



CRIME AND CORRUPTION COMMISSION

TRANSCRIPT OF INVESTIGATIVE HEARING

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TASKFORCE FLAXTON
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20 DAY 2 – TUESDAY 15 MAY 2018
(DURATION: 2 HRS 55 MINS)

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LEGEND

30 PO Presiding Officer – ALAN MACSPORRAN QC
CA Counsel Assisting – GLEN RICE QC
INST Instructing – AMANDA BRIDGEMAN
HRO Hearing Room Orderly – ISABELLA PATTON
W Witness – SAMAY ZHOUAND
LR Legal Representative – CHRISTOPHER MURDOCH
INST Legal Instructing – PATRINA CLOHESSY

PO Good morning. Mr RICE.

CA Thank you, Mr Commissioner. I call Samay ZHOUAND.

LR Commissioner, subject to leave that has been given, myself and Ms CLOHESSY appear for this witness.

10 PO Yes, thank you.

You can be seated, thank you, Mr ZHOUAND. Do you take an oath or an affirmation?

W I will take an affirmation, please.

PO We will wait for our orderly to return and we will have you sworn in. Mr ZHOUAND will take the affirmation.

20 HRO If you could please repeat after me?

W I solemnly affirm and declare that the evidence given by me in these proceedings shall be the truth, the whole truth and nothing but the truth.

CA Is your name Samay Vadir ZHOUAND?

W That's correct.

CA Mr ZHOUAND, you are the Chief Inspector of Queensland Corrective Services; is that right?

30 W That's correct.

CA You have been given an attendance notice to appear today?

W That's correct.

CA Could I show you this copy. Is that a copy of your attendance notice?

W Yes, that's correct.

40 CA I tender that.

PO Exhibit 20. Thank you.

ADMITTED AND MARKED EXHIBIT 20

CA For how long have you been Chief Inspector, Mr ZHOUAND?

W I have been Chief Inspector since October 2011.

50 CA Did you have any prior background in Queensland Corrective Services before that appointment?

W I did. In 2009, for a period of slightly over one year, I was an Acting Director of Legal Services, and then when Queensland Corrective Services merged or joined with the then Department of Emergency

Services and became Department of Community Safety, I performed the roles of Acting Legal Director, Acting Assistant Legal Director and Right to Information and Privacy Director, all of which served the whole department, and one of the divisions at that time was Queensland Corrective Services.

- CA Do you have professional qualifications? You mentioned you were Director of Legal Services.
- 10 W I did in a previous life, a long time ago.
- CA Are you a practitioner?
- W No, I'm not.
- CA But you are a qualified lawyer?
- W Yes.
- 20 CA Perhaps you might tell us about the history of the office of Chief Inspector, if you don't mind. It is a statutory function, is it not?
- W That's correct.
- CA And its origin?
- W What I understand is that the Chief Inspector Office was formed in late 2005. The Chief Inspector at the time was a gentleman by the name of Forbes SMITH. Shortly after that, in 2006, the *Corrective Services Act* was legislated and the Chief Inspector role became a legislated position under the *Corrective Services Act*, which reports to the Commissioner - to, I suppose, the Chief Executive under the *Corrective Services Act*. Ultimately during that period, Chief Inspector, from what I understand - and I wasn't there - slowly evolved into conducting healthy prison inspections and doing other things as the years have gone on, such as root cause analysis and so on.
- 30 CA Your functions are described in the *Corrective Services Act*, are they not?
- 40 W Yes, they are.
- CA I just want to show you an extract of some sections and it might help to talk about those.
- W Sure. Yes.
- CA I have included some sections to do with the official visitor function, and we will get to that a bit later.
- 50 W Sure.
- CA Inspectors are appointed under section 294, are they not?
- W Yes, they are.
- CA Appointed by the Chief Executive?

- W Yes, but I have the delegation.
- CA That is what I was going to ask you.
- W Yes.
- CA So you do the appointments?
- 10 W I do the appointments.
- CA How do you identify an appropriately qualified person?
- W We do have a position description for the inspector position, but ultimately - look, I have functions for both probation and parole and custodial arm in terms of doing inspections and performing the Chief Inspector's work. For the custodial arm, it really depends on what particular skill set that we need in the office. We want to have a balance of operational experience; we want to have a balance of other relevant experience, such as legal or human rights and research. At any one point in time, we try to get that balance, if we can. In terms of identifying the correct inspector, we send out EOIs. Sometimes, I suppose, with individuals with specific skills and interests, we ask them if they're interested and put them on on a temporary basis for a particular period.
- 20
- CA Do inspectors tend to be drawn from any particular work experience, can you give us an idea?
- W At any one point in time, we always have at least one inspector that has worked in a custodial environment. These are for internal inspectors, I should say. We also appoint independent external inspectors. Someone with a custodial experience is preferred from an operational perspective, because they will understand some of the nuances of how the business operates and some of the issues.
- 30
- W Otherwise we go out on an EOI, and it really depends on the applicants and their background in terms of the mix. We have appointed individuals who don't necessarily have a custodial experience but have worked in a prison in a sentence management capacity or in a rehabilitation capacity, and they bring some other skill sets, for example, in terms of law or something like that, which we engage, that can compensate for some of the issues - gaps we might have.
- 40
- CA You mentioned the distinction between internal and external inspectors. Just speaking about internal inspectors, are they employees of Queensland Corrective Services?
- W That's correct.
- 50 CA Full time?
- W They are. Sometimes we do second them from other agencies. We have seconded individuals from the youth justice system, some of whom have now moved over to child safety, but we have got individuals from there. We've got individuals from the Queensland Family Services Commission, so we do second individuals as well who have worked in a sort of

correctional detention type of environment.

CA What numbers are we speaking of for internal inspectors?

W Internal inspectors for custodial, the maximum we've ever had at the moment is three, and there have been periods where we haven't had any inspectors due to funding cuts and so on, but at the moment we've got three.

10 CA External inspectors, do you keep a panel of some kind?

W Yes. What we do with external inspectors - again, it's horses for courses, but generally we tend to prefer external inspectors with a legal background, barristers, because we feel, I suppose, they bring a good level of independence to the role, and objectivity, and at the same time good interviewing skills which can draw out the information required from relevant individuals.

20 CA Moving on to the functions as they're described, the first of them is to investigate an incident. An incident is a defined term, is it not? It includes death or serious injury?

W Yes.

CA Escape, riot or mutiny; correct?

W That's correct.

30 CA And the final category is one I was going to ask you about. It is described as "another event involving prisoners that the Chief Executive considers requires being investigated". I take it from what you tell us that you hold the delegation to determine what incidents should be investigated?

W Yes.

CA So it is not a matter, as the Act reads literally-

W No.

40 CA -that the Chief Executive himself determines these things; you determine what incidents should be investigated?

W That's correct. Over the period that I have been in the role, I've largely determined it, but sometimes the Commissioner, the Chief Executive, would like particular matters investigated or sometimes we discuss particular issues, which leads to an agreement as to what to investigate.

CA Are you the final determinant of that?

50 W I am, and I exercise that delegation myself in terms of what to investigate, but sometimes in the past the Commissioner or the Chief Executive has asked that I investigate a particular incident.

CA You have a range of powers under section 303. You can enter a facility at any time. Presumably that has to be on some kind of notice, though?

- W It does. That's one of the difficulties of working in a correctional environment. Going unannounced, I suppose, has particular issues in terms of individuals might not be available, or the relevant people you need to talk to, be it prisoners and so on, are doing other things and it does require rescheduling. So quite often we give notice when we do go and investigate and inspect.
- CA Really, it would be a practical matter of gaining entry, wouldn't it, that you would need to give some notice; is that right?
- 10 W That's right.
- CA You have the power to interview prisoners, staff, inspect the centre and any documents and so forth in it?
- W That's correct.
- CA For the purpose of preparing reports; correct?
- 20 W That's correct.
- CA You have a power to require people to give you information?
- W That's correct.
- CA Section 305 deals with the inspectors' reports. You have the power to make recommendations.
- W Yes.
- 30 CA It's perhaps noteworthy that it is limited to that. Can you tell us, in your experience, what happens to the recommendations you make, who the recommendations are actually made to and what happens from there?
- W Sure. The recommendations get distributed through the Commissioner to individual board of management members. In effect, how it works in a practical sense is that there is an investigation or an inspection by my office and there's a number of recommendations. Then a brief is submitted by me to the Commissioner, submitting the report, plus having some table which says which recommendations need to be referred to which board of management member, executive member, and the Commissioner, and an attached memo from the Commissioner, which the Commissioner signs off, to the relevant board of management member saying, "Please consider and implement the relevant recommendations." Then upon signing by the Commissioner, the recommendations are issued to relevant board of management members for implementation.
- 40 CA The board of management members - are the general managers part of that?
- 50 W No. It is the Deputy Commissioner, Statewide Operations, and then the Deputy Commissioner, Statewide Operations is responsible for giving it to their relevant people.
- CA That makes the Deputy Commissioner, Statewide Operations a central figure in the implementation; is that right?

- W It does, yes.
- CA Could I just go back to the functions again. We have dealt with the function of investigating incidents, but section 294 goes on to give a broader function by way of inspection of a facility, a review of the operations of a facility, or a review of the services offered. Do you see that in section 294?
- 10 W Yes.
- CA Is there any difference in practice between inspecting a facility and reviewing operations of a facility?
- W There is. When we inspect, we do it against the healthy prison standards, which we have adapted to Queensland.
- 20 W To review the operations, we do that in two ways. We do that first by way of thematic reviews. These are large reviews of thematic issues across multiple centres. Or we do them in terms of individual reviews, perhaps about an individual prisoner or an individual prison, about aspects of their operation. So we do it that way without having regard - without doing a healthy prison inspection, which involves weeks of work and so on.
- CA Would you consider that identification of corruption risks within the centres falls within those functions as described?
- W I think in an indirect sense, yes.
- 30 CA Can you explain what you mean by that?
- W In my opinion, and especially, I suppose, this has crystallised more so insofar as I have, in a transitional sense, got the role of heading, I suppose, leading ethical standards. All aspects - nearly every aspect of the healthy prison principles and standards have an indirect relationship with corruption.
- 40 W If I can give one example, one is the issue of rehabilitation services at a particular prison. Ultimately those types of things are important not only from a rehabilitation point of view, they are not only important from safe management of a prisoner and a prison point of view, but they also help in the sense that it leads to better prisoner behaviour and, as a result, less need for staff being put in those positions where there might perhaps be an excessive use of force, and so on.
- CA You have prepared and furnished a submission to the Commission as part of this exercise?
- 50 W That's correct.
- CA Can I show you that. Is that a copy of your submission, Mr ZHOUAND?
- W That's correct.
- CA I tender that.

PO Exhibit 21.

ADMITTED AND MARKED EXHIBIT 21

CA Feel free to refer to it if you want to.

W Thank you. I appreciate it.

10 CA Your submission begins by stating that the office of Chief Inspector brings impartial scrutiny to the standards and operational practices relating to the corrective services system. How do you bring that impartial scrutiny as a senior officer of the department itself?

20 W In a structural sense, the Chief Inspector is not independent in terms of the organisational, I suppose, reporting lines. Having said that, I am afforded quite a degree of independence in terms of performing my role and being able to call issues as I see them. To do that, I suppose the values, the communication and the management of my internal staff is about ensuring impartiality and confidentiality and independence as far as possible, and I hold them to account to that.

30 Secondly what I do is I always appoint, and as my work has evolved, more and more external individuals and entities in my work. Legislatively, in a mandatory sense, I am required to appoint, I suppose, inspectors for investigations, whereas the rest is discretionary. As my practice has evolved, it has involved having external inspectors for all inspections, full announced, having it for follow-ups; involving external inspectors for independent reviews - for reviews, as much as possible; and it's also partnering, as part of that external inspector, with universities and with other - the leading Chief Inspectorates around the country, like Western Australia and New South Wales, and getting them to come across and perform that external inspector function for periods for us or in regard to specific projects.

CA How do you ensure that the individual inspectors bring the same impartiality that you might feel? Is there some way of implementing that?

40 W It's basically a performance management feedback. It's messaging. It's about the values of the organisation, of the office. It's talking about that. It's making sure that when they do provide reports, they as far as possible are objective and impartial and don't approach it from a perspective of letting it pass or giving a tick, having that critical mindset in an objective way to gather the evidence and to test the evidence and then to come to a conclusion. That's how we proceed with our work.

CA You mentioned that, on occasion, you can be asked to investigate a certain matter. Are you subject to direction in how you go about an investigation of any kind?

50 W In my six years in the role, I have never been told by any Commissioner or Deputy Director-General to change my findings in any respect at all.

CA Have you ever been asked not to investigate any particular matter or not to carry out any line of inquiry?

W No, I haven't. No, I haven't.

- CA Could I just draw your attention to page 4 of your submission. You mention there that fraud and corruption risks would be an inherent risk for all correctional centres, given the closed nature of the system, as well as the level of power made available. In what sense do you mean "an inherent risk"?
- W
10 Correctional officers and correctional staff have significant powers under the legislation in terms of using force, in terms of depriving prisoners of privileges but what some people would see are inherent rights. Those enormous powers in an environment which is closed to the general public - that is, not under scrutiny on a daily basis, that's open - and an environment which itself, because it's closed, can be tense, with individuals with very challenging behaviours, and so on, and dealing with some of the, I suppose, stakeholders and their backgrounds can lead to situations where there are corruption risks, be it in terms of motivations or be it in terms of perhaps going over the line on one or more occasions and then it becoming a systematic issue.
- CA
20 A little below that in your submission, there are a number of dot points where you have listed some corruption risks. Do you accept that they are the kinds of risks that can arise in that environment?
- W Yes.
- CA You have listed excessive use of force, misuse of power, inappropriate accessing and use of information and introduction of contraband. You go on to refer to contract management as another area. Are they the risks as you see them?
- W
30 Yes.
- CA Thank you.
- W I should add, with your permission, that I did recently commission a literature review, which we have provided to the Commission, which elaborates on some of those but highlights some additional issues.
- CA
40 You go on below that in your submission to talk about the consequences of the emergence of those kinds of corruption risks having a consequence in terms of the safety and security of the centre. How would that manifest itself?
- W If I can talk by way of an example?
- CA Sure.
- W
50 Let's take, for example, the introduction of contraband. If robust checking of staff in terms of personal searches, and so on, is not done on a regular basis, what may happen is an increase in contraband in the centre, be it drugs or other items, which can be potentially used, in turn, by prisoners, and so on, or involved in incidents or lead to more dangerous situations not only for staff but for other prisoners as well.
- CA Does that have an impact on safety for staff?

- W Yes, it does.
- CA How so?
- W For example, if prisoners have access to significant drugs, and so on, it can lead to, I suppose, violence within the prison and intimidation in the prison, which can be potentially against staff or which can involve staff in terms of trying to remediate the situation.
- 10 CA An additional consequence you refer to is an impact on the workforce organisational culture. Is that a risk that is ever present?
- W I think so. Ultimately going back to my point - I suppose a lot of things not only have an impact in terms of rehabilitation and recidivism and those types of things, but they can have a link to corruption and they can also, I would add, have a link to culture - for example, the issue of information accessing and misuse of confidential information. If there is a culture in terms of a lack of respect by officers in terms of how they deal with prisoner information, sharing it broadly and misusing it, that can affect the culture because you always get new recruits coming in and those types of behaviours are passed on, and it can lead to, I suppose, a flow-on effect in terms of reaching out more broadly.
- 20 CA At page 3 of your submission, you refer to what you describe as an exponential growth in prisoner numbers over the last three years and that that has placed additional pressures never before experienced. Would you like to explain what they are?
- W Sure. You had a period, I suppose, when I first came into the role, where a unit, a standard unit, is a 50-person unit and at any one point in time it didn't necessarily have 50 people in it; whereas now, a lot of the units have 70, 80, 90 and some more. So what you have in that situation is a real issue about safety for staff and safety for other prisoners, because it is much harder to supervise that cohort, that many prisoners. Hence, I suppose in some respects, staff and prisoners become more separated, if that makes sense, in terms of their engagement, and so on, and then it becomes "them and us", and I think that creates an environment where it not only makes it a little bit unsafe, but it also creates the environment where there might be higher risks of corruption.
- 30 CA The changes are dynamic between prisoners and staff, from what you say; is that correct?
- W That's correct.
- CA Does that, and perhaps other pressures arising from overcrowding, impact on the corruption risks that you listed in your submission and referred to before?
- 40 W They do. Again, it is all in an indirect sense. You have situations where you have a rise in prisoners; you don't necessarily have an equivalent rise in the number of services, be it telephones and programs and all those things. So, effectively, you have a higher proportion of prisoners and increasingly significantly more prisoners are having drug issues, so you have those situations. So then, effectively, you do have a more challenging cohort, which means that staff find themselves in
- 50

situations more with that cohort, be it difficult conversations or be it managing difficult physical altercations, and so on. All of it increases the likelihood that staff will find themselves in those difficult situations.

CA You mentioned the prisoner cohort in your answer, and you refer also in your submission to the profile of prisoners changing. In what way?

10 W Obviously, we refer to some data from time to time as well as go to prisons and talk to prisoners and we talk to staff. The consensus in terms of all of that is that there tends to be a younger cohort of prisoners. Drugs seems to be a significantly more prevalent issue than it was previously. And as well, mental illness and mental health, I suppose capacity issues, are a key issue, an increasing issue, as well in terms of what we are seeing and what we have been told by prisoners and staff.

CA How is a prison facility to know whether a prisoner has a mental illness or a cognitive impairment?

20 W When they first come into prison, my understanding is that there is what is referred to as a HASI test, insofar as essentially they get an initial assessment. That assessment is not perfect, from what I understand, but that's as close as staff can come in relation to assessing the prisoner's capacity. Quite often, prisoners also have previous history, and so on, so there's that previous information as well.

CA If a person is not a previous prisoner so that some record is held and, for example, doesn't disclose some cognitive impairment or disability upon entry, how would a centre know about it?

30 W One avenue is potentially Queensland Health, to the extent that they can share that information or they are willing to share that information.

CA But there would need to be a trigger to seek it. First of all, is it relevant to the management of a prisoner to know that that person has some kind of cognitive disability?

W Absolutely.

40 CA What might appear as defiance might need to be understood in a different context; would you accept that?

W Absolutely.

CA All that feeds in to the management of a prisoner and how an incident might be responded to, and so forth?

W Yes.

50 CA To begin with, do you agree that ideally, at least, the facility would know what a prisoner is suffering from?

W Yes.

CA Do you accept that?

W I accept that.

- CA I am just exploring the means by which the facility can inform itself about those matters.
- W Other than what I have told you, I don't have any further information that I can recall at the moment. I can get that information for you. I can refer you to the Executive Director, Specialist Operations.
- 10 CA Is it part of the screening process, do you know, upon entry?
- W It is. That's my understanding, yes.
- CA You're not sure of the level?
- W No.
- CA You mentioned exchange of information with Queensland Health. Is there an arrangement for exchange of information concerning a prisoner's health, treatment and issues?
- 20 W There is.
- CA And the correctional centre?
- W Yes, there is a memorandum of understanding. I'm not sure whether that is still current, but there have been multiple ones. Essentially, there is a memorandum of understanding, the purpose of which is that the respective agencies share relevant information about relevant individuals.
- 30 CA Does that require any consent from the prisoner for the facility to know about his or her health issues and treatment?
- W From what I recall, not necessarily, but I think there is, as I recall, a particular provision in there where it is the preferred position from Queensland Health's perspective that, where possible, consent is provided.
- CA Just going back to the question of prisoners with cognitive impairment or some kind of disability, do staff have any training in the management of prisoners suffering in that way?
- 40 W In terms of the specifics, I would refer you to Alan BUTLER, the general manager of the training academy, but what I would say is that they have some general training as part of COEP. There are offender management staff who have more particular training in terms of psychology degrees, but they are on the side. But in terms of custodial officers, other than the COEP, not that I'm aware of.
- CA Is that a deficiency?
- 50 W We have completed a number of reports. I remember one review that we did where the findings were that staff did not have appropriate regard to the mental illness of the individual, and I think we have recommended - I suppose our observation was that it was a deficiency. I would like to balance that by saying that training is good and advancing their knowledge and experience is important, because it leads to better

management, but I think the expectation needs to be balanced. I suppose we can't expect these individuals to be experts in terms of that issue, but higher levels of training, absolutely.

CA Just to be clear, do they get some training in the management?

W My understanding is that at the COEP, they do get some basic-level education.

10 CA What is that acronym, sorry?

W The custodial officer - I am not sure what the "E" stands for, program - education program, as I understand.

CA Is that the induction, the initial training?

W Yes, initial training at the Queensland Corrective Services Academy.

20 CA We can find out about the content of that.

W Yes.

CA Anything beyond that that you know of?

W Not that I am aware of.

CA You mention it as having an increasing profile within the prison centres?

30 W That's right.

CA Does that suggest a need for perhaps some enhancement of qualification of people that deal with those issues?

W I think the more people we have that have, be it existing or be it new, qualifications or knowledge and capability in dealing with prisoners with mental illness, the better.

40 CA How would a given custodial officer in a unit know that a prisoner has some disability which is relevant to their presentation and to their management?

W Other than IOMS, which might have some flags in regard to the individual, or any case notes, it is really up to the officer to ascertain that in terms of day to day, and it is a difficult task. It is about the officers needing to know their prisoners, I suppose, engagement and knowing their issues and limitations, and not necessarily dealing with them in a transactional number way and, that way, they can perhaps better address their needs and issues.

50 CA But even if, in an ideal case, speaking about mental disability, the fact was screened upon entry and a note was taken of it, how would that translate to information to be used and acted on by a custodial officer in a unit?

W The Deputy Commissioner, Peter SHADDOCK, can give you more specifics from a procedural background. I suppose, from my perspective and my officers' perspective, the issue would relate, for example, to

a situation where the prisoner has engaged in certain conduct which would otherwise normally be a breach of discipline.

CA Noncompliance, for example?

W That's right, noncompliance with a lawful direction. The expectation, I suppose, from my office's perspective would be that the person's mental illness, and so on, is taken into account and, if that has been the cause or the issue for the relevant matter, that that person is not breached.

10

CA The question really was how would a custodial officer be aware that a person has a mental illness against which their apparent noncompliance can be judged?

W Well, other than the information being on IOMS, or perhaps there is some information communicated directly to that officer, or the underlying - from the supervisors to the officer via the psychologist or offender management staff, the officer would not know.

20

CA Is that a bit ad hoc? Is that unfair to say?

W I think it would be better that they do know, of course, and the more that can be done in that area, the better. But I am also cognisant - and I don't want to be too critical of the system, insofar as an officer is managing a unit that has 80, 90, individuals, plus more, so whilst I am critical in some of my reports, and so on, I am also cognisant that in a practical sense it can be hard for the officer to really know each prisoner and know what their individual issues are.

30

CA Is it harder with increasing volume?

W Absolutely.

CA You mention a unit potentially of 80 or 90 occupants. Is there some standard ratio of officer to prisoner in such a unit?

W Not that I can recall off the top of my head, but what I can say is that the ratio does become very important in terms of a few issues, not only from a proper engagement with prisoners perspective, which contributes to rehabilitation and addressing issues of recidivism, and so on, but in some respects it is, as I said before, linked, as all these issues are, to corruption, in a sense, insofar as if you don't have the right ratio and then it becomes a very difficult environment to manage, you do have the situation where the risk of corruption, such as excessive use of force, and so on, becomes more of an issue.

40

CA Can you give us an idea, though, even as a range, of what you would expect by way of custodial officers supervising a unit of 80 or 90?

50

W In an ideal sense, we are talking about three per 50-man unit.

CA You mention in your submission on this subject of persons with disabilities, brain injuries, and so forth, that the OCI - that is, your office - has made recommendations in relation to service delivery and provision of specialist treatment, et cetera. Could you explain what is involved in those recommendations?

W Could you just refer to that part for me again, please?

CA Yes. It is page 3, right in the middle of the page. You refer there to some recommendations in relation to service delivery. I was just interested in what they were.

10 W We have reviewed individual incidents where an issue, I suppose, has related to the treatment of individual prisoners, and we have recommended counselling or changes to practice. Some of those I can't recall specifically off the top of my head, but they would be contained in the reports that we have submitted to Queensland Corrective Services.

CA Could you give any indication as to whether your recommendations have been accepted and whether they have translated into some sort of action?

W Some have; some haven't, in a sense. I will explain that.

20 I make recommendations through healthy prison inspections, and they go through the Commissioner to relevant board of management members, and then we follow up approximately 12 months later and we provide a report as to whether those issues we identified in the report or any recommendations we made have been implemented or not, and then we submit that report. To some extent, largely, the majority of those recommendations get implemented.

30 Likewise, investigation recommendations which we do, again through the Commissioner, go to relevant board of management members, and then there is an incident oversight committee, which I chair, and those recommendations largely get implemented.

Then it is the reviews, the individual reviews that we do, the snapshot reports that we do, the day-to-day emails, recommendations, and so on, that I make - they go largely to the Commissioner or to the Deputy Commissioner. I suppose a lot of those we don't get any feedback on in terms of their implementation, and where we have got feedback, sometimes they have been, "No, we're not going to implement it."

40 CA Just getting back to this specific subject, you do mention in your submission recommendations in relation to service delivery for this kind of cohort. You go on to say that QCS has responded and made progress in expanding partnerships, and so forth. Can you explain what was involved in what you refer to there?

50 W Sure. Some of the recommendations we have made are in regard to - it comes back to me now - I suppose greater collaboration and partnership between relevant service providers, Queensland Health and QCS staff. You might have a situation where a prisoner with significant mental health issues, and so on, is being managed in a segregated environment and the prisoner's situation is deteriorating. We have, in those types of situations, made recommendations and raised concerns, and it has led to practices where relevant Queensland Health and QCS have worked better together, not only revolving that prisoner's issue, but at that local prison site engaging in more collaboration and working better in those circumstances.

- CA It sounds like that is something different from a correctional officer and prisoner interaction? You are talking about a different level, are you; do I understand correctly?
- W I suppose with those examples, you are talking about potentially the supervisors, and so on, working with nurse unit managers and the like.
- CA Can we move on, then, to talk about the inspection function more particularly. There are different kinds of inspections, are there not? You have mentioned the healthy prison?
- 10
- W Yes.
- CA Perhaps you might just explain that concept?
- W Sure. The World Health Organisation sometime ago developed some principles in terms of what constitutes a healthy prison, and they talked about safety. Each person, prisoner, in a prison should feel safe. They talked about purposeful activity. They talked about re-entry, preparing prisoners for re-entry. And the last one is - bear with me, I have had a mind blank. I've had a mind blank.
- 20
- CA That's okay. There are some standards that have been developed; am I right?
- W Yes.
- CA Intended to inform the question of whether the prison is healthy or not?
- 30
- W Yes.
- CA What's the source of those standards? Do you develop them yourself or are they drawn from experience elsewhere?
- W We looked at a number of jurisdictions, we looked at some UN standards, and we basically got it from all of those. We were particularly influenced by Western Australia and New South Wales in terms of developing that.
- CA Does your office, then, conduct so-called healthy prison inspections of all centres?
- 40
- W Yes.
- CA In Queensland?
- W Yes.
- CA Are they prioritised in any way? Does, for example, high security get any greater priority?
- 50
- W High security does get a priority. We base it on the high security. When we do a high security, we also inspect the adjunct low-security centres associated with that. For example, with respect to Lotus Glen, when we do Lotus Glen, we do Lotus Glen Farm as well.
- CA Is there some regular program of this kind of inspection?

- W We have, up until recently, had a schedule of conducting an inspection cycle every two years, so doing a full announced inspection and then doing a 12-month inspection after it and then doing the full announced again after two years. So, effectively, we're on site once a year. We have been doing that. That cycle finished late last year, but we are currently reviewing that because it was quite resource intensive.
- 10 CA It may need to be less frequent going forward?
- W Well, I don't think the issue is about need, because I think the more you can do, the better. But it was resource intensive insofar as needing to ensure that you do a good job without rushing it and being able to also perform other critical functions.
- CA We will come back to the healthy prison reports and we might look at a couple of examples a bit later. But there are other kinds of reports that you do. I think we have already touched upon incidents. What kinds of incidents are we talking about?
- 20 W So you are talking about investigations?
- CA Yes.
- W Investigations - largely, we do unnatural deaths in custody. That can be suicide; that can be murder or alleged murder. We do escapes. We do violent demonstrations. Those types of incidents, largely.
- 30 CA Does it need to achieve a certain level? You mentioned violent demonstrations. Does it need to achieve a certain level before it attracts inspection interest from your office?
- W Yes, essentially when you do have those big incidents where a lot of staff are involved or there has been quite a lot of force used, and so on, we do look at those more closely. Usually where we do, based on our desktop review, the intel we might get from the official visitors, and the like, might suggest that perhaps there was excessive force, for example, and so on. We then, at that point, do a terms of reference and conduct an investigation.
- 40 CA Would there be a body of, say, use of force incidents that might not qualify to attract your attention just in terms of their seriousness?
- W Yes, I think there is. I should clarify that, contextually, I suppose, there is quite a number of incidents that occur on a daily basis in Queensland Corrective Services and there is a range of governance mechanisms. First, I suppose, the centres themselves can review an incident and should be reviewing it. Then it's Statewide and their governance arrangements, and they have an IMR committee, and so on, which can do investigations and review it, and they do their own reviews. My office comes in as the third layer, and we have a look and we prioritise, given our limited resources, ones that we feel are particularly significant or that have particular impacts on offenders.
- 50 CA Then there are some thematic reviews, are there not?

- W That's right, yes.
- CA Can you give us an example of what that might amount to?
- W In the past, we've done thematic reviews on the management of at-risk prisoners in a segregated environment. We have done thematic reviews on roof-top incidents. At the moment, we're doing a thematic review on segregation of prisoners in corrective facilities.
- 10 CA What would inform you to select a theme?
- W A number of factors. One would be the issues raised by official visitors. The other would be some of the system issues identified through our inspections and also through our investigations. In collating that source, you have regard to statistics, and so on, to see if your concerns at face value are validated, and then you draft up the terms of reference in terms of doing that, all within the context of resource capability.
- 20 CA I just want to find out a little more detail about the healthy prisons inspection.
- W Yes.
- CA There is such a thing as a healthy prison inspection manual, is that right?
- W That's right. That is under review, but, yes, you're right.
- CA That one that I am going to show you is dated December 2016.
- 30 W Thank you.
- CA You say that, since then, the document is under review?
- W Yes.
- CA Is that a copy of the December 2016 manual?
- W Yes.
- 40 CA I tender that.
- PO Exhibit 22.
- ADMITTED AND MARKED EXHIBIT 22
- CA On this version, there are some 41 of the healthy prison standards that you referred to earlier?
- 50 W That's correct.
- CA They're listed in the table of contents.
- W Yes.
- CA Some of those have a more direct relationship to corruption risks than others. Which ones would you say have some closer connection to

assessment of corruption risks?

W I think standard 12, and security and good order, the rules.

CA That relates to positive staff and prisoner relationships?

W Yes. 13, discipline, use of force and segregation.

10 CA Does accommodation have a bearing on it - perhaps not directly but indirectly?

W Yes.

CA That is 8 and 9 dealing with accommodation.

W Yes.

20 CA What about 17, prisoners being subject to reasonable disciplinary processes?

W Yes.

CA It is one of the aspects of power that I think you mentioned earlier in your evidence that has potential, at least, for misuse?

W Yes.

CA Use of force is number 18. I think you have mentioned that.

30 W Yes.

CA Number 22 relates to staff and prisoner relationships. Is that another aspect that you referred to earlier in number 12?

W Yes.

40 CA I appreciate that the task overall is much wider than identifying potential corruption risks, but do you accept that some, at least, of these values incorporate assessment of what could amount to corruption?

W I think so, insofar as some of those things do affect substantive issues, such as breach of discipline, or I think some of these also indirectly relate to issues such as incentives and earned privileges, and so on, which can have a big impact in terms of how prisoners are dealt with, yes.

CA I am not going to go through the whole thing but just enough of it to understand the method.

50 W Yes.

CA On page 10, you mention, by reference to these 41 described standards, that there is a purposive approach taken. Could you perhaps give your-

W Take on it?

CA -explanation of that?

W Yes. The context is that we are on site for about five days. In that five days, there is a lot - a lot - of information and issues to cover. If each item in the standards was done like a checklist, we would not achieve that time frame, by any stretch of the imagination. If everything was done, we're talking potentially at least a month or more of doing that.

10 We're also conscious of another thing - well, part of the reason for developing it is that in this environment of overcapacity, the risk is - and anecdotally we were getting information that the centres tended to look at it in a transactional sense, like "tick the box here", without actually doing the substantive thing that was really needed. We wanted the centres to do it in a way that made sure that the centres focused on the most important things from an offender outcomes perspective or what the actual purpose of the standards was.

20 A case in point is - if I can take you to the one about food. Under the food standards, there is a range of specific requirements. Ultimately, what we tell our inspectors is to focus on what is the actual purpose of those standards - that prisoners don't go hungry, that they don't get sick from the food, that they don't breach their religious obligations, and so on - so really focusing on what is the underlying purpose of each standard so that centres, as far as possible, focus on the things that matter and perhaps don't stretch their resources too thin, meaning that important issues are not properly addressed.

30 CA On page 11, there is some description in caption form of the processes that you go through. There is a stage which is carried out apparently two to three months pre an inspection. Perhaps just give us your own narrative of what typically that pre-inspection process would consist of?

W Against our schedule, what we would do is assign a lead inspector for the relevant inspection, and that lead inspector is involved in gathering the relevant information from the various parts of the agency.

CA Statistics, and so forth?

40 W Statistics, and so forth, gathering relevant information, reviewing relevant - getting a sample of case notes, getting a sample of incidents, and the like, and then working to draft terms of reference for my approval and decision, building a team around the inspection, so making sure that we've got the external inspectors and potentially any additional internal inspectors that we may need, so developing all of that, then developing an inspection schedule and plan, then negotiating with the centre as to timing and interview times with relevant staff, and the like, and then commencing the inspection process that way.

50 CA If I understood you correctly earlier, an ideal focus on all 41 of these standards would take you a month or so; do I understand correctly?

W At least, yes.

CA Do you need, then, in the planning phase, to identify some focus or particular standards which are likely to be of more concern or interest; is that the way it works?

- W Yes, we do, as much as we can, but at the same time we ensure that we cover all the standards, because the aim is to give a whole-of-prison balance, a whole-of-prison picture, in terms of where the prison is sitting.
- CA Are your inspectors likely to have some level at least of predetermined focus?
- W Yes.
- 10 CA These inspections are all fully announced, aren't they?
- W Yes.
- CA Does that mean that at an early stage the prison management is informed and that would filter down to the custodial correctional officer at the coalface?
- W Yes, that's correct.
- 20 CA So everyone knows you're coming?
- W Yes.
- CA When the inspectors arrive, they have the power to conduct interviews, and so forth - interviews of staff, to begin with. Is there any predetermined way - or any preselection of staff who might be interviewed?
- 30 W That's largely done in the preplanning. We might want to talk to - I was speaking about food previously, so we might want to talk to the food services manager. We would also make sure that we talk to relevant prisoners that work in the kitchen, that we talk to a group of prisoners about their experience with food, perhaps some prisoners from other religious backgrounds, to make sure their needs are met, and so on. All of that is done previously, beforehand, or predetermined. Some of those individuals are not specifically identified, but there is a cohort of type of people that we would seek to interview.
- 40 CA Is a prisoner likely to know before you arrive that he or she is likely to be spoken to?
- W Only PAC members, prisoner advisory committee members. Each centre has what are called PAC committees where there is a person from each unit that meets with management on a regular basis as a collective, and they raise issues that are impacting on prisoners and they work together to resolve those issues. One of the first things we do when we do go to prisons is talk to these PAC members, and our understanding - and we tell the centres generally, "Please announce that we are coming and we are doing it on this day." Prisoners are informed, and I understand that they inform PAC members as well.
- 50 CA Are any prisoners simply spoken to at random?
- W Yes.
- CA Without any notice?

- W Yes.
- CA Could I just ask you, then, for your view about the integrity of responses that you are likely to get from prisoners, when everyone in the centre knows the inspectors are coming and they may know that they are going to be spoken to? Is that a reliable way to get a response with integrity about particular issues?
- 10 W It depends on the context, but I wouldn't - my general approach is that they are people, and if they have an issue or they have a concern, we treat it seriously. We don't, by any stretch of the imagination, treat it as if, if it is a prisoner, that person cannot be trusted in any way. We treat what they raise seriously.
- CA What I was getting at, I suppose, was do you have a feeling about whether the prisoner is likely to be giving you an honest answer to such questions as you may ask?
- 20 W It depends on the individual, I suppose, just like it depends on the individual as you deal with the community. From our perspective, if somebody raises an issue or a problem that they have with the system, and so on, the expectation I have of all my inspectors - what we do is listen to it, properly consider it and properly follow up on it, in terms of it.
- CA Do you have any sense that prisoners in that situation might feel any obligation to be supportive of the centre?
- 30 W Sometimes you get that sense. Particular individuals - sometimes you get that sense.
- CA Just to go to the ratings, which we see a description of on page 16 of this document, it is a four-point scale, rated 1 to 4?
- W Yes.
- CA Number 1 is a centre performing strongly; correct?
- 40 W Yes.
- CA Number 2 is a centre performing well?
- W Yes.
- CA Number 3 is a centre not performing sufficiently well?
- W Yes.
- 50 CA And number 4 is a centre performing poorly. 1 and 2, can we take it, would be regarded as a pass?
- W Yes.
- CA And 3 and 4 not so?
- W Yes.

- CA Is that how you would view it?
- W That's how I would view it. I would add that we are getting rid of the scoring system as well.
- CA Why is that?
- 10 W We believe going towards the textural model, towards the Western Australian model, is the better approach after some time. I think the reason is that I think there has to be a great deal of precision required for scoring, and I don't think that's always possible. I think it takes away - it puts the focus on the score and takes away from the actual issue, if that makes sense.
- CA The qualitative assessment?
- 20 W The qualitative assessment, yes. As part of the review, we are moving away from it because we believe, like the Western Australian approach and the New South Wales approach, making it textural, I suppose, and then you have the conversations or the debates about those individual issues and you don't have the scoring. I think we went to the scoring and we tried to go scoring as much as possible because, I suppose, we wanted to be as scientific as we could, as quantitative as we could, but I don't think we achieved that.
- CA There are probably arguments for and against it?
- 30 W Yes.
- CA Mr Commissioner, I was going to go to one of the healthy prison inspection reports. It is a little early for the morning break, but it might be convenient, as I am about to change the topic.
- PO Yes, certainly. We will adjourn now for about 20 minutes.
- SHORT ADJOURNMENT
- 40 PO Thank you. Yes, Mr RICE.
- CA Mr ZHOUAND, can I show you a Chief Inspector report of 2016 into Brisbane Women's Centre. Just have a look at that and confirm that that is what it is.
- W Yes, it is.
- CA I tender that report. In this instance, it is a full announced inspection fitting into the healthy prison category; correct?
- 50 W That's correct.
- CA I notice from page 4 that the date of the inspection is given as between 16 and 20 November 2015. It appears from page 7, which refers to previous inspection findings, that the last full announced inspection was in May 2010, which was an interval of about five and a half years. That doesn't fit with the program that you described earlier, does it?

- W No.
- CA Is there some reason?
- W Yes, there is. When I came into the Chief Inspector role, soon afterwards, as a result of some government cuts to funding, and so on, essentially my office was initially cut to just myself, so I didn't have the capacity to do those types of things.
- 10 CA Is that how you commenced your job - alone?
- W No. When I first commenced my job, I had two inspectors in the office. During that time, I think we did an inspection of Lotus Glen Correctional Centre. Soon after that, I think the cuts and the movements started to happen as a result of some broader government cuts, and then for a period I was by myself.
- CA Did that coincide with the Newman Government, just by the way?
- 20 W Yes, it did. Then for a period, I was by myself, so I was the Office of the Chief Inspector in a true sense.
- CA I'm not having a go at you.
- W No, no.
- CA I can see you smiling. It's not really funny, is it?
- 30 W No, no, and I didn't mean it in that sense, by any stretch of the imagination. Then what happened was I think I had one staff member for a while, and slowly after a few years it started to creep up to having more inspectors, like two, and then three, and then it was around that time - I think it was late 2014 - that we were able to commence that two-year cycle.
- CA You were not sufficiently resourced in that time frame, were you?
- W No, I wasn't.
- 40 CA On that subject, is your office sufficiently resourced now?
- W It could be resourced with some additional staff. As to the specifics, I can't go into it because I would be speculating off the top of my head. I would need to consider it at a deeper level. But, yes, more staffing would assist in a couple of key respects.
- 50 One is to assist with doing more of, I suppose, the intel review, the incident review, and the like, so gathering more information about what is going on in the centres on a daily basis, things going right or not right from an incident - those types of things.
- One at least at the back end in terms of - with the recommendations, and so on, so that we can perhaps work a little bit more with directorates, and so on, to encourage them to apply recommendations and support them to apply recommendations as much as we can.

- CA Without talking numbers, are you, as Chief Inspector, satisfied that your function is able to be adequately performed for QCS purposes with its current resourcing levels?
- W I think we punch above our weight in terms of what we've got, and I think we do more than an adequate job.
- 10 CA Just going back to that 2010 report, one notices that on that occasion it was a rating of 3; it is in the "unsatisfactory" category. Do we take it that the resourcing issues that you have described prevented you from giving Brisbane Women's perhaps the priority that it might have warranted, given that rating?
- 20 W I do recall around the time when we did Brisbane Women's, we were - we were always busy. I do remember it as being particularly busy and resource stretched at the time. I had a look at the inspector names, and I think a process gap we had at the time was that we didn't appoint one or more external inspectors for Brisbane Women's, and I think there are some key learnings from it. Yes, with Brisbane's women's, we were able to identify the issues, but I think if we looked at it closely, we got, I think, such things as perhaps the scoring and the numbering wrong with it, with some key points.
- CA In 2010, are you talking about?
- W Not 2010.
- CA 2015?
- 30 W 2015.
- CA Would you have been aware prior to this inspection in November 2015 that the Ombudsman had reported adversely about Brisbane Women's in 2013?
- W Yes.
- 40 CA Part of the preparation process that you described earlier was to identify some particular focus for a centre.
- W Mmm-hmm.
- CA Would you have been a participant in framing that focus for this centre, for this inspection?
- W I would have been a participant, yes.
- CA Against the background of the Ombudsman's inspection in 2013 of that centre; correct?
- 50 W Yes.
- CA The inspection resulted in a "satisfactory" rating of 2, did it not?
- W Yes.

- CA Can we just go to some data about it?
- W Sure.
- CA It is listed on page 6. The kind of data that is listed under "Centre Overview", would that be the sort of thing that is ascertainable from desktop inquiries and the statistics, and so forth?
- 10 W Yes.
- CA Would you have been aware also that the Ombudsman had been to inspect Brisbane Women's again, in April 2015?
- W Could you repeat that question again, sorry?
- CA Would you have been aware prior to this inspection in November 2015 that the Ombudsman had done a follow-up inspection of Brisbane Women's commencing in April 2015?
- 20 W I don't recall it, but it doesn't mean that I wasn't. I just don't recall it at the moment.
- CA You would be aware that the Ombudsman did publish a report on Brisbane Women's in September 2016?
- W Yes.
- CA Reasonably close, is it not, to the conduct of this inspection; is that correct?
- 30 W Yes.
- CA The daily status was identified at 372 as against a built capacity of 258, so that in number terms it was 114 overcapacity; correct?
- W Yes.
- CA One notices under "Employment Status" that less than half are shown as employed. Is there some feature about Brisbane Women's that would reveal why that was so?
- 40 W No.
- CA Is that a satisfactory figure?
- W No, and we have done reports and made recommendations that as far as possible, as much of the population should be encouraged in employment or education or activities, and the like. But that statistic is not necessarily that different from some of the other centres as well.
- 50 CA There may be particular features bearing on that. Arthur Gorrie is in a special category, for example; is that right?
- W Yes.
- CA That bears upon the rate of employment, as is revealed there, because it is

- a remand centre?
- W Yes.
- CA Brisbane Women's also has a remand capacity too, doesn't it?
- W Yes.
- 10 CA Is that one possible explanation, or don't you know?
- W It is a possible explanation, but there's just not that many jobs to that extent in terms of the prison. I suppose there's industries and there's the kitchen and those types of things.
- CA You can't just keep creating them, can you?
- 20 W Yes, you just can't do that. But having said that, we always try to, I suppose, keep pushing QCS to continue to seek more employment opportunities for prisoners as much as possible. That is an area that we focus on, and we make recommendations from time to time that more should be done in that area.
- CA Seeing a figure like that, where the employment rate is less than 50 per cent, even if there may be other centres in the same category, would that suggest itself as a potential focus of inspection, to see why and what impact that is having on the health of the prison?
- W It can and it cannot, and it depends on the context, but the answer to your question is, yes, it potentially can.
- 30 CA Another feature of the data is the number of prisoners on safety orders. This data pertains, as it is described, to the month of November 2015. It appears that in November 2015, there were 34 people on safety orders; is that correct? There is no misinterpretation, is there?
- W Yes, there is no misinterpretation of that. I accept that.
- CA How does that figure strike you, Mr ZHOUAND?
- 40 W Off the top of my head - look, initial impression is that is a high number.
- CA That is 1 in 11 of the centre, isn't it, the whole centre?
- W Yes.
- CA Safety orders is a whole subject in itself, but by and large they are used for the purpose of segregating a prisoner from the main population; am I right?
- 50 W That's right.
- CA Could we take it that most, if not all, of those 34 are in some form of segregation?
- W Yes.

- CA One in 11 of the centre are being segregated; is that right?
- W That sounds right. I should clarify. I can't recall, but one thing is, it is a question of - the content of the report may say I am wrong, but what has happened from time to time is what I refer to as behaviour management units. Okay? So you have the detention unit segregation, you have the safety unit, and so on. Around that period - and I'm not sure, I can't recall with this, but around that period, I do remember Brisbane Women's had an issue, I think, with a unit called S9. Around that time, Queensland Corrective Services had this policy type of thing that emerged called behaviour management units. Effectively, they didn't have a legislative base. They were just units named to manage their difficult prisoners.
- 10
- Then what they did, along with the incentives and earned privileges program and those types of things, they established quite austere conditions at the time in regard to some of those units. I think at the time, we made some findings and recommendations in regard to those, one of which was, well, if you are going to keep these prisoners under these units and keep them on for such a period, and the like, you can't just lock them up; you have to have proper legislative orders, and so on. As well, I recall they were a little bit different than your normal safety units and detention units, insofar as they weren't segregated pretty much 22 hours of the day and 2 hours out; they were let out a bit more in those units. My initial thinking was that that might be a factor, but that's all I recall.
- 20
- CA I was really going to ask you about that. For those 34 prisoners, what would being on a safety order and being segregated mean in terms of their accommodation?
- 30 W Yes.
- CA Would it be a mix of detention unit and possibly behaviour management units?
- W That's right.
- CA And any other option?
- W Safety units, so at-risk management, those types of things. That would essentially be it.
- 40
- CA What is the difference in terms of out-of-cell time and other conditions between general population and these various kinds of segregation?
- W Generally under the healthy prison standards, the ideal is that the general prisoner population should get 10 hours out of cell. In detention units and safety units, the practice is that they get a minimum of two hours. I can't remember with the behaviour management units.
- 50 CA Is it likely to be any different?
- W I think it's likely to be - they get a bit more, from memory. It depended on which centre it was, but it was more. I should also state that sometimes under some of those units, the practice was that if a prisoner misbehaved, they were segregated in their cell, in the behaviour management unit, but effectively they were only allowed, on some occasions, only the

two hours or three hours or four hours. For some individual prisoners, it might have been a bit more, but generally for the cohort, it was more than two hours.

CA Of these 34 prisoners segregated, is it likely that a proportion of them, at least, were doubling up in these segregation areas?

W I can't recall.

10 CA You don't know what the segregation capacity is, built capacity for segregation purposes, of various options at Brisbane Women's?

W Not off the top of my head.

CA Would it be 34? Would it be as high a ratio as 1 in 11 for a centre?

W I think not.

20 CA It is likely that some are doubling up, isn't it?

W Well, it depends. There is a potential there, but, as I said, around that time, there was an issue with behaviour management units, and I know we had an issue with Brisbane Women's at the time. With all behaviour management units, one of the things that we fought and argued for well was, obviously, you deal with them and do it properly, but if you are going to continue them, you need to put them on proper legislative segregation orders.

30 CA We can probably find out more about that from someone else.

W Yes, yes.

CA Firstly, just below that, we see a category of "prisoner on at-risk observations".

W Yes.

CA There were 48 of those. What does "at-risk observations" mean?

40 W These are prisoners who are viewed to be at risk of suicide. That can be based on officer observations of their behaviour or it can be the prisoners themselves indicating that they are at risk of harming themselves or the prisoners actually harming or attempting to harm themselves. Essentially what happens as a result of that is that there is a notice of concern, they get assessed by a psychologist, and there is a risk assessment team, and then they determine potentially putting them on segregation or keeping them in their cell but still observing them.

50 CA Are those prisoners likely also to be segregated?

W I would imagine some of those prisoners on safety orders would definitely be prisoners who are at risk and on observations.

CA There are two categories listed, being 34 on safety orders and 48 on at-risk observations. Do you think there's some overlap there?

- W There potentially could be.
- CA Would prisoners on at-risk observations be segregated for that purpose?
- W Because they're at risk?
- CA Yes.
- W Yes.
- 10 CA If they're on at-risk observations, does that connote that they are in some form of segregated accommodation?
- W I think it is more likely that they are put. If I could clarify that. If they are on at-risk observations, yes, the tendency - the practice by Queensland Corrective Services is that if a prisoner is deemed to be at risk of suicide, one of the main tools used is segregating them until Queensland Corrective Services is satisfied that they are no longer at risk of harming themselves.
- 20 CA Given that the total daily state was 372, would those kinds of numbers suggest themselves as a focus of inquiry by the inspectors as to how that situation was being managed?
- W In terms of at-risk prisoners?
- CA In terms of their accommodation.
- W Yes. Prisons have - there is quite a proportion of prisoners in Queensland Corrective Services that are what are referred to as "elevated baseline risk", who have had a previous risk of self-harm, who have had a previous self-harm episode, and they are classified as a higher risk, so there is extra monitoring. There is quite a number of prisoners on observations. But when you talk about 48, what jumps out at me is that, yes, that's a high number in terms of prisoners being on at-risk observations.
- 30 CA Resources permitting, would that suggest itself to you that perhaps both those figures might be a fruitful subject for some thematic inquiry?
- 40 W I think so, bearing in mind that qualification I made about safety orders. The issue of segregation, at-risk management of prisoners - it's a really important issue and it's an ongoing issue in corrections. The Office of Chief Inspector did a thematic review on that cohort in 2011, and based on that - and we are doing one now, not just on segregation, but at-risk management, management of at-risk prisoners, the segregation review we are doing now. But in terms of those numbers, yes, they are high numbers and they are of concern.
- 50 CA In terms of findings, could I just ask you to go to page 19. Value number 7 deals with the subject of accommodation; correct?
- W Yes.
- CA One of the findings from an audit of documentation was that only just over half of prisoners had had a case note entered on their documentation about having a shared cell accommodation assessment undertaken. Do

we take it that some kind of assessment is required to be undertaken and that a note about it is to be entered somewhere?

W Yes.

CA Is the note entered on IOMS?

W Yes, it should be on IOMS.

10 CA You would take it from what you read there that that was what was inspected and found to be wanting in that case?

W Yes.

20 CA But looking at the commentary concerning the subject of accommodation, save for the deficiency in case noting of the shared cell accommodation assessment, there is no reference, is there, to the state of the accommodation in terms of the amount of doubling-up required by the excess overstate and how that situation was being managed. Is that not really integral to the management of Brisbane Women's, that state of over-accommodation that was being endured and how it was being managed?

W Yes, look, I think it is relevant in terms of being explicit about the issue of overcapacity in Brisbane Women's. I think definitely in hindsight, it should have been put in there.

CA How could it be overlooked, do you have any idea?

30 W No, I don't.

CA The Ombudsman, doing a report within a reasonable time frame of this report, came up with a range of adverse findings - you would be aware of that, wouldn't you - in his September 2016 report?

W Yes. I suppose I can't - I don't know how it was recalled, but I suppose ultimately - what I can say is ultimately the issue was still classified as a high risk from an accommodation perspective.

40 CA Independently of this, because it is not part of this, is really what I am pointing out.

W That, yes, yes.

CA We don't need to go through it all, but the Ombudsman, for example, found that overcrowding had created serious service problems at Brisbane Women's; that's true, isn't it?

50 W That's true.

CA The Ombudsman expressed concern about the low number of prisoners with opportunities to engage in programs that would help mitigate reoffending. Programs such as helping with substance abuse, educational and vocational training were lacking, in his opinion.

W Yes.

- CA Those things were not identified, were they, in this prison report?
- W No. But, look, I - and this is not defending it, or anything like that, but it's also a question of not necessarily going over territory that another agency has advanced and there's action being taken, and then, you know, focusing on other areas. But that is not a defence, and I think in terms of best practice, looking at it in terms of good practice, looking at it back, yes, the commentary and discussion and potentially recommendations, and so on, relating to overcapacity were warranted.
- 10 CA Would the service benefit from the inspectorate's expertise in looking at even the same thing as the Ombudsman was looking at?
- W I think it can, but it's also a question of - you know, there is a question of non-duplication as well. I have had regular meetings with the Ombudsman's office. We haven't had it recently, but we have regular meetings in terms of letting them know the work areas we're focusing on and they're focusing on, so that there is not necessarily a duplication in terms of our work, as well, so that we can inform each other's work in terms of what we do and we don't do and what we focus on or add to as well.
- 20 CA In the scheme of things, this may be a small matter, but I would just like your commentary on it nonetheless.
- 30 At page 31, there is an entry concerning the requests and complaints system. In the last paragraph there, it deals with the availability of the blue letters, which form part of what is intended to be a confidential complaint system direct to the general manger. It was noted there that the letters were not easily accessible, although there was some rectification able to be effected.
- It transpires that much the same issue was part of the 2010 report. There is reference to that on page 9. You don't need to have a look at it, but it says that one of the recommendations in 2010 was that the centre make blue envelopes freely available to prisoners to ensure that prisoners making complaints were not readily identifiable.
- 40 Is the recurrence of a particular problem something that inspectors would be inclined to take particular note of?
- W They should, definitely.
- CA This is not the biggest on the agenda, but it just-
- W Yes, absolutely, no, no, it should be. I should add that this issue is a recurrent issue as well.
- 50 CA Indeed.
- W So it's not at Brisbane Women's only, and we have made similar findings and recommendations at other centres as well. Centres respond to our requests and issues, but then down the track sometimes we find that they revert to old practice.

- CA Why is that not able to be rectified? On the face of it, it seems quite a simple thing; do you agree?
- W I agree.
- CA Why is that occurring across centres and undercutting the integrity of the complaints process?
- 10 W The Deputy Commissioner, Statewide Operations probably is the best person to answer that, but what I can say is that it is an issue that we recurrently find in some of our inspection reports.
- CA Does it reflect any cultural issue, do you think? Is there some reluctance on the part of officers to allow this to operate in a truly confidential way, freely and confidentially?
- 20 W I think - I'm not saying it's definitely, but I think that that can be open to interpretation in terms of going that way. I think there might be a - but I do - I think there's - it can be interpreted that way. But the general - I suppose the feedback, and going by memory, is that officers have a lot of things to do, and if it means them not necessarily moving and keeping an eye on one thing and just people coming to them to have that issue addressed, it becomes more convenient for them. My sense is it's also, what you said, open to interpretation, but it's also a matter of convenience for officers who might otherwise be quite busy as well. That is a factor as well sometimes.
- CA Do you know if a follow-up report was prepared in 2017?
- 30 W For Brisbane Women's?
- CA For Brisbane Women's.
- W Yes.
- CA Given the publication of the Ombudsman's report in 2016, with its findings that were not included in the healthy prison report of 2015, in the scheme of things would the content of that Ombudsman's report trigger any particular approach by inspectors doing a follow-up in 2017?
- 40 W Not necessarily in terms of the follow-up. The follow-up is designed to see what was done in respect of the specific recommendations or issues in the report as it relates to that prison. Again, I think before you saw - I should clarify that. I think with Brisbane Women's, as I recall from last year, we sent three inspectors - two internal, one external - and they reviewed the recommendations over a period of time and then they came back and, as I seem to recall, they said that most of the issues or recommendations had been addressed, but I think there were two or three items which remained outstanding.
- 50 CA In the ordinary course, then, the matters identified as needing some attention in the full inspection report - do they provide the framework and focus for the follow-up?
- W That's right.

CA And that is what happened in this instance?

W That's what happens, yes.

CA Can I just ask you about a different sequence of inspections. It concerns Arthur Gorrie.

W Sure.

10 CA Can I show you, firstly, this report entitled Arthur Gorrie Correctional Centre Snapshot Review May 2015.

PO Mr RICE, do you want to tender that previous report of November 2015?

CA Yes. I thought I had, Mr Commissioner.

PO That is Exhibit 23. Thank you.

ADMITTED AND MARKED EXHIBIT 23

20

CA Is that a snapshot report of Arthur Gorrie?

W Yes, it is.

CA I tender that.

PO Exhibit 24.

ADMITTED AND MARKED EXHIBIT 24

30

CA What is a snapshot inspection designed to do, Mr ZHOUAND?

W It is something I introduced around that time. It is essentially where we have some concerns about escalating issues at a particular prison - for example, escalating incidents or those types of things. We give them a lot less notice - I think we're talking less than a week - and then we send a group of inspectors to have a look. And it's much more open. Rather than being structured, like a healthy prison, it is just much more open and it is following the evidence, where the evidence leads you, in terms of talking to prisoners and staff and observations.

40

CA Is this not guided by the particular values that are part of the healthy prison-

W It is guided by those values, but in terms of the methodology, it is a lot more free in terms of how it approaches it.

CA In the introduction at page 3, it identifies that the purpose was to assess the centre's ability to manage what are described as significant and emerging risks based on evidence gathered during a centre visit. What kind of a centre visit would have triggered this snapshot review, do you recall? Would it have been an inspector's visit?

50

W Yes, it would. I'm not sure whether it was the actual site snapshot visit itself or an earlier visit around that time where we visited Arthur Gorrie and we got some allegations from prisoners of staff using unlawful force

against prisoners. As I recall, I think that sort of led to the snapshot.

CA By way of background, there was a desktop data review undertaken?

W Yes.

CA Some results of that are shown in terms of an increase in the number of serious disturbance incidents?

10 W Yes.

CA Increase in assaults, and demographic changes, including an increase in average daily state?

W Yes.

CA All of those things contributed to the purpose behind the report, I take it?

20 W Yes.

CA There were a number of issues. They commence to be dealt with at page 5. One of them was the one that we just discussed a moment ago, the integrity of the complaints management system. This is one centre where there was, as it is described, consistent and significant lack of confidence in the complaints management process by prisoners. Do we take it that that's not just an isolated complaint, which may or may not be verifiable, but that there are numbers of complaints of that type?

30 W Yes.

CA Some specifics are given in the report as to what those complaints were. It is also noted at the bottom of page 6 that that kind of complaint was not something new at Arthur Gorrie and that it had been a feature of the full inspection report in 2012, the same kind of thing. It raises the question once again as to how it could be that this is a recurring problem and what was done following the 2012 report to address that, because in 2015 it was still there, wasn't there?

40 W What I would clarify in that situation is, you're right, that's open, you could interpret that, but you could also interpret it in terms of - because there was a follow-up inspection of Arthur Gorrie and I think, as I recall, we had two external inspectors involved in terms of that, but you could interpret it also - and I can't recall that follow-up inspection - that the complaints issue was resolved, but it crept back up again. So not necessarily continuing. It could have been addressed and it could have come back up again. So those two interpretations - I would be speculating as to which is the more likely one.

50 CA It does rather suggest that, if not an ongoing issue, this is one that emerges from time to time across different centres, doesn't it?

W Yes, that's correct.

CA You would accept, wouldn't you, the need for the integrity of a complaints system such as that?

W Absolutely.

CA And that the opportunity to make complaints should be freely available?

W Absolutely.

CA And confidential.

W Absolutely. Could I just clarify?

10 CA Sure.

W Under the complaints management system, not necessarily automatically confidential. Obviously there are some complaints that-

CA I see.

W You know? But generally, as I understand it, even though complaints management - I look after official complaints. But complaints management is addressed at centres, and Resolve is addressed by Statewide Operations, the database. As I understand it, under that, initially it is designed to be addressed informally, and if it can't, then you go through the complaints management system.

20 CA That is the blue envelope?

W Blue letter. The blue envelope process not only goes to the GMs, if the prisoner directs that letter to the GMs, but they can direct that blue letter to myself; they can direct that blue letter to official visitors and other entities as well.

30 CA But prisoners are consistently saying that they want to do that without the unit supervisor knowing they are doing it; that's correct, isn't it?

W Absolutely, yes.

CA And that is the way it should work, isn't it?

W Absolutely. Well - yes, if they choose that way.

40 CA There are some allegations of misconduct dealt with at page 8. The sequence seems to be that some details of allegations were gathered so that they could be set out in a report, and then a response to those was sought from the centre management. It looks as though some communication was also had with ESU about whether complaints had been referred and what progress there may have been.

50 It seems to be noted on the top of page 9 that there were four prisoner complaints that ESU had determined were not within the scope of matters that ESU refers to Arthur Gorrie for investigation.

I am just interested in the outcome of the investigation of that particular issue. In the upshot, it seems as though the outcome of that issue was a recommendation or a statement by OCI that it will refer the matter to the contract management unit.

- W Yes.
- CA It doesn't seem to be a resolution of the issue, does it?
- W In terms of those ethical standards - ethical issues?
- CA Yes.
- 10 W Conduct issues? I suppose the process thinking was that - and I suppose in terms of the process, if it is something that might require an ethical standards investigation or an ethical issue, the practice is to let those bodies that normally deal with that deal with it. In terms of those matters otherwise from a private prison perspective, it is one thing distributing the report to BOM members, board of management members, and so on; it is another thing asking the contract management unit which looks after the oversight of Arthur Gorrie and Southern Queensland on a day-to-day basis - it is about giving them information that they need to be alert to and manage and monitor and deal with appropriately. So that was the process and that continues to be.
- 20 CA In this instance, there were four prisoner complaints that ESU determined were not within their purview, am I right, but they were to be raised with the management?
- W Yes.
- CA The recommendation was that they be referred to the contract management unit for monitoring?
- 30 W Yes.
- CA How would anyone identify what was the upshot of that?
- W I would suggest perhaps putting that question to the Executive Director of Operational Support Services, John FORSTER, under whose portfolio falls contract management.
- CA You can't say?
- 40 W Yes. From my perspective, that information was not relayed back to me.
- CA That was the outcome, to refer that issue to the contract management unit, for what it's worth?
- W Yes. Yes.
- CA The next issue was the practice of rear handcuffing of prisoners.
- W Yes.
- 50 CA Use of restraint is a use of force; do you agree?
- W Yes.
- CA Whether it is front handcuffing or rear handcuffing is relevant to a degree of force, is that correct?

- W I agree.
- CA In this instance, the inspectors observed rear handcuffing of prisoners in the behaviour management unit that caught their attention, apparently.
- W Yes.
- 10 CA Because - and it is noted on the bottom of page 9 - there is a practice directive concerning use of handcuffs, and it doesn't allow for standard application of rear handcuffing of prisoners, does it?
- W No.
- CA But the inspectors noted that this was occurring; correct?
- W Yes.
- 20 CA Can you tell me, firstly, is the private operator operating Arthur Gorrie obliged to comply with the custodial operations practice directives?
- W As I understand - again, the Executive Director of Operational Support Services can give you more specifics, but in broad terms what I understand is that the private prisons are required to comply with the COPDs, subject to individual specific exemption sought in particular circumstances which might have a particular financial impact upon them or their business.
- 30 CA This snapshot report was undertaken in May 2015.
- W Yes.
- CA The inspectors have noted in the report that this topic was raised in a behaviour management report in May 2014-
- W Yes.
- 40 CA -where the reporters in that case - in fact, it was from your office - identified that there was automatic rear handcuffing of BMU prisoners, and the recommendation was that it be stopped so that the procedure falls into line with the practice direction. It appears to be the case that notwithstanding that report in May 2014, the practice was still being observed at Arthur Gorrie when your inspectors observed it in May 2015; correct?
- W That appears correct, yes.
- 50 CA In fact, in the interim, the centre concerned wrote to the Executive Director of Operational Support Services in June 2014. That is a month after the report recommending that the practice be stopped - they sent a submission outlining why they should be allowed to continue. In August 2014, the director-general determined against that submission and that Arthur Gorrie should comply with QCS procedure requirements; correct?
- W That's correct.

- CA But it was still being observed to be occurring as a routine thing in May 2015; that sums it up?
- W That was our finding, yes.
- CA In the scheme of things, front or rear handcuffing is not perhaps the worst use of force, but does it illustrate a problem in having a centre meet compliance with a practice direction? Is it directly related to the use of force?
- 10 W Yes.
- CA Is that the way it looks, on the face of it?
- W Yes.
- CA You are concerned with inspecting and reporting. The implementation is perhaps left to others of such findings as you make; is that the way it works?
- 20 W Yes.
- CA So it may not be strictly anything to do with you that the practice continued, but does it say something about the implementation of such findings and recommendations as you make that we see an instance like this, or is it unfair? Is this an isolated thing?
- W I seem to recall this, and I think this issue seemed to be persistent, from memory. Again, if you ask me specifics, I can't recall, but this issue seemed to be persistent. Yes, it was a problem. But in answer to your question, I have had other situations not only in regard to this instance where we have made recommendations and the practice has continued or crept up again. We talked about the complaints management just a while ago.
- 30 CA The inspectors' clear recommendation, we see on page 11, was that the practice is unacceptable and should immediately be ceased.
- 40 W Yes.
- CA That was your recommendation to the director-general.
- W Yes. But having said that, in the vast majority of circumstances, generally it gets implemented.
- CA You think that is more of an exception to the rule than the rule?
- W I think it's an exception, but the exception applies on a regular basis, if you can put it that way.
- 50 CA Another thing that was noted is issue number 4 on page 11, that there was less out-of-cell access time being in place than was the recommended standard of 10 hours. It was pointed out in the management response that there had been approval for a transition to 9 hours out of cell time for prisoners. Do you see that?

- W Yes.
- CA The inspectors' recommendation was that that decision to transition to a lesser figure than 10 be reviewed.
- W Yes.
- 10 CA We will come back to that later, but we note that that recommendation was made in May 2015.
- W Yes.
- CA The inspectors noted aspects of overcrowding at Arthur Gorrie in issue 7 on page 14. There were a number of particular complaints by prisoners - reduced access to facilities and equipment, increasing boredom, resulting in assaults, and so forth. It seems as though somewhat similar issues had been noted in the 2012 full inspection report?
- 20 W Mmm-hmm.
- CA One of the responses from the management was that it was a service provider and was not responsible for infrastructure, and part of the problem lies with infrastructure, which is a problem of QCS; correct?
- W Yes.
- 30 CA In terms of an outcome, dealing with that issue of what were apparently numerous reports from prisoners concerning the consequences of overcrowding and a management response alerting or reminding, I suppose, the inspectors that they were not responsible for infrastructure, we see in the last sentence of the OCI findings that the outcome was to "recommend that current strategies be reviewed, with increased monitoring by CMU". So this issue of overcrowding as it reared its head in this instance with prisoner complaints and the management response that was described - it looks as though the action that was taken was to pass it off once again to CMU; is that correct?
- 40 W Yes.
- CA Is that the limit of what can be done, realistically? It's not a matter of being critical, Mr ZHOUAND.
- W No, no, that's fine. In terms of process, I think recommendations can be made potentially about certain issues, perhaps seeking more funding from government or doing more in terms of it. Ultimately, one of the approaches from a process perspective that my office takes is that you have to be realistic about what you can recommend and what you can achieve. I can recommend potentially building another prison or those types of things, but it's out of my means. So the way, from a process perspective, my office approaches it is minimising harm as much as possible and what is the most effective way to do that in those types of situations.
- 50 CA Understood. Does that really, then, provide an instance of the limitations which apply to what can be done in this overall scenario? It is not

a concrete outcome in any sense. It is referring it to the CMU for monitoring; correct?

10 W Yes and no. I think the thinking with the CMU recommendation - and from time to time, we have in other reports referred it to other units, offices, and so on - is that there won't be a quick overnight solution but that that office, unit, or so on, will try to achieve the outcomes over a period of time, so referring to them, and they can put it on their agenda to make sure that those issues are addressed as part of contract management monitoring, as part of performance reviews if need be, and those types of things. That was the thinking.

CA Does it serve to bring it to attention, again?

W That's right.

CA Is that really what it does?

20 W Yes.

CA Puts it on the CMU agenda?

W Yes.

CA In a sequence of three reports for this centre, can I take you to the next one. This is the Chief Inspector report of 2016. It is a full healthy prison inspection.

30 W Thank you.

CA Is that a copy of the inspection of 2016 relating to the inspection of February that year?

W It is.

CA I tender that inspection report.

PO Exhibit 25.

40 ADMITTED AND MARKED EXHIBIT 25

CA Although there were a range of issues that were raised in the snapshot inspection, in this instance the inspectors gave the centre a "satisfactory" rating of 2 overall; correct?

W That's right.

CA Can I just ask you about some of the data.

50 W Can I just clarify something?

CA Sure.

W Where we do give a score in terms of - and it's a score on balance, considering all the things they do well as well, and that snapshot was focused on that.

- CA Of course.
- W This is no defence. If there are process gaps, absolutely accept them. I just want to clarify that even if a prison might get a relatively good score, specific pockets of issues, and so on, are still highlighted in those reports as critical or important issues.
- 10 CA Okay, understood. The condition of Arthur Gorrie in terms of its average daily state is noted in February 2016 as 1,141 as against a built capacity of 890, so there were 250 extras. We noted the rate of prisoner employment at Brisbane Women's. This is much more pronounced at Arthur Gorrie, with about a quarter in employment. By the way, where the report uses the term "employment", does that convey both work in industry or some other program and some education?
- W Yes.
- 20 CA It incorporates an education program as well?
- W No, it doesn't. Not education programs, no.
- CA Notwithstanding the size of the centre, by contrast with Brisbane Women's we notice there were four safety orders. I have already covered this, but it just suggests that when one sees in such a large figure such a low figure, and in a much smaller centre one sees such a high figure, that might suggest some problem at Brisbane Women's that should feed in to management consideration of the management of that centre?
- 30 W Yes.
- CA There is some data against "drug urine tests", and it seems that for the month of February 2016, there were 96 tests done and 20 were confirmed positive. More than one in five of prisoners tested positive - for what? What would the drug urine positive tests test positive for? It's a drug test?
- W It is a drug test.
- 40 CA Is it a test for contraband?
- W Yes.
- CA That's why it's done, isn't it?
- W Yes.
- CA So one in five of the 96 who were tested?
- 50 W That's a lot. And it is a remand centre. With a remand centre, my understanding - and some of the reports we have done - is that it does tend to have an issue insofar as when prisoners first come into corrections, into the remand system, they might have a lot of drugs in their system or initially bring a lot of drugs in their system because they know they're going on the inside. So those types of issues do affect a remand centre.
- CA Could skew the figures, you think?

W Yes, perhaps a remand centre more than a normal regional centre, if that makes sense.

CA Without going into all the details, we see the inspection summary at pages 10, 11 and onwards. Is this one not like the inspection at Brisbane Women's, insofar as it makes no reference to the overcrowding issues?

10 We see a notation on page 11 on areas to be improved. The fourth-last dot point on page 11 is the very same thing that was noted at Brisbane Women's, that there was poor compliance, with notation of shared cell accommodation assessments, so that applies to this centre as well as Brisbane Women's. But other than that, there is no reference to the fact of the serious overcrowding or its impact, including its potential impact, on the subject of this inquiry, which is corruption risks. Do you accept that?

20 W I accept, yes, that there is no reference to overcrowding. The context I put around that is that I think by around that time, it was accepted within Queensland Corrective Services that overcrowding is our biggest issue and the whole business was focused in terms of finding ways to address that issue.

I think from a process point of view, the thinking of the office was, well, they know it's an issue; I don't need to tell - because we've got government submissions, and so on, about overcrowding with Arthur Gorrie and other prisons and those type of things, they don't need me to tell them that it's an issue, if that makes sense, other than to highlight what are the specific individual issues occurring in the prisons.

30 CA If that's so, even though in the snapshot report of May 2015 there had been an issue raised, which, as we discussed, was referred to the contract management unit, would that not put that subject more squarely on the agenda for a full inspection report when it was the subject of commentary in a snapshot report not so much before this?

40 W I think so. I think that's a fair observation. I think from my expectation in terms of our process, those previous reports are considered and the learnings from them are applied and incorporated. I suppose the assumption I am operating under is that the team I engage did that. But having said that, I can't confirm or deny that they did that.

What I can say about the Arthur Gorrie inspection is that we had a team of internal inspectors, but for that inspection we also engaged an inspector from Western Australia, a Western Australian inspector, who was very experienced, who assisted us and worked with us in terms of doing that inspection and coming up with the findings, and so on.

50 So, in that respect, I'm not saying that that addresses the issue, but I think, again, it was better compared to Brisbane Women's, because with Brisbane Women's, it was all internal. With this, we involved external, and we involved, I suppose from an Australian jurisdiction perspective, a premier Chief Inspectorate to assist us with that, so when I received that report, I had some confidence in terms of what we were getting.

CA As we saw with the snapshot report of May 2015, one of the

recommendations in terms of out-of-cell time was that QCS should reconsider its authorisation to allow less than 10 hours. Do you recall that?

W Mmm-hmm.

CA There is reference to that against item 36 on page 32. It's the same issue, isn't it?

10 W Yes, it is.

CA The inspectors refer to the approval that was given in October 2013 to the centre to reduce its out-of-cell hours to 9 hours, and then some commentary follows, with the notation that in fact the out-of-cell time was "significantly less than 9 hours per day" and in fact it was averaging around 8.2 hours. In light of that, the recommendation was that QCS reconsider its approval of the 9-hour out-of-cell time; correct?

20 W Yes.

CA That's the same recommendation made in February 2016 as had been made in May 2015, isn't that right?

W Mmm-hmm.

CA Apparently not acted on?

W I think we probably would have-

30 CA Or there might have been some process, do you think? You don't know?

W I can't recall, but there would have been a reason we did that, and the reason would have been that we determined that nothing had been done in terms of what's happening on the ground and that the issue was still before QCS.

40 CA Can I just draw your attention to one other matter. It is item 16 on page 25. This concerns training. The inspectors noted that 84 per cent, which, I suppose, is pretty high, were up to date for control and restraint training, but only 58 per cent were up to date in the physical component of use of force training. A worthwhile finding, no doubt. In fact, it is rated "high" as a matter to be addressed. The recommendation was to develop a training plan that ensures that all custodial officers are trained. But, again, that matter having been identified and given a high priority, it once again raises the question of implementation. Perhaps you can't assist us with that?

50 W Not off the top of my head, but what I can say is that because it is accorded a high priority, the expectation under the manual and the inspections standards is that it is given priority in terms of addressing.

These are probably reports that you will go to later - we did another snapshot inspection of Arthur Gorrie down the track, but just before we did that, we had commenced a follow-up inspection to see whether the recommendations would be implemented or not. I had a team of inspectors go in, and they contacted me and the feedback was that they

had done really well.

I can't recall if they looked at that statistic, but the feedback was that they had done really well, but then a series of other things happened, which led to that subsequent snapshot inspection, and the determination I made - which I accept, if there is a process flaw, I suppose the determination was mine - was, well, we've done this, which says on the face of it, it's good; rather than doing two reports, let's just do this one report to see how the centre is doing.

10

CA If the system is working, the recommendation would go to the board of management; correct?

W Yes, individual board of management members.

CA This one, for instance, would go to board of management. There is a training matter that needs high attention. And then it would go back to the centre for implementation?

20

W Yes.

CA Your inspector would follow up to see whether the implementation was satisfactory in the follow-up inspection?

W In the follow-up inspection.

CA Is that the process?

30

W Yes, 12 to 15 months afterwards. Can I just clarify, this is an issue - I think we came across some statistics recently. There was an issue that we came across recently, and I think - I'd be speculating at the numbers, but I think we were talking about something like 352 officers, and something like 325 had undertaken the training, yes.

CA Is that a convenient time, Mr Commissioner?

PO Yes. Thank you. We will adjourn now until 2 o'clock.

LUNCHEON ADJOURNMENT

40

WITNESSES INTERPOSED

CA Mr Commissioner, I will recall Mr ZHOUAND.

PO Thank you.

Mr ZHOUAND, you remain under your previous oath.

W Okay. Thank you.

50

CA Thank you for waiting, Mr ZHOUAND.

We had been looking, firstly, at the 2015 snapshot report for Arthur Gorrie.

W Yes.

CA And then the full inspection report in 2016. There was a third in the sequence. It is another snapshot inspection report, dated in July 2017. Can I show you this?

W Thank you.

CA Is that a copy of your office's snapshot inspection report for Arthur Gorrie for July 2017?

10

W That's correct.

CA I tender that report.

PO Exhibit 29.

ADMITTED AND MARKED EXHIBIT 29

20

CA The report itself isn't explicit as to why it was undertaken. Are you able to help us with that?

W Sure. Around that time, I think in my earlier testimony, I said that we were in the process of doing a follow-up, and initial indications by the inspectors were that it was generally looking good. But then I think around that time, there were some allegations, I think by United Voice, and others, about the situation at the centre being quite bad in terms of what was aired. As a result, I made a determination that these allegations seemed relatively serious and it's best to get some assurance and go to the centre and see what was happening again.

30

What we did was we parked our follow-up, even though we had done it a couple of months earlier, and we went and did that snapshot again with a team of inspectors - I think it was three internal and one external. From memory, the external one was an independent barrister, who was involved in some of those key investigations previously relating to the centre.

CA So this actually is in addition to the follow-up report?

40

W We never ended up doing a follow-up report. We parked it, based on this, and then we did this. Then, as I said before, I made an executive decision that two reports around the same time was not necessary; let's stick with this report.

CA We had remarked earlier, in the case of both Arthur Gorrie and Brisbane Women's, that by contrast with the Ombudsman's report that dealt at length with overcrowding, the inspectors' reports, at least the ones we looked at, didn't do so. If you look at page 9, which is item 8, it is actually inspection standard 8 dealing with prisoners' accommodation, in this instance do you agree that it looks like five pages of quite detailed analysis of the overcrowding situation?

50

W Yes.

CA You mentioned earlier that perhaps one of the reasons that that subject may not have received the same attention in other reports was that the problem was known and it was being publicised, for example, by the

Ombudsman. Yet, in this instance, we see a very detailed and quite lengthy analysis of the problem and the implications of it.

W Yes.

CA Do you agree that cuts across the reason you gave us earlier for perhaps the fact that it hadn't been dealt with at any great length in those earlier reports?

10 W Yes, it does. What I would add in respect of the earlier Ombudsman's report, and again I think - and if I gave an incorrect answer, that's fine, but I think my answer, and the record will set it straight, was that I thought that might be one of the reasons, not necessarily conclusively.

20 But having said that, I think, from memory, we looked at the issue of overcapacity in this one because I think it was relevant to the issues in question in terms of what was being raised. I am going by recollection here, but I think the allegations were about the overcapacity situation in the prison, the prison being very violent, and so on. I think we were looking at it in that context, from memory.

CA The areas concerning which findings were made were specific, and they are shown at page 5.

W Yes.

30 CA They concerned areas where improvement appeared to be required, they related to prisoner-on-prisoner assault, drug and substance abuse and the amount of time prisoners spent outside their units.

W That's right.

CA It is not expressly related to accommodation, but accommodation overlaps with those things?

W That's right.

40 CA That would explain why, in this instance, the inspectors decided to give it the treatment that they did; would you agree?

W That sounds fair.

CA One matter that was touched on in this report, which hadn't been in previous Arthur Gorrie reports, was to do with staffing. We see some detail of that at item 12 on pages 18 and 19.

W Yes.

50 CA At the bottom of page 18, there are various statements attributed to officers concerning staffing levels.

W Yes.

CA Again, I am just curious as to the methodology in which this snapshot inspection would reveal that kind of concern that hadn't emerged from previous reports.

W I think this is relating to the allegations. In this one, it is different insofar as I think this was partly relating to the allegations that emerged. The allegations, as I recall, were about, I suppose, the overcapacity, the violence, and one of the central issues in terms of the allegations raised that made the place unsafe was the issue of the staff ratio. When we looked at those issues, we actually met with some union delegates beforehand and we had staff from the then DJAG ethical standards with us, we had staff from contract management with us, and they aired their allegations and concerns.

10

The ESU took down the ethical standards related issues and excessive use of force issues. Contract management looked at the key contract management issues in terms of reporting and some of those things. And we took those other allegations about safety, security, and so on, and then we did our inspection. We went and sighted the centre. As usual with a snapshot inspection, it is a lot more fluid and flexible compared to a much more formal healthy prison, but nonetheless we base it on those concepts and values, and so on. We conducted the investigation and hence we focused on some of those issues from a safety and security perspective, and, as part of that, we referred to the staff ratio, which was an issue for them.

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CA Not only that, but other things as well. Item 16, pages 22 and 23, deals with drug use in a lot of detail, which wasn't dealt with in the healthy prison reports, but presumably it is a useful management tool to have an in-depth analysis of the apparent extent of drug use in the centre?

W Yes, it was. I suppose this is both the benefit and disbenefit of having structured approaches and having more fluid snapshot approaches. Bear in mind that I introduced snapshots around 2014/2015. The structured approach, it has an advantage - it is accountable; it is regimented; it has full detail; you do all of it and you get a balanced one. But the limitation of that is that you don't - particularly with the two-year cycle that we had, and being there a week, you did tend to go through stuff fast and, to be quite honest, I am sure we missed some stuff.

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With a snapshot, usually it is over a period of two to three days, and we just follow, I suppose, what is the evidence or what are the issues, and then we largely focus on those and see where the evidence and the data takes us in terms of that.

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CA I just wonder, having observed the different styles of the two reports and the different ways in which matters are dealt with, the level of depth, and so forth, what your reaction would be to the healthy prisons reports being some kind of a blend of the two?

W I think I would have no objection to that, and if it adds value, absolutely, 100 per cent supportive of it. If the Commission, in its good opinion, comes to that view, we'd be very happy to consider that in terms of anything like that.

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CA Would that make an additional impost on inspectors?

W Yes, potentially, I suppose potentially. But, as anything, if the benefits outweigh the costs, you'd make it happen and ultimately we would be

seeking to do that. As I said - and I think Commissioner MARTIN alluded to that - as I see it, for QCS, it is a good time for them to redevelop and reprioritise and have this type of review, and for us, because we are also reviewing our inspection methodology, and so on, any suggestions in terms of that, it is a good time for us as well.

CA We haven't finished, Mr ZHOUAND, I am afraid. We might need to reschedule another time.

10 Commissioner, I was going to move to a different topic. There is probably not much point starting it this afternoon.

PO Certainly.

CA We will take a little more time with Mr ZHOUAND. We will just have to try to arrange a schedule for that.

PO Do you have a proposed new time, or do you want to talk to Mr ZHOUAND about that later?

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CA I think we will need to talk to Mr ZHOUAND and perhaps Mr MURDOCH about it.

PO All right.

We are sorry we have not been able to more efficiently accommodate you, Mr ZHOUAND, but we are doing the best we can. We will try to meet your convenience and those of the other parties involved to bring you back at a time that's convenient.

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W Thank you.

PO Thank you for coming back. See you then.

We will adjourn now until 10 tomorrow.

END OF SESSION

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