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CORRUPTION AND CRIME COMMISSION

OF WESTERN AUSTRALIA

ACTING COMMISSIONER SCOTT ELLIS

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON TUESDAY, 24 NOVEMBER 2020, AT 9.43 AM

COUNSEL:

MS NADIA PANTANO

WITNESS: ANTONY DAVID HASSALL

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

2

3 **HASSALL, ANTONY DAVID CALLED AT 09.43 AM:**

4

5 **THE ASSOCIATE:** The Commission is conducting a number of
6 examinations for the purposes of an investigation under the
7 Corruption, Crime and Misconduct Act 2003. The scope and
8 purpose of the Commission investigation is to enable the
9 Commission to examine how culture contributes to serious
10 misconduct in Hakea and other prisons in Western Australia.
11 Before your examination begins, it is necessary for you to
12 take an affirmation. Please stand, take the card in your
13 right hand and read the affirmation out loud.

14

15 **HASSALL, ANTONY DAVID AFFIRMED AT 09.44 AM:**

16

17 **THE ASSOCIATE:** Thank you. You may be seated.

18

19 **THE ACTING COMMISSIONER:** Mr Hassall, I see that you have
20 received and signed the notice to witnesses?---Yes, sir.

21

22 And the Commission has appointed Ms Pantano as counsel
23 assisting the Commission. She will ask questions on behalf
24 of the Commission.

25

26 Yes, Ms Pantano?

27

28 **PANTANO, MS:** Mr Hassall, can you please state your full
29 name?---Yeah, Antony David Hassall.

30

31 And you are currently the Commissioner for Corrective
32 Services?---That's correct. I'm currently on leave before
33 I retire, but yes.

34

35 And what's your final day of service?---It's sometime next
36 year, still to be determined. I've got some leave to take,
37 and they're just working it out, but I actually leave
38 Australia on 27 December.

39

40 And what has been your function as commissioner?---To
41 oversight the day-to-day management and operations of
42 prisons, youth justice and Community Corrections, and also
43 make sure that policies are implemented and the system is
44 run efficiently and effectively.

45

46 Okay. And how long have you held that role for?---I was
47 appointed on an acting basis in April 2017, and substantively
48 appointed in May 2018.

49

50 And you've told us a little bit about your functions. Can
51 you tell us in just a little more detail about exactly what

1 your role entails?---So obviously, the day-to-day
2 management, which is - I have four deputy commissioners that
3 help me discharge that duty, one that's responsible for adult
4 male prisons, one that's responsible for youth justice and
5 the women's estate, and one for offender services - and what
6 I mean by that is rehabilitation, education, programs and
7 health. And the other one is operational support, so
8 security, intelligence, emergency response.

9
10 Mr Hassall, you attended a public examination at the
11 Commission back on 10 February of this year, following the
12 publication of several Commission reports, and also the
13 publication of several Commission reports, and you gave
14 evidence in relation to a number of issues, particularly
15 around changes that the department were making on a whole
16 range of topics. So throughout this examination I may refer
17 back to some of the evidence that you gave during that
18 examination. And the first thing I want to take you to is
19 that, back in February, you identified that Hakea Prison in
20 particular had not been complying with the current policy of
21 ensuring that all use of force incidents were being reviewed
22 in a timely manner, and you said that they had failed to
23 send their reviews to the central use of force committee for
24 further oversight, and that you had now assigned two staff
25 full-time to Hakea Prison to review all outstanding use of
26 force incidents and reports, and that the local committee
27 would report twice weekly to ensure future compliance. So
28 I just want to ask you about that, and what feedback or
29 commentary you can provide today about that process that was
30 undertaken at Hakea?---Yes. Thank you. That's correct, so
31 as part of the reform program we have what's called a COPP
32 project, which is the Commissioner's Operating Policies and
33 Procedures, which was - I think the evidence I gave to the
34 Commission before was about renewing all of our rules and
35 guidance to staff. One of the main ones was the use of
36 force. So that - COPP has been implemented across the State,
37 and all of them will be done by the end of this year. In
38 that COPP, there's guidance, if you like, to staff about
39 what they should and shouldn't do, and then how
40 superintendents are supposed to manage any use of force
41 incidents, and it reminded me Hakea hadn't been doing their
42 use of force. They've caught up with the - the backlog of
43 those reviews, although I have to say, when we had a look at
44 that, what we - what we discovered, if you like, was that -
45 the reviews that are done locally by the superintendent,
46 which is fine, and then it gets sent up, and it stays within
47 the same chain of command, if you like, so really, the
48 oversight there could have been better, the governance, so
49 that is in the process of being moved to one of the other
50 divisions, the operational support division, so the reviews
51 will be done at the prison, and then to provide some

1 additional scrutiny and oversight to make sure that that
2 backlog doesn't occur again, the review process will be done
3 by the operational support deputy commissioner, who also
4 then chairs the use of force committee

5
6 Okay, so - - -?---There was a bit of a weakness, I guess I'm
7 saying, in the process.

8
9 Okay. So who was originally conducting that oversight
10 function?---It would be the Deputy Commissioner, Adult Male
11 Prisons, and he had - I think it was an assistant
12 superintendent is the grade doing the reviews.

13
14 Okay. And the weakness was in that system, which has now
15 been moved?---It's in the process of being, it's all in the
16 same line management, so if it's - I guess, the way I would
17 describe it, you've got - you're marking your own homework,
18 so to speak.

19
20 So no real sort of independence, I guess?---No. Correct.

21
22 So it's now been shifted to the operational support
23 division?---It's in the process of being moved, yeah.

24
25 Okay. And when do you expect that that process will fully
26 eventuate?---Look, I haven't been in the office for a week.
27 I would be surprised if it hasn't been done. It's just an
28 administrative move.

29
30 Okay. And who's responsible for ensuring that move takes
31 place in your absence?---Well, Mike Reynolds is the Acting
32 Commissioner, so it would be him.

33
34 We've heard a bit over this last week, and obviously
35 throughout the Commission's entire investigation, about
36 cultural issues, particularly at Hakea, but around the wider
37 prison organisation. What's your awareness, Mr Hassall, of
38 cultural issues within Hakea particularly?---Well, my - what
39 I've experienced in my career is large prisons, whether
40 they're here or in the UK, which is where I started my
41 career, they have transient prison populations, have
42 generally - and I'm generalising here, poor staff-prisoner
43 relations, for a number of reasons. Staff don't get to build
44 those productive relationships with prisoners. They also
45 tend to be highly unionised, and there - that creates
46 management issues. And I think what I've seen at Hakea over
47 my time here is no different to what I've seen elsewhere,
48 and I think what I would say to the Commission is - culture
49 is always a symptom of something, whether it's weak
50 management, whether it's the way the prison operates, or
51 it's the role of the function of the prison. What I - my

1 view on Hakea is - I'll probably go back to 2013, 14 and 15,
2 the prison population increased significantly. For the want
3 of a better way of describing it, Hakea became a warehouse.
4 There was additional accommodation put into that prison. It
5 was severely overcrowded, and then if the system treats
6 prisoners in that way, then there's a - there's always a
7 small number of staff, as disappointing as it is, that will
8 capitalise on that and I think that's what happened. The
9 other thing I - I would say is what I've learnt over my
10 career is that the superintendent, whoever is in charge of
11 the prison, sets the tone and the culture. And one of the
12 most disappointing things, I think, around Hakea is over the
13 last 10 years I think there's been 13 superintendents. Now,
14 in the last two years we've had some stability and we've had
15 a good senior management team there. But all of those create
16 that environment, if you like, and if you - if you have an
17 environment that sort of prisoners are dehumanised in a way,
18 then there'll be a small number of staff that monopolise
19 that. I'm not condoning that behaviour. I'm just trying to
20 put it into a bit of context.

21
22 You said that in your experience prisons largely - or, sorry,
23 they're often highly unionised and that that presents issues.
24 What issues do you see that
25 presenting?---Well, I think, look, I - I have no issue with
26 unions in the workplace. I think we live in a democracy and
27 that's a good thing. As I said, those large prisons where
28 you have very transient prisoner populations they do seem to
29 have a stronger grip if you like, more influence than you
30 would possibly want and I think in this State you - again
31 you have to look back at history where, you know, I - some
32 of that management prerogative, if you like, has been ceded
33 to the union. I go back to 2010, if I could give the
34 Commissioner an example?

35
36 Sure?---Staffing level agreements in prisons. Now, in -
37 under the Prisons Act the superintendent is responsible for
38 the good order and - of the prison so you would - it would
39 be fair to conclude from that that he or she should set the
40 staffing levels and how staff are deployed in the prison.
41 In 2010, for some reason we - there - there was a process
42 whereby that had to be by agreement with the union. So
43 therefore the unions have won - the Prisoner Officers' Union
44 has a disproportioned influence over the staffing of a gaol.
45 So management has ceded some prerogative and over the years
46 that scope creep, if you like, has just progressed. Now,
47 what we've been doing over the last two years we've - we
48 tried to claw that back but you have to do it carefully,
49 thoughtfully and, you know, make sure you've got the right
50 staff to do that and we - we started that process.

51

1 Tell me a little bit more about how you're attempting to
2 claw - sorry, before we get into that what. What are you -
3 what are you suggesting that you need to - or the Department
4 should be clawing back?---Well, I think you start with the
5 premise that working with a trade union in a productive
6 manner is a good thing because you get better outcomes and
7 I think that's the premise that I have tried to approach my
8 role as the Commissioner and where we've done that we've had
9 good outcomes. And the union's role, in my view - and I say
10 this as I started on my career I was a union official - is
11 in three aspects. One is representing their staff, as I
12 saw, you know, that - what you're looking at through this
13 hearing. The second one then is workplace health and safety
14 issues and the third one then would be, in this context, the
15 Industrial Agreement. And I have no issues where, you know,
16 there's robust discussions about industrial agreements but
17 as I've said, management has to have the right to manage the
18 prison. At the end of the day, the superintendent has that
19 power under the law.

20
21 So we - and what sort of brought this to the forefront is a
22 couple of years ago we were having a - I had a meeting and
23 I asked the IR team around staffing levels, we were having
24 issues around overtime, rolling lockdowns, which will
25 compromise the safety of the prison if they're not done -
26 implemented properly and my question was quite a simple
27 question. It was what has precedence, the staffing-level
28 agreement or the legislation and the view was the staffing-
29 level agreement. Well, that cannot be right and that
30 indicated to me that there was a cultural problem in
31 headquarters about how their view of that relationship
32 worked.

33
34 So we - we - I appointed an assistant commissioner that
35 reports to me, that does strategic IR. So if you imagine
36 the structure of the Department you've got, for the want of
37 a better way of describing it, sitting in HR corporate
38 services transactional IR which were all the sort of day-to-
39 day HR stuff but the more strategic stuff, managing the
40 Industrial Agreements, trying to get our industrial
41 relations with the union back onto what I would call a more
42 businesslike footing, that is managed out of the
43 Commissioner's office and it's those - - -

44
45 Out of the Commissioner's office, sorry, did you
46 say?---Yes, sorry.

47
48 Yes? Sorry, continue?---And it's those areas, you know,
49 where - around staffing deployment, how staff are deployed
50 in the prisons, where, you know, I can quite understand

1 superintendents' frustration over the years where they've
2 had very little control in that space.

3
4 So other than appointing an assistant commissioner to deal
5 with the more strategic matters and you identified that there
6 needs to - it needs to be more businesslike, when you say
7 more businesslike that's - are you talking about the
8 relationship between Corrective Services and the
9 union?---Correct.

10
11 Okay. So other than that, what other things have you put in
12 place to - in an attempt to claw back some of this control?--
13 --Well, there's a - a number of things. Obviously training
14 for superintendents, that's an ongoing piece of work. We've
15 got the governing structure, I think, in terms of our
16 interaction with the unions, the Peak Consultative
17 Committees. We - it probably operates now far more
18 effectively than it did before. Certainly before I was
19 Commissioner I was - I was asked to attend one of those
20 meetings by the former Commissioner and it was probably the
21 worst interaction I've seen between management and unions.
22 I think that having those meetings on a more businesslike
23 footing where you talk about operational issues, which are
24 in - rightly in the purview of the union in terms of health
25 and safety and those type of things, are good. I've also
26 encouraged, you know, the deputy commissioners to work with
27 the executive of the union on a range of things, particularly
28 where we had to do new projects; bringing Wandoo back in-
29 house for example, opening up the AOD prison. Some of those
30 engagements have been constructive; some of them have been
31 less so.

32
33 And why, in your opinion, do you think it's beneficial or
34 important in order for the Department or Corrective Services
35 to claw back some of this control, why do you think it's
36 important that there's a more businesslike relationship
37 between the two entities?---Well, it goes back to what I
38 said earlier about the superintendent setting the tone and
39 the culture of what goes on in each prison and it's important
40 that management have the right to manage and have the right
41 to discharge their functions and run those prisons and - and
42 they are in - because they are in charge and I think making
43 sure that that is the case is important. Equally, hearing
44 the legitimate concerns of the staff associations, whether
45 that's the Prison Officers' Union or the CSA, is important
46 as well.

47
48 So when you reference the CSA, who are you referring to?---
49 Well, they - they're the sort of administration-type reps
50 and the union that represents some of the superintendents so

1 there's the two - two main unions that cover the Corrective
2 Services.

3

4 Okay. And is there one particular union that you see as
5 having more of an influence over the superintendents being
6 able to effectively manage their own prisons?---Well, the
7 Prison Officers' Union I'd describe it has the largest voice.
8 Absolutely. I mean, I think they have a high - I don't know
9 what the number is, I'd only be going on what I heard given
10 before the Commission last week. I know they have a very
11 high saturation rate of prison officers.

12

13 Okay. So when you say that they have the loudest voice, the
14 Prison Officers' Union, would you then - is it your evidence
15 that they, that union, is the one that has more of an
16 influence over superintendents being able to manage
17 effectively?---Yes, I think as I said in large transient
18 prisons they - the - the - historically the influence has
19 probably been disproportionate; as the further you sort of
20 get out of the metro area where staff/prisoner relations are
21 on a more proactive, positive footing, things are less of an
22 issue, then the influence for some reason seems to dissipate.
23 I don't know why that is. There are some outliers, Eastern
24 Goldfields being one. We've had issues at Wooroloo, but
25 generally that's the - the way it works.

26

27 So how would you describe the relationship between the Prison
28 Officers' Union and Corrective
29 Services?---Well - - -

30

31 The current relationship?---I'd - if you - if you look at it
32 at three levels, if I could give you - - -

33

34 Sure?--- - - - the prison level, the sort of executive level
35 and then my level. So at the prison level, if I look at
36 Hakea now, you know, one of the things that has been
37 fortunate is the government has invested in infrastructure
38 and some of those conditions, so a lot of the issues that
39 the union would raise have gone away, and I think that's
40 allowed the superintendent to, for want of a better word,
41 normalise relations. And that has been incredibly helpful,
42 and we, certainly in the last six months, haven't had the
43 issues that we have had historically. That doesn't mean to
44 say they have gone away though. Of course, in the last year
45 we've had COVID, so we've had a sort of different operating
46 environment. The Deputy Commissioner of Adult Male Prisons,
47 who chairs the PCC, I think has done a good job in getting
48 those meetings on a more businesslike level. I know we
49 certainly - we certainly discussed about the attendance, the
50 management attendance. It was too broad. There was lack of
51 structure, lack of an agenda, and I think he has done a lot

1 of good work to get that onto a more sound footing. The
2 relationship with me, look, it goes through - it goes through
3 phases. Recently, you know, the union would describe it as
4 the worst relationship they've ever had.

5
6 With you personally?---With me personally. I think there's
7 a whole range of reasons. I don't take it personally. It
8 will be around, you know, I get blamed for the overtime
9 controls, I will, you know, get blamed for lack of
10 consultation, a whole range of things, and then it will go
11 normal. And I try - I have informal discussions with them.
12 Probably this year I've had three informal meetings. I try,
13 where I can, to be a circuit-breaker, but sometimes you
14 can't. I think the last issue that was significant was
15 around the installation of glass at Casuarina, that's, you
16 know - I have to share that story with you, but if you want
17 me to explain it to you?

18
19 As long as, obviously, you're mindful that this is in a public
20 setting, so as long as you don't think that will compromise
21 any - - -?---I won't compromise - I won't compromise
22 security.

23
24 Sure?---So we were doing a new unit at Casuarina, and the
25 union were adamant that they wanted grilles on the office
26 windows. And all these discussions were going on at what I
27 call the office level, between infrastructure services and
28 the union. And those discussions had been very productive.
29 They had been on the journey all the way through with that
30 design and, I thought, really good consultation had occurred,
31 and I'm still of that view. Then it came to almost the 12th
32 hour of getting ready to go, and we put a different design
33 in, and - we had had it tested and stuff, and there was some
34 issues around the test. We went back and redid it, and it
35 just seemed to me to get completely out of hand, and I had
36 to go down there and do a bit of a reset, and they were
37 incredibly frustrated on that. Now, I say - I've been in
38 this job for 30 years - the safety and security in those
39 units is the best that you're going to get in a prison
40 setting. But that's the type of thing that can come out of
41 nowhere, and all of a sudden get blown up.

42
43 Okay. You said that you were trying to be a circuit-breaker.
44 Just expand on that for me?---Well, if - I tried to on that
45 one, so that was the AOD prison at Casuarina, so we had a
46 deadline to meet, an election commitment to get that unit
47 open, and they couldn't reach this agreement, so - and I'm
48 just going from memory here, so I could be wrong, I think
49 the secretary of the union rang me up. He was quite vocal
50 about it, so I just intervened - not in terms of stopping
51 it, but just went to say to the infrastructure people,

1 "What's happened?" Went to the specialist people, you know,
2 "What's happened in terms of the testing?" And then we
3 just got everybody, the union executive, the management team
4 of the prison, myself, we all went to Casuarina to observe
5 the test. Now, we couldn't reach an agreement, so we just
6 went ahead and did it anyway; so that type of stuff.
7
8 Sort of like a middle man?---Try to be. There's some areas
9 that I don't go - disciplinary issues. They've raised those
10 with me in the past. I always refer those on to Professional
11 Standards. You know, where I can, I try and - try and, sort
12 of, I guess, make it - yeah, "middle man" is a good way of
13 describing it. Yes.
14
15 You what, sorry?---"Middle man" is a good way of describing
16 it.
17
18 Right. So why are disciplinary issues in particular do you
19 try and stay away from?---Well, when the department was -
20 the old Department of Corrections was (indistinct) and -
21 with the Department of Attorney-General, under the new
22 structure, disciplinary issues, rightly, were taken away
23 from the Commissioner. That doesn't mean to say they don't
24 complain to me about things, they absolutely do, but I would
25 just generally pass them on. I think they've written to me
26 a couple of times on issues, but they don't sit with me, and
27 I think that's a good thing.
28
29 And why do you think that's a good thing?---Well, it means
30 that, you know, the Commissioner, the executive of
31 corrections, isn't then under undue - doesn't come under
32 undue pressure. You've got somebody independent looking at
33 it. They can also look at systemic things, and there's an
34 element of independence, even though it's still managed in
35 the department, which I think is good for the department,
36 but also good for the employee.
37
38 Just on that, if we can just take it a little bit further,
39 you also mentioned in your examination back in February,
40 about the shift of random and targets searching in prisons,
41 and the alcohol and drug testing on staff being moved out to
42 - across to Professional Standards?---Standards, correct.
43
44 And you identified that that was previously undertaken by
45 the drug detection unit with Corrective Services, and you
46 said then that that would provide the necessary independence
47 of this important site safety and corruption prevention
48 function. Do you still support that shift, that change?---
49 Yes, absolutely.
50

1 And again, it may be obvious, but I'll ask you anyway, why
2 is that important that that function be moved to Professional
3 Standards?---Well, it's the same analogy as I used as during
4 the use of force, it's like marking - you know, drug
5 detection is a prisoner - prison visitor function, and it
6 just sat there - it was a legacy from the old department,
7 sat there because there was just nowhere else to put it.
8 That role is about checking visitors into prisons and
9 searching prisoners. I think blurring it with doing staff
10 testing and searching is very unhelpful, and I use the same
11 analogy, it's almost like marking your own homework.

12
13 Mm?---It's absolutely critical to have that separate and
14 done independently.

15
16 Okay?---And you mentioned, again back in February, that there
17 was random and targeted drug testing. What are your views
18 on the need for testing at times to be random?---I think
19 it's a tool. What you would want to do when you do random
20 testing is test out some assumptions. So if you've got
21 evidence that there's an issue in prison, as an officer you
22 raise that, you know, where you have a governance forum
23 that's chaired by the Director General, where we might be
24 seeing trends across the system, or a prison, then doing
25 random testing is good. I also think it's a useful tool to
26 have anyway, to - if your workforce, I guess, if they know
27 that that's going to happen. What's happening at the moment
28 is that - I think one of the problems that we have is the
29 testing regime was just limited to one group of staff, and
30 that is being changed at the moment. We've put some
31 recommendations to government to change the regulations, and
32 I think that will then capture everybody that goes into a
33 prison, which is what you really want.

34
35 So do you mean staff or visitors as well?---Staff, so at the
36 moment it just covers prison officers.

37
38 Right?---It doesn't cover admin staff or chaplains and stuff
39 like that. I don't think drug abuse just sticks with one
40 group of staff, and I think having the broader group, it
41 will give us a much safer system when that's introduced.

42
43 You said one of the other reasons why testing - random
44 testing was necessary, you said:

45
46 It will keep the workforce -

47
48 - you didn't finish. You then said:

49
50 They know it's going to happen.

51

1 I just wanted to explore that a little bit further. "I will
2 keep the workforce" - - -?---It's like a deterrent, I
3 suppose, for want of a better way describing it. It's always
4 no different to drink-driving. If you think you're going to
5 get caught, you might think twice about doing it. We don't
6 know - it's hard to quantify whether that's the effect, but
7 that's how I would see it.

8
9 Okay. Now, just on the searches, the searching within
10 prisons, is it correct that that also sits now with
11 Professional Standards?---Staff searching or prisoner
12 searching?

13
14 Staff searching?---So if there's a searching event, they
15 could authorise that through Professional Standards, then
16 yes, they could, but you would still have searching when you
17 go into a prison done by prison gates - prison officer gate
18 staff - so that would still occur.

19
20 And the Commission is aware that there is a Professional
21 Standards division charter. Are you aware of that charter?--
22 --Yeah, it was brought to my attention two weeks ago, yes.

23
24 Okay. What's your understanding of what that charter
25 entails?---Look, it just sets out their role, their function,
26 what they do, the scope of their authority, stuff like that.

27
28 What's your view on the charter?---Look, I'd have to refresh
29 myself. It didn't - it didn't resonate as something
30 significant with me. I haven't really digested it. The
31 main bits for me are the code of discipline and the integrity
32 framework, which I think are really good platforms for us to
33 manage a workforce.

34
35 Are you aware that it also provides PSD with the
36 authorisation for unfettered access to departmental
37 facilities, including prisons?---Yes.

38
39 Okay. And what's your view on that?---Well, that's a - if
40 that's exercised appropriately, then there's no issue. The
41 problem that - it seems to me - is that the superintendent
42 is responsible for the good order of the prison, and
43 therefore, so am I. So - and I've raised before, and I have
44 to say - what I'm going to say to the Commission now, I'm
45 not saying this happened, it's just a hypothetical. If
46 you've got something that's going on in a prison and you
47 know about it, but you're responsible for the good order of
48 that prison, and that compromises the good order, then that
49 would become an issue. I say that, though, I don't think
50 that has happened, and I have no reason to believe that it's

1 happened, but that's what I could see happening if that
2 wasn't exercised appropriately.

3

4 So you're saying that if a superintendent wasn't given the
5 head's up?---Not necessarily the head's up, I would -
6 because it might be about him or her, or - you know, look,
7 if somebody is trafficking drugs into a prison, I'd want to
8 know about that, because I'd want to take - it might be a
9 staff issue, but also be a security issue. So we'd need to
10 work together. I haven't had that situation when I was - in
11 fairness, and I think we've got a structure around that, and
12 I do get assurance that they - the Professional Standards
13 people will always say to if there's an issue that's going
14 to compromise security, they will let me know. I have no
15 reason to disbelieve that, so - that's all the hypothetical
16 I could see.

17

18 Just on Professional Standards, just briefly describe for me
19 what's your opinion - your view on what their role is with
20 the department?---So I would say two functions, the education
21 and training of staff, and then the investigation of
22 misconduct. I can expand on both, if you want.

23

24 That's okay?---Okay.

25

26 And how would you describe the nature of the relationship
27 between Professional Standards and Corrective Services?---
28 Well, it's a new division. I think there are some - there's
29 always teething problems when you have something new and you
30 have, you know, things are being established. I think
31 they've grown over the last couple of years. I think there's
32 room for improvement, to be perfectly honest.

33

34 In what aspects?---Well, in terms of the communication.
35 Again, I don't - I think there's areas where that could be
36 better.

37

38 Mm hmm?---At the end of the day, they reported to the
39 Director General, so I'm just one of their stakeholders,
40 directions is - they have a whole range of other areas of
41 the department they have to serve. I think there's some
42 areas that Professional Standards were - they could -
43 certainly, I've raised this as an example, is where I thought
44 they hadn't taken an assertive enough line on an issue,
45 particularly around Bandyup, where the superintendent was
46 raising concerns with me about the mistreatment of female
47 offenders, and the process is some things I refer back to
48 the superintendent. Well, when you're trying to change the
49 culture, sometimes you have to have a hard reset. And I've
50 raised those issues and, in fairness, they have responded to
51 that. I think other - other examples which they can't fix

1 are - I know, for an example, a case that was before them
2 about use of force. I'd taken quite a hard line on
3 inappropriate use of force, because it compromises the safety
4 of prison. There's a whole flow-on about that, and look, I
5 think dismissal should be the only option. I know that they
6 tried - I had discussions with the head of Professional
7 Standards about that. He'll tell the Commission that that's
8 my view. Where they've tried to do that, they haven't been
9 successful. That's not their - they have tried, and people
10 have been re-employed. The problem with that is that sends
11 out a signal to a small number of staff that there's no
12 consequence.

13
14 Mm?---So those things are frustrating.

15
16 What, in your opinion, do you think are some of the factors
17 that are maybe leading to examples like that you've just
18 given being unsuccessful?---Well, I think - I asked that
19 question. Look, they presented the case, it went to the IRC
20 and we didn't win in the IRC. I think there was - there was
21 a view that you can train this out, but you can't. There's
22 three types of use of force in my view. There's one that
23 goes, "Okay, it's appropriate, it's proportionate and it's
24 lawful," so there's no problem there. The second type is
25 the officers get something wrong, you know, a wrong wrist
26 lock, or whatever. Well, that's a training issue. The third
27 type, which I think is what the Commission has been looking
28 it, is where it's not proportionate, it's not legal. That
29 - when you want - when you need to reset the culture, the
30 only outcome for that should be dismissal. There is no way
31 you can train that out of people. I'm just talking from
32 over 30 years' experience, and I've experienced that in the
33 UK where, resetting the culture, you have to take a hard
34 line. I think they want to do it, I just don't think they
35 can at the moment, because it just doesn't - they haven't
36 got the legislation in this state.

37
38 One of the things that's come out in the Commission's
39 investigation, and particularly throughout these
40 examinations in that there may have been an alleged assault
41 towards a prisoner, but then what has perhaps - or one of
42 the factors that may have hindered the investigation into
43 that assault was this cover up by fellow officers. What's
44 your view on that, and the impact that that's having?---
45 Again, I would - I think you have to - to understand that,
46 you have to understand a bit of the culture, and prisons are
47 very closed institutions. Generally, the public doesn't
48 know what goes on inside a prison, and the work of officers
49 pretty much goes unnoticed. And their work is complicated
50 and complex, and by and large the vast majority of people do
51 a good job. But it does create that us and them mentality.

1 Nobody, you know - and I've seen it myself, I started as a
2 prison officer, nobody knows how difficult our job is.
3 Nobody knows what goes on inside, you know - go back to my
4 comments about 2014, 15 and 16, there was lots of negative
5 comments around the work of prison officer. What that
6 encouraged them to do is to stick together.

7
8 Mm?---And so what you get is a lot of solidarity; so that's
9 what you're dealing with. The second thing is, there's a
10 lot of suspicion of outsiders. That's just generally the
11 nature of the way prisons are. It's not unique to WA, it's
12 a cultural thing. And then, thirdly, there's this
13 expectation of courage, if you like, supporting each other,
14 physical courage, you know, when there's an incident in the
15 prison that your mates are going to come and help you out.
16 So if you put all of that together, it creates - it can
17 create an incredibly toxic culture. And I think, you know,
18 what the Commission has been looking at is that. Now, the
19 only way you can change that is by looking at it as a whole.
20 So - and I say it starts with, you know, the conditions that
21 prisoners are held in, because you have to look at what was
22 the use - I mean, I've read the report on what happened, so
23 what - what created the environment that would allow staff
24 to think that that was appropriate, so the mistreatment of
25 that prisoner? That's where the event started, then you
26 have to look at the - the conditions that prisoners are held
27 in; you know, the - as I've described to the Commission the
28 inhumane treatment that was Hakea in 2014, 15 and 16 creates
29 that authorised environment. So you've got that was the
30 start of the event and then you've got this very strong
31 culture that makes it incredibly difficult. I - I've been
32 in that position myself a few times where I've been a
33 whistle-blower and it is incredibly difficult. And all you
34 can do is make sure you've got good leadership, that the
35 process and the systems are sound and robust but I still go
36 back - and I think it's good that the Commissioner put the
37 spotlight on this but I still go back that you need a hard
38 cultural reset and the only way you can do that is when
39 prisoners are mistreated then there is no place for them in
40 our system and that's the - that's the only way you will get
41 that reset.

42
43 How do you - what suggestions do you have about the "us and
44 them" mentality, how could Corrective Services go about
45 trying to rectify that mentality?---With the union, or the
46 staff?

47
48 Well, the "us and them" mentality. Who are you - who is the
49 "us" and who are the "them"?---I think generally prison
50 officers, everybody is the them; whether they're management,
51 outsiders, what, that's just the nature. I've seen

1 successful leadership, I'll just use Hakea as an example at
2 the moment, you know, where it's visible leadership. The
3 superintendent there sets clear expectations of standards
4 for the staff, is out and about, talking to the staff,
5 understanding the issues for the staff; more importantly
6 recognising good performance, because there are a tremendous
7 amount of staff that go into work every day and do the right
8 thing.

9
10 Sometimes they - their voice is the quiet voice. So what
11 you need to do is make sure that their voice is the loudest
12 voice so that that behaviour that you - you described becomes
13 unacceptable, publicly unacceptable if you like in the prison.
14 And that's what the superintendent at the moment at Hakea
15 has done and I think, you know, it's very early days, I'm
16 not saying that it's turned a corner but if we can keep that
17 type of momentum going then that's when you get real change
18 and prisoners get better treatment.

19
20 Now, he has been fortunate. He's got the new visits centre,
21 been able to refurbish the prison, the numbers are down, so
22 all of that has enabled that. How I - I describe it to some
23 of the management is when - when prison officers join the
24 Corrective Services anywhere they - they - the unions meet
25 with them and I - I say this from experience because I've
26 done it myself and - a long time ago - what they'll say is
27 you need to be in the union; prisoners make complaints about
28 you, all that management want to do is get rid of you out of
29 the job. So that's why they get a high saturation rate. So
30 what I'd - how I'd describe it is once they're in that tribe
31 there is no point trying to wedge them in that tribe. All
32 you can do is show them that that assumption is incorrect by
33 the good management, good leadership, good standard setting
34 and a professional approach to their work.

35
36 But just to carry on from that comment that you made about
37 comments that the union may have made in the past to prison
38 officers about all management want to do is basically
39 get - - -?---Generalising, obviously.

40
41 Yes, I appreciate that and I appreciate that that's not to
42 be attributed to all union reps - - -?---Correct.

43
44 - - - and all messages that are coming out of the union. I
45 appreciate that. So then what impact do you see the union
46 then having on the culture within Corrective
47 Services?---Well, it can have - it can be positive and it
48 can be negative. I mean, one of the things when I listened
49 to the hearings last week was disappointing and shocked at
50 what I heard because the discussions that I've had with the
51 - the union at senior levels is that they don't condone that

1 type of behaviour and there is no place for it. You know,
2 if - what I would expect is if somebody has done something
3 wrong is you would - you should - the only advice to
4 management to the - from the union to staff, to management
5 should be, "Be honest, if you've made a mistake admit it,"
6 and then just let the process run. And I always say that
7 because what you want - we all make mistakes in the workplace
8 and if you go and try and cover it up, what that means is
9 your trust with the employee diminishes. So if they're - if
10 they're honest and open, I've made a mistake - now, you may
11 not be able to salvage them, that may still be the outcome,
12 they may still have to go but there might - if - if they
13 start with a fundamental basis of, well, I'm going to tell
14 you the truth, then the trust between you as an employer and
15 them as an employee you've got something to work with. When
16 they move away from that, well, it - you - you've lost it,
17 pretty much, and I think that's - it would seem to me what
18 has happened. So I think there they can have a positive
19 role in that space. Also, they can have a - you know where
20 we do joint planning and things like that where we've had
21 good results around cost savings, implementations that are
22 very, very positive. I use Roebourne Prison as a really
23 good example where in the past hasn't been without its
24 issues, you know industrial issues and stuff like that,
25 lacked investment over a number of years and the relationship
26 between the superintendent previously and the local union
27 delegate was pretty fractured. Now there's been a new
28 superintendent, he has taken quite a proactive, positive
29 step in terms of engagement and the progress in that prison
30 has been impressive I have to say. Now, we haven't spent a
31 lot of money in the prison but he's changed the nature of
32 the relationship. He hasn't ceded control to the union
33 delegate but he's - understands the difference between
34 consultation and negotiation and very often people get those
35 two things mixed up.

36
37 And what's the importance of differentiating between the
38 two?---Well, consultation - this is my advice I always give
39 to people - is you may have a view, I may have a view as
40 management; I will consult with you, I may take into account
41 your views on things but I will still stick with what I want
42 to do if I want to. Negotiation is you have a position, I
43 have a position; we have to reach some sort of an agreement.
44 And very often one of the things I think that local delegates
45 and the union find frustration is - frustrating is they get
46 that confused. They think consultation means agreement.
47 Well, it doesn't at all.

48
49 So basically the message needs to be the buck stops with the
50 superintendent?---Superintendent. Correct.

51

1 Okay?---And I think - sorry, if I could just add?

2

3 No, no. No, carry on?---I think that's been blurred over
4 the years and I still think there's cases today where that
5 is still the case but, as I said, we're trying to address
6 that.

7

8 There's just a couple of things I want to take you back to
9 that you raised in your evidence just now and you said if
10 there's open and honest dialogue between superiors and their
11 staff that trust - there's a trust there and in your opinion
12 what - what's the flow-on effect of if there's trust there,
13 what's the flow-on effect in your opinion on the culture
14 that's then reinforced or created?---Well, you create a safer
15 culture for - I think Roebourne's a really good example,
16 sorry to go back to that but I know, without disclosing it
17 publicly, that there's been issues reported to the
18 superintendent around misconduct there that I'm not saying
19 it wouldn't have happened before but there it was quite open
20 and I think that is a result of the leadership style and
21 that trust, where misconduct is - is not accepted. Now,
22 that's a - so it's a - it's an outlier, I would totally
23 accept that but that's one of the flow-on things. The other
24 thing I would say is don't underestimate the impact on
25 prisoners when you have that type of culture, because bad
26 behaviour flows down and prisoners are at the bottom. And
27 I can tell you that when - when there's issues with the staff
28 group it - it will absolutely flow down to the prisoner group
29 as well.

30

31 Would you also agree that the flow down, that the bad
32 behaviour flowing down, if it starts at the top in management
33 then it also ultimately may end up with the prisoners but
34 another effect is that it flows down onto the staff reporting
35 to that upper management?---Correct. Yes.

36

37 Okay. And just to take you back just before we finish on
38 the trust aspect, you said it creates a safe culture and
39 then misconduct - sorry, do you agree then people then feel
40 comfortable to then be able to come forward and report
41 potential or suspected misconduct?---Yes.

42

43 Okay. So if there's not a safe culture do you see that
44 alternatively that could then be a serious misconduct risk?--
45 Yes, I think you get the behaviours that the Commission is
46 looking at at the moment.

47

48 Okay. And just to take you back to one of the comments you
49 mentioned in relation to the union, you said that you have
50 heard union reps or officials say that management just want

1 you out, or words to that effect, to staff?---This is a long
2 time - I'm generalising, but yes.

3
4 I appreciate that, and you've outlined some of the positive
5 steps that the union have also taken. What do you think
6 Corrective Services can do to try and mitigate, if they can
7 do anything, that message, that particular message that has
8 come from the union which inevitably I'm suggesting creates
9 a distrust amongst prison officers to - or to the upper
10 management in reporting misconduct?---Well, look, I agree.
11 I think it does. I think you're absolutely right with your
12 assumption that it does create distrust. I think the way
13 you counter that, I go back to the point that I made is you
14 - you demonstrate there's another - there's another way.
15 Certainly as - whilst I've been the Commissioner one of the
16 things I absolutely try to do is to be a visible leader; set
17 standards, role-model the behaviours. You know, I think if
18 you spoke to pretty much anybody in Corrections they all
19 tell you there's three things that I - I wouldn't tolerate:
20 the mistreatment of prisoners, sleeping on nights and racism
21 and sexism.

22
23 Those are pretty much my consistent messages and I think the
24 - the team below me have that as well. Changing the culture
25 though takes a long time as I - I think I've said that to
26 the Commission before and you go - you have to go back to
27 those - the build-up of that, what caused it, what was the
28 cause, and then look at, you know, how you deal with it. I
29 think we've made some good progress, although I still think
30 there's more to do. I think Hakea is on the right trajectory,
31 in my view, for the want of a better way of describing it,
32 with the leadership and stuff like that. There are probably
33 other places that the Commission will probably turn its
34 attention to. I don't think your work is going to be done
35 for a while, to be perfectly honest.

36
37 You - sorry, culture was raised back in February of this
38 year in those public examinations and it was something that
39 the Commission also touched on its 2018 report into
40 misconduct risks in WA prisons and the Commission identified
41 that a culture existed which discouraged staff from reporting
42 against their colleagues, attributed in part to a lack of
43 confidence in the confidentiality of reporting and fear of
44 repercussions from other staff, including prison management.
45 Now, we've touched on some of those aspects already today
46 and you've also agreed that in order for cultural change to
47 be effective it's got to start from the top. And in your
48 evidence back in February you outlined a number of examples
49 of how you personally were attempting to change the culture
50 and you've touched on a couple of them here again just now;
51 you said that you role-model behaviours, you set standards.

1 Is there anything else that you do?---Well, I think one of
2 the - one of the key things about running a prison system is
3 - and this has been an undercurrent for years, is around how
4 leaders in that system are appointed and selected and I know
5 that that has been one of the - ever since I've been in WA,
6 in 2015, and different union leaders, different leaders have
7 raised with me that lack of transparency or the perception
8 that there's, for the want of a better way of describing it,
9 jobs for the boys. The union would frequently raise with
10 me, you know, their concerns around Freemasons for example.
11 Now, I don't know the extent to that but one of the things
12 that you do is making sure the processes to select leaders
13 are transparent and certainly that wasn't the case. It would
14 seem to me that, you know, things were done in a - in a - in
15 a manner that lacked transparency and when - and of course
16 when management behave like that what you - what you get
17 then is, well, if it's okay for management to behave like
18 that then, well, why - why - there's some double standards.
19 And what I've tried to do, where possible, is exercise far
20 more transparency around those processes. Now, sometimes
21 you can't. If you - if you've got a position, it's a regional
22 prison, you can't fill it and you've tried, then sometimes
23 you just have to put somebody in there.

24
25 I would also say that some of the women in Corrections also
26 complained about that, them not having a fair go. So like
27 I said, I think just building on that transparent approach
28 and that I know the deputy commissioners that worked for me
29 have the same view and I know the same complaints have been
30 articulated back to them. And what that breeds is distrust
31 and if you have distrust, then you have an environment where
32 this type of behaviour can just flourish.

33
34 In your examination in February you said that you would
35 sometimes meet with new recruits. Do you still do that?---
36 Yes. I pretty much this year where absolutely possible,
37 where my diary has permitted, I've spoken to every single
38 new member of staff and whether that's a prison officer,
39 Community Corrections officer or Youth Justice officer and
40 I give them a talk that covers a number of areas; (1) I tell
41 them a little bit about myself, a little bit about my
42 expectations around staff safety, prisoner safety,
43 rehabilitation; I talk about the overrepresentation of
44 Aboriginal people and how important it is to make sure our
45 response is culturally appropriate and then I also talk about
46 the fact that they're public servants and the standards that
47 are required of them as a public servant and the fact that
48 that behaviour and those standards are not just - doesn't
49 just apply when they're at work but also applies when they're
50 out of work and I give them some clear messages that, you

1 know, if they can't sign up to that then they probably
2 shouldn't be working for us.

3

4 And is there any mention of the code of conduct?---Yes, they
5 get - they get it formally through their training. I briefly
6 - I don't go into detail because it's quite an informal chat,
7 but yes.

8

9 What importance do you personally place on the code of
10 conduct?---High. I think it's - it's - it's - it's the
11 bedrock of our making a safe prison system and it sets the
12 expectations of staff behaviour, tells them how to report
13 misconduct.

14

15 And what do you do to ensure that you abide by it in your
16 daily activities?---Well - well, the way - my personal
17 behaviours. How I carry out my duty if, you know, making
18 sure misconduct's reported, creating a culture amongst the
19 senior team where they can ensure that the standards are
20 adhered to.

21

22 And what do you do to ensure - and you've touched on this a
23 little bit already but to ensure that others I guess within
24 your reporting line abide by it?---Well, I - like I said I
25 think they pretty much know my expectations which are, you
26 know, they're not different to the code. They will - I
27 probably have far more focus if I'm being - you know, on
28 prisoner decency and care because I think that's really
29 important and that's - I think that's been lacking in the
30 past and again we - you know, just the way I carry out my
31 role as the Commissioner. The - there's a governance
32 structure in place where we look at misconduct and it's
33 chaired by the Director General. I think that's incredibly
34 useful. That enables me to pick up issues, sometimes things
35 that may not be - you know, you may go and ask the question
36 - I'm just going to - usually around staff/prisoner
37 relations. You'd want to make sure, yes, the member of staff
38 is being deal with. You know, what's the complaint? What's
39 the allegation? Are they still in the workplace? Is the
40 prisoner being looked after? Those types of things I think
41 are good discussions to have. We didn't have that before.

42

43 Sorry, which are the discussions that now you're having more
44 frequently?---So there's a - there's a Director General's
45 governance group.

46

47 Yes?---And in that group there's myself as the Commissioner,
48 there's the head of Professional Standards, there's the
49 Director of Intelligence, a couple of other people turn up
50 from Professional Standards and we look at - they look -
51 that group is the Director General who is the employer, it's

1 his assurance group if you like and I think that's a good
2 governance group. It looks at three things so one is the
3 staff training and gives me the opportunity to say - which
4 is around misconduct training and ethics. I have in the
5 past asked them to prioritise in different areas, for example
6 where we're seeing issues, so that - that type of discussion
7 will take place. Then there would be things that's reported
8 of through Corrective Services intelligence, you know, where
9 somebody's reported something on the intelligence system, it
10 would - that's been referred over to Professional Standards
11 because it's about a staff issue. And that forum then would
12 just enable me to do a bit more probing, say, you know, like,
13 the example I've just given, for example. And then you just
14 get to see where all the cases are. It's usually - it helps
15 you identify themes and trends and to see where you've got
16 the - where you need to put a bit more management effort and
17 attention. Like the example I gave you was Bandyup where on
18 one of the visits, the superintendent did raise with me her
19 concerns, likely, in my view, around some of the
20 inappropriate comments that male staff had been making to
21 female prisoners, some of the inappropriate behaviours. And
22 then I was just able to feed that back up. And in fairness,
23 you know, as I said, they referred those back to the
24 superintendent to deal with. She was trying to change the
25 culture. But in fairness, they have taken a different
26 response going forward. So that's just a good communications
27 loop.

28
29 One of the things - or one of the other examples that you
30 gave in your evidence in February was in relation to how you
31 were attempting to change culture, one of the - the concrete
32 examples you gave was where a superintendent - you mentioned
33 it in Feb. It may have happened earlier than that obviously.
34 They had raised concerns with you about how prisoners had
35 been treated in the past and you said you were able to raise
36 these with PSD or with Mays personally. And you - and they
37 are able to go back and have a look at these?---I think that
38 was the Bandyup example.

39
40 Right. Okay?---Exactly right.

41
42 And you said in that examination that that wouldn't have
43 happened two years prior and it would have just gone under
44 the radar. So what did you mean when you said "Two years
45 ago, that wouldn't have happened"?---Well, we didn't have
46 Professional Standards then. I think - I think, you know,
47 what they've done for the - is professionalised our approach
48 to - - -

49
50 Right?--- - - - misconduct. It was - it was an investigation
51 services. It was more, you know - it was more of a

1 transactional - you know, there's misconduct. Let's deal
2 with misconduct and move on. This is more of an education.
3 Like I said, you know, the education arm of that work. And
4 having the ability to raise cultural issues in that way and
5 then to go back and be - have a fresh look I think has been
6 - has certainly helped me with my job and I know certainly
7 the superintendent has found that has added value in her
8 attempts to change the culture there.

9
10 And you said that previously it would have gone under the
11 radar, so what would have gone under the radar?---Well, I
12 don't think - perhaps that wasn't the best way of describing
13 it. I don't think that - those discussions wouldn't have
14 been put in - there was just no forum to have that discussion,
15 so it would have just been ignored I guess. The
16 superintendent would have been left just deal with it.
17 They'd have moved on to the next thing.

18
19 How would you describe the - you've talked briefly about the
20 relationship, sorry, with PSD, the current relationship and
21 you said the communication could be better. How important
22 is it in your opinion to have an open flow of communication
23 between Corrective Services and PSD?---Really important.

24
25 And why?---Well, like I said, you - it - you - it's a - it
26 goes to the core of the good order and safety of the prisons.
27 So we, in Corrections, would get information in around a
28 whole range of things. Some of that would just be normal
29 prison security issues. Some of it will be around staff
30 behaviours. That would get referred over to PSD and I'm
31 sure they get the same. And what you want is somebody
32 somewhere in the system having a whole holistic look at the
33 whole picture, joining all of that up, so it's not just dealt
34 with in isolation. And look, I think in the early days,
35 that - that was problematic. I think that's absolutely fair
36 to say. I think there was - there was the people issues,
37 there was the IT issues. As the Department's matured, that
38 has got much better. I - I think - I don't - I don't think
39 that's the case anymore. I'm sure that there'll be examples
40 somewhere where there are gaps like there are in any system.

41
42 Sure. How do you determine what information you're at
43 liberty to share, say, with Professional Standards, how do
44 you decide that?---Well, I don't share any. It's all done
45 at the sort of Assistance Commissioner level. And the - the
46 - the rule is, everything goes. So I - I don't sort of -
47 it - it doesn't flow up to me and I - I triage, I guess. I
48 don't.

49
50 Okay?---So the - the Director of Intelligent Services, the
51 expectation on him is to give everything over to Professional

1 Standards. So I don't say "No, don't share that, don't give
2 that".

3

4 What about - - -?---But I'd - I'd go as far as to say, stuff
5 comes to me and I'm probably frustrate them a little bit cos
6 I send it directly over to them and I don't following the
7 proper reporting. Cos people write to me and I just it
8 straight over.

9

10 To PSD?---PSD.

11

12 Okay. And what about with the union? You said that you
13 need to have a somewhat sort of - you didn't say amicable.
14 They're my words. But good what working relationship with
15 them - what about the flow of information from Corrective
16 Services to the union? What - or do you - what type of
17 information do you mean? Just generally any information?

18

19 Yes, so what sort of information would you share? Obviously
20 generalise it because again, I don't want to compromise the
21 safety?---Sure.

22

23 But yes, what sorts of information would be appropriate for
24 you to share with the union?---Usually we would share things
25 like we - the long term custodial infrastructure plan, what
26 we're doing around changes in accommodation. We've got a
27 network design project going well at the moment, which I
28 describe as getting the prisoner in the right - prisoner at
29 the right time having the right services. We would - we'd
30 share the type of information and certainly consult with
31 them on that. We would certainly want their views on that.
32 They have raised with me that they don't understand the
33 structure of the Department. I - I've talked to them about
34 that. I've explained the structure. I think not this year,
35 last year, I went to their conference and did a whole
36 PowerPoint presentation to their State counsel on the
37 Department's structure, where Professional Standards sits
38 in, in that to give them more clarity over that. They do
39 come. They have come in the past and asked questions, like
40 I said, around misconduct. I would refer those on. I -I
41 don't - my purpose is try and keep a sort of wall between
42 myself and them on that. They - but they have raised issues
43 with me.

44

45 So sorry, issues relating to members going to the union and
46 disclosing the potential misconduct?---More - more general.
47 So there would be more - I - I guess the complaint would be
48 there's a lot of stuff in Professional Standards. That's
49 been the one. The - the view that - and I'm not saying that
50 I for one minute I agree with this, I'm just reflecting - - -

51

1 Sure?--- - - - back to you what I - they've said to me, is
2 that they feel that their prison officers are being targeted
3 by Professional Standards. That's been a complaint. I think
4 there was - there was an issue at Hakea that back with that
5 sort of seemed to be there. The biggest complaint - that
6 all came to a head then. This year's been a difficult year
7 though, I have to say, because we've had the COVID to deal
8 with, so for the - for the vast majority of the year, we
9 didn't really meet with them. We did get together once a
10 week on a sort of COVID call. But pretty much, as you would
11 expect, most things sort of went into an abeyance, so the
12 main discussion was around COVID.

13
14 Okay. What about not meetings, you said that there - you
15 may have had more recently three informal meetings - - -?--
16 -All early this year.

17
18 - - - over the year, what about just - is that including
19 telephone calls or are you talking about in-person meetings?--
20 --In - well, sometimes they'll ring me up and complain about
21 things. I have to say, whenever they ring me up, it's a
22 complaint. The last one was I think two weeks ago. It was
23 a Friday evening staffing issue at Wandoo. I - I just
24 referred that one to the Deputy Commissioner. They were -
25 they have rung me up in the past and said that when they
26 felt that they haven't had the right consultation. Those
27 conversations have been quite difficult. Like I said, the
28 Casuarina glass thing. When they knew I was leaving, they
29 invited me over to say farewell, so I went to that.

30
31 Okay. And - - -?---Yep.

32
33 Sorry?---Generally, once you've had the conversation, the
34 tension will reduce. But it's - it - look, it's like I said,
35 they - you know, the - you know, Andy Smith has come out
36 within the last three months and said I'm the worst
37 Commissioner, I don't consult, don't do this. That's - I
38 just take that on the chin and move on. And that's just the
39 nature of being the leader.

40
41 So that's the - the impression he's - or that's what he said
42 to you?---And other people.

43
44 Right. Okay?---I actually think he came out and said it in
45 the press. I think he - I think he quoted me personally,
46 but I think he has said that.

47
48 Right. Okay. And so that may be his view, what about your
49 view on the relationship with the union?---Well, I think,
50 like I said, I go back to my fundamental belief that they
51 have a role to play. And it's really important that you

1 don't let the relationship between one or two people damage
2 the whole system. Because it would absolutely grind to a
3 halt if that was the case. So I would much rather deal with
4 their legitimate concerns where we can and have good local
5 relations. And I always say, the Assistant Commissioner
6 that we've brought in to manage this sort of transformation
7 of industrial relations, if you like, my brief to him is
8 yes, do your job, but we still want to work together and to
9 do some of these things. I fundamentally believe that having
10 that productive relationship you get better outcomes. That
11 doesn't mean to say that management though should give up
12 its right to manage and lead.

13
14 Okay. So you've just then given, I guess, discussed the
15 reasons for having productive relationships. But how would
16 you actually describe the current state of the relationship
17 with the union?---Well, probably after these hearings, not
18 - it's going to be worse than before, to be perfectly honest.
19 I think that's just a mere consequence. They are - they are
20 - they'll make some assumptions around that. But the - the
21 - the Commissioner after me will have to deal with that. I
22 think - I - I don't think they're as good as they have been
23 in the past. I think they - it was pretty low to start with.
24 I - I describe, if I can give you an analogy to people, if
25 - if I walked across the Swan River, they would complain
26 that I couldn't swim. And that's the position that - that
27 I'm in. Whatever you do, there's always - needs to be more.

28
29 Sorry, whatever you do - - -?---Whatever you do, there's
30 always - it's never good enough.

31
32 Right?---But that doesn't mean to say, look, that's - that
33 characteristic, that analogy, is representative of every
34 single prison in the State. It's certainly not. I'm talking
35 about my relationship with - - -

36
37 Yes?--- - - - with the executive. I think in some of the
38 prisons, they have really - like the examples that I've given
39 to you. In some of the prisons, the relationships really
40 don't work well at all.

41
42 Sorry, what relationships?---Well, the local management-
43 union relationship. So in some prisons, they're very
44 productive. I think Roebourne was the one - the example I
45 gave to you. I think in other prisons where there's -
46 Eastern Goldfields, for example, where we've had issues
47 around recruitment, a whole range of things, I think, you
48 know, leadership issues in that gaol, I think then the
49 relationships could be much better. They aren't as
50 productive as they could be. So it's not - it's not - it's

1 not a level playing field everywhere I guess is what I'm
2 saying.

3
4 No. So that's why I was asking your personal relationship
5 with the union, how you would describe that?---Well, I try
6 to be open and transparent, but it all - almost changes,
7 depends on what - you know, what issue comes up. They are
8 - like I said, they are, you can have it, you know, a couple
9 of weeks ago they rang me up and said "We hear you're
10 retiring, Commissioner, we'd like to come and say farewell".
11 It was very cordial, very - you know, very nice of them to
12 do that. But then if something goes wrong, it can - it can
13 easily go off track. But that's just the - that's not -
14 that's not unique to hear, to be perfectly honest. That's
15 just the way - that's the role that I occupy and that's the
16 role that their executive occupy.

17
18 So it's up and down?---Yes, I think that's a good way of
19 describing it.

20
21 Okay.

22
23 Commissioner, now might be an appropriate time for a
24 15-minute adjournment.

25
26 **THE ACTING COMMISSIONER:** Okay. We'll adjourn for 15
27 minutes.

28
29 (THE WITNESS WITHDREW)

30
31 (Short adjournment)

32
33 (TIMESTAMP) / 10.56.18 AM

1 HASSALL, ANTONY DAVID RECALLED ON FORMER AFFIRMATION AT
2 11.13 AM:

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

5
6 Yes, Ms Pantano?

7
8 **PANTANO, MS:** Mr Hassall, I just want to take you to a
9 couple of other comments that you made back in your evidence
10 in February in relation to some of the changes that were
11 either on foot or due to be implemented, and I just want you
12 to give us an update, if you can, on those?---Yes.

13
14 You said that three prioritised - there were, sorry, three
15 high-risk operational policies that were being prioritised,
16 and that regarded - regarding searching, reporting and the
17 use of force were being scheduled for implementation by May
18 of this year. Have those policies been implemented yet?---
19 Yes.

20
21 Okay. And how do they change how things are done in respect
22 to searching, to start with?---Well, there's clearer
23 guidance for staff. For example, on the - how to conduct
24 searches, just as one example, and then how to record - and
25 like I - the evidence I gave to Commission earlier this year,
26 what we've done with this project is end-to-end change, which
27 is why it's taken a while; so from the training aspect, to
28 the system aspect, to the implementation. So that's the
29 process that we followed.

30
31 Okay, and - sorry?---Sorry.

32
33 You go ahead?---I think the overall - the way we've
34 approached it is to make sure that there's no - the guidance
35 is much clearer to staff in terms of their responsibility,
36 their legal responsibility and level of decency and
37 standards.

38
39 And what about in relation to reporting? How have things
40 changed in relation to those new policies or procedures?---
41 So, as I said, the end-to-end system - so the TOMS system,
42 the total offender management, we've had people working on
43 that in terms of how things are reported in TOMS. I think
44 one of the issues that the Commission found, and I'm - from
45 memory - was about the ability to cut and paste, as one
46 example. That's now gone, so it's free text; people can't
47 do that.

48
49 Okay, and in relation to use of force? What's changed in
50 relation to that policy?---If I can just refer to my notes,
51 I can give you a really comprehensive answer, rather than

1 doing it from my head. So - and I'm happy to table this if
2 the Commission would like, so again, it sets out the purpose
3 of the policy, the COPP as it's called, where it sits under
4 the Prison Act, then it goes on to use of restraints, some
5 guidance around to prevent a prisoner injuring themselves,
6 when to seek medical advice, preventing escapes, and then it
7 goes into some principles about the use of force, and there's
8 a whole series here, but I'm happy to table this document.

9
10 Thank you. So would you say in general that those guide -
11 the new policies provide clearer guidelines?---Absolutely.

12
13 Okay. You also stated that training had been announced -
14 this is again back in February -

15
16 to provide greater emphasis on the actions of officers prior
17 to, during and following use of force on prisoners, and that
18 further work was being undertaken regarding the requirement
19 and timing for refresher training.

20
21 What can you advise in that space? What's been happening?--
22 --Look, I haven't brought that information with me, so I'm
23 just going from memory. So there's always two - under the
24 old policy, there was always a review required. Those
25 reviews still have to be taken - occur under the new policy,
26 and we have looked at the whole - one of the problems we had
27 is, we training everyone to the same level, so there were a
28 number of different components of the use of force training.
29 So if I can give you an example, at Boronia, we have the
30 same requirement to train officers at Boronia in the use of
31 a baton, where they don't get issued with batons at Boronia.
32 So we've tried to be smarter in the approach in terms of use
33 of force refresher training, and not have a sort of one size
34 fits all. I would still say to the Commission though, there
35 is more work to do on that. We have targeted what I call
36 the high-risk areas, so Hakea, Casuarina, Albany, and then
37 the sort of regional areas in terms of what we call prison
38 response training, where it takes us slightly longer to get
39 staff to deal with an incident. I didn't know that was going
40 to be the question. I would have brought you the most up-
41 to-date training figures. As I say, what I say is, we've
42 targeted those areas, but there's still - it's an ongoing
43 piece of work. One of the bigger problems that we have in
44 Corrections is everything is sort of - everyone feels is
45 mandatory training, and there's only so much time that we
46 have for training. And again, that's a legacy that's built
47 up over a number of years, so we have got the training
48 academy looking at what is actually required in terms of
49 (indistinct) training. I can't recall how many hours are in
50 the industrial agreement for training, but it far exceeds

1 our training liability, the hours that we have. So we just
2 have to prioritise things like that.

3
4 Now, the Commission is cognisant of the fact that this - the
5 incident that it has been investigating, dated back to
6 November 2018, so this is some time before a lot of these
7 changes have been implemented. However, I guess, what was
8 evident was that issues around the culture, and the impact
9 that the culture was having, was current, because a lot of
10 the things that we've seen through TI that was played last
11 week, was around advice being given to officers, or the
12 take-away of advice that was allegedly being given to
13 officers, was about sticking together, covering for each
14 other, and that occurred from August of this year when the
15 officers in question were stood down. So while the incident
16 occurred, allegedly occurred, sometime - the alleged
17 incident occurred some time ago, the issues around culture
18 were still current today, and only a few months ago. What
19 comment can you provide the Commission as to what you hope
20 and understand - you're on your way out, but - and culture,
21 we all understand, it's a long road, it's not a quick fix,
22 but what things do you think the department - Corrective
23 Services have put in place to try and address these current
24 issues?---Well, I think the first thing I would say is, you
25 know, looking at that incident - I mean, that - that was not
26 a use of force, that was an assault, and we do not train
27 staff for that, and there is no place for that. It absolutely
28 undermines the good order and the good governance of the
29 prison - for staff to behave that way, to be quite honest,
30 is shocking. And, you know, it's appalling to me that staff
31 would do that, and there is no place for it, and they're not
32 trained that way. And even if, you know, they're out of
33 currency with their training - I did my prison officer over
34 30 - more than 32 years ago, I can still remember what is
35 right and what is wrong, so that's the first comment, I would
36 say. I just go back to the comments that I've made to the
37 Commission previously, you know, about - the change in the
38 culture, as you've rightly said, takes a long time. You
39 have to start with what - why did those officers think it
40 was appropriate to do that to that individual, whatever the
41 individual has done to end up in Hakea. And that's because
42 the way the system views those people, and I think I've
43 described to you some of the issues that enable that type of
44 culture to flourish. Now, we've been very fortunate; we've
45 had a lot of investment in the prison system since 2017, new
46 infrastructure, all of that helps, and that enables those
47 staff that want to rehabilitate prisoners, that want to have
48 good relationships, it enables them to come to the fore.
49 And what you will see over time is that behaviour became
50 less pronounced, if you like, and it will be more
51 unacceptable. So I see that we're in a transition at the

1 moment, and I think aiding that transition is the
2 establishment of Professional Standards, it's the stuff I've
3 talked about - leadership, getting the right leaders, having
4 more transparent (indistinct). I still go back to the point
5 I made in the session this morning to the Commission, I am
6 of the firm view that, unless there is a sanction of
7 dismissal for that type of behaviour, a hard reset, then,
8 I'm afraid, there will always be people that think that they
9 can do that- sadly, a small number of people, and there
10 should only be one outcome for those people, and they should
11 not be working in Corrections. Now how you get to that from
12 what we currently have, I guess your report inform people
13 that come after me.

14
15 You mentioned getting the right leaders, and we touched on
16 this a bit this morning, and the Commission has also been
17 made aware that there is a general - or there may be a
18 general distrust for upper senior management, which then
19 sets the tone for the remainder of the organisation, and we
20 have touched on this. And do you think that is the case,
21 this general distrust for upper senior management?---I think
22 - yes, historically, there has been. I think that's - it's
23 a legacy. Again, this is just my personal view, it's stuff
24 that people have said to me over the years, some of it you
25 just dismiss, because it's - you know, it's a bit of emotion,
26 but yeah, I think what people have reflected to me is, you
27 know, certainly there's a period in Corrections where the
28 senior people sort of outside the prison, if you like, have
29 never worked in a prison, didn't understand how that prison
30 system is operated. Now, I'm not saying for one minute that
31 you need to have worked in a prison to run the prison system,
32 I'm not suggesting that at all, but it's those types of
33 things that erode management credibility, if you like. You
34 can address that, of course, in terms of your leadership
35 style, how you are with staff, how you are with the
36 superintendents, but yes, I think - again, it's change -
37 it's part of changing the leadership culture, and that takes
38 time. One of the - one of the problems we have at the moment
39 is the constant turnover of leaders. You know, as I said,
40 I think Hakea is an example; in 10 years, 13 superintendents.
41 The same happens above the prison system as well. We have
42 a lot of people acting, a lot of turnover, so it's very
43 difficult then to gelatine together, around a set of core
44 values and principles, and get those embedded through the
45 system, when everyone keeps turning over.

46
47 How important then, in those - in that scenario, with a high
48 turnover, then it for you as the leader of - or the head of
49 Corrective Services, to really set the tone for how - for
50 expected standards of behaviour?---Well, it's very
51 important, and I think, you know - I'm sure there will be

1 people say I could have done more, and I'm sure that
2 probably, you know, with hindsight, there's probably things
3 I'd have done - could have done better, but I think it's
4 important for any leader - we all learn - you know, I think
5 one of the things, for example, when we had the machinery of
6 government changes, a lot of management time and effort -
7 and I'm not making any points here, I'm just making an
8 observation of how it was, a lot of management time and
9 effort went into restructuring. And then you sort of, you
10 take your eye off the operational ball, and you're looking
11 over here, and then things happen over here. Well, that's
12 - you know, hindsight is a great thing.

13
14 Mr Hassall, just in light of that, there are a couple of
15 exhibits I wish to show you, and you'll see a document come
16 up on the screen in front of you, and you'll also hear some
17 audio.

18
19 Can I please have 0244-1^ please?

20
21 0244-1^

22
23 START TELEPHONE INTERCEPT

24
25 Part conversation between 15:44:30 to 15:45:59

26
27 SMITH: Uhm, quick question for ya.

28
29 HASSALL: Yeah.

30
31 SMITH: Big rumour. Are they changing the ah Super at ah
32 Wandoo on Monday? Is that right?

33
34 HASSALL: Yes. Uhm. Who's going there now.

35
36 SMITH: That that was my question.

37
38 HASSALL: I can tell you who's covering it temporarily, that
39 Mick Henderson. Henderson? Hendlison? The old fella, the

40
41 SMITH: Oh the one from Bandyup. Yeah good

42
43 HASSALL: (coughs) Yeah.

44
45 SMITH: yeah really nice bloke.

46
47 HASSALL: Yeah. Yeah Catharine's going off, so she got herself
48 into a bit of a problem so she's going off.

49
50 SMITH: Oh right. Not a worry. I just, with all the
51 (indistinct) there's a hell of a lot going on there at the

1 moment and then somebody said oh they changed (indistinct),
2 oh my God as long as Sue's coming back it will settle down.
3 But no Hendo's good.
4
5 HASSALL: Well we c- well look, I mean I can, you never heard
6 this from me but I mean you you heard what happened to
7 Catharine right?
8
9 SMITH: Hmm probably not.
10
11 HASSALL: Well shit well are you on your own?
12
13 SMITH: Yeah mate I'm in the car on me own.
14
15 HASSALL: Oh yeah, she got pulled over for drink driving.
16
17 SMITH: Oh God, no I didn't know that.
18
19 HASSALL: And, yeah well she told her senior team and has
20 been telling people so I, it was like well that was stupid
21 'cos we couldn't just leave her there because of the optics
22
23 SMITH: Yeah
24
25 HASSALL: you know running the drug and alcohol treatment
26 prison. Not in, you know she'll she's gotta go to court and
27 everything so it's the optics of that, that's what's done it
28 for her.
29
30 SMITH: Yeah.
31
32 HASSALL: (coughs) But she's, she announced it. I dunno why
33 she announced it locally. I said why, just keep your mouth
34 shut on these things, do you know what I mean?
35
36 SMITH: Absolutely.
37
38 HASSALL: Yeah.
39
40 SMITH: Ah.
41
42 HASSALL: So.
43
44 SMITH: Yeah.
45
46 END TELEPHONE INTERCEPT
47
48 **PANTANO, MS:** Mr Hassall, is that you speaking?---Yes.
49
50 And is that Mr Andy Smith from the union?---Yes.
51

1 The secretary?---Yes.

2

3 Why did you tell him that information?---Look, I would have
4 that type of - he's asked me before about changes of supers
5 and stuff like - she had announced that publicly, which I
6 thought was a stupid thing. I was trying to cut off any
7 feedback that he was going give. As I said, he makes comments
8 about management. I don't think there's anything wrong with
9 that conversation.

10

11 Why did you preface the detail about why she left with, "You
12 never heard this from me," and "Are you on your own"?---
13 Well, I don't like having those conversations publicly, to
14 be perfectly honest, and if I said that, I was just - I don't
15 know. I've got no answer for that.

16

17 So I can understand the "Are you on your own," because you
18 wouldn't want that to be public, but when you said, "You
19 never heard this from me" - - -?---Well, I don't want him to
20 go out and say he's got the information - we share
21 information like that, at that type of level. That's - we
22 have done for years.

23

24 Was Ms Phillips a union member?---I don't know.

25

26 Of the West Australian Prison Officers' Union, would she
27 have been a member?---I have no idea.

28

29 Given her position, do you agree that she couldn't have been
30 a member of the Western Australian Prison Officers' Union?--
31 --I - like I said, I have no idea whether she was a member
32 or not. She had made that announcement, it was going to
33 come out publicly. I was trying to protect her. What I
34 didn't want to do was the union to come out and have a go at
35 her. I just said that I think she was stupid that she
36 announced the issues that had occurred with her.

37

38 You said that she had announced it publicly, what do you
39 mean by she announced it publicly?---She told her senior
40 team.

41

42 Right?---It had been in the papers.

43

44 Had it been in the papers at this point?---It may not have
45 been.

46

47 No, it hadn't, Mr Hassall. Do you know how it ended up in
48 the papers?---No.

49

1 If I told you the Commission has information indicating that
2 Mr Smith, the following day, following morning, in fact,
3 leaked it to the media?---I'd be shocked at that.
4
5 Because the Commission has credible information that that is
6 in fact what he did?---Well, that's shocking.
7
8 And then subsequently, later that day, so the 13th, the story
9 was published?---Okay. I'm shocked about that.
10
11 Would this ordinarily be the type of information that you
12 would disclose to the union?---Not really. It was because
13 it Wandoo, it was a drug treatment prison. I think that may
14 have been the only type of discussion I've ever had with him
15 like that.
16
17 Because he didn't ask you - you said to him, "So she got" -
18 if you go to line 13:
19
20 Catharine's going off, so she got herself into a bit of a
21 problem, so she's going off.
22
23 He responded:
24
25 Oh right, not a worry -
26
27 - then he talks about some of the changes. So he doesn't
28 ask for any details, you just offer it. Why was it necessary
29 in your opinion to provide that level of detail to Mr Smith
30 about one of your employees?---Because - well, he had raised
31 with me, I think on a call before, about some issues at
32 Wandoo, and there was going to be a change of superintendent.
33 We would - I would normally tell them there was a change of
34 superintendent.
35
36 But would you need to go into the personal details as to
37 why?---Not necessarily, no.
38
39 So why did you on this occasion?---Because she had made it
40 - she had told people at the prison.
41
42 Right, but her making the choice of telling her own staff is
43 one thing, you making the decision to then disclose that to
44 a union official is another thing?---Yeah, I - - -
45
46 Did you have her permission to disclose that information?--
47 -No.
48
49 Okay. So I'm asking you again why did you disclose those
50 personal details?---Well, like I said she had made it - she
51 had told people herself at the prison which I thought was a

1 misjudgement on her part and what I didn't want and I didn't
2 know he was going to do that but he - that there'd be an
3 issue around that completely with her.
4
5 And you said you haven't disclosed this sort of information
6 previously?---No.
7
8 Can I have 0247-1^, please? This is another call the
9 following day.
10
11 0247-1^
12
13 START TELEPHONE INTERCEPT
14
15 Part conversation from 11:54:50 to 11:55:31
16
17 SMITH: Look just uhm, just quickly, a phone call I got a
18 phone call from a reporter asking me to comment on
19 Catharine's situation.
20
21 HASSALL: Oh yeah the need, we had some stuff in yesterday
22 but, hang on I just stepped in a lift hang on. Hang on.
23
24 SMITH: Yeah no worries.
25
26 HASSALL: Yeah we, we had some stuff yesterday from it so
27 yeah, she should have kept her mouth shut right until
28
29 SMITH: Yeah.
30
31 HASSALL: the actual date so
32
33 SMITH: Absolutely.
34
35 HASSALL: she's moving today I think it's today.
36
37 SMITH: Alright mate I just wanted to let you know I've not
38 said anything obviously oh look I may comment on Wandoo.
39
40 END TELEPHONE INTERCEPT
41
42 **PANTANO, MS:** Were you aware, Mr Hassall, that at the time
43 of this call while Mr Smith said to you in this particular
44 portion of the call that he's not said anything, that he had
45 in fact already leaked this to the media?---I didn't. No,
46 I was not aware of that.
47
48 Were you aware of any unrest within Wandoo?---Like I said he
49 called me on the Friday, I think there was three staff short
50 - sorry, three staff on duty and he - he'd made complaints
51 about that and the union had made those issues.

1
2 So in light of the fact that you were aware that there may
3 have been some issues going on at Wandoo, do you think it
4 was appropriate to divulge that level of detail about an
5 outgoing superintendent to the union?---Well, I didn't link
6 them, to be perfectly honest, at all.
7
8 Would you agree that by virtue of your position, Mr Hassall,
9 you're privy to information that other individuals wouldn't
10 be privy to?---Yes.
11
12 And that you have a duty to deal with that information in an
13 appropriate way?---Yes.
14
15 Particularly the personal information about your employees?--
16 --Yes.
17
18 Do you think you should have disclosed those personal details
19 about Ms Phillips to Mr Smith?---Well, now I know that what
20 he did - obviously I wouldn't do it. Like I said, I would
21 have discussions with him when people are moving on. He -
22 sometimes he's asked and sometimes, yes, I've said, "Yes,
23 they are moving".
24
25 Have you given the details as to why they're moving?---No,
26 not - - -
27
28 Because what - what would be the reason why Mr Smith would
29 need to know the reasons why Ms Phillips was
30 leaving?---Well, like I said I was trying to protect - I
31 know it doesn't seem like it with this but I was trying to
32 close down a story that I - I was concerned was going to -
33 and obviously he's leaked that. To - to close that down.
34
35 I'm finished with that document, thank you. Can I have
36 0244-3^, please?
37
38 This is a continuation of the first call that I played you.
39
40 0244-3^
41
42 START TELEPHONE INTERCEPT
43
44 Part conversation from 15:47:01 to 15:48:16
45
46 HASSALL: Fran's given Adam a lot of grief about that charter.
47 I hadn't seen it.
48
49 SMITH: It, I've sent it both home and to the work
50
51 HASSALL: I've, yeah no I've got it now.

1
2 SMITH: Yeah.
3
4 HASSALL: It's just that
5
6 SMITH: Oh you hadn't seen it?
7
8 HASSALL: I hadn't. I had, no. Neither had Mike.
9
10 SMITH: Unbelievable.
11
12 HASSALL: He, I've (sneezes) I've just said to Mike, I've
13 said look, I've said (coughs) Mike, because I've got the
14 corporate history I said I know when they push, I said you
15 won't have that, I said and they will both of them try a
16 land grab. I said
17
18 SMITH: Yep.
19
20 HASSALL: you just be careful. I said they do it to me all
21 the fucking time. Actually, I've just given up with it 'cos
22 it's debilitating Andy.
23
24 SMITH: Yeah.
25
26 HASSALL: (coughs) And I've said you know, you j- I've said
27 just gotta be careful just what you know, I've said the
28 minister's gonna try and change it next year, I said but uhm
29 he won't be here so then they'll come in and they'll be like
30 vultures picking everything. I said, and at the end of the
31 day, neither of them have any fuckin' experience in our
32 world, do you know what I mean?
33
34 SMITH: No that's right. Look you, you can pass on to Mike
35 we'll give him the same support we gave to you.
36
37 HASSALL: Yeah I will. And he knows that. And I said look,
38 and he absolutely does, yeah.
39
40 SMITH: Yeah, 'cos I, you know, I trust him as much as I trust
41 you
42
43 HASSALL: Yeah.
44
45 SMITH: and we, we'd always look watch his back.
46
47 HASSALL: Yeah, good good.
48
49 END TELEPHONE INTERCEPT
50

1 **PANTANO, MS:** Mr Hassall, there's just a couple of - well,
2 there's several points in this call that I want to take you
3 to. If we can just scroll to the top, please, what "charter"
4 are you talking about here?---Well, the charter that you've
5 referred to in that, like I said I hadn't seen it till a
6 couple of weeks ago.
7
8 Fran's given Adam a lot of grief about that charter.
9
10 Is that Fran Logan and Adam Tomison?---Yes.
11
12 That's your respective Minister and Director
13 General?---Yep.
14
15 Why are you disclosing to the union about potential issues
16 between the head of your department and the Minister who
17 oversees your department?---Like I said it's the - you - you
18 have to understand the nature of those relationships to
19 understand that conversation.
20
21 So tell me about it, then?---Well, there's - the Minister
22 has a view on some things which I'm not prepared to -
23 whatever - - -
24
25 I'm not asking you what his view is?---He's recounted them
26 to me, he's recounted them to the union and like I said I -
27 I hadn't seen that charter until two weeks before.
28
29 Yes. It's one thing for the Minister to air his view on
30 something to the union and it's one thing for the Director
31 General if he chose to do so, to air his view on certain
32 things to the union. But do you agree it's another thing
33 for you to air their views amongst themselves to the union?--
34 --No.
35
36 Why not?---Because I have that relationship with the Minister
37 and with the union and like I said, there was concerns raised
38 about that charter which I've said to you in the evidence I
39 gave this morning.
40
41 What were the concerns raised, your concerns about the
42 charter?---Well, I think I said, didn't I, about the
43 overreach, the security; stuff like that.
44
45 You said that was a hypothetical. That that hadn't actually
46 occurred but that was a hypothetical scenario?---Yep, which
47 could occur.
48
49 Right. So it's one thing again for you to disclose your
50 concerns about the charter to the union, but why are you
51 disclosing potential discontent between the Minister and the

1 Director General to the union?---It just came up in - just
2 as a conversation. Look, you know just happened.

3

4 Yes, I know it happened?---I can't - I can't explain why I
5 had that conversation. He - I - I don't know what went on
6 before. He must have raised it with me, he must have called
7 me about it. I - I don't know who even started that call.

8

9 In any event, do you think it was appropriate for you to
10 disclose that fact to the union?---Well, like I said you
11 have to understand the nature of the relationship going back
12 a number of years.

13

14 Yes. Yes, but was it then appropriate for you to disclose
15 discontent between a minister and a director general to the
16 union?---I didn't - I don't think I've said discontent, have
17 I? I think - - -

18

19 Someone is giving someone a lot of grief about the charter

20

21 ?---Yeah. Well - - -

22

23 So that implies a level of discontent between two
24 parties?---Correct.

25

26 Yes?---And he raised it with me and I said, yes, there's
27 discontent - there's discontent. I don't see that that's
28 inappropriate.

29

30 You said:

31

32 I've said to Mike, 'When they push,' I said, 'you won't have
33 that and they will both of them try a land grab'.

34

35 That's at line 10 to 12 - sorry, 11 to 12?---Yeah.

36

37 Who will - sorry, what are you referring to?---I can't
38 remember. I think that's around searching or stuff like
39 that. I - I - - -

40

41 Who's going to try a land grab?---I can't recall. I think
42 it might have been some - some aspects of Professional
43 Standards.

44

45 Were going to try a land grab of what?---Around the charter,
46 the search; like I said, the searching in the charter.

47

48 The searching of the charter?---The - there's - there's stuff
49 that's - access to the prisons in the charter and stuff like
50 that.

51

1 And what, what would be the land grab?---I - I think that's
2 just a bad term that I've used.
3
4 Yes, in place of what?---I can't recall. The conversation
5 was - - -
6
7 It was only the 12th of this month?---Well, look, I can't
8 recall.
9
10 Take your time, Mr Hassall, and if you need a break to gather
11 your thoughts you're welcome to do that?---I - I absolutely
12 don't need a break at all.
13
14 Okay. Well, take - take your time and cast your mind back
15 because it's only a couple of weeks ago that this call took
16 place and you said earlier in your evidence that you haven't
17 actually had many conversations with the union recently, you
18 said maybe three or so - - -?---I think - - -
19
20 - - - informal - - -?---Yeah. Look, I think what I was
21 referring to there was the scope creep that I've said to you
22 earlier in evidence this morning.
23
24 Okay. You said:
25
26 I said, 'Just be careful'. I said, 'They do it to me all
27 the fucking time' -
28
29 - at line 15. What did you mean by that?---Well, the
30 undermining that I've had to put up with for the last couple
31 of years.
32
33 Between whom?---One or two people in Professional Standards.
34
35 Right. You're employed by the Department, is that correct?--
36 --?---Yes.
37
38 Professional Standards are part of that department?---Yep.
39
40 The union are a separate entity. Do you think it's
41 appropriate for you, in the role that you hold as
42 Commissioner of Corrective Services, to be discussing these
43 sorts of matters with the union?---Well, I think you have to
44 understand two things; (1) the - the nature of what I have
45 had to put up with over the last three years and if you want
46 me to talk about that I'm happy to and - - -
47
48 Only insofar as it's relevant, Mr Hassall?---Well, the
49 undermining that I've had to put up with, the - how I carry
50 out my role by one or two people in Professional Standards,
51 the lack of support that I've had and I guess, yes, that's

1 driven me to have a - probably have - you know raise things
2 like that. I was coming to the end of my time, I was
3 obviously frustrated around the lack of consultation. It
4 may have been an error of judgment on my part.

5
6 You mentioned earlier on several occasions about issues with
7 the union and them holding too much power over several
8 aspects within Corrective Services and the Department. Do
9 you think this was - these conversations we've heard so far
10 are helping that?---Look, you have to have productive
11 relationships. I don't think - like I said, that their role
12 is three parts: the Industrial Agreement, the consultation
13 and this. I'm on my way out. I've obviously had a
14 conversation there. I don't think it's gone too far. Like
15 I said I was trying to - I think she made a naïve decision.
16 The charter was raised with me around the frustration I
17 wasn't consulted on it, I had never seen it and that was my
18 frustration coming out. But that's - that's not unusual.
19 That - - -

20
21 What's not unusual?---That lack of consultation being - at
22 all.

23
24 Is the appropriate forum then - - -?---You're picking -
25 you're picking two examples there in the way you're
26 representing it, there's - that that's how it's been for the
27 last three years and it isn't.

28
29 Mr Hassall, you may have misinterpreted. I certainly
30 haven't, in any of my questioning, alluded to the fact that
31 this is representative of the last three years. I'm merely
32 talking about this particular conversation, that's all.
33 That's all my questions are around is this particular
34 conversation. You said in your evidence earlier that the
35 relationship with the union, my words, were up and down,
36 which you agreed with, and that you had said that Mr Smith
37 had said to you that you were - or he has said in the past
38 that you were the worst commissioner, they were your words?--
39 --Yep.

40
41 And that the relationship with your office was the worst
42 it's been for years?---He's - he's described that and then
43 he's gone the other way and said it's great. So he changes.

44
45 Right. Because at line 23 if we can scroll down, he is
46 saying "We'll give Mike" - is he the person acting in your
47 role?---Yep.

48
49 "The same support that we gave you" - and you said, "He knows
50 that". And Smith says "I trust him as much as I trust you"
51 and that "we'll always look - watch his back" and you

1 responded, "Yeah, good, good". Mr Hassall, we've only got
2 a couple of examples so far that I've shown you of you
3 disclosing certain information to the union. Is this
4 indicative of the types of information you have been
5 disclosing to the union?---Absolutely not.

6
7 So why are we just seeing a couple of examples
8 here?---Well, like I - like I said he raised Wandoo with me
9 on the - the two things that come up was Wandoo and the
10 charter. The charter had been raised with me by the Minister
11 and the charter had been raised with me by him. I hadn't
12 seen that. I had a quick look at it. I - I thought there
13 were some aspects in it like I said I had concerns over, but
14 generally some - some of it were fine. And that's it.

15
16 You said this is not indicative of the types of information
17 you would ordinarily have disclosed to the union over the
18 last three years. Why not? Do you see something wrong with
19 the information you've disclosed here?---No. Well, like I
20 said I don't have - some of - some of the information around
21 the capacity in the system, that type of stuff, that
22 absolutely yes.

23
24 Yes?---But not - - -

25
26 But what about the information you've disclosed
27 here?---Well, if there's been concerns around things I would
28 give them a bit more of an understanding. I can't think of
29 any examples like this, though.

30
31 If you had your time again would you still have disclosed
32 this information we've seen so far?---Well, now I know what
33 he did with the Catharine thing, no. The charter? Look,
34 that's just frustration to be honest. I will accept that I
35 was actually come to the - yeah, that was just frustration.

36
37 Can I have 0249-1^, please?

38
39 Another call, Mr Hassall, between yourself and Mr Smith.

40
41 0249-1^

42
43 START TELEPHONE INTERCEPT

44
45 Part conversation from 19:21:44 to 19:24:09

46
47 SMITH: I'm trying to, I'm trying not to create a scene with
48 Wandoo, okay?

49
50 HASSALL: Yeah, no no, I get it.

51

1 SMITH: But but this is ridiculous. Tony Clark's controlling
2 everything, we get put out three weeks. All I can do is go
3 to the media and say Wandoo is now a farce. Okay?
4
5 HASSALL: Yeah, n-
6
7 SMITH: It is a disaster waiting to happen, and right on the
8 top of what has just gone out in the papers, it would be
9 cream. And I'm really trying to do the right thing by Andy
10 Beck but
11
12 HASSALL: Yeah.
13
14 SMITH: he's not doing the right thing by us. There's a
15 shortage of
16 HASSALL: Have you, have
17
18 SMITH: staff. It is bloody ridiculous, it's dangerous.
19 There's four on arms
20
21 HASSALL: Right.
22
23 SMITH: there. Firstly they should be removed because the
24 agreement was they'd never be on arms, so you've got no staff
25 to deal with them on arms, but you've got four on arms, and
26 you've got one person on the floor. They can't even crack a
27 cell.
28
29 HASSALL: How many are they supposed to (indistinct) what's
30 the- what's the staffing and what, what they should have
31
32 SMITH: The staffing at night, I think it's six at night?
33
34 HASSALL: Okay.
35
36 SMITH: But there's two out at, there's two out on a hospital
37 shift, they've just had an incident.
38
39 HASSALL: Yep.
40
41 SMITH: There's eight at, there should be eight at night,
42 okay?
43
44 HASSALL: Right.
45
46 SMITH: It's just ridiculous
47
48 HASSALL: Alright.
49
50 SMITH: we're tryin' to deal with it, we're doing the right
51 thing we're ringin' 'em but this Tony Clark he's gotta

1 control every fricken' thing and I'm over it now it's just
2 media, media, media from now.
3
4 HASSALL: Can you wait for a week until I've gone?
5
6 SMITH: Well I'm tryin', Tony I'm trying to do
7
8 HASSALL: I know, no I'm (indistinct)
9
10 SMITH: the right thing but it's just frickin' ridiculous.
11
12 HASSALL: Let me speak to Beck and I'll get him to give you
13 a call. I, I don't know what their problems have been over
14 there 'cos look I mean, they shouldn't be running if they
15 shouldn't be running five light but let me speak to him and
16 I'll
17
18 SMITH: Yeah.
19
20 HASSALL: I'll get him to give you a call.
21
22 SMITH: And the problem we've got is that they've let it run
23 down so much over the last three or four weeks that it
24 ordinarily the staff would have bent over backwards for the
25 management. But they've
26
27 HASSALL: Yeah.
28
29 SMITH: treated the staff like shit for the last five weeks
30 and we've told Andy Beck that and he refuses to meet with me
31 he just you know too far off it's just Tony Clark, Tony
32 Clark. Okay? Now the
33
34 HASSALL: Well that's not
35
36 SMITH: the staff
37
38 HASSALL: that's not what it's supposed to be.
39
40 SMITH: Well it's not what it's meant to be
41
42 HASSALL: (indistinct)
43
44 SMITH: but it's what's happening and the staff now literally
45 just walk out the gate and say no deal with it. You know if,
46 if the management don't give a stuff 'cos two of the senior
47 managers walked out, two of the senior staff walked out while
48 the incident was going on and the
49
50 HASSALL: Who was that?
51

1 SMITH: staff are going you know that, that's just bloody
2 ridiculous you've got the ASOS which is uhm Catharine's
3 appointed Wendell Tennent
4
5 HASSALL: Oh.
6
7 SMITH: goes no, no I'm going home, in the middle of an
8 incident. It's just, it why, why should the staff try and
9 act professional and we're getting taken to the cleaners?
10
11 END TELEPHONE INTERCEPT
12
13 **PANTANO, MS:** So, Mr Hassall, you mentioned earlier about
14 some issues going on at Wandoo. Are these some of the issues
15 that were going on?---I think that was the call on the Friday
16 night, yes.
17
18 It was, at 7.20 that evening?---Yep.
19
20 Friday the 13th. What did you understand to be the issues
21 that were going on at Wandoo?---Well, there's two he's raised
22 there. One was the shortage of staff which I've said I
23 think, and the other one it's just reminded me was the - if
24 you scroll back up, about the relationship between the
25 superintendent and that ASO I think he was, which I just
26 ignored to be honest.
27
28 Which what, sorry?---There was - I think he's raised two
29 things there. One was the shortage of staff which was my
30 immediate concern.
31
32 Yes?---No staff on nights. And then I think he raised an
33 issue around the superintendent and - I'm just looking - an
34 ASO.
35
36 Someone who the superintendent had appointed?---Yeah.
37
38 Yes. So if we can just go to the - you said it was your
39 immediate concern around staff shortages, was it?---Yep.
40
41 Okay. And the concern around staff shortages I won't get
42 you to go through it but is an obvious one in a prison
43 environment. Why at line 34 did you say:
44
45 Can you wait for a week until I've gone
46
47 ?---Look, that was a joke. I mean - - -
48
49 A joke about what?---He was going to go to the press. I
50 mean, he threatens that all of the time with me in the past

1 and I just said - I was - he knew I was leaving and I was
2 just - it was just a joke.
3
4 With all due respect, Mr Hassall, it didn't sound like a
5 joke when you said it?---Well, what did you - seriously are
6 you saying that - what did you think I meant?
7
8 That's what I'm asking you?---It was a complete joke. It
9 was a banter between me and him. And if you're drawing
10 anything from that, I can absolutely tell you know you are
11 wrong.
12
13 Well, he responds at line 35 in response to you saying "Can
14 you wait a week - wait for a week until I've gone", he says:
15
16 Well, I'm tryin'. Tony, I'm trying.
17
18 ?---It was seriously a humour between two people. I have a
19 - and if you - if you're drawing any conclusion other than
20 me saying "Just wait for a week and I'll be gone" as a joke,
21 then you are wrong. I can tell you now, you are absolutely
22 categorically mistaken.
23
24 You say humour and banter and we can play that part - well,
25 from the start of the call again, because my proposition to
26 you, Mr Hassall, is that Mr Smith didn't sound like he
27 was - - -?---It was - - -
28
29 - - - having a laugh - - -?---It was - - -
30
31 - - - in this call?--- - - - 7.30 on a Friday evening. I
32 was out at dinner.
33
34 Right?---I was having with my partner.
35
36 Right?---He was on the phone. You heard the tone of his
37 voice. And I was just saying, "Andy, just wait a week". It
38 was a complete joke. If he was here, he would tell you
39 that's exactly how it was taken.
40
41 But he responds "I'm trying", so he didn't - on one reading,
42 it doesn't seem that he thinks you were joking in his
43 response?---Well, you - you - I can absolutely tell you he
44 was. And to draw any conclusion from that other than banter
45 is wrong.
46
47 What part is banter, Mr Hassall?---Well, I'll wait for a
48 week to look. He knew I was leaving. It was a - seriously
49 a joke. What did you - I mean, do you think I was going to
50 say "I won't deal with any issues for a week"?
51

1 Did you not want any adverse publicity while you were still
2 in the office, Mr Hassall?---Absolutely not at all.
3
4 Can I have 0247-2^, please?
5
6 0247-2^
7
8 START TELEPHONE INTERCEPT
9
10 Part conversation from 11:55:51 to 11:56:47
11
12 HASSALL: Are you on your own?
13
14 SMITH: Ah I am. I'm just about to go into uhm ah an
15 appointment.
16
17 HASSALL: Okay well there's a couple of other things. Ah
18 Catharine's not the only one. Are you there?
19
20 SMITH: Oh yeah, yeah, yep.
21
22 HASSALL: Acacia.
23
24 SMITH: Oh, oh I was aware of that, I did hear of that one.
25
26 HASSALL: Yeah last month. And
27
28 SMITH: Yeah.
29
30 HASSALL: also at Acacia they, did you know there's a, there's
31 a, there's a sexual, sexual assault gang been operating up
32 there?
33
34 SMITH: No I didn't.
35
36 HASSALL: In the, in the protection, it's massive. In the
37 protection unit, standing over, sexually assaulting
38 prisoners, bikies and everything.
39
40 SMITH: Oh. No, not, not a word of it.
41
42 HASSALL: Well you, you haven't heard it from me.
43
44 SMITH: No.
45
46 HASSALL: You should get, ask some questions
47
48 SMITH: Yeah.
49
50 HASSALL: and there you go.
51

1 SMITH: Not a worry I, I will and ah yeah. Not a worry
2
3 HASSALL: Alright I
4
5 SMITH: no I appreciate that one.
6
7 HASSALL: alright, alright I'll leave it with ya.
8
9 END TELEPHONE INTERCEPT
10
11 **PANTANO, MS:** Who's interests do you represent, Mr Hassall,
12 in your role as Commissioner?---Well, what do you mean? That
13 would be normal information that I would give to him if we've
14 operational concerns like that.
15
16 You've got operational concerns about a prison, why would
17 you tell the union?---Because he - he - he will know that
18 that is going on there at some point. I don't want him to
19 hear it from me, so he knows that there's concerns up there.
20
21 So why would he need to know that?---Because he's the head
22 of the union and represents all of the staff up there.
23
24 Right. But it's not staff being allegedly sexually
25 assaulted, it's prisoners?---Well, that - there's - that
26 will be an operational issue. That type of information, I
27 would give to him.
28
29 Right. Why did you ask again "Are you on your own"?---
30 Because I don't want him to be in a room where there's
31 generally - that's the type - that's the nature of the
32 relationship I have with him.
33
34 Okay. And then again at line 17, why did you say "You
35 haven't heard it from me". And before you answer, if there's
36 nothing wrong with you sharing this information as part of
37 duties, part of your functions and role as Commissioner, why
38 did you not want it attributed to you?---Because I don't
39 want - I didn't want - I don't want him leaking it to the
40 media and saying "I've got this from the Commissioner". But
41 if you think that in this role you don't have those types of
42 discussions around those types of things, then you do.
43
44 You didn't say "Don't tell the media". You didn't say "Don't
45 tell the media" in relation to Ms Phillips either. But you
46 used the same phrases, or words similar, "You haven't heard
47 it from me"?---That's just a phrase that I use - - -
48
49 Right?--- - - - to be perfectly honest.
50

1 Which means don't talk to the media, is that what your
2 evidence is?---Yes.
3
4 So you saying "You haven't heard it from me" and "Are you on
5 your own" means don't talk to the media?---It means it's a
6 private conversation between the two of us.
7
8 Well, it is a private conversation because were you of the
9 understanding that you having this conversation with anybody
10 else present?---Sorry?
11
12 Were you of the understanding that you were having this
13 conversation with anybody else present other than Mr Smith?--
14 --No. I asked him.
15
16 No. Right. So you knew that it was a private conversation?--
17 --Yep.
18
19 So why do you not want this information attributed to you?--
20 --Because if it - I don't want him leaking it to the media
21 and saying it's come from me. But we have type of
22 conversation about things going on in the prisons. That -
23 that occurs.
24
25 Would there be anything that you would tell Mr Smith that
26 you would be happy for it to be leaked to the media?---
27 Absolutely not.
28
29 Right. So is it the fact then that it's an unspoken rule,
30 my words, that when you disclose information to Mr Smith,
31 you would just expect that he wouldn't go to the media?---
32 Yes.
33
34 Right. So why then do you need to, given you've been in
35 this role for several years, why then do you need to preface
36 it with firstly, "Are you on your own" and secondly, end it
37 with "You haven't heard it from me"?---Look, it's just
38 something I would say. I - I - it's part of my conversation.
39 I have no idea why.
40
41 It's it because you didn't - sorry, I'll rephrase that. Is
42 it because you knew you shouldn't be telling him this
43 information?---I - I would have that same conversation with
44 him today on both.
45
46 Why did you say Mr Smith should ask some questions?---Cos I
47 wanted him to find out his own information at - at Acacia.
48
49 Why?---It's going - it's going to be an issue.
50

1 Had you reported this to anybody else?---The Acacia issues,
2 it's a significant issue for us, yes.

3
4 Yes, so had you reported this information to anybody else
5 other than Mr Smith?---Most people in the Department know
6 about it.

7
8 Right. So it's being dealt with - - -?---Yes, absolutely.

9
10 - - - by the Department?---Of course.

11
12 So why are you giving a heads up to the union, who you've
13 already acknowledge causes several issues for various
14 prisons because of their increased control, why are you
15 giving them the heads up about information when the
16 Department is already dealing with it?---Because like I said
17 to you, that's the way I - we - we absolutely work in that
18 way when there's things like that, operational issues, we
19 share information with.

20
21 What's your criteria, your threshold, for when you're going
22 to tell the union something?---It would depend on each -
23 each circumstance it would be different.

24
25 But if your Department, who you are employed by, are already
26 dealing with an issue, why are you - in your role as
27 Commissioner, why did you feel the need that you had to let
28 the union know about this?---I - look, I - it's just the way
29 I - I've done this with them on these types of things. I
30 think to think that you can't share that type of information
31 and those operational things is - frankly, it's just - well,
32 it just wouldn't work.

33
34 The Commission is cognisant of the fact that there needs -
35 should be a level of working relationship - - -?---I
36 think - - -

37
38 - - - between the two - - -?---I think what I would have
39 done differently is probably had a more detailed brief on
40 the Acacia issue with him.

41
42 Why?---Well - well, like I said, that's just the way we -
43 we've operated.

44
45 So you're saying the only thing you would have done
46 differently is given him more information?---Not necessarily
47 more information, I just wouldn't have done it like that
48 over the telephone. I would have actually sat down with him
49 and said "This is what we're doing. These are the actions
50 that we're taking".

51

1 Were you gossiping here, Mr Hassall?---No.
2
3 Were you gossiping with Ms Phillips' information?---I don't
4 think so. Like I said, I was - she'd given that information
5 out. I think that was a naïve thing to do. It was just
6 trying to protect her. I didn't think he would leak it to
7 the media. He's never given me that indication he would do
8 that before.
9
10 Is it the fact Acacia's a private prison?---Yes.
11
12 What oversight or involvement do Corrective Services have
13 over the private prisons?---They manage the contract.
14
15 So Acacia's on a contract?---Correct.
16
17 Okay. And how do they - how are they awarded the contract?
18 Is it a tender process? How does it work?---It's - it's -
19 well, it's just going through at the moment, it's all being
20 done.
21
22 It's going through at the moment?---It's being - there's a
23 tender process being done, yep.
24
25 And Acacia's part of that?---Yep.
26
27 Right. And what involvement do you have in that process?--
28 -Very little. I'm - I'm on - - -
29
30 So what - - -?---I'm on - - -
31
32 - - - involvement do you have in it?---I'm on the evaluation
33 panel, but the Director General signs it off.
34
35 All right. So you're on the evaluation panel?---Yes.
36
37 To choose, or to decide, whether or not a - a - a private
38 prison will be awarded a contract?---Correct.
39
40 Right. How many people on the evaluation panel?---Well, it
41 changed. I just took over because somebody was stood down.
42 I think there was about eight. I - I - - -
43
44 So you have a - is it like a - you have a voting sort of
45 right?---It's a voting system, yeah.
46
47 Right. And everyone on the evaluation panel votes?---No.
48
49 Did you have a vote?---I just chaired it and then the
50 recommendations go up to the Director General.
51

1 Right. So you were the chair of the evaluation panel?---
2 Correct.
3
4 And did you have a voting right as well?---Yes.
5
6 Right. Okay. And then it - recommendations are made by the
7 evaluation panel?---Yes.
8
9 To the Director General?---Yes.
10
11 Who has the final say?---Correct.
12
13 Okay. So you're currently chairing an evaluation panel
14 for - - -?---It's a - the process had completed. It was
15 complete. It's gone up to government.
16
17 Right. So - - -?---But if you - - -
18
19 Sorry, continue?---No.
20
21 Sorry, well - well - well - - -?---No, no, I'd say the
22 process is complete. It was complete.
23
24 Did you see there being any conflict then, Mr Hassall, of
25 your involvement in the evaluation panel, chairing it, and
26 then you disclosing this information to the union?---No, as
27 - as I said, that process is complete.
28
29 When would - when had it been completed?---I haven't got the
30 timeline. It was before this conversation.
31
32 How do you know that?---Cos I - I do, it's - I - I haven't
33 got the timeline, but I know it was completed before this,
34 cos the recommendations went up and the Minister's been
35 briefed.
36
37 **THE ACTING COMMISSIONER:** Did the union have a view about
38 the desirability of Acacia being a private prison, as it
39 were?---They don't - their - their view is there - there's
40 no role for the private sector in the running of prisons.
41
42 Okay. Would this information have given them some ammunition
43 if they were wanting to do something about Acacia?---I don't
44 think you could - well, as I've said, the tender and the
45 process has been complete. This would just be an operational
46 discussion that I had with them.
47
48 **PANTANO, MS:** If you were already aware of the union's view
49 on certain private prisons, do you see that disclosing
50 something like this could just add fuel to the fire?---This

1 could have been at any gaol. It just happened to be at
2 Acacia.
3
4 Yes?---Their view on the private prisons is not my view.
5
6 I didn't ask whether it was your view, but as I asked you,
7 did you knowing that that is their view, then disclosing
8 this information which you've said you didn't want it to
9 come from me - from you, do you see that it could add fuel
10 to the fire?---Their - their - their view is - they're -
11 they're already vehemently opposed to the private sector.
12
13 Right?---This - I - I haven't made that link between it
14 being a private prison. This was an operation issue and I
15 have briefed the unions on operational issues where I felt
16 it's beneficial.
17
18 And how could this have been beneficial to the union?---
19 Because this is a big issue. This - this will be a
20 significant issue for the Department to deal with.
21
22 Yes, for the Department to deal with. So tell me how this
23 was a big issue for - that the union needed to know about?--
24 --Well, that's a judgment call that I made.
25
26 Yes, so I'm asking you why?---Because usually things like
27 that, he - he would - he's come out in the past and criticised
28 the Department in the media and stuff like that, and I've
29 just taken the view that it's better to get them in the tent,
30 if you like, earlier on.
31
32 So if that's your view, why did you say "You haven't heard
33 it from me"?---Look, I don't know. I - I just - I don't
34 want him saying "The Commissioner's told us this" in the
35 media. It's a confidential conversation between him as the
36 head of the union and me as the Commissioner.
37
38 I'm finished with that document, thank you.
39
40 Mr Hassall, I just want to take to the Code of Conduct.
41
42 Can I have 0036^, please?
43
44 0036^
45
46 **PANTANO, MS:** Does that document look familiar to you? I
47 understand it's just the cover page?---Yep.
48
49 If we can scroll down to the contents, then go to page 3.
50 It's the message from the Director General. And it's dated,
51 if we can scroll down, June 2019.

1
2 If you can see at paragraph 4, it says that:
3
4 This Code of Conduct sets out the minimum behavioural
5 standards to which we are all bound.
6
7 ?---Yes.
8
9 And - and second last paragraph:
10
11 As a member of our diverse workforce, you must comply with
12 the terms of this Code of Conduct and relevant supporting
13 legislation, policies and procedures.
14
15 Do you agree that this code applies to you?---Yes.
16
17 If we can scroll to page 4 please?
18
19 Under "Introduction", after the dot points:
20
21 This Code of Conduct binds all sections of the workforce to
22 an ethical standard of behaviour.
23
24 So you'll over the part - previous two pages that this code
25 sets out the minimum behavioural standards and also refers
26 to ethical standards of behaviour, to which all employees
27 are bound, including yourself.
28
29 If we can go to page 5, please?
30
31 Under "Our Principles", it highlights the principles that
32 define the work required - sorry, required of - of each of
33 you. That's a high-performing. Being high-performing and
34 professional, ethical and accountable, trained, safe and
35 supported.
36
37 And at paragraph 3, it goes into the Code of Conduct
38 standards. And the first one is - talks about personal
39 behaviour and acting with honest - sorry:
40
41 Acting honestly and with integrity in your personal conduct
42 and how you treat others, including but not limited to the
43 following.
44
45 And what I'm interested in is at the second dot point
46 "Personal Behaviour Expectations":
47
48 We lead by example and strive for excellence by setting high
49 standards in the discharge of our professional duties and
50 personal conduct.
51

1 And if we can just go to the top of page 6, it flows on to
2 say:
3
4 We are responsible for maintaining a professional role with
5 all with whom we come into contact.
6
7 I just want to ask you some questions about that, Mr Hassall.
8 Is it correct you occupy the highest position within
9 Corrective Services?---Yes.
10
11 Do you agree that you need to lead by example?---Yes.
12
13 And that you need to set high standards in the discharge of
14 your professional duties and personal conduct?---Yes.
15
16 Do you therefore consider that the disclosure of Ms Phillips'
17 personal information to be acting within those parameters?--
18 --Like I said, she'd already disclosed it.
19
20 To her staff?---To her staff.
21
22 Right. You've disclosed it outside of the organisation?---
23 Yes.
24
25 Yes, so I'll ask you again, do you consider that the - - -?-
26 --Well, in hindsight, I probably wouldn't have done. But I
27 still maintain that I was trying to act in her best interest.
28 I said to the - when it was told to me that she'd reported
29 that information, that I thought it was a mistake. We wanted
30 to manage the - any fallout from that.
31
32 Were you maintaining a professional role, Mr Hassall, in
33 disclosing the potential discontent between your DG and the
34 Minister?---I don't think there was any - I don't think -
35 I've just - I think the Minister has raised this and issue
36 and he's going to raise it with the Director General.
37
38 Were you maintain your professional role, Mr Hassall, in
39 disclosing the inner departmental issues about Acacia with
40 the union?---Like, I said, that would be information - some
41 operational information I've shared with the union before
42 that level, yes.
43
44 If we can go to 3.2, where it says:
45
46 Expectations of behaviour towards our employees, members of
47 the public and those in the Department's care.
48
49 In paragraph 2, it says:
50

1 We exercise proper courtesy, consideration and sensitivity
2 in the performance of our duties and our dealing with your
3 employees and the broader community, including those in the
4 Department's care.

5
6 Mr Hassall, do you think you exercise proper courtesy,
7 consideration and sensitivity in disclosing Ms Phillips',
8 one of the your senior staff member's personal information?--
9 --Like I said to you three times now, she disclosed that
10 information. I wish she hadn't. I didn't want her to move
11 on from that position, but there was some point that was
12 going to have to happen.

13
14 So you think you did - - -?---And - - -

15
16 - - - exercise proper courtesy and consideration when
17 disclosing her personal information?---Well, I was trying to
18 - it doesn't seem like that from how you're reading it here,
19 but I can absolutely tell you my best intention was to
20 protect her position as superintendent.

21
22 And when advising Mr Smith about Fran allegedly giving Adam
23 a lot of grief, do you think you were exercising proper
24 consideration and sensitivity around issues to do with the
25 charter?---Well, that - that wouldn't - I had no - that was
26 raised with me the minister. He asked me if I'd seen it,
27 and I said no. He'd raised it with me, and I just told him.
28 I - I - if you think that that type - those types
29 conversations don't occur, you just happened to have
30 recorded, then they do.

31
32 What types of conversations occur?---That - well, those types
33 of conversations that you've just replayed there.

34
35 So the head of the Corrective Services disclosing information
36 about - - -?---Well, I wasn't disclosing information. What
37 I was saying there that the Minister is going raise it so
38 that's it.

39
40 No, that's not what you said. You said, "Fran has given
41 Adam a lot of grief about that charter," which - the
42 assumption is that someone is not happy about someone else's
43 decision?---Yeah. Well, I haven't seen it, so - - -

44
45 Right, but Mr Tomison has signed off on the charter?---Well,
46 I assume so. I hadn't seen it at the time.

47
48 Right?---And I think if you hadn't - the call before, the
49 union had raised it with me and I just - just leave it, let
50 - basically, they can just let it run.

51

1 In fairness, in the call that I played you, that wasn't what
2 you said. So I'll ask you again, do you think that you
3 exercised proper courtesy, consideration and sensitivity
4 when disclosing discontent between your Minister and
5 Director General?---You have to understand the nature of
6 those relationships, and yes, I do.
7
8 Thank you. Now, if we can go to - still on page 6, sorry,
9 where the heading Communication and Official Information.
10 What do you understand "official information" to mean,
11 Mr Hassall?---Any information by the department.
12
13 And it gives a bit of a definition there, the second
14 paragraph, under Official Information:
15
16 We ensure that any information or material that we receive
17 or view or access, or become aware of in connection with our
18 jobs, or the operations of the department, is not misused
19 intentionally or non-intentionally, whether or not the
20 misuse is for the benefit of us or the department, or for
21 the benefit, or to the detriment of any other person.
22
23 Does that accord with your understanding of what official
24 information is?---Yes.
25
26 Okay. I just want to confirm, you came to be aware of the
27 information regarding Ms Phillips through your role?---
28 Correct.
29
30 Do you consider that to be official information?---Yes.
31
32 Okay. And you've already acknowledged that you didn't have
33 Ms Phillips' authority to disclose it. That's correct?---
34 No.
35
36 Do you think that you needed to, or are you of the view that
37 you needed to respect the privacy of her?---Well, the
38 information wasn't private. She - as I've said to you, she
39 had already made an announcement to her team. That
40 information was going to get out.
41
42 How do you know that that information was definitely going
43 to get out, just by the mere fact that she's told her senior
44 staff?---Because that's the way prisons operate.
45
46 What's the way prisons operate?---Nothing is - that's just
47 - information leaks like that in prisons.
48
49 Do you think that's correct?---Yes.
50
51 Why?---Because the - I just - that's my experience.

1
2 No, no, but do you think that's an okay practise that
3 information is leaked?---I'm not saying it's an okay
4 practise, but what I'm telling is, I was trying to protect
5 her. I know you're not portraying it that way, but that was
6 my motivation.

7
8 In light of the fact that you had some knowledge that the
9 union weren't happy with several staffing issues, amongst
10 others, at Wandoo Prison - I know you said you didn't link
11 the two, but can you see how it may have been an issue with
12 disclosing that sort of information, there was already
13 unrest?---No.

14
15 No?---That - the staffing issue was raised with me on the
16 Friday evening. I had no indication that it had been a
17 long-standing dispute at all.

18
19 The discontent between the Minister and the Director General,
20 did you come to know that information by virtue of your
21 role?---Yes.

22
23 Okay. Do you consider that to have been official
24 information?---Not really, because I can tell you now that
25 the union would also be aware of that information.

26
27 Of what information?---Well, on the charter.

28
29 How?---Well, that's a question you'll have to put to the
30 union.

31
32 No, but you said you know that the union already know that?--
33 --Well, I - - -

34
35 I'm asking you how you know that?---Because they told me -
36 but you'll have to ask them where they got that information
37 from.

38
39 I'm not asking you where they got the information from, I'm
40 asking you where you got the information from?---The union.

41
42 Right, so they told you that they already knew that there
43 may - that certain people might have had a view about the
44 charter?---Correct.

45
46 Right, but it's a different thing to disclose that there was
47 discontent between the two most senior people in your
48 organisation, one being the Director General, one being the
49 Minister?---Well, your assumption is that they hadn't
50 already been told. You're saying that I had given that
51 information, and that's not correct.

1
2 If the Minister wants to tell the union one thing, that's
3 their prerogative, if the Director General wants to tell the
4 union one thing, that's their - his prerogative, but do you
5 see that it's an entirely different matter for you to be
6 disclosing discontent between two other individuals?---Not
7 really, on this particular issue, no.

8
9 Particularly, in light of the fact that you knew the union
10 also weren't happy about it? You don't think that was adding
11 again fuel to the fire?---No.

12
13 Strengthening the union's position?---No.

14
15 The information about Acacia, do you agree that came to you
16 by virtue of your role?---Yes.

17
18 Did you consider that to be official information?---Yes.

19
20 Did you have authority to disclose it?---Well, nobody gives
21 me authority to disclose information. As I've said to you,
22 I would share with the union operational information, where
23 I would deem it necessary.

24
25 **THE ACTING COMMISSIONER:** You weren't operating that
26 prison?---Sorry?

27
28 You weren't - your department wasn't operating that prison?--
29 --No.

30
31 You had contract supervision?---Yes, but this would be a
32 significant issue for that prison.

33
34 **PANTANO, MS:** I'm finished with that document, thank you.

35
36 You've said throughout the morning, Mr Hassall, that
37 cultural change comes about via a variety of factors, but
38 one of them is that it's got to start at the top. And you've
39 said that there is evidence of distrust at various levels,
40 including from the top. Do you think that your actions in
41 disclosing this information, albeit you say you - there was
42 no issue with it, but could you see how it could instil
43 distrust in the rest of the organisation?---Not really.
44 Having a good, productive relationship with the union is -
45 like I've said to you this morning - is what I try to aim
46 for. Those two examples are one - as I've said, I was trying
47 to protect the individual, and I just - you've made it sound
48 it didn't seem that way, but I was, and the second one was
49 that was the information we would share - by transparent
50 with them, knowing that there's a bid issue coming, I don't
51 see a problem with that at all.

1
2 Commissioner, perhaps we can have a short - just a 10-minute
3 adjournment will be sufficient.

4
5 **THE ACTING COMMISSIONER:** We'll adjourn for 10 minutes.

6
7 (THE WITNESS WITHDREW)

8
9 (Short adjournment)

1 HASSALL, ANTONY DAVID RECALLED ON FORMER AFFIRMATION AT
2 12.29 PM:

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

5
6 **PANTANO, MS:** Mr Hassall, just a couple more questions
7 before we finish up today. You said that nothing stays
8 secure within the prisons and that information spills out or
9 leaks out. Do you - is it your view that - or your opinion
10 that this contributes to a culture of distrust within the
11 Department?---Not necessarily.

12
13 Why not?---Well, because it doesn't.

14
15 When you made the comment about information spilling out and
16 that information gets out anyway - - -?---I was - I was
17 generalising.

18
19 Yes, I understand that?---I was - and when - so I was
20 generalising about information. One of the things, like I
21 said to you this morning around mistrust is a whole range of
22 things, where I had people selected for positions. I've
23 talked to you about the impact of the Freemasons. I notice
24 you've chosen to ask me no questions on that or the impact
25 of that at all. And all of those things. And that's probably
26 where you should probably ask other people those types of
27 questions.

28
29 So I appreciate - - -?---So you're choosing to focus on two
30 conversations I had and characterise my style on two
31 conversations, which is, I think, grossly unfair. What I'm
32 saying to you is there are other things. And I've raised
33 this with the Commission before. I've raised with - I think
34 when we had our closed hearing the last time, I ran some of
35 the things that are going on. And I - I don't know what
36 you're doing in that space, but I would suggest to you that
37 that's another area that you should look at.

38
39 Just to set the record straight, Mr Hassall, I - I did
40 mention it earlier, but maybe I wasn't clear enough. I, in
41 playing these calls to you, I, nor the Commission, are
42 attempting to characterise your entire term of Commissioner
43 by these two calls. So I just want to make that perfectly
44 clear with you?---Cos that's certainly not the case. I - I
45 - and again, I note that you have not made one comment about
46 the other things that I've raised with you. Both here at
47 this hearing and in the closed hearing, and I think I've
48 raised it before more than once with the Commission.

49
50 Okay. Mr Hassall, we could be here all day. We could be
51 here all week exploring every single issue that faces the

1 Department and - - -?---Well, there's some significant ones
2 though. Some are - some are minor. And there are some
3 significant.

4
5 Yes, so we have to be selective with our time and with the
6 things that we choose to explore in this particular forum.
7 It's not to say behind the scenes other things aren't
8 necessarily going on. But we just don't have - they're -
9 they're just not being explored in this forum for a variety
10 of reasons. So I just want to go back to your comment about
11 nothing stays secure within the prisons, that information
12 often is leaked out. And I appreciate that there are other
13 factors that contribute to a distrust and a culture and
14 distrust, but I am just choosing at this point in time, in
15 - on - in these questions to explore this?---Well, I was
16 generalising.

17
18 Yes?---I was making a generalisation of generally how prisons
19 operate.

20
21 Right. So based on that generalisation, do you agree that
22 that - the fact that information at times is leaked out of
23 the Department, can you see how that couldn't contribute to
24 a culture of distrust?---It could contribute to it, yes.

25
26 Right. And do you think that by you divulging the
27 information that you have in the - in the few calls that
28 we've shown you is also contributing to that culture of
29 distrust?---Well, like I've said, the - I - I don't
30 characterise that as leaking. I was acting in the best
31 interests of the employee. You may not think that, but I
32 actually was. And significant issues like that we have at
33 that gaol, which could have been anywhere, I would have
34 briefed the union on. So would other people. It wouldn't
35 just have been me.

36
37 Okay. And just before we finish up, you - you mentioned
38 quite a number of times how you were protecting that
39 individual by disclosing that information about her personal
40 circumstances to the union, just explain for me, because I'm
41 not quite understanding how you thought that was protecting
42 her?---Well, it - it's - I work on the assumption of no
43 surprises. Right. I don't think she should have disclosed
44 the information. We would have had to have made some
45 changes. I think it would have just been better to be open
46 and transparent about it. In hindsight, perhaps, I don't
47 know, I may have done it differently, I may not have done.

48
49 So again, sorry, I'm just curious as to how that was
50 protecting her, how you thought that was going to protect
51 her?---Well, I don't think she should have told anyone, and

1 that - we want - I wanted her to stay in the thing. I didn't
2 want the union to run a campaign. The union had issues at
3 Wandoo and stuff like that. I think she's done a good job
4 there. And I wanted to leave her there. And I didn't want
5 them to make an issue of it. Clearly I was wrong in my
6 judgment on that with what you've told me that he's done.

7
8 So you said you didn't want the union to run a campaign?---
9 I didn't want the union to make an issue of it.

10
11 So then why were you telling them?---Because she - it was
12 going to get out. She'd told her staff. I - they were -
13 they were making issues around Wandoo and I didn't want them
14 to make it further.

15
16 But you didn't say that in your call, Mr Hassall. You didn't
17 say words to that effect at all?---Well - well, that's -
18 that was the intent.

19
20 Right.

21
22 Commissioner, I have no further questions for Mr Hassall,
23 but I also ask that he not be released from his summons.

24
25 **THE ACTING COMMISSIONER:** Okay.

26
27 Commissioner Hassall, you're not excused from your summons
28 nor are you released from further attendance here. You are
29 to present yourself to the Commission if and when called
30 upon to do so. Otherwise, thank you for your evidence.

31
32 We'll adjourn.

33
34 (THE WITNESS WITHDREW)

35
36 AT 12.36 PM THE MATTER WAS ADJOURNED ACCORDINGLY

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

The transcript of Antony David Hassall heard on Tuesday,
24 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 24th 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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