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CORRUPTION AND CRIME COMMISSION

OF WESTERN AUSTRALIA

COMMISSIONER JOHN MCKECHNIE QC

TRANSCRIPT OF PROCEEDINGS

AT PERTH ON MONDAY, 10 FEBRUARY 2020, AT 9.47 AM

COUNSEL ASSISTING:

MS TSE CHEE LOO

WITNESS:

ANTONY DAVID HASSALL

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THE COMMISSIONER: Please be seated.

THE ASSOCIATE: The Commission is conducting a number of examinations for the purposes of an investigation under the Corruption, Crime and Misconduct Act 2003. That investigation has been designated Operation Canopus.

The scope and purpose of the Commission investigation is to examine how the Department of Justice prevents, identifies and deals with serious misconduct, including but not limited to implementation of the Corruption and Crime Commission's recommendations and measures to address serious misconduct risks in the supervision of section 95 prisoners, contraband entering prisons, inappropriate associations between prison staff and prisoners, and the use of force against prisoners and reporting of use of force incidents.

THE COMMISSIONER: The Commission generally goes about its work covertly and normally conducts private examinations to protect the reputations of persons who may be under investigation, and also to ensure that no damaging information is leaked out.

Many investigations may conclude with an opinion that there is no serious misconduct, and so if there was a public examination of that matter, it would do untold damage. Under the Act, the default position is that examinations are conducted in private. However, a Commissioner may exercise the discretion to open an examination to the public, having weighed the benefits of public exposure against the potential for privacy infringements.

Last year, the Commission produced a number of reports, which were tabled in Parliament, in relation to the Department of Justice, and in particular the Corrective Services wing of that department. This - these examinations, which will culminate in another public report, are part of the exercise of the Commission's misconduct risk function.

It is not suggested that any of the witnesses who will be called before the Commission are under investigation or that there is any allegation of misconduct in respect of them. Rather, they are senior officers of the Department of Housing who will be called to explain to the Commission what has been done in respect of the recommendations made by the Commission last year, and what has been done to strengthen a very important, indeed crucial, part of government, that is maintainment of law, order and

1 discipline in prisons and other facilities.

2

3 So the Commission, having made 51 recommendations last
4 year, witnesses will be examined to explain the progress
5 the Department of Justice has made towards the implementing
6 of those recommendations, and I have concluded that that
7 process is best done in public, so that the community of
8 Western Australia may know the progress that has been made
9 at an early stage. As I say, none of those who will be
10 called this week has any suggestion or allegation of
11 misconduct in respect of their behaviour.

12

13 There is a Commission practice direction which prohibits
14 the use of electronic devices in the hearing room while an
15 examination is in session, therefore I ask that all mobile
16 phones and tablets be switched off. Members of the media
17 may continue to use those devices. I have allowed cameras
18 into the examination room because it is part of the public
19 function of the Commission, and so if there are any
20 occasions when a witness feels necessary to give evidence
21 in private, because public evidence may compromise the good
22 order of prisons, the witness makes that known to me.
23 I will consider the matter and may move briefly into a
24 private examination.

25

26 Finally, I have appointed as counsel to assist me
27 Ms Tse Chee Loo and Ms Nadia Pantano. They will be in fact
28 asking questions on my behalf. I now invite Ms Loo to make
29 some opening remarks.

30

31 **LOO, MS:** Western Australia has 15 public prisons, two
32 private prisons and five work camps. These facilities are
33 located across a vast geographical area, from Wyndham in
34 the far north to Warburton in the east and Albany in the
35 south. Each prison poses unique challenges, as prisons
36 differ in their size, security classification, physical
37 environment and population.

38

39 Despite these differences, prisons face common problems as
40 they battle budget pressures, contraband entering the
41 prison, illegal drug use by prisoners, the influence of
42 outlaw motorcycle gang members, and steadily increasing
43 prisoner populations. Within this environment, prison
44 staff on the front line work day-to-day to ensure the
45 security of the prison and the welfare and rehabilitation
46 of prisoners.

47

48 In 2018, the Commission tabled six reports in Parliament
49 that identified misconduct and misconduct risks in Western
50 Australian prisons. The Commission's reports brought to
51 light some start examples of prison officers exploiting

1 weaknesses and systems and processes. A prison officer at
2 Acacia Prison smuggled drugs into the prison by secreting
3 them down the front of his pants.

4
5 At Karnet Prison Farm, a prison officer made unauthorised
6 stops while transporting prisoners, including on one
7 occasion, stopping at Hungry Jacks, where a prisoner
8 attended a pre-arranged meeting with a woman in the
9 toilets. The woman later told Commission investigators she
10 did not supply contraband to the prisoner, but that they
11 had had sex in the toilets.

12
13 At the Eastern Goldfields Regional Prison, Bunbury Regional
14 Prison and Hakea Prison, the Commission found examples of
15 prison officers failing to make independent and accurate
16 reports after they had used force against prisoners. These
17 cases pointed to wider misconduct risks in prisons and
18 across Corrective Services, the division of the Department
19 of Housing that is responsible for the custodial estate.

20
21 The Commission found a poor reporting culture, with many
22 examples of prison officers reluctant to do in mates.
23 When officers did report misconduct, investigations were
24 often unsatisfactory. More broadly, the Department of
25 Justice have no overarching corruption prevention framework
26 or adequate processes for identifying misconduct risks.

27
28 The Commission addressed 51 recommendations to the
29 Department of Justice. Those recommendations ranged from
30 high-level actions, such as implementing a corruption
31 prevention framework and reviewing policies, to practical
32 measures dealing with the screening, drug testing and
33 training of prison staff. A summary of these
34 recommendations is available on the Commission's website.

35
36 The Commission noted that the issues confronting Corrective
37 Services are long-standing. The solutions will require a
38 wholesale change in culture, improvements in technology,
39 simplification of policies and procedures and a commitment
40 at all levels, not just the top, to address and reduce
41 serious misconduct risks in prisons.

42
43 The Commission's work does not end once it has made
44 recommendations. The Commission evaluates how an agency
45 has responded by carrying out a review process, usually a
46 year after it has made recommendations. Along with
47 considering a vast number of documents provided by the
48 Department of Justice, the Commission's oversight team has
49 engaged the staff at all levels, from operational staff on
50 the front line to executive staff who lead and implement
51 change across the Department. To its credit, the

1 Department of Justice has accepted the Commission's
2 recommendations and made significant progress in
3 implementing them.

4
5 The Commission has decided to open these examinations to
6 the public. Corrective Services employs 4,500 staff and
7 has an operating budget of almost a billion dollars,
8 supplemented by prison industries which provide more than
9 \$11,000 worth of produce and services.

10
11 Staff within prisons are entrusted with considerable powers
12 to manage prisoners, including the power to use force, and
13 staff have access to sensitive information and
14 intelligence. The Department says it is committed to
15 maintaining high standards of professional and ethical
16 practices across its operations. The public is entitled to
17 know how the Department intends to do so.

18
19 Today, the Commission will hear from the Commissioner for
20 Corrective Services, Mr Tony Hassall, who leads the
21 division and assists the Department in the management,
22 control and security of prisoners, and the welfare and safe
23 custody of all prisoners.

24
25 Tomorrow, Mr Shayne Maines will appear before the
26 Commission. Mr Maines is the executive director of the
27 Professional Standard division. The Department established
28 the division in January 2019 to deliver a coordinated
29 approach to the prevention, education, early intervention
30 and management of corruption and misconduct risks.

31
32 On Wednesday, the Commission will hear from Mr Richard
33 Elderfield, a deputy commissioner of the Operational
34 Support directorate in Corrective Services. And the final
35 witness is on Thursday, Dr Adam Tomison, the
36 Director General, who is ultimately accountable to the
37 Department - for the Department - to the Attorney-General
38 and the Minister for Corrective Services.

39
40 Through these witnesses, the Department of Justice will
41 have a chance to present the improvements it has made in
42 response to the Commission's recommendations, such that the
43 public can have confidence that prison staff, prison
44 management and those answerable to the government, as well
45 as the community of Western Australia, are able to keep
46 prisons free from corruption.

47
48 **THE COMMISSIONER:** Thank you. I'll adjourn briefly so
49 that we rearrange the room, and then we'll get under way
50 with Commissioner Hassall. So we'll adjourn pro tem.

1 (Short adjournment)

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

4
5 **HASSALL, ANTONY DAVID CALLED AT 10.01 AM:**

6
7 **THE ASSOCIATE:** Before your examination begins, it is
8 necessary for you to take an affirmation. If you could
9 please stand and read the affirmation aloud.

10
11 **HASSALL, ANTONY DAVID AFFIRMED AT 10.01 AM:**

12
13 **THE ASSOCIATE:** Thank you, you may be seated.

14
15 **THE COMMISSIONER:** Mr Hassall, as you no doubt heard,
16 I have appointed for your examination Ms Tse Chee Loo as
17 counsel to assist me, and she will in fact be asking you
18 questions on my behalf. I will endeavour to keep quiet.
19 It's never worked yet, but we never know.

20
21 **LOO, MS:** Please state your full name?---Antony David
22 Hassall.

23
24 And you're the Commissioner for Corrective Services?
25 ---Correct.

26
27 Mr Hassall, before I begin my questions, do you have some
28 opening remarks you would like to make before the
29 Commission?---Yes, if I could make the opening remarks.

30
31 **THE WITNESS:** Good morning, Commissioner, thank you for
32 allowing me the opportunity to make this opening statement.

33
34 As Commissioner of Corrective Services, I will provide an
35 overview of the work that has been done to address the
36 recommendations arising from the six reports issued by the
37 Commission in 2018. The Department of Justice has formally
38 accepted all recommendations.

39
40 During this hearing, the executive director of Professional
41 Standards will detail changes to the way the Department now
42 manages conduct and investigations, and the
43 Director General will provide an overall perspective on the
44 way in which misconduct and corruption is being addressed
45 by the Department of Justice in its entirety.

46
47 I would like to say from the onset that much has changed
48 for the better in the past 15 months, and I believe we have
49 made genuine progress to address the Commission's concerns.
50 There is no doubt, however, that more needs to be done.
51 You will see from that materials provided to the Commission

1 that some of the work being undertaken to address the
2 recommendations is, frankly speaking, taking longer than
3 I would have liked. But if I may, I will now highlight
4 some of the gains we have made.

5
6 Corrective Services recognised the need to revise,
7 consolidate and simplify what has been described as its
8 inadequate and outdated policies and procedures.
9 I initiated the custodial operation policies and procedures
10 project to review more than 2,000 existing operational
11 instruments and develop and implement a clear, concise,
12 consistent new set of instruments so that correctional
13 staff know precisely what is required of them.

14
15 The project will result in the consolidation of 290
16 Corrective Services policies into 125, and 1,900 local
17 operating policies and procedures into approximately 850
18 local standing orders. More than half of those, now
19 developed, Commissioner's Operating Policies and Procedures
20 have been approved.

21
22 This has been a complex project and there have been some
23 unexpected delays. That said, three prioritised high-risk
24 operational policies regarding searching, instant reporting
25 and use of force are scheduled for implementation by May
26 2020.

27
28 \$1.4 million was allocated to phase 1 and 2 of the project,
29 being the scope and redevelopment stages. Phase 3, the
30 implementation stage, has commenced and we've also created
31 local standing orders, staff training and awareness
32 initiatives and system changes and improvements. The
33 project will be subject to an ongoing review process to
34 adapt to changing circumstances, and I have instructed that
35 the project team remain in place until the new framework
36 has successfully been implemented across all prisons.

37
38 Meanwhile, Corrective Services has initiated ongoing
39 assessment of every use of force in all prisons for
40 compliance with existing policies and procedures,
41 particularly around incident reporting. Training has been
42 announced to provide greater emphasis on the actions of
43 officers prior to, during and following use of force on
44 prisoners. Further work is being undertaken regarding the
45 requirement and timing for refresher training.

46
47 I would like to note that we have identified that Hakea
48 Prison has not been complying with the current policy of
49 ensuring all use of force are reviewed in a timely manner.
50 They had failed to send the reviews to the Central Use of
51 Force Committee to further oversight. I have now assigned

1 two staff fulltime to Hakea Prison to review all
2 outstanding use of force and the local committee will
3 report twice weekly to ensure future compliance.

4
5 While policy changes have been progressing, Corrective
6 Services has also taken significant steps to minimise the
7 risk of drugs and contraband from entering prisons, in
8 accordance with the WA Prison Drug Strategy 2018 to 2020.
9 Initiatives include a review of the drug prevalence testing
10 program, the introduction of wastewater testing, improve
11 staff drug and alcohol testing, and enhanced use of
12 intelligence to conduct targeted operations.

13
14 Revised legislative changes for penalties and sanctions for
15 trafficking drugs are being submitting and staff -
16 submitted, and staffing and resources for the Drug
17 Detection Unit have been increased. There have been
18 improvements to prisoner drug education programs and
19 transitional support to assist successful reintegration of
20 prisoners into the community. We are also trialling new
21 technologies and equipment, including electronic explosive
22 and drug trace detection devices.

23
24 Corrective Services has increased random and targeted
25 searching in our prisons and there have been greater focus
26 on alcohol and other drug testing with prisoners and staff.
27 In a move towards greater transparency, the
28 Director General has transferred all alcohol - staff
29 alcohol and drug testing to Professional Standards.
30 Previously, this was undertaken by the Drug Detection Unit
31 within Corrective Services and this change will provide the
32 necessary independence of this important site safety and
33 corruption prevention function.

34
35 I fully support this change, which clearly separates the
36 day-to-day testing of prisoners from the staff integrity
37 function. This change will allow me to focus my resources
38 on further prisoner testing, which contributes to the
39 safety and the security of our prisons and community
40 safety.

41
42 In the Commission's first report, issues were raised about
43 the supervision of prisoners in the community. To protect
44 staff from manipulation, prison officers are provided with
45 anti-grooming training and behavioural expectations prior
46 to commencing activities with section 95 prisoners. The
47 training is being developed into an online refresher
48 package that will be rolled out to all staff who operate in
49 single officer post and manage prisoners.

50
51 A tiered approach is taken to ensuring section 95

1 activities are conducted in compliance with operational
2 policies and requirements. Superintendents conduct checks
3 on section 95 activities via the completion of a monthly
4 checklist, with the oversight of the assistant commissioner
5 Custodial Operations.

6
7 The Monitoring and Compliance Branch conduct twice-weekly
8 checks to ensure adequate supervision of those prisoners,
9 which includes both desktop reviews and in-person
10 attendance. Any identified non-compliance is reported to
11 the superintendent and the quarter report is tabled at the
12 Corrective Services Performance, Assurance and Risk
13 Committee.

14
15 Tracking devices and Department vehicles also provide
16 another oversighting capability. CCTV footage at
17 gatehouses are now examined on a monthly basis to assess
18 compliance with policies and procedures and identify staff
19 engaged in at-risk behaviours.

20
21 Commissioner, this provides a snapshot of the progress
22 being made to implement and embed the recommendations made
23 by the Commission and my commitment to this essential work.
24 Thank you.

25
26 **THE COMMISSIONER:** Thank you, Mr Hassall.

27
28 **LOO, MS:** Mr Hassall, we will be exploring those topics
29 you've raised in further detail but first I'd like to
30 establish some context. What is your - - -

31
32 **THE COMMISSIONER:** Perhaps before you do that, it may just
33 be because I'm old but could you speak up?

34
35 **LOO, MS:** Certainly, Commissioner.

36
37 **THE COMMISSIONER:** Which could also apply to you,
38 Mr Hassall?---Yes.

39
40 Don't take it personally, it's probably me.

41
42 **LOO, MS:** What is your function as Commissioner for
43 Corrective Services?---So I'm in charge of the Department
44 of Justice, that manages and administers the State's
45 prisons, Community Corrections and Youth Justice Services.

46
47 And how long have you been Commissioner?---I was appointed
48 Acting Commissioner in April 2017 and I was appointed to
49 the position permanently in May 2018.

50
51 Can you give us a broad overview of your career before

1 that?---I spent - I joined the Prison Service in the United
2 Kingdom as a prison officer on the accelerated promotion
3 scheme, did a range of roles in the United Kingdom
4 including being in charge of a couple of prisons. I was
5 then promoted to Area Manager which would be the equivalent
6 of an assistant commissioner here, responsible for
7 12 prisons. Then I moved to Australia just about 11 years
8 ago, initially to the private sector to manage the
9 immigration contract so I was responsible for managing the
10 immigration detention network across Australia. Then with
11 the same company I worked in New Zealand on a public
12 private prison, then in Victoria on a public private
13 prison. Then in 2015 I joined the then Department of
14 Corrective Services as Executive Director Operational
15 Support.

16

17 In light of your experience in the UK in the Corrective
18 Services field, are there any challenges to managing the
19 custodial estate that are specific to Western Australia?---
20 Obviously the - the geography is completely different and
21 that does present certain challenges in terms of
22 supervision and oversight.

23

24 So what, what kind of challenges?---Well, in my role for
25 example in the UK when I was responsible for 12 prisons it
26 was very easy to get around all of those prisons in a
27 timely manner to do regular visits and check compliance
28 from a leadership perspective. That's more challenging in
29 a State where you have to fly to some prisons so you have
30 to do things differently. You rely on local processes and
31 procedures, and then sort of different oversight within the
32 Department.

33

34 I'm just going to put up a copy of the Corrective Services
35 organisational chart. That's exhibit 0366.

36

37 0366^

38

39 **LOO, MS:** Are you able to see that on the screen there,
40 Mr Hassall?---Yes.

41

42 Can you give us a summary of what each division does?---If
43 I could just point out this is a - yes, sorry, I - it's
44 gone.

45

46 **THE ASSOCIATE:** Sorry.

47

48 **THE WITNESS:** So if I take it from the left, the Adult
49 Male Prisons, so that role there is headed by a deputy
50 commissioner. That function and that person is responsible
51 for all the adult male prisons in the State, so the good

1 order and safe operations of the State's adult male estate.
2 Prison industries in addition to that.

3
4 The second one across is an offender support function
5 really but it's Community Corrections, Health and Offender
6 Management so responsible for offenders in the community,
7 offender health service in prisons and offender management.
8 Offender Management are functions such as sentence
9 management, assessment of prisoners and offending behaviour
10 programs.

11
12 Operational Support, that function provides support to the
13 operational line so in that team you have the team that's
14 responsible for writing the new rules and procedures.
15 Security and Response Services, so that's our response
16 capability and security across the State.

17
18 Intelligence Services works across the Department and with
19 other agencies. The Corrective Services Academy which is
20 responsible for staff training, and Strategic Projects
21 which is basically the new-build program. Then the - you
22 have Women and Young People which is headed by a deputy
23 commissioner and that role is responsible for the female
24 prisons in the State and Youth Justice Services which
25 includes Banksia Hill and Youth Community Services.

26
27 And then Operational Policy and Planning is a new
28 directorate which is responsible for risk management in
29 Corrective Services, the assessment of risk working across
30 the Department, performance planning and assurance. And
31 then there's a small team that runs my office.

32
33 **LOO, MS:** And each of the deputy commissioners report
34 directly to you?---That's correct.

35
36 Is that reporting formalised in any way?---Yes, it - they
37 have a performance agreement and obviously a job
38 description.

39
40 How many staff are prison officers?---It fluctuates daily.
41 It's approximately 2,300.

42
43 And can you explain the role of a superintendent?---
44 Superintendent is in charge of the prison so that role is
45 enshrined under law, and they're responsible for the good
46 order and management of the State's gaols, site-based. So
47 the day-to-day operations of the prisons, ensuring that the
48 security processes are managed, welfare of offenders is
49 discharged appropriately, and the overall security of the
50 prison.

1 As Commissioner, how do you retain oversight of how a
2 Superintendent is running his or her prison?---So if you
3 look at that structure the deputy commissioner is the line
4 manager of the Superintendents, so both in the adult male
5 estate and in the Women and Young People's estate they
6 report directly to the Superintendent. Then in the
7 Operational Support function there, so I get feedback
8 obviously from the deputy commissioners. More formal
9 feedback comes through the Operational Support function
10 where the monitoring compliance team sit, and they provide
11 checks on operational assurance. Then in the Operational
12 Policy and Procedure, Performance and Planning directorate
13 at the end there's another function there about risk
14 management in prisons. So it's like a - information that
15 will come directly from the deputy commissioners and that
16 information, for the want of a better way of describing it,
17 is triangulated from other parts of Corrections. Then
18 externally to the Corrective Services division there's the
19 - another area of the Department that's responsible for
20 risk and assurance that provides me further assurance
21 across all of those operations.

22
23 I'm done with that exhibit thank you, Madam Associate.

24
25 Now, Mr Hassall, the first thing you spoke about was the
26 Custodial Operational Policies and Procedures project which
27 I'll refer to as "the COPP project" for short and you
28 referred to reviewing more than 2,000 existing operational
29 instruments. Can you give us an overview of what these
30 instruments are?---There were 290 instruments essentially
31 from headquarters that sort of set out how operations
32 should be run in a prison, ranging from you know as the
33 Commission identified, incident management use of force.
34 Then they are translated into 1,900 local standing orders
35 so that's an instrument that the superintendent would use
36 at the prison to operationalise those instruments.

37
38 What are the problems that have arisen from such a large
39 number of operational instruments?---Well, as the
40 Commission correctly identified with its review, I mean,
41 it's a significant risk area for us. Those instruments
42 have been developed over a number of years. They very
43 often were out of date, they contradicted each other. I
44 think there have been successive attempts historically to
45 try and correct those works. It was very confusing for
46 frontline staff on seeking the appropriate guidance on how
47 to carry - carry out their work. So that was one issue.
48 The second issue with the instruments, the standing orders
49 that were developed by the superintendents had no quality
50 assurance check around those. So there was 1,900 other
51 bits of instruction, if you like, that were carried out

1 through the prisons.

2

3 And you mentioned just then successive historical attempts
4 to simplify the policies. Why will this project succeed
5 where successive previous ones have not?---Well, as I've
6 just said the Commission identified a significant risk for
7 Corrective Services and we accepted that recommendation and
8 I committed to address that so, you know, with the support
9 of the Director General we've resourced that area and it's
10 an opportunity for the Department to really fix this
11 longstanding issue and set the framework going forward.
12 Now, it has taken slightly longer than I would have hoped
13 but we, both the Director General and myself, are committed
14 to maintaining this work.

15

16 Why has it taken longer than you would have hoped?---When
17 we did the scoping initially we didn't just look at the
18 adult estate, we looked at all of our instruments and a big
19 proportion of those were at Banksia Hill. And what we
20 discovered was a lot of the local orders in operation at
21 Banksia Hill were probably not compliant with the
22 legislation, so that was a significant risk for the
23 Department given that it's young people so we prioritised -
24 you know, I prioritised that work first The second issue
25 that has been is when we started the work there was a
26 significant volume of work from Corrective Services to the
27 State Solicitor's Office and there was some issues then
28 around the volume of work that we were putting forward. So
29 we did agree with the State Solicitor to triage the - the
30 work that we're putting forward, doing the higher risk ones
31 first. And then the third issue was of course standing up
32 the team in terms of recruiting and stuff like that, but
33 the team - - -

34

35 **THE COMMISSIONER:** We might just adjourn briefly.
36 I understand that the cameras have finished their work so
37 we'll just adjourn briefly.

38

39 Commissioner, I think on the last occasion last year in
40 relation to these policies I think you were of the view
41 that it was almost impossible for anyone to follow all of
42 them faithfully because there were inconsistencies. Was
43 that the case?---That's correct, sir.

44

45 We'll just adjourn briefly.

46

47 (THE WITNESS WITHDREW)

48

49 (Short adjournment)

50

51 **HASSALL, ANTONY DAVID RECALLED ON FORMER AFFIRMATION AT**

1 10.25 AM:

2

3 THE COMMISSIONER: Please be seated.

4

5 LOO, MS: Mr Hassall, what resources have been allocated
6 to the COPPS project?---If I - could I just refer to my
7 notes, if that's okay?

8

9 Certainly?---So the team is in - there's two teams in a
10 sense, there's the phase 1 and 2. That team has a Level 8
11 manager, two Level 7s, four Level 6, so in total, seven
12 full-time equivalents, and then there's an implementation
13 phase. So the first phase is well under way, and the vast
14 majority of the instruments have been drafted. The
15 implementation phase is a Level 9 - Level 8, which is
16 currently vacant, two Level 7s, two level - sorry, four
17 Level 7s, and two senior officer trainers.

18

19 And are the employees in these positions employed on a
20 contract basis, or are they permanent employees?---They're
21 on a contract, but they're permanent employees. They're
22 just sort of on secondment from other parts of either
23 Corrective Services or possibly other parts of the
24 Department.

25

26 And if the project carries on beyond its estimated end
27 date, will their contracts be renewed?---Well, they're all
28 permanent public servants, so in a sense they - yes,
29 they'll permanently have a job, if that's the question, or
30 if the project needs to carry on, then our committee will
31 remain in place, both phases. I do envisage that there
32 will be - once we've done the bulk of the work on the first
33 phase, we'll have to have a more permanent team remain to
34 do the ongoing maintenance of the rules and procedures.

35

36 Dealing first then with the process of drafting a new
37 policy, can you take us through the process that you've
38 undergone there?---Sure. There's - you get the instrument;
39 the first part is consultation, so we've agreed process of
40 consulting with a range of stakeholders, our oversights,
41 stakeholder superintendents, and the State Solicitor, to
42 make sure that what we do is compliant with the law. We
43 may, depending on the instrument, do a jurisdictional scan.
44 I know, for example, when we did the searching policy, we
45 definitely checked what other jurisdictions did in terms of
46 strip-searching, for example, so we will do that initial
47 consultation and that scan, and then we'll benchmark the
48 work that we may have to do in terms of altering processes,
49 so one of the things that I was committed to do when we did
50 the project was not just do a drafting instrument, but the
51 end-to-end approach, so what is revised - required to be

1 changed in terms of entry-level training, or ongoing
2 training, and then what system changes need to occur in
3 either our total offender management system or changes to
4 the delegations.

5
6 And when you do your jurisdictional scan, does this involve
7 consulting with the people who actually have to follow the
8 rules, like the operational staff on the ground?

9 ---It would - that process would normally be just asking
10 jurisdictions what they - I couldn't say that we've
11 consulted with staff in other jurisdictions in terms of
12 implementing or administering the policies, but we've
13 certainly asked what they do in certain circumstances, what
14 their guidance is.

15
16 And you mentioned that the policies for searching, incident
17 reporting and use of force have been prioritised, can you
18 tell us what improvements have been made to these
19 policies?---Well, if we look at the - if I could just refer
20 to my notes and give you accurate ones, because there's
21 three ones there. If I look at the - if I take the
22 strip-searching, the searching COPP first. So there's a
23 number of changes. The new instruction provides a single
24 source of truth, and it replaces a number of policies that
25 we had in place in terms of reporting. There - the -
26 there's been - some of the terminology has been changed in
27 the policy, and there's some further guidance on how to
28 search, strip-search, transgender offenders. Also, the
29 policy reduces the requirement for mandatory - the
30 frequency of mandatory strip-searching. That was a
31 criticism of one of our oversight agencies, so there's a
32 more targeted approach to searching. It also removes the
33 requirement for the strip-searching of babies and children
34 when they come into prison as visitors. The other
35 significant development in that policy is there's no
36 exemptions from being search when entering the prison, so
37 there was a lot of - PD26, which was the old instrument,
38 had some exemptions about who should or shouldn't be
39 searched, so that's tidied up that process. There's no
40 discretion now when somebody terms up in a prison in terms
41 of what the officer has to do. And then, there's also
42 references to the policy about when matters should be
43 referred to the Professional Standards Division, so - - -

44
45 And what kind of matters are referred to the Professional
46 Standards Division?---Well, if - for example, staff who may
47 refuse a strip-search, or if there's any indication are
48 practices being, you know, even though there's been delays
49 in implementing these policies, which are the three ones
50 the Commission identified as the most at risk, there have
51 been other controls that we've had in place whilst we've

1 been doing this work, so if there's indications, for
2 example, or intelligence, or any concerns from a member of
3 staff, they'll be referred - very often, and I'm sure
4 Mr Maines will be able to clarify this, that staff from
5 Professional Standards Division would be in attendance when
6 we're doing planned search operations in prisons. Shall I
7 carry on?

8
9 In relation to consultation, specifically for the searching
10 policy, have you consulted with the prison officers' union,
11 or the CPSU/CSA?---Yes, that would have been part of the
12 process.

13
14 And how - how did that go?---With the prison - look, I
15 couldn't answer what the CSA said, because I will present
16 that information to the Commission in terms of what - I
17 haven't got it in front of me, the Prison Officers' Union -
18 there's a matter currently in front of the Industrial
19 Relations Commission around the application of
20 strip-searching.

21
22 And has this caused some delays in having the policy
23 approved?---Well, the policy was approved, but we've got to
24 wait for the outcome of the matter that's in front of the
25 IRC.

26
27 Yes. Moving on then to the incident reporting policy, can
28 you outline the improvements that have been made in this
29 regard?---Yes. So again, it provides a clear instruction
30 for staff on the types of incidents that have to be
31 reported and the types of incidents that require
32 notification. It replaces some paper-based reporting and
33 removes discretion and interpretation of issues. There's a
34 also a separation of duties, if you like, at the local
35 level in terms of how things are reported, making sure
36 there's oversight from the supervisor in the reporting, and
37 it states that a senior or principal officer for the
38 incident, if they were involved, mustn't be the person
39 reporting it. So there's a separation of duties there.

40
41 You mentioned that superintendents will be required to put
42 in place supporting standing orders. Will they be given
43 resources and training to assist them with drafting these
44 standing orders?---Yes. The implementation team is headed
45 by a superintendent, so that person has been round at the
46 moment doing some awareness raising, if you like, with the
47 superintendents, and sort of site visits. So they go on
48 site, they will work with the superintendent, not necessary
49 do the drafting, because that has to be a local matter, but
50 rather than the standing orders being approved at site
51 level, which was the process before, they now come back to

1 the central team for approval. So there is support in
2 terms of interpretation of the new COPP, the prison will
3 draft that, and that team can provide support with that.
4 Then they come back centrally to the COPP team for
5 approval.

6
7 So although each prison has its own unique requirements,
8 will there be safeguards to ensure a level of consistency
9 across the prison?---Yes. So that's the - the process I've
10 just described. The superintendent has to draft the COPP,
11 with a bit of support from the central team, but a draft
12 standing order then has to be sent back to the central team
13 to ensure compliance with the overarching instrument.

14
15 And how will the policies be implemented?---There's a -
16 obviously, the three that the Commission identified first
17 will be rolled out this year, May 2020, and there's three -
18 there's three stages to the implementation. The first
19 stage is, obviously, conduct staff awareness sessions, so
20 briefing the staff, making sure that they're aware of their
21 responsibilities, then there's obviously the implementation
22 of the standing orders locally, then the other two
23 significant system changes are changes to the delegations,
24 particularly in incident reporting and use of force, and
25 then changes to the TOMS system. And the TOMS changes will
26 take slightly longer, because there's a lot more work to do
27 with our IT infrastructure.

28
29 So when you say slightly longer, can you give us an
30 estimated timeframe?---Well, for the - there's an
31 additional resource being recruited in the Department's
32 knowledge and information technology area to support the
33 project. The information that was provided to me last week
34 was, by the end of this year, those three priority ones
35 will be done in terms of the system-wide changes. So the
36 end-to-end in terms of the entry into the system of new
37 staff, the instrument itself, the local orders, the
38 delegation changes and then the supporting IT changes will
39 all be done by the end of this year.

40
41 So when you said that the three, the three policies will be
42 implemented in May 2020, you actually mean December?

43 ---Well, they will be implemented locally in terms of how
44 the staff have to behave and follow instructions, but then
45 there's the - there's some work still to be done in terms
46 of changing the TOMS records, for example, and what staff
47 can and can't do in TOMS. That will just - it's going to
48 take us a while longer.

49
50 And will that include putting measures in place to prevent
51 one prison officer from viewing another one's incident

1 report?---That's my understanding, yes, they'll have
2 biosecurity controls around the TOMS reports, yes.
3
4 Is there a process of review to assess if the new policies
5 are fit for their purpose?---Yes. As I said, the initial
6 team was - we will have to keep a small team in place.
7 We've already - we've got our roll-out program, then we
8 will do a review program. I'm just trying to think,
9 there's an example I can give to the Commission where we've
10 reviewed one already, but it escapes me, I apologise.
11 Sorry. There's one we've reviewed already, I can't think
12 what it is. It's not one of the three.

13
14 When do you expect the entire project to be completed, in
15 terms of every new policy has been finally implemented?
16 ---Well, if I can take it in stages, so the - the vast
17 majority of the instruments will be drafted by the end of
18 this year. Then there's the implementation stage, which
19 will probably take from now, right to the end of next year,
20 given the volume of the work. Some of the instruments,
21 obviously, are far more simple to introduce. Others then
22 require complex system changes.

23
24 And in light of the fact that the project has already
25 experienced some delays, do you think this timeframe is
26 achievable?---Well, the initial delays were, as I said,
27 three-fold really. One was one that I'll take
28 responsibility for, because I prioritised the Banksia Hill
29 work, given the fact that the advice from the State
30 Solicitor was that a lot of the standing orders there were
31 probably not lawful. So that - those have been addressed.
32 We have agreed now with the State Solicitor a sort of
33 triage system, where we only send the higher-risk policies
34 for more detailed review. So we know there's policies that
35 don't need to have the State Solicitor review them at all,
36 and then we've got the drafting team in place, and the
37 implementation team in place. So I think in any project
38 like this, there's always some initial delays. We learnt
39 from that. I don't envisage any delays going forward, but
40 you never know, when you're changing a system, what
41 delegations, what system changes in terms of IT that you
42 have to make, but at this point I'm not envisaging any
43 further delays.

44
45 And in light of the fact that the State Solicitor has
46 advised that some of the instruments are not lawful, do you
47 accept that there is a continuing risk before the project
48 is completed?---Yes.

49
50 Mr Hassall, you mentioned the drug strategy. Can you tell
51 us about that?---Yes. So the defendant has implemented a -

1 introduced a drug strategy. It has three components,
2 supply reduction, which is obviously, as it says, reducing
3 the supply of drugs into prison; harm reduction and demand
4 minimisation, so the two, the end two, are the sort of the
5 treatment side. So what interventions we might do with
6 prisoners in terms of reducing their demand, and how we
7 look after prisoners.

8
9 And when will the review of the strategy be conducted?

10 ---It's due this year, so it's - there was an interim
11 strategy that was put in place, because there wasn't one in
12 the defendant. There will be a much broader Department of
13 Justice drugs strategy that will be developed. So to give
14 it a bit of context, the - the former Department of
15 Corrective Services drugs strategy expired. I can't recall
16 the exact date, so we were without a drugs strategy, in a
17 sense, for a couple of years, so that we've got a prisons
18 one at the moment that was put in place from 2018 to 2020,
19 but the Department is working on a much broader strategy
20 for the Department of Justice, of which this will be part
21 of that bigger strategy.

22
23 And how do you measure the effectiveness of the strategy?

24 ---Well, one of the things that will come out of the
25 evaluation is we - we don't have any key targets for the
26 current strategies. I think that's a gap that we need to
27 do. What we do look at though is drug finds, treatment of
28 prisoners, prisoners attending programs, but there's no
29 dedicated suite of key performance indicators, if you like.

30
31 What's the current process for alcohol and drug testing of
32 staff?---The process has just changed. So it used to sit
33 in the drug detection unit, and they would carry out random
34 all-intelligence targeting of staff, both drug and alcohol,
35 but as I said in my opening statement, the Director General
36 has directed that that, rightly, function moves from my
37 area, if you like, to the oversight area, which in my view
38 provides better assurance for me, and better risk
39 management for me to carry out my role as Commissioner.

40
41 You said also that it was a move towards greater
42 transparency. How - how will this assist with
43 transparency?---Well, one of the things, obviously, when
44 you've got staff in your own area looking at carrying out a
45 function for their - people they may work with, that can
46 obviously lead to some issues. I think having it in a
47 separate area of the Department, that provides assurance to
48 the Director General and myself about a whole range of
49 matters, and makes sure that any opportunities that may
50 exist for collusion shouldn't occur.

1 So in what circumstances does drug testing of staff occur?
2 ---Well, it's random, so there's one - we did a random
3 process last year, so for example, in December I instructed
4 that we increase both our drug and alcohol testing across
5 the whole state, recognising that December is a vulnerable
6 time, so there's those random tests that occur. Then
7 there's more intelligence led testing, so we will have
8 either our own intelligence from Corrective Services that
9 we will work with Professional Standards, or we'll have
10 information coming from the police, and then we will target
11 those individuals for testing.

12

13 And what about superintendents, are they able to request a
14 particular staff member be tested?---I'm not sure whether
15 they can make a direct request. They would put the
16 information in and it would be assessed. I don't think
17 they could go and say, "Could Officer X be tested".

18

19 Do you think it could be a measure that would assist a
20 superintendent in managing risks within the prison?---I
21 think - you have to have a system that's, as I said,
22 transparent, and I think one of the things that moving the
23 function from Corrective Services to Professional Standards
24 is so that there's no single point of failure, if you like.
25 I think one of the issues - because I think, yes, a
26 superintendent should be able to put somebody forward if
27 they have concerns, whether that be around drugs or
28 alcohol, absolutely, for the good order and management of
29 that prison. I think the decision-making on whether to
30 carry out that test should ultimately see it with somebody
31 independent from Corrections, to give that assurance to the
32 staff, and to me, that things are being done fairly.

33

34 What criteria do they apply in that decision making?

35 ---The head of Professional Standards or the
36 superintendent.

37

38 You've just said that an independent person should decide
39 whether or not drug testing should be carried out?---Well,
40 like I said, I think this - I think the superintendent
41 should be able to put forward somebody, recommend somebody
42 for testing if they have concerns. So whether that's
43 concerns about, you know, somebody's behaviour at work if
44 they may be under the influence of alcohol. There's
45 already - there's already a process for that that's very
46 simple, how we deal with that person. If it's concerns
47 about drugs and other issues, then you'd want that
48 information to be passed to our Professional Standards area
49 so that they could build a whole picture of what may or may
50 not be going on in - in the prison. And then the
51 consideration would be then what - what information do you

1 have, what factors would you take into account in terms of
2 holding some other agencies and stuff like that and then
3 you'd make the decision. Of course you don't have to, you
4 could just go and do the test as a - based on intelligence.
5 We try to triangulate the information that we have and for
6 the approvals of that.

7
8 So just to clarify, if a prison officer comes to a
9 superintendent and self-declares that they have a problem
10 with illicit drug use, what options are available to the
11 superintendent?---It's reported to the police. It's -
12 that's an illegal issue so it's a crime, so the guidance
13 that will be is to report that matter to the police. You
14 have to distinguish between concerns around alcohol abuse
15 and which is the - the approach the Department take is one
16 of supporting the employee, we want to make sure that we -
17 there's those supports around the employee. If somebody
18 discloses to the Department that they're taking illicit
19 drugs, that's a crime so it would be - should be reported
20 to the police.

21
22 And what disciplinary options are available at that
23 stage?---Well, that would - again would be referred into
24 the Professional Standards. There's a range of sanctions
25 that - that could be applied, up to and including
26 dismissal.

27
28 **THE COMMISSIONER:** If somebody self-disclosed, would the
29 Department tend to treat that as a medical and welfare
30 problem?---We had this discussion, Commissioner, a couple
31 of months back, ago, about how to deal with this particular
32 issue because it came up and the line that the Department
33 was taking is no, it would be referred to the police. We
34 would encourage the employee to go to their own doctor to
35 get treatment, but we would always deal with it as a - you
36 know, as a legal issue.

37
38 **LOO, MS:** What does the Drug Detection Unit do? Can you
39 outline their operations and what they do?---Yeah. So it's
40 they do - currently at the moment they do staff drug and
41 alcohol testing so they - they manage that process. But as
42 I've said, that process is being transferred to
43 Professional Standards. They also manage the drug-testing
44 regime for prisons and then carry out search functions into
45 prisons. So there's - there's a dog - drug detection dog
46 component. So they do specialised searching and that, so
47 three - three core functions at the moment.

48
49 And how big is the team?---I'll give you the exact number
50 for the dog handlers if I could just refer to my notes.
51 It's 19, but I've have to confirm. It's either 17 or 19.

1 I haven't got the exact numbers with me in my pack, sorry.

2

3 What about drug detection dogs, how many are available
4 across the custodial estate?---I just want to give you the
5 exact accurate numbers. 17. It was 14, and increased by
6 three.

7

8 And are they all located centrally or are there dogs at
9 regional prisons?---There's dogs at regional prisons so we
10 have a dog at Eastern Goldfields for example, but the vast
11 majority are centrally - at Hakea.

12

13 Why are they located centrally?---It's a little bit of
14 legacy historically around that. There's then issues
15 around rotating the dogs and - in terms of their role that
16 they do in searching, so making sure that there's a -
17 there's a pool. Of course then there's risk, so the vast
18 majority of our risk sits at the metro prisons and we can
19 deploy within there quickly.

20

21 What's the process that is involved when a prison wishes to
22 have a drug detection dog deployed?---When the - what, when
23 the prison? Well - could you say that again, the question?

24

25 So for example a regional prison that doesn't have a dog,
26 how do they go about - - -?---Okay.

27

28 - - - using those resources?---Well, so Eastern Goldfields
29 has its own prison for example. What would happen, there's
30 two ways that would happen. One would be an unannounced
31 search which we've - we've been doing over the last year,
32 and the other one is where we would just deploy in
33 consultation with the local security team.

34

35 In July 2019 you obtained the Minister's approval to draft
36 regulations expanding drug and alcohol testing to prison
37 staff who were not prison officers. Can you give us an
38 update on those regulations?---I haven't got an update.
39 You're correct, the Minister did approve. I haven't got an
40 update of where we're at with the regulations with me today
41 but we can certainly provide it to the Commission.

42

43 And what was the purpose of those amendments?---Well, the
44 Commission identified as you know in the three reports a
45 range of weaknesses and one of the weaknesses that - about
46 drug and alcohol testing was we only tested pretty much
47 50 per cent of our staff but yet there's - there's a whole
48 range of people that go into prisons that aren't
49 necessarily prison officers, so that was a significant gap
50 in terms of the Department's testing regime.

51

1 And you referred in your opening remarks to legislative
2 changes for penalties and sanctions. Can you tell us more
3 about that?---Yes, if - if I - I've actually brought them
4 along. I'm happy to table them if that's okay to the
5 Commission, the proposed ones. So do you want me to read
6 them out or I'm happy to table it.

7

8 Can you give us an overview?---Yes. So - - -

9

10 **THE COMMISSIONER:** Give us an overview and then we'll
11 receive it?---Okay, Commissioner. So there's an increase -
12 so failure to supply information or give false information
13 for example the current penalty is \$300, it goes up to
14 3,000. So a lot of the penalties date back to 1981 and the
15 early 90s and there's an increase in the monetary value for
16 those penalties that applied across a whole range of things
17 so loitering in prison, making false declarations, refusing
18 to be searched, et cetera, and it sets out who they apply
19 to so prison officers, contractors or visitors.

20

21 **LOO, MS:** Is there anything else in relation to the drug
22 strategy that you'd like to raise before the Commission?
23 ---Only just to really reinforce what I said earlier on,
24 you know, we're recognising that the three policies that
25 the Commission identified that presented the biggest risk
26 to the Department and we have had other risk controls in
27 place around extra searching, extra testing of staff whilst
28 we've been doing this work.

29

30 That does take me back to a topic we discussed earlier.
31 You acknowledged that there was existing risk in terms of
32 standing orders being unlawful. What measures have you put
33 in place to address those risks?---Well, the standing
34 orders that were deemed to be potentially outside of the
35 legislation were all related to Banksia Hill so around the
36 use of - the vast majority of that work has been completed.
37 The other orders are not necessarily unlawful but operate
38 outside of the instruments themselves in terms of the
39 guidance that we give staff so they can begin. So we've
40 reinforced that with monitoring compliance activities.
41 We've put additional controls in place, as you heard me say
42 in my opening statement, around use of force for example.
43 So each prison has to have a use of force committee. Any
44 concerns in that space then get referred to a central
45 review team which is headed by the deputy commissioner and
46 a member of staff from Professional Standards will be on
47 there. Now, we have - the process did fail at Hakea. You
48 know, we identified that and as I've said we're correcting
49 that.

50

51 How did it come to your attention?---The Use of Force

1 Committee does a report to the Security and Intelligence
2 Committee and it came to my attention. I actually couldn't
3 chair the last meeting which was in December, I think I was
4 somewhere else, but it was tabled at that meeting and then
5 we took the action that I've described.

6
7 So who's on the Use of Force Committee?---So it'd be the
8 deputy commissioner chairs it, representatives from
9 Professional Standards, assistant commissioner and -
10 I haven't got the membership in front of me but it's
11 somebody then from the training area.

12
13 Are you on that committee as Commissioner?---No. No, but
14 it reports to the committee that I chair which is the
15 Security and Intelligence Committee so I get an overall
16 report.

17
18 And who's on the Security and Intelligence Committee?---So
19 there's a formal meeting that occurs quarterly which I
20 chair and that's the deputy commissioner's representatives
21 from the police which has just been included, a
22 representative from Professional Standards and then the
23 deputy commissioners and the assistant commissioner
24 Custodial Operations. And then there's a more informal one
25 which occurs in the intervening months which I don't chair,
26 the deputy commissioner for Operational Support chairs.

27
28 What's the function of the Security and Intelligence
29 Committee?---To set - obviously reporting up, so to look at
30 things like the information that's being presented by the
31 Use of Force Committee, then to approve any of the changes
32 that we want to make in terms of security. So at the last
33 one for example we approved new security equipment and also
34 to plan ahead what we're doing for the coming quarter, if
35 you like.

36
37 How long has this committee been in place?---It's fairly
38 new, it's in the last 12 months.

39
40 And what are some of the things that the committee has
41 achieved?---Well, I think the biggest one is the - we
42 reviewed the - we implemented the wastewater testing which
43 was an initial project. We have reviewed the drug
44 prevalence testing so we now test for two further drugs,
45 and - and then the biggest one would be the new equipment
46 for example that we agreed in December last year. So if
47 I - if I can't chair the meeting I would also say whatever
48 - for whatever reason if I'm away. I do then meet with the
49 deputy commissioner for Operational Support who convenes
50 the meeting for me, and we will discuss what agreements we
51 want to reach and what we want to do before so he will go

1 into that meeting with my views.

2

3 And in relation to the review of use of force incidents,
4 can you outline the improvements that Corrective Services
5 has made?---Sure. If I could just refer to my notes and
6 give you the - so in terms of the COF there's - there's
7 clarity around how force will be applied. So we've improved
8 training to - in terms of de-escalation and reporting and
9 there's three classifications of reports and then that we -
10 we - how we categorise reports. The new COF identifies a
11 single source of truth and replaces two previous procedures
12 which was Policy Directive 5 and Policy Directive 17. It
13 also outlines the authority and circumstances when force
14 and restraints can be used in conjunction with legislation,
15 so the old policy for example didn't set that out. It also
16 clarifies the reporting and reviewing process and then we
17 used duplication of paper-based reporting. The policy
18 aligns to the new use of force and assessment process and -
19 and as I said there's a centralised process then for us to
20 do all of that reviewing. And then the standing orders
21 that will flow from that give more guidance about the
22 storage of equipment and reporting.

23

24 What about specifically in relation to the need for
25 independent and accurate reports, does the policy address
26 this requirement?---Yes. So there's a separation as I
27 said, exactly the same with incident reporting, about
28 making sure that there's separation in terms of duties
29 there about reporting. Also, one of the changes that's
30 planned in the TOMS system is the - to lock down then what
31 other staff can see so there's no opportunity for collusion
32 in terms of what's reported - what's recorded, sorry.

33

34 And if we can begin at the local Use of Force Committee,
35 what kinds of use of force incidents are referred to that
36 committee?---All should be referred to that committee.

37

38 Can you define a use of force?---Well, a use of a
39 restraint, any restraint, so hands on for example.
40 Anything where you may restrain a prisoner.

41

42 And what process does the local committee undergo to review
43 a use of force?---So chaired by the superintendent. They
44 would look at the reports, the circumstances that led up to
45 the report, to the - the actual use of force itself, and
46 then they'd have to submit that report to the central
47 committee. That doesn't mean to say though that they can't
48 report any concerns to Professional Standards. So I think
49 of 205 uses of force in adult male prisons for example in
50 2019, 177 were assessed and 32 - and four were referred to
51 Professional Standards. So just because there's a

1 committee, it doesn't take away the superintendent's
2 responsibility to report any concerns immediately to
3 Professional Standards.
4
5 Does the review process take into account the officers'
6 training and whether or not they've complied with mandatory
7 training requirements?---I haven't got that, the exact
8 terms of reference in front of me. I would say yes, but
9 I'd have to confirm that back to the Commission.
10
11 Is that a question that can be asked of Mr Elderfield?
12 ---Yes.
13
14 What are the possible outcomes of a review by the Use of
15 Force Committee?---Well, cancelling in terms of you know
16 you - and training requirements are the two main ones. So
17 identifying for a member of staff when they've possibly got
18 something wrong or actually saying you know, "You need
19 retraining in that specific area".
20
21 What kinds of matters are referred to the Department's Use
22 of Force Committee?---Well, they are referred so they're -
23 all the - all them - any concerns locally would be referred
24 to the Department's committee for a much deeper review.
25 So they would report up and say no concerns here, or where
26 they've got concerns they would report them up. So they're
27 all referred and then they would all be checked by the
28 assistant commissioner that works for the deputy
29 commissioner Adult Male Prisons.
30
31 And what are the possible outcomes of a review by the
32 central Use of Force Committee?---Well, again they can
33 refer - there's somebody from Professional Standards on
34 that committee so there have been referrals from that
35 central committee to Professional Standards and I haven't
36 got that, I'm sure Mr Maines will be able to give you the
37 exact numbers. The vast majority were referred back for
38 counselling or retraining.
39
40 Who's responsible for checking whether the prison has
41 engaged in counselling or retraining of that prison
42 officer?---That would be the superintendent. That would be
43 a recommendation to the superintendent.
44
45 But does someone check if the superintendent has carried
46 that out?---Yes, the Use of Force Committee should. I'd
47 have to - you'd have to - - -
48
49 So they should do that - - -?---They should.
50
51 - - - in practice?---Well, look, I haven't got the minutes

1 in front of me. That's a question you could ask
2 Mr Elderfield. So now you've raised it with me I'll
3 certainly go and check it myself but yes, there should.
4 They should close off that loop from the incident, what has
5 been advised, the superintendent and then somebody carrying
6 out that. Somebody should make sure that that has
7 occurred.

8
9 You said that training had been enhanced in relation to use
10 of force incidents. Can you expand on that?---Yes. So
11 we've reinforced the need for de-escalation, I think that
12 was one of the observations and criticisms of the
13 Commission, particularly in the incident around the Eastern
14 Goldfields. So that has been reinforced and then we've
15 reinforced the requirement for that sort of independent
16 reporting so reminding staff about no collusion and stuff
17 like that, and accurate and timely reporting.

18
19 How have you actually reminded staff, in practice?---So the
20 process will have been changed for the entry level training
21 and then we have a team of satellite trainers as they're
22 called so staff that are employed at each prison, it would
23 have been their responsibility to carry out that work and
24 remind staff and it is just a general reminder, pretty much
25 like how we do with all the COPPs and stuff. There would
26 keep then logs of that. I've got a sort of then a overview
27 of where we're at with all the training and refresher
28 training across Corrective Services.

29
30 And how's that looking at the moment?---In some areas we -
31 we need to improve, particularly in our use of force
32 refresher training and that's one of the - obviously our
33 risk areas and some prisons are much better than others and
34 one of the problems we have is we - we - we've set a sort
35 of benchmark of refreshing everyone every 12 months so
36 you'll get for example I'll just pick Boronia so a female
37 prison where you may have to refresh, retrain somebody
38 every 12 months in the use of a baton but will never -
39 never use a baton there and then you might have Hakea,
40 where they do use that type of instrument or chemical
41 agent, where we just sort of blanketed everyone, so we
42 almost set ourselves up to fail in that sense by trying to
43 achieve this piecemeal approach to how we do that training,
44 rather than on a risk-based approach. So of the pieced of
45 work that we've got going on at the moment is looking at
46 what other jurisdictions do. Clearly, we target those
47 prison that have a higher use of force, but it isn't where
48 it should be; we've got more work to do in that space.

49
50 So the fact that at Boronia they don't need to need to
51 actually use batons, that might account for the fact that

1 only seven per cent of them have complied with the baton
2 training?---Correct.

3
4 Is that correct?---Correct.

5
6 So are there any plans to review the training requirements
7 across the custodial estate?---Yes. So one of the bits of
8 work that we're doing at the moment is looking at that scan
9 to see how other jurisdictions do it. We've just gone to
10 the every 12 months approach, everyone has to be refreshed
11 in that whole spectrum of use of force training which, as
12 you've rightly pointed out, is meaningless in some prisons
13 where they don't use those instruments.

14
15 Who's responsible for this jurisdictional scan?---That's
16 being carried out - well, the jurisdictional scan will be
17 done by somebody in my office. That process is that they
18 will just ask the other jurisdictions, and it will be
19 collated back - it will be fed back into the COPP project
20 and the Academy.

21
22 Who determines the content of training for prison
23 officers?---We have specialised trainers at the Academy
24 that do that, and they will look at legislation. There's
25 national standard for Corrections across Australia that
26 have just been agreed by all the commissioners, and a whole
27 range of other things that they would consider.

28
29 Commissioner, before I move onto another topic, would now
30 be a convenient time?

31
32 **THE COMMISSIONER:** It's a little early, but if you're
33 moving to another topic, we'll have an early break for
34 15 minutes to allow people to have a coffee.

35
36 (THE WITNESS WITHDREW)

37
38 (Short adjournment)

39
40 **HASSALL, ANTONY DAVID RECALLED ON FORMER AFFIRMATION AT**
41 **11.23 AM:**

42
43 **THE COMMISSIONER:** Please be seated.

44
45 **LOO, MS:** Mr Hassall, before the adjournment, we were
46 discussing the variance in the compliance with training at
47 different prisons, ranging from 7 per cent to 93 per cent.
48 Can a prison remove an officer from duty if they haven't
49 complied with training requirements?---No.

50
51 Is there any merit in doing so?---Well, look, like I -

1 everyone goes through their initial training. One of the
2 challenges that we need to resolve is to determine how
3 often we have to do the refresher training, and that's a
4 piece of work that we're going through at the moment.
5 There - when you say "remove from duties," do you mean take
6 them sort of out of a work area, or - - -

7

8 What other options are there?---Well - well, sort of you
9 could stand them down, I guess, but that would be extreme.
10 I think in high-risk areas superintendents would make that
11 assessment. So, for example, at Hakea Prison, in unit 1,
12 which is the management unit there, the superintendent
13 could determine that if an officer hasn't - isn't up to
14 date with their use of force, then they can deploy the
15 officer somewhere else in a sort of lower-risk area in the
16 prison.

17

18 Are you aware in practice whether this actually happens?
19 ---No, I'm not. I would hope it does. I mean, I get round
20 and I speak to the superintendents, talking to them about
21 their risks and how they manage those risks. Have we got
22 that process enshrined in some law or procedure, without
23 going to check, I couldn't answer that question.

24

25 So what are the consequences then of not complying with
26 mandatory training?---Well, there's no consequence on the
27 individual, because it's a responsibility for - for us to
28 ensure that the training is provided. As I've said, what
29 we want to do is make sure that staff have the right skills
30 and the right training for the work that they carried out,
31 and that piece of work we're undertaking at the moment.
32 There are some areas that we have got to do better in terms
33 of our refresher training for staff, and we, you know,
34 we've had a massive increase in the number of new-entry
35 prison officers, which had helped over the last two years.
36 We're halfway through a big recruitment drive, but we have
37 got to solidify, I guess, for want of a better way of
38 describing it, our approach to refresher training.

39

40 How do you enforce the requirements for refresher training
41 if there are no consequences for the individual prison
42 officer?---Well, you - there's a number of ways you do
43 that. I mean, I don't think you can have a consequence for
44 somebody, that they haven't done their training, if we
45 haven't provided the training. What we should be moving
46 towards is a system of target setting for prisons. So
47 you'd want, for example, a higher completion rate of use of
48 force refresher training in those prisons where we have the
49 most risk. But - the example that I used, Boronia, for
50 example, you'd want a high completion rate possibly of
51 other training around reintegration services and stuff like

1 that.

2

3 And do you provide extra support to the prisons to lift
4 their rates of compliances training?---There's the
5 satellite trainers, which - we moved that function back to
6 prisons last year, at the beginning of last year, and we
7 have, for example, Greenough Prison, after we had the
8 incident at Greenough Prison, provided additional training
9 capacity there, so we have got our central specialised
10 response team that we can send out to do further training.
11 So we have deployed additional trainers to prisons where we
12 carry the most risk.

13

14 One of the Commission's recommendations related to ensuring
15 that the use of force was approved. If it transpires that
16 an officer has used force against a prisoner and that
17 they're not up to date with their use of force training,
18 what are the consequences for that prison officer?---Well,
19 if there's - there could be one of the issues - one of the
20 decision points I guess the superintendent could make is to
21 take the officer away from where they work, and if they're
22 in a high-risk area, say a management unit. Very often,
23 the - what has come back is counselling, about how they've
24 applied the force, or to make the officer go and retrain,
25 which we would do. In my experience, those type - what the
26 Commission identified was - and I'll be mindful of how I
27 answer your question, because there's a case going in front
28 of the Industrial Relations Commission at the moment. It -
29 yes, the training of the officer is one issue, but the
30 supervision of the incident and the follow-up is another
31 issue. So if, for example, you've got an officer who may
32 be incorrectly applying a restraint, you'd want the
33 supervisor to intervene at that point and remove the
34 officer and that, so we've actually improved that guidance
35 to supervisors and being clear about what we expect in that
36 sense. And certainly, when I can, both myself and the
37 deputy commissioner will go, for example, and speak to all
38 new entrant prison officers at the training academy, and
39 describe to them the standards and expectations that I
40 expect as the Commissioner, and certainly, when I go around
41 to the prisons, I did a lot of prison visits last year,
42 reinforcing that to the superintendents.

43

44 Tell us more about the Corrective Services Academy?---So
45 it's headed by a director, and they do three types of
46 training. They do entry-level prison officer training and
47 community correction officer training, and we've had a big
48 influx of prison officers over the last two years. We've
49 got a program to recruit 458 additional prison officers,
50 and we're probably about two-thirds of the way of doing
51 that, so we've had a significant increase in staff deployed

1 there to cope with our bulk training requirements, if you
2 like. So that's one aspect of their work, the same as we
3 had additional need Community Corrections officers, and
4 that work is done partly at the Academy and partly in the
5 field. The second bit then is the professional development
6 work that they will do around the use of force training and
7 other work that officers may need to carry out their duties
8 on a day-to-day basis. Some of that is delivered through
9 the satellite trainers on site, some of it is delivered
10 online, and we certainly try to move more of our training
11 to the online mode, which is better, so for example, one of
12 the recommendations was for anti-grooming, so officers
13 would have that training, initially when they come in, and
14 we're moving to an online package, so that gives us an
15 opportunity then to just make sure that we know that
16 everybody has done that. So that should be online in the
17 middle of this year. Then the third stream of work is
18 leadership development and in terms of equipping our
19 leaders for the future.

20
21 Will there be a requirement to refresh in the training for
22 anti grooming?---Yes. We've done - everyone goes through
23 that piece of work when they come in, so whether it's an
24 entry-level prison officer or a vocational support officer,
25 they have that initial training. We're just putting the
26 refresher training package as a modular package online, so
27 everyone will have to do that refreshing online. We have,
28 on the back of the Commission's findings in the initial
29 reports, put other checks in place. So for example, I
30 think it was the Karnet VSO that was one of the focuses of
31 the Commission's (indistinct), we put some management
32 checks in place that the superintendent is required to do
33 when officers are going out, making sure that staff aren't
34 getting groomed. There's further then checks by the
35 monitoring compliance team, both desktop and on-site
36 reviews, and then they get reviewed again as part of our
37 overall risk approach. So initial entry training, then we
38 get the online stuff, but we know that we've got some risks
39 there, so we've put management controls in that we require
40 the superintendents to do, and then the oversight role, if
41 you like, of the monitoring compliance team, which is
42 independent from the operational line, goes and checks that
43 work.

44
45 What kind of managerial - what kind of managerial processes
46 are in place? You refer to superintendents having
47 responsibility for that?---Yes. So the superintendents
48 have to conduct their checks. So there's a check list of
49 requirements, then briefing staff, work site visits to make
50 sure that that function is being carried out properly.
51 We've got vehicle tracking systems, two-way radios for

1 staff. There's a whole range of physical and procedural
2 checks that have been put in place, and very clear guidance
3 to the superintendents of the expectations that are on
4 them, because they obviously have to manage the risk
5 locally. Then, from my point of view in terms of managing
6 the system risk, we have - a monitoring compliance team
7 will go out. We get reports back. They will either be
8 desk-top reviews, so checking whether the - the local site
9 has done their due diligence and their checks, or actually
10 go out and do a physical check, and then we get a quarterly
11 report of all that. The desk-top reviews - sorry, the
12 superintendents' checks get reported up to the assistant
13 commissioner, who will then do their checks to make sure
14 that all of that work has been carried out.

15
16 So you're referring there to section 95 prisoners? Is that
17 correct?---Correct.

18
19 What is a section 95 prisoner?---It's a prisoner who can be
20 released from a prison to undertake activities outside of
21 the prison perimeter, if you like, and they're either
22 supervised activities or unsupervised activities.

23
24 And you refer to some checklists. Can you expand on that?--
25 --Yes. It's a - when - like the Commissioner identified
26 was that there are gaps in our process, in our risk
27 process, in terms of supervision. So there's requirements
28 then for the superintendent to go and check that the prison
29 staff are briefed and staff know what is required of them,
30 work placements check so that they know whether the
31 prisoner's going to the right location and some security
32 checks. So that process is at the site level and then we
33 have the system check which is the monitoring and
34 compliance team.

35
36 And there is also a checklist at the prison officer level,
37 isn't there?---Correct.

38
39 A daily checklist?---Yeah. I'm - - -

40
41 Sorry?---No, I'm just going to get to the checklist point
42 but carry on with your question.

43
44 You may recall that the Commission's report in relation to
45 Karnet Prison Farm, Mr Northing was making unauthorised
46 stops in his vehicle. In that situation he would be the
47 prison officer required to check off that he had done
48 everything according to what the checklist said. Do you
49 accept there that there is still a misconduct risk in
50 implementing this checklist?---Yes, I think when - whenever
51 you have a single point of supervision of a prisoner,

1 whether that's in a prison or in the community there's
2 always a risk that the individual supervising the prisoner
3 doesn't do the right thing. So you put in controls to
4 mitigate those risks so one of the controls is as you said,
5 the checklist that the officer has to do, remind them of
6 their responsibilities. Then the way the Department - the
7 Department's approached a risk management tier so that's
8 almost a first-tier check. Then that would be checked by
9 the superintendent to make sure that's happening. Then as
10 I've said you've got the - almost the second and third-tier
11 check which is the monitoring and compliance, making sure
12 that all of those processes were being done and then
13 individual site visits by the monitoring and compliance
14 team and somebody from the local management team. Of
15 course, then the Department now has got another tier of
16 checking which is good because that helps me manage my
17 risk, which is the Professional Standards area so they
18 could within part of their structure which is performance
19 and risk, they could do further checks and all of those
20 checks. So there's multiple layers of checks but it's true
21 to say that when you have a singleton officer post and
22 singleton prisoner post, there is always a risk.

23

24 **THE COMMISSIONER:** I imagine that section 95 is - on
25 occasions might be quite contentious?---Commissioner,
26 you're correct.

27

28 Especially if it goes wrong. Do I understand really that
29 the checklist for the individual supervising officer is
30 just one of a number of checks and balances, some of which
31 have been enhanced since the incident?---That's correct,
32 Commissioner. So that you're right that the checklist for
33 the officer to conduct is one layer of checking. What
34 we've put in place since the Northing incident is all those
35 other checks, so the superintendent has to do those checks.
36 I mean, he can delegate that or she can delegate that to a
37 management position. Then the monitoring and compliance
38 team, that's another layer of checking that we put in
39 specifically in response to the Commission's
40 recommendations. And then as I said the - sort of the
41 independent to Corrective Services is the new Professional
42 Standards area they could, as part of their risk assurance
43 framework to the Director General, go and do a thematic
44 review of all of those checks and controls. So there's
45 multiple layers of checks in the system to give myself,
46 there's the Commissioner assurance and therefore the
47 Director General. Then the Director General has his own
48 assurance that what I'm telling him is you know what the
49 system is telling me is accurate. So there's - it's
50 triangulated in multiple ways.

51

1 I just see there is obviously a necessity for
2 rehabilitation purposes for a section 95, but so far as the
3 public is concerned it's probably one of their greater
4 worries and issues that there are sometimes prisoners with
5 bad records nevertheless supervised in the community?
6 ---Yes, you're correct and you know I guess what the first
7 checking really is the process to getting a prisoner onto a
8 section 95. So that's a very robust assessment, you know,
9 we don't take risks with public safety but it is an
10 invaluable part of an offender's rehabilitation journey to
11 carry out that activity. There is a period of supervised
12 section 95 before they go on to unsupervised. So it's part
13 of a - the risk process starts with the prisoner and as I
14 said it's a very robust process to get to section 95, and
15 then we have all of the other controls as you've suggested,
16 sir, that are in place.

17

18 Thank you.

19

20 **LOO, MS:** What proportion of the adult prison population
21 is assessed as being suitable for section 95 activities?

22 ---The figure would change daily. We - I haven't got the
23 exact figure in front of me at the moment but it's - I
24 think there's about 100 at any one day that might be
25 involved in those types of activities but there'll be -
26 there'll be more assessed but it changes in terms of what
27 work is available; what work that we want them to carry
28 out, what work that you know other organisations may ask
29 for us to do. So it would change daily.

30

31 And you mentioned that Corrective Services has implemented
32 GPS-tracking technology?---That's correct.

33

34 Can you tell us more about that?---So it's - the GPS is in
35 most of the Department's vehicles that are used at the
36 prisons for this type of activity and that ability to
37 monitor vehicles then is managed centrally at the
38 Department's operations centre so it's real time tracking
39 of vehicles where they are, obviously which is an
40 invaluable further check on what's going on in the system.

41

42 So why is the tracking centrally done, rather than at the
43 individual prison site?---Well, the - we made that decision
44 for a number of reasons. One is we wanted - we didn't want
45 to compromise the security of the vehicle in terms of what
46 it'd do, so we wanted to control who had access to that
47 information. The operations centre is managed for the
48 whole duration of when the vehicle is out of the prison.
49 So it's pretty much operating from prisoner unlock to
50 prisoner lockup and it's the staff in that area. So we
51 are - we have assurance that: (a), there's vehicle

1 security so we can control who knows where the vehicles
2 are; and there's also somebody actually sitting there in
3 that room, watching the screen so that's another further
4 check. So that room's never left unattended and, you know,
5 as I've said with - with the size of the State, the
6 different skill levels I guess that we have around the
7 system and we wanted to make sure that we got that quite
8 controlled.

9
10 And in practice how does the operation centre become aware
11 that there's a vehicle that's leaving, and how does it know
12 the route that the vehicle is supposed to take?---Look,
13 that's a very detailed technical answer. If I might just
14 get you to ask Mr Elderfield that, because that's his area.
15 It is real-time tracking so there will be a process of the
16 prison informing the operations centre of the vehicle and
17 where the vehicle's supposed to go. And the screen is
18 there, available. The staff can draw - call it up on the
19 screen at any time they wish. But the actual technical
20 process is probably best answered by Mr Elderfield.

21
22 **THE COMMISSIONER:** I'm content to wait for Mr Elderfield's
23 testimony in that regard. Are there any matters within his
24 proposed testimony that might reflect on security, such
25 that I ought to move into private examination for that
26 aspect?---No, sir. It's - I think given the Commission and
27 yourself, the broad view of how it operates, there's no
28 issues there. Really, it's just on a sort of day-to-day
29 basis if we've got some vehicles that we may not want a lot
30 of people to know where they're going but generally from a
31 process point of view there's no problem.

32
33 Very well.

34
35 Move on?

36
37 **LOO, MS:** One of the Commission's reports in relation to
38 smuggling of contraband into Acacia Prison related to a
39 prison officer Mr Hughes who had used steroids and
40 methamphetamine and was isolated from other staff, and
41 these were risk factors that the Commission identified made
42 him vulnerable to grooming. How does Corrective Services
43 identify staff at risk of engaging in misconduct?
44 ---A number of ways. So we've set up the Professional
45 Standards division and there's good operational interface
46 between the Corrective Services intelligence team who
47 collect information from across prison sites and then with
48 the Professional Standards they have their own intelligence
49 team so there's - that's the early identification, if you
50 like, of that initial risk. So we are putting at the
51 moment collators in Corrective Services, we're building up

1 our intelligence capability. We've got a good team in
2 there, we're putting collators in each prison so we can
3 collect that information and then share that with
4 Professional Standards.

5
6 At the moment, how many prisons have collators on site?
7 ---I can give you the exact information. So there are 34
8 FTEs in Intelligence Services and at the moment there is 11
9 vacancies in that structure. Then I'll just read you the
10 list. So a level-3 collator will be at Casuarina Prison
11 today, it starts on the 10th; Bunbury Prison on the 17th,
12 and one in headquarters on the 17th. And then there's
13 further work, all six intelligence collator positions are
14 filled at Hakea, Bandyup, Banksia Hill, Bunbury and Albany
15 so a good spread across the prison system.

16
17 What kind of intelligence do they collate?---A range of
18 information around activities that are going on in prisons,
19 from drug trafficking, potential staff misconduct, any
20 information really that is around the good order and safety
21 of the prison and as I've said they work very well with the
22 Professional Standards team. They have an operational
23 interface, they have an interface with - the intelligence
24 team do with the police so we can triangulate all of that
25 information coming in and really what it's about is
26 ensuring the good order and safety of the prisons. We
27 don't just rely on that, though. So last year we know, as
28 the Commission rightly identified, contraband coming into
29 prisons is a significant issue so we do - we ought to
30 support their work. We also do unannounced searches,
31 I've ordered the lockdown of prisons and there's a whole
32 range of things that we do. So you'll have seen over the
33 last few months us taking that action. We deploy vast
34 majority of the resources to support the prisoners. We've
35 done Bunbury, Acacia, Hakea. So where we have any concerns
36 whatsoever, even if it's a find on the day we will take
37 that action and we'll continue to do that to support the
38 work that they're doing in Intelligence Services.

39
40 And the Commission previously identified that intelligence
41 that was centrally held was not disseminated where it
42 needed to go. Has Corrective Services made improvements in
43 that regard?---Yes. So that's a part of the collator, that
44 sort of intelligence cycle. So you've got that flow of
45 information backwards and forwards from the prison to the
46 site so that the superintendent can take whatever action he
47 or she may need to do, so those sort of - that early
48 intervention if you like. Then of course if there's staff
49 misconduct issues, that rightly sits with Professional
50 Standards so that information gets flowed through there.
51 Sitting across all of that there's a Director General's

1 governance group which meets fortnightly so that's - and
2 that's chaired by the Director General or myself, the
3 deputy commissioner of Operational Support and
4 Professional - head of Professional Standards and then the
5 Director of his area. So that's where we look at what's
6 going on across the whole system, to make sure - for two
7 reasons. One, we can know where there's themes and trends,
8 so where there's issues in prisons we might - I might want
9 to take some early intervention and you'll have seen that
10 behaviour last year where we - we did some big search
11 operations across the State's goals or more targeted action
12 where at the moment for example and if it's okay I won't
13 name the prison but we know that we have an issue in one
14 prison and I've agreed a course of action with the head of
15 Professional Standards where I'm going to go and speak to
16 the staff to remind them of their responsibilities and the
17 concerns of the Department are. So that sort of
18 overarching governance group is a further tier of assurance
19 that the information is flowing at the officer level, which
20 is working well, but then also gives myself and the
21 Director General assurance that those further risks, the
22 themes and trends, are being managed across the system.

23

24 And you referred earlier to an operational interface
25 between Professional Standards and the Corrective Services
26 intelligence. What do you mean by that in practice?---So
27 it's passing information. So they will meet and it's
28 passing information around concerns that we're getting from
29 the prison sites around staff misconduct or issues that
30 might be appropriately addressed by Professional Standards,
31 whether that's coming in from the prisons or any other bits
32 of information that may come into the system. So that's -
33 that's that interface there of how they work. So there's a
34 timely, good reporting flow of information to Professional
35 Standards about staff misconduct that is picked up either
36 through prisoners giving information or staff giving
37 information.

38

39 And what's the process if a prison does provide information
40 suggesting that one of its prison officers is at risk of
41 engaging in misconduct? What happens then?---Well, that
42 would be referred to Professional Standards and I'm sure
43 Mr Maines will tell you in detail about the processes that
44 have been put in place and the new things that have been
45 introduced in that area but it would always be referred to
46 Professional Standards. We may as an example do - increase
47 some - to manage the risks some searching around
48 individuals, whether that be drug or alcohol or just
49 general searching to manage and mitigate those risks.

50

51 Is the performance of prison officers assessed formally?

1 ---There's a process called PADS which is a performance and
2 development system and which is a legacy system from the
3 whole - the previous Department of Corrective Services.

4
5 What does that system involve?---It's - it's an
6 objective-setting process and a forward look, so sort of
7 gives the officer some objectives for what to do and what
8 to achieve over the coming 12 months. And an - - -

9
10 And - - -?---Sorry.

11
12 Sorry?---And an assessment then of their performance at
13 periods, periodic reviews. I have to say it's probably not
14 the best assessment system for managing performance in a
15 modern organisation.

16
17 Why is that?---It's very dated. When the Departments were
18 joined together we've got different systems and different
19 assessments. It's not very clear about - in terms of
20 expectation setting and stuff like that and then of course
21 you're relying on - on people carrying out the system.
22 So we know for example that we've got some prisons they
23 haven't done that process last year, so we've got some gaps
24 there.

25
26 And what are you doing to address those gaps?---Well, the
27 deputy commissioners have been tasked with making sure that
28 at least with the system that we've got that all of their
29 PADS in their areas are completed, so that's the first
30 thing is to get that process completed. There will be a
31 much wider review of performance management across the
32 Department.

33
34 Can you tell us more about this review?---Look, it's - it's
35 - again it was - it was commenced under the old Department
36 of Corrective Services. It's not in a work plan to do,
37 it's just something that we know that we need to do. We've
38 actually got a lot of work that we're doing in terms of
39 infrastructure and - and policies and procedures as I've
40 already said. There are - there are some HR work in terms
41 of how we manage staff performance. I don't mean in terms
42 of Professional Standards but sort of generally about
43 performance management that we need to improve but it
44 isn't - I haven't got the information in front of me to be
45 honest and see what or what - how the Department's going to
46 approach that.

47
48 The Commission identified in one of its reports that the -
49 that information about a prison officer might not be
50 communicated between prisons and that there was a risk
51 there. Have there been any improvements in that regard?

1 ---The - well, the officer group that I've described of the
2 -you know from Professional Standards to the Corrective
3 Services intelligence, that officer group works well and
4 that information sharing works well. Whether the group can
5 pass on all the information to the superintendent I guess
6 would depend on what the assessment is of the information,
7 and I know there's controls around that. For example,
8 Mr Maines for example will sometimes not be able to tell me
9 everything but what he does do as part of my risk assurance
10 is assure me that the risks are being managed so - and
11 that's appropriate so that we don't compromise any work
12 that he may be doing in his area or any work that the
13 police may be doing.

14
15 In terms of an officer's PADS record, does that include
16 allegations of misconduct against the officer?---No, no,
17 that's - the PADS is just an assessment of how they carry
18 out their work and gives them some type of assessment, so
19 it wouldn't be a sort of disciplinary database or like
20 that, that would be held independently.

21
22 Where is that disciplinary data held?---By Professional
23 Standards.

24
25 What obligations are there on staff to make reports of
26 misconduct by other staff?---Well, it's quite clear in the
27 Department's integrity framework that's been published are
28 the responsibilities on individuals to report misconduct.
29 So it is actually very clear their role and responsibility
30 in terms of reporting any concerns that they have in terms
31 of misconduct.

32
33 And you may have heard in the opening statement that the
34 Commission found that there was a poor reporting culture
35 previously. Has Corrective Services taken any steps to
36 address the reporting culture?---I think that's a correct
37 observation that the Commission makes, and it takes a long
38 time to change culture. I think the Department has made a
39 good start with setting up the Professional Standards area.
40 So I know, and I'm sure you'll hear from Mr Maines the work
41 that his team are doing around education of staff and our
42 proactive approach to managing that. As I - I go then to
43 speak when I can, myself or the deputy commissioners speak
44 to all the new entrant prison officers when they join
45 Corrective Services and talk about the expectations that
46 are on them as a public servant, and what is required of
47 them. And then, of course, I do, when I go round, speak to
48 staff and remind them of their responsibilities. Although,
49 I do think it is fair to say the change in that culture in
50 a prison setting, not just here, but anywhere in the
51 country, is incredibly difficult, and it will take time for

1 us to move to a point where staff feel comfortable in
2 reporting misconduct. I think we've made a very good start
3 though. I think the establishment of a Professional
4 Standards Division, the education work that is going on in
5 that division is key to changing that culture, and then the
6 other work that we're doing, obviously, with training, my
7 messaging as the Commissioner, the messaging from the
8 deputy commissioners is also important, but I don't shy
9 away from the fact that it will be a difficult - it's a
10 challenge for us to move that, but we're determined to do
11 it.

12

13 And you say - - -

14

15 **THE COMMISSIONER:** Commissioner, I think that answer is
16 very honest and frank. The concern I have is that the
17 Commission has information that the culture - there are
18 sort of - how shall I put this? There are sort of window
19 dressing of changes of culture within many of the
20 institutions, but the old culture remains?---I think that's
21 very fair to say that, and I know with the superintendents,
22 for example, I meet with them, I regularly reinforce the
23 messaging to them. There's one good example recently where
24 - and I guess this was a positive sign of change, were the
25 superintendent raised concerns with me about issues that
26 had been dealt with in the past about how prisoners were
27 treated. I was able to raise those with Mr Maines, and we
28 were able to go back and have a look at that. Now, I don't
29 think that would have happened two years ago. I think it
30 would have just gone - gone under the radar, if you like.
31 So it is - you're right, sir, there are pockets of the
32 culture that are very persuasive, and they will be hard for
33 us to - to change, but with the new Professional Standards
34 area, my commitment, the training that we're doing, I'm -
35 progress will be slow in some places and quicker in others,
36 I guess.

37

38 **LOO, MS:** Now, you mentioned the Director General's
39 governance group. Can you tell us more about this group
40 and what it achieved?---So that's the - I guess the
41 ultimate peak group in the Department to give the
42 Director General assurance that - how the risks are managed
43 across Corrective Services in terms of misconduct, so
44 it's - I sit on that group, the Director General chairs it,
45 the director of Intelligence, the deputy commissioner of
46 Operational Services, the executive director of
47 Professional Standards and his director come to that group,
48 and we look at what's going on in prisons in terms of
49 misconduct, what information is being reported to
50 Corrective Services Intelligence, and what action has been
51 taken. And very often, you know, it's not just about

1 reporting the misconduct to Professional Standards, but
2 what I'm concerned to know is what controls may be put in
3 place? So if there is some information that's in around an
4 officer doing something, but there's not enough to stand
5 the officer down, for example, what controls are being put
6 around the individual so that the Department is managing
7 its risk, so it's that type of discussion. Then we also
8 get to have a look at things and trends, and Mr Maines has
9 already identified one area where I've agreed to take some
10 action. I'm just waiting for the superintendent to work -
11 come back from leave, when we are going to speak to the
12 staff, so that type of opportunity, where the - the overall
13 risk management for the Director General, but where we want
14 to do some more senior management intervention.

15
16 And you said, as an example, you were discussing an officer
17 who may not have - there may not be grounds to stand him
18 down, what are the grounds on which a prison can rely to
19 stand an officer down?---Well, if there a - you know,
20 significant information to say - you know, if there's a
21 criminal act, that's obviously very straightforward, if
22 somebody's been arrested and there's been some criminal
23 act, then that's clear, cut and dry, or if there's
24 sufficient information, the likely penalty will be
25 dismissal; that's a consideration. So we don't take those
26 decisions lightly, but we do take those decisions, or
27 Professional Standards area will make that recommendation
28 to the Director General about making that decision.

29
30 And does the DG governance group provide recommendations to
31 individual prisons in terms of managing the risks there?
32 ---The group wouldn't, but Professional Standards would. I
33 can't recall a recommendation to a specific prison, but
34 we'd certainly discuss, as I've said, controls that we
35 might want to put in place about managing risk, or
36 certainly where we have concerns generally, then I might
37 take some operational action. So Hakea was an example
38 where there were some concerns, issues going on at Hakea.
39 It was being reported at different points in the system
40 from that group, my own intelligence there, so we did a
41 search operation last year at Hakea, where we just decided
42 to do a complete blanket search of everyone going into the
43 gaol, and we'll take that action, you know - I've said
44 publicly and to my own team, that will be the approach that
45 we will take going forward whenever there's any risk or any
46 concerns. We'll take - you know, we'll deploy staff,
47 additional staff, whatever the disruption to the prison
48 that we need to take.

49
50 What was the outcome of that blanket search at Hakea?
51 ---Well, we did a car park search, so we - some referrals

1 to the police, some findings of contraband going into the
2 prison, and a whole range of things. I haven't got the
3 list in front of me, but some significant finds in terms of
4 what's taken into a prison. You have to bear in mind that
5 a small amount of contraband that may have very little
6 street value in the public has a significant value in the
7 prison, and seriously undermines the good order and the
8 safe operation of that gaol, which is why we take that
9 response. So we approach as a zero risk base, whatever the
10 disruption to the prison it causes, and whatever resources
11 we have to deploy, I will.

12
13 In relation to searching, are there any plans to improve
14 the resources available for prisons?---Well, each prison
15 has its own prison officers, so they can conduct their own
16 searching. Then there's the Director General allocated
17 last year an additional \$2 million to the special
18 operations group. And that was - that will bolster that
19 team significantly, and that team is available to do
20 stabilised searches. We also use a whole range of other
21 people that, if we have to do additional searching. As
22 I've said, we've moved the staff drug and alcohol function
23 out of - or it's in the process of being moved out of the
24 drug detection team. The resources aren't going from that
25 area, so they'll get to keep those resources, which will
26 again allow me to do additional searching into prisons. So
27 in summary, I guess, with - an extra \$2 million was
28 allocated by the Director General last year. We're just
29 spending that money now with additional security
30 capability, additional staff. There's prison officers at
31 the prisons, and then there's the additional resources that
32 we had in the drug detection unit over the last 12 months,
33 three additional officers in - in that area. And our
34 approach will be two-fold. One will be sort of short,
35 small intelligence-led operations wherein they go and just
36 do a small search, or we will go and do a complete prison
37 search, as we have done recently, to mitigate those risks.

38
39 The monitoring and compliance team have found on multiple
40 occasions that prisons aren't complying with the basis
41 searching requirements of five per cent of pedestrians.
42 What's the reason for this low compliance?---I think there
43 are a number of factors, and I make no excuse for that,
44 because it's not acceptable, but that's the position that
45 we're in. You know, there's a target and the prisons
46 should do it. I think lack of clarity in our own
47 procedures had been a contributing factor. Certainly, some
48 prisons have had growth in the prison population, which has
49 meant the volume of people going through has increased
50 without any additional policing resources. Now, we're
51 doing the COPP project, which will make it much clearer

1 about what is required of the officers when people enter a
2 prison. So, for example, we've just removed discretion, so
3 everyone going into a prison is able to be searched, so
4 there's - the interpretation of the rules and procedures
5 has been removed from the officer. The issue around volume
6 is going to be a challenge for us, which is why we put the
7 other controls in place that I described. Then, of course,
8 we've got the checks that the superintendents are required
9 to do, so we don't want to wait for - I get a report in -
10 every 12 weeks of when there's been a system failure. We
11 want to make sure that the system is picking up those
12 failures and taking remedial action straightaway, so we've
13 got - the superintendents are required to check their CCTV
14 at the gates. That's then reviewed by the assistant
15 commissioner, and then we can take remedial action, but
16 that's an area where we have got to more work, I
17 acknowledge that.

18
19 What kind of remedial action do you take?---Well, if
20 there's - for example, if - when they review the CCTV,
21 there's issues of misconduct, that would get reported to
22 Professional Standards. So that was a - that process
23 wasn't in existence before, or where things haven't been
24 done in terms of the quality of the searching hasn't been
25 done appropriately. So that that's happened, but equally,
26 when I go to prisons, or the deputy commissioners go to
27 prisons, we also review the experiences that we have, so
28 I will give staff feedback on how I'm searched, for
29 example, and I know the deputy commissioners do exactly the
30 same, and certainly give feedback to the superintendents.
31 I've certainly done that to just remind them of the
32 importance of them seeing what processes are going on in
33 their own prisons.

34
35 And the Commission identified some cultural issues with
36 staff searching other staff, resulting in ineffective pat
37 searches. What have you done to address this?---Well, the
38 controls are multiple-layered there, so the requirement to
39 review - that's - I should start off by saying that is an
40 absolutely accurate observation. I think it's very
41 difficult when we expect work colleagues to search work
42 colleagues, so that is a - a risk that we always have to be
43 mindful of. So there's a number of layers of controls and
44 checks that we've put in place. The requirement for the
45 superintendent to check the CCTV, cameras at gates and do
46 their review, then the checks that were required to be done
47 by the assistant commissioner, and then the additional
48 management checks the deputy commissioner will do when they
49 do their visits; so all of those things should give
50 additional layers of assurance that entry searching is
51 being conducted appropriately. Sitting on top of that

1 though, you want the sort of - the additional assurance
2 that the local checks are working, so the monitoring and
3 compliance team will review the CCTV footage, which is an
4 independent area of the Corrections over the prisons.
5 I think they do that quarterly, to make sure that there's
6 been no issues, monitoring and compliance checks, and then,
7 as I've said, there will be the additional resources that
8 we've had allocated. We will then go and just do blanket
9 searches across the State's prisons.

10
11 Have you made any improvements in relation to CCTV coverage
12 in prisons?---We - following the Commission's reports, we
13 did a review of CCTV coverage across all the State's gaols,
14 and what we find was it will be virtually impossible for us
15 to get CCTV coverage everywhere, because it will just be
16 cost prohibitive. What we have done is put in, as part of
17 that assessment, in our strategic assets plan some requests
18 for how we cover the higher risk areas going forward, so
19 I'll use Hakea, for example, some of the high-risk areas
20 there.

21
22 **THE COMMISSIONER:** I note that the Eastern Goldfields
23 Prison, which of course is a new prison, is very well
24 supplied with CCTV?---Correct, sir.

25
26 Is there an extra cost in, as it were, retrofitting
27 existing prisons?---So - yes. Eastern Goldfields is a sort
28 of 25-year public/private partnership build. So the State
29 just pays like a lease arrangement for the equipment. With
30 the other prisons in the State, the infrastructure is very
31 old. Obviously, where we build new infrastructure, we can
32 sort of take the learnings from what the Commission -
33 management advice, and do - we don't have to worry about
34 that, but retrofitting all of the State's gaols came back
35 as - I haven't got the figure in front of me, it was cost
36 prohibitive, but we will put it into our strategic asset
37 plan, so going forward there's a rolling program of
38 upgrading and installing in those high-risk areas.

39
40 **LOO, MS:** You said that some of the improvements that had
41 been made to the searching policy include removing
42 discretion to search people. Will you change the minimum
43 requirement from five per cent?---Entry searching?

44
45 Yes?---I don't think there's any plans to do that.
46 I'm happy to go back and revisit that and take a look at
47 that, and there's no reason why we couldn't. What we do
48 try to do is give staff more guidance though, for example,
49 on strip-searching of children coming into prisons, which
50 was an issue from one of our oversight agencies. So we
51 will take a firmer line in that space, and certainly that

1 should provide additional capability to do - resources.
2 My approach generally would be - is a risk-based approach.
3 A blanket five per cent is probably pretty meaningless,
4 when you've got much - you want much higher searching in
5 high-risk prisons, so certainly we'll go and have a look at
6 that. Five per cent at a medium-security prison, which
7 only has visitors of a weekend, is pretty meaningless,
8 whereas some of the other state's gaols, Hakea, Casuarina,
9 Bunbury, Bandyup, we'd want to do a much higher level of
10 searching. But as I've said, whilst we do - working
11 through the process of doing the COPPS, we have put other
12 controls in place whilst we do that, because I do recognise
13 that we've still got that risk gap, if you like, in getting
14 the procedure exactly where we want it - to the current day
15 operations. If I - the other thing that I thought about,
16 if I can just correct a point that I made earlier on this
17 morning, I may have given you the impression on the COPPS
18 project that it was going to take to the end of 2021 to do.
19 Actually, we'll have overwhelmingly drafted by the end of
20 this year with implementation well under way. I'm just
21 talking about we're not going to do anything with team,
22 we'll leave them in place, so I wouldn't like the
23 Commission to think that the work is going to be stretching
24 out to December 2021, because it certainly won't, but
25 I don't want to stand the team down whilst they're doing
26 that work, just in case there's other things come up.

27
28 And on the topic of COPPS, what's the process for reviewing
29 at the end, when the project is finished?---Well, we will
30 leave the team in place. With the one that we reviewed
31 earlier, it was funeral escorts, so we know things that
32 come up all the time that don't work or, when you're
33 implementing, in terms of operations there are things
34 happening. The COPPS themselves, we don't envisage
35 significant change, because we've gone back to the
36 legislation and we've got the legal advice, so we know
37 that, unless there's any change to the legislation - what
38 we will have to review are the standing orders, so how the
39 prisons operationalise the COPPS. So that implementation
40 team, which will be led by a superintendent, will stay in
41 place, which is the work for next year and they will go
42 back and have a look. As I said, the - the governance
43 around that is that they can't be approved locally so they
44 have to go back centrally to be approved. So there's the
45 first review of how the prison has interpreted the COPPS;
46 have they taken the right interpretation, are they writing
47 it so it's clear for the staff to understand. Then there's
48 the implementation, then there'll be a review process at
49 the end which will be ongoing. So we won't stand down
50 either team. I know that we will still have to have a
51 smaller team of drafters that will remain in place as

1 because things do change. The penalties for example we
2 know that will change and then prisons change their
3 functions and their roles so we'll need to have some
4 resourcing, some capability. And so I do envisage a team
5 staying in place going forward once the vast majority of
6 the work has been done, which has been - sorry, which has
7 been an issue that we haven't had in the past, we didn't
8 have in the past. So I think the previous review which was
9 done just before I joined or just as I joined the old
10 Department of Corrections it was one person, they drafted
11 some policies, wrote them and then just moved on. There
12 was no legacy, if you like, and people to take that work
13 forward.

14
15 And as the new policies are being implemented, they'll
16 require staff to do things differently to how they might be
17 used to. How will you ensure that the staff on the ground
18 are on board?---On board or - - -

19
20 Culturally?---Well - well, there's - there's a number of
21 things that we - we do. The first is briefing sessions and
22 training, retraining where we need to. So where we're
23 giving clear direction to staff about how we expect them to
24 behave and there's a deviance from that, that potentially
25 is a misconduct matter so that will be referred to
26 Professional Standards. Overwhelmingly though you want to
27 make sure the staff are retrained, that the instructions
28 are clear, which they will be, and that they're briefed on
29 what the requirements are under the new structure. So the
30 part of the implementation team is going out with the
31 superintendents or the local management teams and briefing
32 the staff on sort of awareness activities. That will then
33 be supported by communications from me. So we know for
34 example the three significant ones that the Commission has
35 identified that I will, when we get to the point, broadcast
36 to staff the expectations that I expect them to follow in
37 terms of adhering to the COPPs and procedures, if that's
38 answered your question?

39
40 Now, you described a whole range of changes that Corrective
41 Services has made in the last 15 months. Have you had to
42 engage with the unions in relation to these changes?---Yes,
43 certainly with the COPPs that we have. Some changes we
44 wouldn't, where it doesn't directly impact on them.
45 I think we formally write to them where there's big changes
46 so the establishment of the Professional Standards Division
47 for example, that would have just been not consultant -
48 not - not consulting with them but just telling them what
49 we're doing. So, yes, on a range of areas we would consult
50 or just tell.

51

1 The Commission's aware that in some prisons the unions
2 might be a source of delay or frustration in relation to
3 implementing change. Are you able to comment on that?
4 ---If I could just give you a broader perspective, I think
5 our system works - we have a highly unionised workforce so
6 the overwhelming majority of prison officers are members of
7 the - their union. So my general approach is to have good
8 productive relationships with the union and where we've
9 done that successfully in the past that has worked well,
10 although I do think there are examples locally where those
11 relations - and you want - and you want relationships to be
12 one of mutual respect. So they have a position, we have a
13 position and you - and the way industrial relations work is
14 you're trying to reach agreement and consensus on what you
15 want to do, and where we do that and we do that well we get
16 really good outcomes. I do think there have been examples
17 where that hasn't worked well, where there's been examples
18 of where management have possibly been undermined in the
19 work that they've tried to do and clearly that is not
20 acceptable, that is not how, you know, we want the prisons
21 to operate. My guidance to all the superintendents is to,
22 if we have agreements with the unions to follow those
23 agreements and to - to honour the commitments that we have
24 and, equally, I expect back from the union them to behave
25 in a way that is allowing them to carry out their role of,
26 you know, advocacy, flagging up risks to managements but
27 I do think there's been creep over a number of years in
28 that regard.

29
30 Is there anything else you'd like to raise or discuss that
31 we haven't already covered, Mr Hassall?---No, I think
32 I'd just like to, you know, thank the Commission for giving
33 me the opportunity to talk about the work that we've done.
34 I think we've - as I said, the Department's done a
35 tremendous amount of work both in responding to the
36 Commission's reports and putting controls in place that
37 will make the system a safer system and significantly
38 contribute to protecting the public. But I don't
39 underestimate the scale of the work that we have to do,
40 there's a lot of change that we have to face in Corrective
41 Services, coupled with the challenges that we have, as the
42 Commissioner said this morning, in increasing prison
43 population, a build program, but we have resourced those
44 areas of change well I think, particularly in the COPPs
45 project, which for me is about setting up a legacy,
46 something that probably should have been done years ago.
47 So I think what the Commission has done is put the
48 spotlight on us and which has been very, very useful and
49 allowed us to learn and to change going forward.

50
51 Those are my questions, Commissioner.

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THE COMMISSIONER: Thank you very much for your attendance, Commissioner, and for your evidence.

(THE WITNESS WITHDREW)

THE COMMISSIONER: We will adjourn until 9.45 tomorrow morning.

AT 12.21 PM THE MATTER WAS ADJOURNED UNTIL
TUESDAY, 11 FEBRUARY 2020

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

The transcript of Antony David Hassall heard on Monday,
10 February 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;

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Certified on this 11th day of February 2020 by: Glenda Judge
and Sheila Robbshaw

Full Name: Glenda Judge
Sheila Robbshaw

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)

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