brown?---Yes, sir?

13

14 That concludes the proceedings for this afternoon. However,  
15 you're not excused from your summons nor are you released  
16 from further attendance here. You are to present yourself  
17 to the Commission at a time and date notified to you.

18

19 We'll adjourn.

20

21 (THE WITNESS WITHDREW)

22

23 AT 4.18 PM THE MATTER WAS ADJOURNED ACCORDINGLY

**Certificate Made Under Section 50A of the  
Evidence Act 1906**

The transcript of Kenneth Brown heard on Monday, 16 November 2020

was made in good faith and, subject to any qualification referred to below, is correct, accurate and complete transcription of the contents of the recording;

was produced from recordings that were suitable for making an accurate and complete transcript except where otherwise stated in the body of the transcript. Any "indistinct" or "inaudible" or other notations indicating difficulty with the transcription contained within the transcript refers to those parts of the proceedings that could not be accurately transcribed due to speech clarity, recording quality or other factors impacting word intelligibility.

Certified on this 16th day of November 2020 by: Glenda Judge, Sheila Robbshaw, Joshua Stevenson

Full Name: Glenda Judge  
Sheila Robbshaw  
Joshua Stevenson

Occupation: Transcriber and officer of the Commission under the Corruption, Crime and Misconduct Act 2003 ss 182, 3 who has taken an oath before the Commissioner.

Signature: (Glenda Judge) (Sheila Robbshaw) (Joshua Stevenson)

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