



CRIME AND CORRUPTION COMMISSION

TRANSCRIPT OF INVESTIGATIVE HEARING

10 CONDUCTED AT LEVEL 2, NORTH TOWER, 515 ST PAULS TERRACE,
FORTITUDE VALLEY WITH RESPECT TO

File No: CO-19-1209

OPERATION IMPALA
HEARING NO: 19-0006

20 DAY 1 - MONDAY 11 NOVEMBER 2019
(DURATION: 1HR 28MINS)

Copies of this transcript must not be made or distributed except in accordance with
any order made by the presiding officer concerning publication of these
proceedings.

LEGEND

30 PO Presiding Officer – ALAN MACSPORRAN QC
CA Counsel Assisting – JULIE FOTHERINGHAM
HRO Hearing Room Orderly – KELLY ANDERSON
W Witness – PETER MARTIN
LR Legal Representative – Mr MUNASINGE for Corrective Services
LR Legal Representative – Mr T SCHMIDT, Gilshenan and Luton

HRO All stand. Please be seated. .

PO Good morning, everyone. Could I commence by acknowledging the traditional owners of the land on which these hearings will take place, and pay my respects to the elders, past, present and emerging. And particularly acknowledge the valuable contribution that Aboriginal and Torres Strait Islander peoples and organisations make to our work.

10 This is a hearing of the Crime and Corruption Commission conducted pursuant to sections 176 and 177(2)(c)(ii) of the *Crime and Corruption Act 2001*. This hearing was approved by the Commission itself on the 31 May this year. Before I commence with the formalities of the hearing, there are some housekeeping matters I need to attend to.

20 Firstly, in terms of evacuation procedures, in the unlikely event that the building fire alarm activates, we request that you remain seated and await instructions. If evacuation is required, please follow the directions of the fire wardens, who you'll be able to identify with their red or yellow safety hats. You'll be directed to the fire stairs outside of this room and then to the evacuation point outside the building. If you have any mobility concerns, please identify those to the fire warden and assistance will be provided to you. Signs outlining the evacuation procedures have been placed in the public gallery outside the hearing room today.

30 The Commission has published a number of practice guidelines on our website and I will highlight some of the contents of those in a moment. In addition to these, I ask that you please observe the rules that were displayed as you walked in, but in particular, can you please follow the direction of the CCC staff and Queensland police officers who are present today.

Could I ask you do not disturb or interrupt the hearing, and switch your mobile phones off, or to silent, and similarly any electronic devices you have to silent, and refrain from moving about the room whilst the hearing is in session.

Everyone here should also be aware that we are live streaming and recording the public hearing today and everything that happens will be recorded throughout the proceedings.

40 The Commission resolved on 31 May this year to hold public hearings in relation to Operation Impala, which is conducted under the Commission's corruption function. As Chairperson of the Commission, I will be presiding at the hearings. And Ms Julie FOTHERINGHAM has been appointed as Counsel Assisting the inquiry.

I nominate the following persons as Hearing Room Orderlies who will, over the course of the hearing, administer an oath or affirmation to any witness appearing at the hearings. Those persons are Kelly ANDERSON, Fallon

SMITH, Kim SAUNDERS and Heather BOWNDS.

Pursuant to sections 5 and 5C of the *Recording of Evidence Act 1962*, I direct that any evidence to be given and any ruling, direction or other matter be recorded by recording equipment and that Roxane LANE, Samantha MISKIN and Chris SMITH be reporters for the purposes of this hearing.

10 I draw your attention to Practice Guideline No. 1. All witnesses in this public hearing may be legally represented while they are giving evidence without seeking further leave. I would ask that once the witness has been called to the hearing, if you are legally representing that witness, that you announce your appearance for the record. That witness will then be sworn or make an affirmation as the case may be.

20 No evidence may be tendered or adduced in chief other than by counsel assisting and must be accompanied by a statement and provided in advance to the Secretary of the Commission. The Commission does not invite, and does not generally propose to receive, submissions on any matter relating to the terms of reference except as directed during the course of this inquiry.

30 In relation to Practice Direction or Guideline No. 2, it is proposed that witnesses will give evidence on oath or affirmation and will be examined, in the first instance, by Counsel Assisting, and then by their own legal representative. Whether there will be any cross-examination of any witness by a legal representative for another witness will be a matter for leave on a case-by-case basis. Should any cross-examination be permitted, the legal representative for that witness, and then Counsel Assisting, will be permitted to further examine that witness. As I mentioned, each witness is entitled to be represented. It is a matter then if the legal representative for that witness desires to be present for more than just the evidence of that individual witness.

In relation to Guideline No. 3, I note that if a legal representative intends to represent more than one witness, they should seek leave to do so and ensure there is no conflict of interest in representing those multiple witnesses.

40 It is proposed at the end of each day of proceedings that any exhibits tendered during the course of the proceedings will be published on the Crime and Corruption Commission website. Some exhibits have had personal information redacted. If there are any concerns about the publication of the any of the exhibits or part thereof, the witness or their legal representative should make a submission before the end of the day in relation to that particular matter and I will rule on it.

It is anticipated a transcript of each day's proceedings and the exhibits will be available on the Crime and Corruption Commission website by early the following day.

Generally speaking, the sitting hours will be from about 10 in the morning

until 11.30. There will be a short morning break of about 20 minutes. The next session will go from about 11.50 to 1pm. And lunch will be generally be between 1 and 2pm, and the afternoon session from 2pm to 4pm, when we'll adjourn for the day. There will be a couple of exceptions to these hours; today we will observe a minute's silence at 11am to pay our respects to the fallen. And due to another commitment I have today, we'll adjourn without a morning break at midday and then resume at 2pm. I also have a commitment late on Wednesday, so we'll adjourn slightly earlier, 3.30pm, and we will not sit at all on Thursday, 21 November.

10

Could I just make a few brief observations concerning the purpose of these proceedings. This public hearing, it is important to bear in mind, is not about laying blame or pointing the finger at any one in particular. It is not about examining individual cases of allegedly corrupt conduct, although there will be case studies necessarily referred to as part of these proceedings. These hearings are more concerned with identifying systemic deficiencies in relation to misuse and communication of confidential information by employees in government agencies right across the public sector.

20

Whilst this hearing will examine the Queensland Police Service, Queensland Corrective Services, Department of Education, Department of Health, including selected Hospital and Health Services, such as the Gold Coast and Mackay, and the Department of Transport and Main Roads, no agency is immune from a staff member improperly accessing and disseminating confidential information.

30

It can happen in any agency at any time. Regrettably, last week a senior police officer, seconded to the CCC, was himself stood down by the QPS and later suspended after an investigation started into conduct alleging unauthorised access to confidential information. I understand in that matter the allegations do not relate to that officer's work at the CCC and do not relate to CCC information.

Nevertheless, it is serious and the consequences, being a suspension of his role as a QPS officer, indicate how seriously that matter is being treated, as it should be. That investigation will be proceed in the ordinary way.

40

It is an acute reminder to all of us that more work is required across the public sector to identify why public servants feel they can access confidential information and the need to develop strategies to stamp this behaviour out once and for all.

The purpose of the hearing is to establish what works and what does not work and to ultimately make a series of recommendations in a public report, which will promote transparency, integrity and accountability to ensure that all units of public administration are employing or working towards the implementation of systems and practices regarded as best practice.

If any person or organisation has information about specific instances of alleged corrupt conduct, I urge you to come forward to the CCC confidentially to report such behaviour, and it will be assessed and, if appropriate, fully investigated in the usual manner. Ms FOTHERINGHAM.

CA Thank you, Mr Chairperson. To begin with I will tender a copy of the terms of reference for this inquiry.

PO I'll make those Exhibit 1. Thank you.

10

ADMITTED AND MARKED EXHIBIT 1

CA I have some opening remarks in relation to the purpose for conducting this hearing. The Crime and Corruption Commission is established to investigate and prevent major crime and corruption in Queensland. Currently, through the work of Operation Impala, the Commission is examining corruption and corruption risks in relation to improper access to and disclosure of confidential personal information held within public sector records.

20 This hearing will focus on confidential personal information due to the immediate and personal implications for the public as a whole, and the potential for this to adversely impact members of the public's right to privacy and public confidence in relation to public sector agencies. The questions to be addressed through the hearings are set out in detail in Exhibit 1 but in summary are aimed at exploring what factors facilitate misuse of information, what systems and processes reduce the risk of misuse of information and where each agency can improve.

30 Misuse of confidential information is one of the Crime and Corruption Commission's areas of focus within its current strategic priorities. It has been identified as a high-risk area for corruption, both within Queensland and by other integrity agencies. The Queensland public sector has access to a range of private, personal or confidential information of varying degrees of sensitivity and value. Members of the public rightly have an expectation of privacy which is backed up by legislative obligation.

40 Different agencies across the public sector have information of different detail and sensitivity. The Queensland Police Service and Queensland Health, including the Hospital and Health Services, have arguably the most sensitive information holdings about individuals. While the Department of Transport and Main Roads asserts on its Information Policy Plan that it is the largest holder of personal information in the Queensland public sector. For the purposes of the hearing, misuse of information encompasses improper and unauthorised access to information held by public sector agencies. This includes disclosure of that information to third parties.

Aggregated corruption complaints data suggests that complaints in relation to the misuse of information have generally declined in recent years. However,

for some agencies there has been a sharp increase in complaints in relation to this type of conduct. The purpose of the hearing is to explore why this is occurring, including whether the increase and reporting is due to improved awareness of the corruption risk.

10 There has been a notable decline with allegations in relation to the misuse of information with the Queensland Police Service since 2015. However, the number of complaints is still remarkably high compared with other public sector agencies. The goal of this project is to look at risks in information access and misuse across the entire public sector through a close study of five departments which carry the most sensitive personal information; those being the Queensland Police Service, Queensland Corrective Services, the Department of Education, the Department of Health; and the Department of Transport and Main Roads. The Commission has also selected two Hospital and Health Services to examine the approach that they have taken in relation to the risk of misuse of information.

20 The project will explore the different risks in various departments, what systems and processes are employed and what lessons the public sector as a whole can take from the various successes and failures.

Previous investigations by the Commission have identified that a number of agencies are heavily reliant on upfront training and rely on the integrity of officers to do the right thing. The risk of getting caught is low and when detected the sanction imposed may be no more than a reprimand.

30 The Commission intends to explore the extent to which this has a deterrent effect on staff. The Commission will also be calling a range of experts in the field of privacy, human rights, information technology, and criminal justice to explain best practice in relation to how agencies can best be placed to mitigate the risks of misuse of information. .

PO Thank you, Ms FOTHERINGHAM. Are you ready to proceed?

CA Yes, I am. Thank you, Chair.

PO And you're going to call the first witness?

40 CA Yes, I call Commissioner Peter MARTIN.

PO Dr MARTIN. You take an oath, Dr MARTIN?

W An oath. Thank you, Chair.

HRO Raise your right hand and repeat after me. The evidence which I shall give.

W The evidence which I shall give.

HRO In these proceedings.

W In these proceedings.

HRO Shall be the truth.

W Shall be the truth.

HRO The whole truth.

10

W The whole truth.

HRO And nothing but the truth.

W And nothing but the truth.

HRO So help me God.

W So help me God. Thank you.

20

PO Thank you. Take a seat. Just for the record, could you announce your appearance for Dr Martin?

LR Yes. If the Commission pleases, MUNASINGHE. Spelt M-U-N-A-S-I-N-G-H-E, counsel. I appear for Corrective Services.

PO Thank you very much. Ms FOTHERINGHAM.

CA Good morning, Commissioner.

30

W Good morning.

CA You've been a notice to attend today?

W I have.

CA I tender that notice.

PO Thank you. I'll make that Exhibit 2.

40

ADMITTED AND MARKED EXHIBIT 2

CA If the Commissioner could be shown a copy?

W Thank you. Yes, thank you.

CA Commissioner, you are the Commissioner of the Queensland Corrective Services?

W I am.

CA Yes. And you commenced in that position when?

W I commenced in that position in November 2017.

CA And you have many years previous experience with the Queensland Police Service?

10

W I was with the police service for 38 years in Queensland.

CA And that included some time as the Assistant Commissioner in the Ethical Standards Command?

W It did. That's right.

CA And you are an adjunct professor at the University of Queensland?

20

W I am.

CA You have a doctorate of philosophy.

W I do.

CA In what subject?

30

W Yes, from the faculty of Health School of Psychology and Counselling at QUT. And my area of interest was in relation to addressing alcohol and other drug-related harm, particularly within the context of the way that police police licensed premises.

CA And also an executive Master's degree.

W That's right.

CA In what subject?

40

W That's through the Australian and New Zealand School of Government and also Griffith University.

CA And then a Bachelor of Arts degree?

W I do, at Griffith University.

CA Would you like me to address you as Commissioner or Dr MARTIN?

W I'm happy with either.

CA Thank you. Now, you have prepared a submission in relation to this hearing?

W I have.

CA Yes. If Dr MARTIN can be provided with a copy of the submission. And I'll tender that.

10 W Thank you. Yes, that's the submission that was submitted by me and the department to this hearing. That's right.

CA Thank you.

W Thank you.

CA Would you like to make an opening statement?

20 W Yes, I would. Thank you. And can I thank you for the opportunity to talk, albeit very, very briefly on this very important subject. But, in general terms, I've stated that I've got a very long career in public administration in Queensland, 38 years in the Queensland police. And coming to Corrective Services next week it will be two years.

30 As Commissioner for Queensland Corrective Services, I'm responsible for the strategic and operational leadership of an organisation of over 5,000 people with a budget of around about a billion dollars. My role is fundamentally to provision community safety, and I do that by giving effect to the safe and humane containment of somewhere in the order of about 9,000 prisoners today, currently being held in correctional facilities in Queensland, and another 21,000 offenders being managed in the community.

And I have responsibility for a budget of \$2.5 billion in terms of assets. And I manage 11 high security and six low security correctional centres, 13 work camps, 36 community corrections district offices and a multitude of reporting centres across Queensland. I also have responsibilities on behalf of the government for the performance against established standards of two private prisons, which are the Arthur Gorrie Correctional Centre and also Southern Queensland Correctional Centre.

40 Correctional operations in Queensland, as in other parts of Australia and globally, is a complex endeavour. Increased demand particularly since 2012, challenges of capacity utilisation and also managing a large decentralised workforce with disparate functionality and responsibilities. Combine that with difficult prisoner and offender clientele, who have complex and diverse needs and requirements, and a design for a transformative change within the organisation make for a complex environment to navigate.

And in terms of that transformative change, it is important to recognise that

Queensland Corrective Services has participated extensively in the Crime and Corruption Commission's important work on corruption and corruption-related risks within corrections environments. Evidence that I gave at Taskforce Flaxton hearings allowed me to articulate my vision for the future of Queensland Corrective Services. Guided by the now released Corrections 2030, a blueprint for the future of our organisation, we're shaping Queensland Corrective Services into a future-focused innovative and professional top-tier public safety agency. The guiding principles of Corrections 2030 are centred around safety, excellence, empowerment, respect and, importantly within the terms of this important work, accountability.

Guided by this 10-year strategic plan, and committed to organisational reform and transformative change, as I said before, the organisation is changing and evolving. The sort of organisation I know that we can become is the one that takes responsibilities – its responsibilities – seriously, is ethical and professional and treats all people with dignity and respect. And we're focused on our brand and we are focused on our reputation. And I know that this is hard won and it is easily lost. And this is why I personally invested in the CCC's work that was Flaxton and committed working again with the CCC in this important area of public administration, particularly the issue of privacy and information security.

QCS has access to voluminous dataset of personal information about prisoners and offenders. Every day our officers are privy to significant quantities of records and confidential information. And details of over 30,000 people in our custody and our care, and, of course, this is in addition to the historical data that we retain.

Naturally, the information and the intelligence that we hold is important to our work and it is important that my officers have appropriate access to such information in order to fulfil their important mandate. This information is accessed for a multitude of purposes, such as through offender management, custodial operations, community corrections intelligence and general administration.

But with this information comes great responsibility. The people in our custody and our care can be characterised generally as vulnerable and disadvantaged. They are in the custody of the State and the State has a specific obligation to deal with them professionally, respectfully and humanely. And given their lack of autonomy and control over their destiny, their situation creates even a greater onus upon me and my workforce to treat them in their privacy and personal information in ways that are prudent, discreet and professional.

Every officer across Queensland Corrective Services must ensure that the information is accessed, managed and used properly, and that the principles important to me fundamentally are that we only collect the information which we need and are authorised to do so, that we retain that information in ways

that are appropriate and secure, and we keep that information and use it in accordance with law and policies and ways that are consistent with our mission.

10 Through Taskforce Flaxton, we identified, with the assistance of the Crime and Corruption Commission, a number of key improvements to Queensland Corrective Services operation as we build our capability. And I'm very pleased to say, with assistance of Government, we're well on our way in delivering that, and making our commitment to make good the 33 recommendations of that important report.

I believe that the vast majority of members of the Queensland Corrective Services are very good and decent people, and these officers are trying to do their work in difficult and challenging environments and contexts and they're generally striving to do the right thing. But we're a good organisation, but we're not a perfect organisation, and there are, however, a very small cadre of officers who will not meet my expectations. And since I became Commissioner in late 2017 I've been explicit as to what that expectation is.

20 Lastly, I'd like to say that I'm very grateful to the Commission for the opportunity to appear here today and to support and assist with this important work. And I might leave that comment there and I look forward to expanding on my opening comments. Thank you.

CA Thank you, Dr MARTIN. Now, you have an organisational chart. If I can just show Dr MARTIN the organisational chart. Now, Dr MARTIN, you've probably gone over in a little bit of detail some of that during your opening statement, but would you like to speak to that chart in any more detail now about the make-up of your organisation?

30 W When I appeared before the Crime and Corruption Commission in Taskforce Flaxton the organisation that is Queensland Corrective Services looked very different to the organisation that it currently looks like. I did in fact flag the fact that we were going through structural and transformative change. What we've been able to do is embed many of the things that I spoke about and, particularly, in terms of the organisational capability part of the business of Queensland Corrective Services. We now have Assistant Commissioner key leads in key functional areas, such as infrastructure, technology and assets, people capability, financial services and strategic sourcing command, integrity and professional standards, policy and legislation, strategic futures, and the role of the Chief Inspector. So the things that I flagged that we were transforming to fundamentally have to pass.

40 CA Thank you. I tender that document.

PO Make that Exhibit 3.

ADMITTED AND MARKED EXHIBIT 3

PO Did you want to tender the QCS submission as well?

CA Yes.

PO Well I will make the submission Exhibit 4.

ADMITTED AND MARKED EXHIBIT 4

10 CA Would you please describe in general terms the type of private and personal information that your agency collects?

W The information that the agency collects is in a number of domains. Firstly we collect significant information with respect to prisoners and offenders that are in our custody and in our care. So in some cases that can involve very intimate levels of knowledge about, you know, personal details, next of kin, full names and details. We keep biometric details of prisoners and offenders.

20 We also keep information with respect to visitors to prisoners and offenders in our care, particularly prisoners. So if a visitor was to visit a correctional centre, we keep biometric details for that particular individual for the purpose of visitation and personal details. We also – I have responsibilities for a victims' register and, in some cases, registered victims we keep their details with respect to how we can contact them to let them know of important information with respect to a particular prisoner for which they've been appropriately registered.

30 CA And can you describe the structure of your agency in terms of the responsibilities for privacy, information technology, and security management and ethical standards and discipline?

40 W Yes. Yes, thank you. So we have a system within Queensland Corrective Services. There are two parts; two sides of the one coin. So on one hand, what we have is a very complex system of policies, charters, doctrines, strategy. And that forms part of, you know, what is the ISMS system, so Information Systems Management Strategy. And on the other part of that is – the second side of that coin is a series of structural issues within the organisation that forms part of our internal governance arrangements. Fundamentally it reports through a dotted line through the board of management, the executive leadership team. It goes to the heart of audit and risk. But through our Senior Executive Information Officer, that particular individual oversees the operation of our systems and our process to make sure that we are acting in a way and in accordance with the Queensland Government Conventions, and also international standards, around the way that we receive information, we deal with information.

And that most importantly and prudently that we report breaches appropriately and they're being dealt with, and that we're addressing the vulnerabilities of

any system that we identify, particularly within the cybersecurity space, the fraud mitigation and a whole range of other things. So it is the policy, the strategy, the doctrine, and it is also the systems and the processes internally, the two things combining to give us a degree of assurance that we are doing things not only in accordance with government standards, but also international standards as well.

10 CA Thank you. As we touched on, the Taskforce Flaxton took place last year, and that involved public hearings where you appeared and the publishing of the report in December last year. There were, as you said, 33 recommendations flowing from that report, which your agency has taken on board. May Dr MARTIN be shown a copy of the recommendations?

W Thank you. Yes, thank you.

CA I tender that document.

PO Exhibit 5.

20 ADMITTED AND MARKED EXHIBIT 5

W Thank you.

CA I'm going to ask you some questions about some of those recommendations that are pertinent to the issue of misuse of information that was identified as one of the corruption risks. Would you like to be given a copy of the report so you can refer to that or are you conversant?

30 W That would be useful, thank you.

CA Yes. That is the entire copy of the report.

W Yes, thank you.

CA Now, in relation to Recommendation 8, if I could just take you to that, that's detailed as pages 29 to 30.

W Yes, I'm across that. Thank you.

40 CA The Recommendation 8 talks about the critical capabilities to reduce corruption risk and, in particular, Part B says, "The recommendation is to development strategies to address a capability gap, particularly human resources, information and communication technology, operational performance reporting and ethical standards."

So project Flaxton found that information security, including security of critical information technology platforms, such as the integrated – the IOMS that you mentioned before-

W Yes.

CA -does not protect the agency's information assets through safeguarding its confidentiality, integrity and availability. So that's what was found throughout the process. You've touched on some of the changes, but if you have any further comments, what strategies, further than you have already talked about, have the Queensland Corrective Services put in place to address the information technology-

10

W Sure.

CA -in the system?

W Thank you. You'll see there that Recommendation 8 talks about an independent capability review. Firstly, we facilitated that. That work is ongoing. But the work – we commissioned an independent consultancy company to do that work in consort with us. That was particularly helpful. So what that did was not only took the work of Flaxton, but it also looked at, as we were building the capability internally, a key opportunity to build a structure, the structure that we spoke about before, that would fundamentally have the means to be able to deal with IT vulnerabilities.

20

We put in key functionality. An Assistant Commissioner has been appointed now in terms of infrastructure, assets, information technology. That particular individual, Assistant Commissioner Richard WITTMACK is leading a structural reform of that area, aligning the work of the IT area fundamentally to look at vulnerabilities, and is standing up that capability and using additional resource to give us capability that we have not been able to have.

30

I mentioned before about a Senior Executive IT lead within the organisation. That is, in fact, Assistant Commissioner Richard WITTMACK. And the work that he is doing around reviewing the current policies and also the structural issues standing up that capability is giving us a degree of comfort that we've not had before. This was originally identified by Flaxton. This has been a body of work and an investment that we've made recently. And I'm confident that we're moving in the right direction, notwithstanding some of the challenges of replacing the IOMS system, which fundamentally, I believe, is inevitable that we do. But that's a very, very difficult and complex undertaking.

40

CA And some of the gaps would include training or messaging staff, random audits, integrity testing. Can you speak to any of those particular matters?

W I'd be happy to. Flaxton also identified that there was an opportunity to do a body of work around education and marketing and that work is being done and it is ongoing. Even in terms of IOMS at the very first point that an officer was to access IOMS there's a user agreement. And that user agreement, there was

a suggestion that that was ambiguous, could be clearer, and we could reinforce the messaging. And in fact we are doing that and have done that. And that's again a work in progress. But also making sure that the use of our systems internally are constantly used as a source both internally and at pre-service training to make sure that we reinforce to our people the messaging that inappropriate use of our systems, our data and our intelligence is completely inappropriate and will be dealt with very significantly should that occur.

10 CA Thank you. And now may I turn to Recommendation 13 which we've touched on, at pages 32 to 33, was the recommendation that the Queensland Corrective Services develop and implement a formal first year correctional officer graduate program to minimise early exposure to high-risk environments and provide greater support, training and oversight during operational training. I think that's been done.

20 W Thank you. Since Flaxton we've also appointed an Assistant Commissioner People Capability Command. That particular person, Ms Patsy JONES, is now in that role and has been now for some period. She has facilitated an independent review of all pre-service and in-service training – that work is currently ongoing – with a consultancy company exclusive of Queensland Corrective Services. So that work in terms of reviewing correctional officer and also community corrections officer training is fundamentally coming to a point of finality. And I've got no doubt that will lead to some fairly significant changes.

30 Can I also say though is that we have also ensured that issues such as privacy, confidentiality of our information, IT security, is also built into custodial officer entry program training and also the training that community corrections officers also undertake. So while we're waiting for the final review report to land, is that we've also got a degree of comfort that is being built into and is being facilitated and in-service and where possible pre-service training.

CA So with the training that moves on to the next Recommendation 14, pages 33 to 34, with a recommendation for refresher training that there be mandatory refresher training to include training that responds to the needs of the prisoner cohort and targets high-risk corruption areas. What specifically is there in place to mandatory refresher training?

40 W Yes. This is something that the organisation could do more of and over a period of time when we became a department in our own right, and through the machinery of government change, there was some functionality including privacy and right to information that we were challenged in terms of staffing. But the work that we've done in the last couple of months in anticipation of the Human Rights Act coming onboard on the 1st of January, and also the work that we've done with respect to opcat^{58.53} readiness for early next year, fundamentally means that our messaging for the latter part of this year has increased fairly significantly particularly in terms of human rights generally, including the privacy of our information. The rights of prisoners and also the

need for our employees to act in a prudent, professional manner at all times. Part of that is also face-to-face compulsory training that will start very early next year led by our Assistant Commissioner Strategic Futures Command, particularly preparing ourself for human rights directly related to confidentiality of our information.

CA And will that training be an on annual basis or six-monthly basis?

10 W At least it will be on an annual basis. But there will be opportunities there to inculcate that training into other in-service opportunities that occur throughout the year. My hope would be that we do that more frequently than annually. It should be done more frequently, but it is a question fundamentally at the moment of resourcing and there may very well be alternative ways and, you know, multi-faceted and multi-tiered ways of delivering that information that I've asked my people to explore.

CA Would that be a mixture of in-person and online training?

20 W I believe so. That's right.

CA And would there be a subject specific to misuse of information including the awareness of the possible consequences being criminal sanction and disciplinary sanctions?

30 W Yes, there would. And can I also say to you that that is a message that comes from me periodically. It comes from other senior members of the organisation, such as the Deputy Commissioners. It comes from the Chief Inspector. It's multi-level, it's multi-faceted and we look for regular opportunities to remind people of their obligations, including the Assistant Commissioner Professional Standards and Governance Command. So this is a constant message that we're putting out there reminding people of their obligations, including an email to the workforce even as recently this morning by me letting people know that this important work is afoot today and encouraging them to listen to the outcomes of this particular hearing.

CA In relation to the email messaging, Dr MARTIN, we do have one of our emails as an exhibit, and that was sent on the 22nd of January 2019. If Dr MARTIN could just be shown a copy?

40 W Thank you. Yes, thank you. I'm aware of that.

CA I tender that document.

PO Exhibit 6.

ADMITTED AND MARKED EXHIBIT 6

W Thank you.

CA So in that document, Dr MARTIN, it will be up on the screen for you there.

W Thank you.

CA You do warn your staff that is sent to all staff-

W That's right.

10 CA -of the consequences of misuse of information. And it is specific in relation to the Information Offender Management program System, IOMS. How often do you send out those email messages? You mentioned that you did one this morning and then there was one in January.

W To give you an example, and I can easily find out the information specifically, but I remember putting out a similar message a couple of weeks ago, it might have been a month ago. It was probably a couple of months before that that I put out another one. As I said I put out a message this morning. I'm happy to tender a copy of that should you wish. I have that here. But I'm also aware
20 that it's not only my responsibility, it is the responsibility of managers locally; it is the responsibility of every leader within the executive leadership team. I'm aware of a number of emails that have been put out by the Deputy Commissioner Organisational Capability, the Chief Inspector and a number of others in the organisation as well. So the point that I make is that it's not just my responsibility. What I want to encourage is this is everybody's responsibility and every supervisor, every leader, every manager, particularly executive level lead in the organisation, needs to take this responsibility incredibly importantly and give it the due regard that it needs.

30 CA May I see a copy of the email Dr MARTIN is referring to?

W Thank you.

CA I tender that document.

ADMITTED AND MARKED EXHIBIT 7.

40 CA Moving on to pages 35 to 36, Recommendation 17, talks about conflicts of interest and declarable associations. There had been a recommendation for implementation of an agency-wide electronica system to record conflicts of interests and develop and implement a declarable association policy, as there has been concern that the staff are targeted and may be tempted to access information about friends or relatives.

W Yes.

CA What has been implemented as a result of that recommendation?

W Thank you. With the Assistant Commissioner Infrastructure Assets and IT being appointed, I know this is one of the important areas of work that they have as work to do. It is a high priority for us. IT systems generally are costly. There's a lead-in time. The integration issues are significant. This is an issue for the organisation. We have a policy. We have a process currently. I'm not aware that it is an electronically-based contemporary policy that we need to get to for the future. But it is a work in progress, but I do know that the Assistant Commissioner has further knowledge about where we're at with respect to that.

10

CA And that he will be called later on in-

W -He will indeed. That's right.

CA Yes. Thank you. Yes, in relation to all of these recommendations if it is one of the other two witnesses who could speak to that better then just let me know and we'll move on.

20

W All right. Okay. Happy to do that. Okay. Thank you.

CA Thanks. In relation to Recommendation 19, on page 37 for integrity testing, the recommendation is that Queensland Corrective Services develop integrity testing regime to identify and strengthen deficient systems and processes and support the investigation of people suspected of engaging in corrupt conduct. So what progress has been made to develop the integrity testing program?

30

W The precursor to this is standing up sufficient capability in the Ethical Standards Unit currently within Queensland Corrective Services. That's where our work has taken us to, and as recently as the last couple of weeks we've been recruiting feverishly to stand up the mature capability within that unit. It has taken some considerable period of time. So this is something that we will get to, but we're not at that position now. There's an organisational commitment to explore this, to do this to the degree that we can. But this is incredibly resource intensive. We do not have the capability currently but it's the sort of thing that once we stand up the capability within the organisation, then we can fundamentally do that for the future and again I know that there's an opportunity for you to speak to the Assistant Commissioner, Professional Standards and Governance Group specifically around this initiative. But I'm convinced that he would also speak to the issue of capability before we actually move to some of those more complex facets of ethical standards generally.

40

CA So he will be able to speak to that in more detail. But what benefits do you see from such a program?

W I think that they are – you wouldn't employ integrity testing unilaterally right across the board. But there is a particular cadre, and with my experience as the Assistant Commissioner Ethical Standards in police, there is a particular

officer and the circumstances of that officer in the antecedents that this would lead itself to, and that where we had a situation that unfolded that lent itself to this sort of strategy, then I think that it would be prudent.

But it is not something because it is hugely resource intensive, difficult, problematic, and challenging, particularly within the context of a correctional environment to apply it unilaterally and and universally across every complaint.

10 CA Now moving on to Recommendation 27 in relation to information security, at pages 41 to 42. The recommendation is that the integrated offender management system be replaced and in the interim there be implementation of remediation strategies and to identify information management as a risk. What has taken place in relation to those three recommendations?

W To replace a system as complex as IOMS would be a very laborious time consuming complex endeavour and costly. But the work has already started to scope what a 21st century replacement for IOMS might look like, bearing in mind that it has been in the place for something in the order of 15 years or so.
20 So there is the commitment. One of the recommendations clearly at 27 is to replace the system. There's been an agreement in principle that we explore that and do that. But it was associated with a significant envelope of funding that would facilitate it. So the work that we've done is the pre-cursor to replacement. It's to identify and to scope the interdependencies and the complexities. There's an organisational commitment to do that. But that will be time consuming and require an investment from government.

30 The next issue, Part B, is that what have we done as a remediation. To some degree I've already spoken about that within the context of clarifying the user agreement on IOMS, the education that is occurring internally to remind people of their obligations and ensuring that wherever possibly, where we find people potentially breaching the IOMS entitlements and the expectations of the organisation that fundamentally we seek to have that remedied through an ethical standards investigation or some other remedial action locally.

CA In relation to a new system, how far off do you think that would be, or are there any issues with obtaining that system, such as pecuniary matters?

40 W The issues of replacing a system as complex as this having regard for the fact that you've got to integrate the existing data, the historical data, that you've got to do it in a way that has low risk, bearing in mind that the system is live and we're migrating from one to the other. The degree of information that we hold and the complexity of joining that up with health services, Queensland Police, and other users such as Child Safety, Housing and what have you, is an incredibly complex endeavour and will come at a significant cost. And it would be difficult to say how long that would take, but it won't be in the short-term.

CA In relation to the email that was tendered, Dr MARTIN sent yesterday, I believe that the Chair is going to read that into the record.

PO Yes. I have actually made that Exhibit 7. Thank you.

CA Thank you. Just moving on to – we're nearly at the end – the Recommendation 30, pages 43 to 46, Ethical Standards Unit.

W I'm sorry, that's Recommendation 13, did you say?

CA 30.

W 30. I'm sorry.

CA 3-0. At pages 43 to 46.

W Yes.

CA So that was to broaden the remit of the Ethical Standards Unit.

W That's right.

CA And to make some changes in relation to that unit. And that the unit should be responsible for reviewing the integrity oriented policies and procedures. So what has happened in relation to that?

W I'm absolutely convinced that the Ethical Standards Unit are the professional standards and governance command that we've established and that the new capability that we're bringing onboard will give effect to that recommendation explicitly. So this will be a unit that not only deals with the day-to-day complaints that occur, it will also be preventative, proactive in its endeavour and will have a role to play in consort with other key areas of the organisation around an omnipresence creating an environment where people are absolutely aware of their responsibilities and that we hold them accountable for that.

So my view is to be completely compliant with Recommendation 30, notwithstanding my comments about bringing new capability onboard and that process is ongoing currently. So we're not quite at that point of maturity, but the point at which we are, I believe that we're going to be able to meet Recommendation 30 completely.

CA And the last one, Recommendation 31, just after that one, in relation to intelligence, the recommendation being an establishment within ethical standards of dedicated intelligence staff. Has that occurred?

W That's occurring currently but in the absence of bringing in that additional capability and again Assistant Commissioner Kim PAPALIA is coming before you and will address that specifically.

CA Yes.

W But can I say to you that we've facilitated a complete enterprise level review of intelligence through somebody released to us from the Australian Crime and Intelligence Commission. That work is reaching a point of maturity and then we're going into implementation in 2020 and I'm absolutely convinced that the standing of our intelligence function will specifically and comprehensively be enhanced including within the ethical standards area of the organisation.

10

CA Thank you, Dr MARTIN. I believe the Chair wants to ask UI-

PO I notice it is now 11 o'clock. So if no-one minds we might just observe a minute's silence to pay our respects to the fallen.

PO Thank you.

20

CA Thank you. Just then moving back to speaking a little bit more globally about some matters. What are the greatest risks and challenges to managing privacy within Queensland Corrective Services that you have identified, current ones, moving on from what you've managed to already implement?

30

W I think generally some of the challenges that we have is the fact that we have a workforce that is decentralised, we have significant limitations in terms of access controlling the information through IOMS. I think that some of our learnings from ethical standards investigations are that there is a small number of officers that might use our intelligence and our information for voyeurism with no good and legitimate reason, merely curious as to what the information is that we have in our systems. But in some cases, people allow their own private motivations to be at the forefront of their decision making. We've got also a workforce where some of our people have significant time on their hands where issues and elements of boredom might very well come into play and these factors combine to ultimately create a difficult and a challenging circumstances for us. Notwithstanding the significant obligations that are placed upon them.

40

CA And now in relation to risks and mechanisms to deal with those risks, the systems, processes and people, is there a regular review of how you're managing those risks?

W Yes, there is. There is a review process. And that certainly what we do is at least annually and a number of times through the year, and also more frequently at a unit level, the people that have access to the IOMS system, and I'm specifically here talking about IOMS, but it equally applies to other systems that we have, are reviewed to ensure as to whether or not they have access to those systems. And that particularly where a concern or a vulnerability might be expressed that somebody may have used the system inappropriately that that launches an inquiry where we can dive into the

specific utilisation by an individual to the system at a given point in time. And so I've seen examples of that and I've seen examples of that recently where our managers locally have had a concern, have caused an inquiry and it's led to a complaint to the ethical standards area.

CA Just in relation to what you said about – you were focusing on IOMS, the Integrated Offender Management System, just to let you know for the purpose of the public hearings that is our focus.

10 W Yes.

CA As it is the main database that holds confidential information public. But we also will be touching on SCRAM, the UI checking recording and monitoring system.

W Yes.

CA Just to let you know. But that's a question for another day with another witness.

20

W Okay. Thank you.

CA So in relation to privacy breaches what is the impact on your agency's ability to perform its functions for the public?

30

W I think it is dramatic. I think it's dramatic. If I can take you back to my opening comments about the importance of our brand and our reputation and if you think about it in terms of the 9,000 prisoners and the 21,000 offenders and if you think about it within the context of the vulnerability that those people have, there's even a greater obligation on us to deal with their information at an incredibly secure level to deal with it confidentially and to deal with it privately.

40

My personal view is that Queensland Corrective Services should be considered as one of those top tier public safety agencies that when the 5 million people of Queensland think about those agencies that give effect to public safety they think about police and they think about fire and they think about those that might work in the ambulance service or in health services that they also think about Queensland Corrective Services. And if that is the case, and that is where we're positioning as one of the top tier frontline public safety agencies then the way that we deal with vulnerable people, the way that we deal with the people in our care, and particularly the way that we deal with the confidential information that they pass to us, either lawfully or through policy or otherwise might provide us because we believe that we will keep that information confidential, places great responsibility on us and therefore I think it's critical to our mission.

CA Thank you. And in relation to organisational culture, how could you describe

the Queensland Corrective Services culture when it comes to misuse of information? You said there's continual reinforcement. Who's responsible for driving the culture you said you've decentralised? Who takes charge with that?

10 W Fundamentally the culture of an organisation like Queensland Corrective Services is the domain of a number of people, but fundamentally overarchingly I have responsibility for the organisation. I'm absolutely clear on that. But every member of the executive leadership team, every senior manager, every supervisor. I can't be on the floor of a correctional centre. I can't be in a work unit today. I can't be looking over the shoulder of every single one of my 5,200 officers. And so it requires us all to have a responsibility for it, but also it requires us fundamentally to have self-discipline.

20 And I think that certainly that the issue of culture, you know, I've planted the flag and I've said to people where we need to head and guided by Corrections 2030 we've got a roadmap for where that endpoint might very well be. But this is a race without an ending and certainly from my perspective that the constant reinforcement is just not from me, but it needs to be from everybody in authority within the organisation of 5,200 people.

CA In relation to the – you mentioned the executive team, in relation to executive and senior managers, what are your expectations about them communicating, messaging to their staff that misuse of information is not to be tolerated?

30 W I'm very, very clear on my expectation. And this has been the subject of significant conversation around executive leadership team meetings and also daily meetings at other various times. My expectation is that they regularly communicate and authentically communicate. But more importantly that they walk the talk. They're out there talking to their people, they're out there reinforcing and they're holding people accountable to the high standards that I hold myself and the organisation to.

CA And in relation to reporting of allegations, to what extent do you think that a misuse of information, that conduct is being reported within your agency?

40 W That's a really difficult issue. I can tell you though that there have been, as you would know, significant increases in the number of reports over the last two years. And I think that that's a good thing. I see that as a positive thing. I think that maybe that the omnipresence, the focus that we've given it, the no-tolerance approach that's been adopted in the organisation has probably surfaced a lot more complaints than what otherwise have occurred. So I think that that's a move in the right direction.

I wish I had confidence that we're getting all of the complaints coming to pass. I think that the constant reinforcement, the messaging, telling people it's important and holding people accountable will get us to that point of maturity.

So I just don't know what I don't know, and I don't know the degree to which the dark figure of this particular issue is being surfaced, but I think that it's a move in the right direction and I'm very heartened to see more reporting and more emphasis to move in the right direction.

CA And to what extent is it necessary for your agency to share data with other government departments?

10 W It is critically important. And if you think about the work that we do, we don't do our work in isolation of other units of public administration, or in fact the non-government sector and the not-for-profits. So if you think about that within the context of there's a natural nexus to our work to the courts, to the Department of Justice and Attorney-General. In terms of sentencing practices, there's a direct nexus to the Queensland Police Service. We have got a nexus in terms of Department of Communities, Department of Housing. But also we provision services through the not-for-government, not-for-profit sector and there's a need to share information appropriately with those agencies. But of course Border Force, Immigration with New Zealand in terms of trans-Tasman migration of offenders and so it goes on. But there is a significant need to share information with some government and some non-government actors.

20

CA And you mentioned earlier that Queensland now has a Human Rights Act, being the third jurisdiction in Australia to have one, and that the obligations commence as of 1st of January next year. So what impact will that Act have on your agency's approach to protecting privacy?

W I would like to think that in a perfect world it would have no impact because we're already starting a journey, particularly around confidentiality, privacy, and the protection of our information, consistent with the rights of prisoners and offenders. So we're already heading in that direction. But the important outcomes from the Human Rights Act is that this is an opportunity to use that as a lens to throw over what we're doing anyway to accelerate that work and to ensure that in all cases everything that we're doing and the way that we're treating prisoners and offenders is consistent with the Human Rights Act particularly with respect to privacy. And as I mentioned before one of the key elements of that is that through the face-to-face training and a whole range of other things that we're doing internally, to position the organisation well for the 1st of January, we're lining those things up. So I'm reasonably confident that come the 1st of January we'll be in a good position.

30

40

CA Thank you. And what in your view would be a reasonable expectation of a member of the public in relation to how their personal and private information will be treated by Corrective Services?

W I am absolutely clear on that point. And I've expressed that internally within my organisation. And for any of my colleagues in Queensland Corrective Services that will be listening to this hearing today, let me say this, that I value my privacy and the privacy of my family. And I take that very, very seriously.

And that those 9,000 prisoners and 21,000 offenders in my custody and care, I'm very clear that their privacy is centrally important to them, and it needs to be centrally important to us as a workforce who are doing the things that we're doing on behalf of the State to them when they lack autonomy and control over their circumstances.

10 So I'm really clear on that point. And I think that ultimately it needs to be centrally important to all of us and we all need to act in a way consistent with not only doing our important work, but to do that in a way that is respectful and professional and has regard for their dignity and their rights. And they don't think expunge those things by virtue of the fact they might be a prisoner and an offender in our custody.

CA Thank you. And what in particular do you have by way of additional, if any, security protections on particularly sensitive information, such as vulnerable members of your prisoner population, or victims, say, of domestic violence?

W Yes, that's a really good point. In some cases what we can do is notwithstanding the current challenges associated with IOMS because it's a legacy, a dated system that has the access control limitations that I mentioned before. But there is a class of file on IOMS that we can put a flag on that if somebody was to access that, it might be, for example, a high-profile prisoner or it might be a prisoner with certain vulnerabilities or what-have-you. That would put up a flag, send an automatic report to a senior officer and we can intervene appropriately to make sure that that is dealt with and also that it's locked down. Or alternatively if it's in relation to our intelligence systems through the TIMS process we can lock that down to a very small group of people outside of IOMS.

30 CA And who manages the actioning of flags and determines who gets a flag on their record?

W That would be put on to the system delegated by the Deputy Commissioner Custodial Operations and/or Organisational Capability. There is a process internally to put those flags on the system. I just don't know who that individual is. But Deputy Commissioner KOULOURIS, Organisational Capability is coming before you and he ultimately has overarching responsibility for the way that IOMS is managed.

40 CA Thank you. I'm just going to show you, you mentioned before that you make sure that the allegations of misconduct are reported. Did you mean reported to the Crime and Corruption Commission?

W Both. So reported to the professional standards and governance command who automatically then report official misconduct, criminal matters, misconduct more broadly through their normal reference to the Crime and Corruption Commission.

CA If I could just show you section 15 of the Crime and Corruption Act.

W Thank you.

CA And it should be on the screen as well. I tender that document.

PO Exhibit 8. Thank you.

W Yes. Thank you.

10

CA Did you need to keep a copy in front of you? It's up on the screen.

W No, that's fine. I have it there. Thank you.

20

CA So under section 38 of the Act there's the obligation to report. And under 15 (1) (c) that is if the conduct is proved it would be a criminal offence; or a disciplinary breach and for reasonable grounds for termination. So that's sort of like the bar to report to the Crime and Corruption Commission. And I'll show you the data that the Crime and Corruption Commission has collated from the breaches that have been reported.

W Thank you.

CA On the first page – there's four pages – that's the number of allegations, not the actual complaint.

W Yes.

30

CA So one complaint might involve a couple of instances. So if we go to page 2, that's the actual number of complaints. So number of persons who have misused information. As you'll see, and as you've mentioned yourself, you're aware of that the number has been quite steadily increasing – or has increased a great deal since 2015-2016 financial year from 11 to this current 2018-2019 financial year to 66. But it has increased only by 11 from 55 in the 2017-2018 financial year. So since Flaxton there has been somewhat of a little bit of a decline.

W Yes.

40

CA Yes. And if you go to page 3, that segregates the types of misuse. And as you'll see for the 2018-2019 financial year, it is predominantly accessed information, and then access and disclosure of information there being 46 out of 108 allegations being access, and 41 out of those allegations being disclosure. So that's the predominant problem. And the main one is just access. On the last page, using the annual reports from the 2018-2019 for the seven subject agencies, we've just done a table in relation to the proportion of breaches. And as you'll see there, the Queensland Corrective Services, together with the Queensland Police Service, are by far the highest

proportional breach, being 1 in 76 persons for the Queensland Corrective Services and 1 in 75 for the Queensland Police Service, whereas Department of Education is 1 in 1,993; Department of Transport and Main Roads 322; Department of Health 341; the Gold Coast Hospital Health Service 751; Mackay Health Service is 265. So it still is an area of focus for the Crime and Corruption Commission to try to get those numbers down. I tender that document.

PO Exhibit 9.

10

ADMITTED AND MARKED EXHIBIT 9.

CA And, Chair, if you could read into the record Exhibit 8 and 9, section 15 and-

PO Yes, I made section 15 Exhibit 8, and 9 is the data, thank you.

CA And the discipline of your staff, you've provided a response to a questionnaire that we sent out to all agencies; you're aware of that document?

20

W No, I'm not.

CA Okay.

W Is that through taskforce Flaxton you're talking about is or is that-

CA -No, we're talking about Operation Impala.

W Right.

30

CA We sent out the request for information from agencies with the deadline of the 27th of September.

W Yes.

CA You're aware of that document?

W I'm not specifically. But I know that my staff were responsible for coordinating that.

40

CA Yes.

W Yes.

CA If I may show Dr MARTIN the Tab 5 from that, in relation to disciplinary action?

W Thank you.

CA I tender that document.

W Thank you.

PO Make that Exhibit 10.

ADMITTED AND MARKED EXHIBIT 10.

10 PO I assume, Dr MARTIN you're not personally familiar with that. We can have the evidence about it, if necessary, from one of your other witnesses?

W Yes, indeed, Chair. Thank you.

CA In the 2015-2016 financial year, there were 11 complaints.

W Mmm-hmm.

20 CA And the disciplinary action that year did not result in any terminations, two demotions, and one post-separation disciplinary declaration. And then just going to this financial year, the 2018-2019, there were three terminations, one demotion, and one post-separation and disciplinary action and the reports had risen to 66. So is it a result of Taskforce Flaxton that there's more harsher disciplinary action taken by way of terminating employees?

30 W I'd like to say that the answer to that question is no. But Taskforce Flaxton helped us in terms of reinforcing the standard that had been set at the point at which I came onboard as Commissioner in November 2017. The findings of Taskforce Flaxton were absolutely consistent with the direction that we were heading as an organisation and in that respect were incredibly helpful. But can I also say to you though that we've been sending and I've been sending a very consistent message in the two years that I've been there as the Commissioner of Queensland Corrective Services about my expectations about people in terms of their behaviour and performance particularly around this important issue. Yes, there has been a dramatic difference in the way that we're dealing with matters. You would well remember that message that went out in January I think it was that email message, where effectively what we were doing was putting a line under previous behaviour and saying to people "If you have behaved in a particular way in the past, this is a time for you to stop that behaviour, because we are going to take a very different approach into this into the future." And what you're seeing now is actually that coming to bare. My view is that termination won't be the only option for consideration, but in all cases, particularly in serious matters it should definitely be part of the considerations of the relevant prescribed officer in Queensland Corrective Services.

40

CA Thank you. If I could just show you section 408E of the Queensland Criminal Code. No doubt you're familiar with it.

W I am.

CA I'll just show you.

W Thank you.

CA So I tender that document.

PO Exhibit 11.

10

ADMITTED AND MARKED EXHIBIT 11.

CA So under the Criminal Code, the offence is entitled computer hacking and misuse. It is an offence to access confidential information from a restricted computer. So IOMS has password restricted access?

W It does.

20

CA And so you'll see there that merely accessing the information is an offence.

W Mmm-hmm.

CA It doesn't need to be that there's a benefit derived.

W No.

30

CA The benefit as you can see from 408E is a circumstance of aggravation to make it an even more serious offence. If I can just show you page 7 of the submission that your agency prepared.

W Thank you.

CA I tender that document.

PO Make that Exhibit 12.

ADMITTED AND MARKED EXHIBIT 12.

40

CA I'll just read a couple of sentences. It says, "Access to confidential information, which properly and rightly supports QCS operations must be balanced against the circumstances where QCS officers may access information inappropriately or disclose the information in breach of operational, ethical and legal obligations. QCS recognises that the majority of incidences involves improper access of confidential information may occur through curiosity and misadventure. QCS officers, as noted above, have access to a wide range of information through IOMS, and if information is accessed inappropriately, it is typically to look into the records of high-profile offenders and/or prisoners. This behaviour must be viewed as distinct from,

yet part of, a continuum that includes in the most serious cases, criminal or serious misconduct activity resulting from the access and disclosure of confidential information. Serious matters of this nature have been, and continue to be, investigated through the PSGC, which is the Professional Standards Governance Command you mentioned earlier, CCC, Crime and Corruption Commission, and the QPS, the Queensland Police Service. In that paragraph it appears that Queensland Corrective Services are placing misuse of the public's confidential information into two categories.

10 W Mmm-hmm.

CA The access only for curiosity is particularised there. And then another category, criminal and serious misconduct, which is investigated. What is meant by that paragraph?

W I'm really pleased that you raised this because I could construe a situation where that could be considered that we are trying to contextualise or make light of a situation where somebody, through – you know we talk here about curiosity or misadventure – we're talking here about a serious matter anyway,
20 but we're talking about a situation, I think, where there is a use of information in circumstances where somebody causes a very significant detriment to an individual where it might lead to them being set up or killed or what-have-you, that the comment and the comment and the paragraph here talks about as opposed to a situation where somebody has gone onto a system that is imprudent, unprofessional, they have no authority to do so, but because they are merely curious about a high-profile offender. But in each of these situations where you've got a voyeuristic intent or alternatively trawling our data to cause somebody a very significant detriment that could lead to their loss of life, we're talking here about two degrees of seriousness, but in no way
30 should that be considered as mitigating or ameliorating or downplaying that anybody that gets onto our system for whatever reason is committing a very serious disciplinary and/or criminal matter.

CA So is that paragraph not entirely reflective of the processes that occur within the Queensland Corrective Services?

W I believe that the – one reading of that paragraph could be seen that the organisation is merely making light of the situation in which an employee, through curiosity and misadventure is accessing our systems, and my very,
40 very clear view on that issue is that that is a serious matter, it is a serious disciplinary matter and/or criminal. And I regard it as being outside – significantly outside – of any tolerance that the organisation would have of such behaviour.

CA So you'd agree the reading of section 408E of the Code is that accessing only for curiosity-

W Yep.

CA -looking up a high-profile offender is potentially a criminal offence?

W I would agree with that.

CA If there is sufficiency of evidence and it's in the public interest-

W I would agree with that.

10 CA -to prosecute. Does your organisation investigate those matters within the ethical-

W Professional Standards and Governance Command? Yes, it does.

CA So would it be correct to say that this paragraph is rather confusing and doesn't reflect what occurs within your organisation? It's taken curiosity quite – given an example of looking up a high-profile offender and saying that that is distinct and separate from the criminal and serious misconduct which is investigated. That's what it is saying.

20

W I absolutely submit that it could have been clearer and much tighter and that from my perspective on one read that would seem that the organisation is making light of the situation or contextualising it and I regret that. And I'm really clear that it is a significant matter, it is a serious matter and that anybody for whatever reason that accesses our data inappropriately, that's a very serious matter.

CA You're aware that there are matters that have gone through the court process where persons have been punished for merely accessing-

30

W I am.

CA -information.

W That's right.

CA Without any benefit derived.

W That's right. I am aware of that.

40

CA And that the Crime and Corruption Commission's position is that when breaches are detected that the agency should be looking to criminal prosecution first before disciplinary action.

W Yes, yes, I am aware of that.

CA Is that what occurs within your agency?

W I'd like to say that it is. And certainly can I say to you that I don't know historically that that was the case but I can tell you that as a first port of call that the Professional Standards and Governance Command have the remit to consider all such matters within the context of criminal prosecution bearing in mind they would be reliant upon another agency to give effect to that but that would be my view.

10 CA Just following on from the top paragraph which we just went through, I will just read the bottom one. "The management discipline model that has been developed is a remedial or developmental approach which recognises that employees will make honest mistakes. It provides an immediate opportunity to change behaviour, conduct and/or performance leading to an improvement in both organisational and individual performance. This model is directly related to support for instances where as mentioned above officers access information improperly for reasons of curiosity or misadventure rather than in more serious circumstances that amount to misconduct or criminal behaviour." So is that not truly reflective of what occurred? You just said that merely access to information, sort of the lower end of the continuum of offending is investigated by the PSGC, but then further down the page it appears that that category is cordoned off into managerial discipline model. What actually happens?

20

W Yes. Generally I would agree with you. And I think that it's clumsily worded notwithstanding the first paragraph. Can I say to you though that notwithstanding the diversity of the information that we have, the nature of the information, it is most probably attempting to talk here about, you know, the continuum of access of which case at one level there could be construed to be almost a seemingly explainable reason that may not necessarily go to the heart of a criminal matter, but there are processes there to correct, to change behaviour, to reinforce to perhaps a junior officer at a very, very low level, you know, what's the organisational expectation. I think it was merely trying to do that. But not in any way to ameliorate or to make light of the seriousness with which we take breaches of confidentiality, but it could have been worded in a different way.

30

CA Thank you for clarifying that. Just one last matter. In relation to the information Privacy Act, there are the Information Privacy Principles and in particular number 4 relates to the agency's obligations. I will just show you Information Privacy Principle 4. I tender that document.

40

PO Exhibit 13.

CA So that relates to the agency, the agency's obligation to store and secure personal information of the public.

W Yes.

CA And specifically, under subsection (1) (a) (ii) it's unauthorised access, use,

modification or disclosure. So that's specifically spelt out there. The agency has an obligation to ensure that doesn't happen. And it goes on to explain how that is to be done under subsection (1) (b). It says the agency is to take all reasonable steps necessary to prevent unauthorised use or disclosure of the personal information by staff members.

W Yes.

10 CA So that's in the realms of vicarious liability. You'll be aware of that?

W I am. And I would certainly think so.

CA There's currently a matter going before the courts for another agency in relation to that, and the Crime and Corruption Commission are particularly interested in the reasonable steps that you say that your agency is taking to ensure that you're compliant with IPP 4.

20 W So the information that we have is voluminous, as in a range of different dataset. And that if you think about it in terms of security and notwithstanding the challenges of IOMS in terms of access control and limiting access, there's a body of work that we're doing in terms of preservice, there's a body of work we're doing in terms of in-service, changing user agreements, having our people at various opportunities, every training opportunity, talking about issues of ethics and issues of privacy. There's the work that we're doing in prepping for the Human Rights Act, even things like screen savers on our computer system, is reminding people fundamentally of their obligations. But at a-

30 CA -Just in relation to that, sorry to interrupt.

W Yes.

CA With your screen saver, is that every time they log on?

W Every time they log on.

CA And does it mention that misuse of information by using the database includes disciplinary and criminal penalty?

40 W So there's two things. Firstly when somebody goes on to the IOMS system to use it the first occasion, if I was going to use it today then the agreement comes up and it reminds people of their obligations and talks about the penalties of misuse. Then what there is is there's a screen saver, so if I was here talking to you and I had my computer and I was to log out or if it timed out, then there's a range of messages that come up. One of those messages is to remind people of the importance of the privacy of our data. So we deal with that in both of those mechanisms.

So it is not the one strategy, it is a multi-faceted, multi-dimensional strategy that is layered and consistent in terms of reminding people of their obligation, target-hardening our systems to the degree that we can and reminding people of the obligations and the disciplinary issues that can ensue when they don't meet the organisational expectation.

CA Are the penalties displayed on the screen, the range of penalties, including the criminal sanctions that are available?

10 W Certainly the messaging and the education is around the potentiality of criminal charges, most definitely. But the criminal penalties and the sanctions, I don't have that level of detail. I'm sorry, I don't know. But certainly we warn our employees of the disciplinary issues, the damage to them, their brand, their reputation and more importantly the risks of disciplinary and/or criminal action being taken against them. We do.

CA Okay. Sorry, I interrupted and you hadn't finished talking about the reasonable steps to protect the information under IPP 4.

20 W And, you know, the other dimension of this is the target-hardening, asking ourself the question, particularly around things like intelligence databases on a needs to know basis, do our people need to have access to it? Where they don't, then we exclude them. You know, making sure that when we onboard people to a specific function or work unit that they understand the obligations. So there's a range of strategies that we have there. And it is a layering of those strategies that give us a degree of assurance notwithstanding the challenges of the IOMS system.

30 CA And you mentioned before that where you identify possible adverse consequences and particularly sensitive information that you put flags on those records?

W That's right, indeed.

CA And in relation to the investigation – well, the detection, you say that you have the reports come in, are they actioned quickly? What's the sort of timeframe?

40 W They are. And I know that certainly the Assistant Commissioner Professional Standards and Governance Command is looking at a 72-hour turn around. That's what we're moving to in terms of an initial assessment, you know, determining of what level the allegations are and to meet our obligations internally and externally around reporting. So we're looking at speeding that process up but doing that in a very, you know, agile contemporaneous way that may not necessarily have been the case in the past.

CA Thank you, Dr MARTIN.

PO Thank you, Ms FOTHERINGHAM. Mr MUNASINGE, do you have any

questions for Dr MARTIN?

LR Chair, can I just interrupt? I will just take note of the practice direction UI which says that if you were to give leave for me to cross-examine this witness that I should really go before my learned friend counsel for the Commissioner.

PO All right.

10 LR I make an application for leave. I simply want to cross-examine this witness in relation to Exhibit 11, I believe it is, which is the data related to the number of referrals made to the Crime and Corruption Commission as well as the QPS and whether or not there is any IT impediment in terms of actual laying criminal charges.

PO All right. Ms FOTHERINGHAM do you have any submissions about that?

CA No, thank you.

20 PO All right. I will give you leave, Mr SCHMIDT. Thank you.

LR Thank you, Chair. I suppose formally for the record, surname is SCHMIDT, initials T, instructed by Gilshenan and Luton. And I appear on behalf of the Queensland Police Union.

PO Okay.

LR Commissioner, perhaps, Chair, if Exhibit 11 could just be brought back up to the Commissioner?

30 PO It might be 9 the one that you want is the data.

LR It is the one that shows 26 CCC referrals and-

PO Yes.

LR My apologies. UI. I understand from Mr CRANNY that number 10 is the table.

40 PO Yes. 10 is the table. Yes.

LR Yes.

PO Is it 10 you want? 10?

CA I believe it may be number 9.

PO Yes I think that's 9 you've got.

LR Yes. But we're after 10 I believe.

PO You want 10. Yes.

LR That's the one.

PO Yes.

CA Yes.

10

LR So, Commissioner, that's Exhibit 10. You'll see down the bottom there there is 26 and 28 referrals respectively. Do you know if any of those resulted in criminal charges?

W I don't specifically know, I'm sorry.

LR Okay. And are you – you're familiar with, as a former police officer, the police Q-Prime system?

20 W Yes, I am.

LR So you're aware of the auditing capacities of that system?

W Yes, I am.

LR Is IOMs, or the Corrective Services system have similar auditing as this?

W No, it doesn't.

30 LR And could that perhaps be an impediment to actual criminal charges being brought?

W It could complicate the nature of criminal charges being brought and would make the interrogation of the system more complex.

LR UI. Thank you, Chair.

PO Thanks, Mr SCHMIDT. Mr MUNASINGE?

40 LR Yes, thank you, Commissioner. Just one question. Commissioner, my learned friend spoke to you with respect to I think it might have been page 7 of your submissions with respect to your knowledge of criminal sanction with respect to unauthorised access.

W Mmm.

LR Just to make it abundantly clear, is it the case that every example or incident of unauthorised access is referred for criminal investigation?

- 10 W No, it is not, but what I can say to you is that every instance in Queensland
Corrective Services, my expectation is that there's the considerations whether
the circumstances of the matter warrant criminal investigation and
prosecution. So every time that we have a situation like this the Professional
Standards and Governance Command should apply the standard to this and
ask the question whether the circumstance of this warrant criminal
investigation and prosecution criminally. And that's the reason that this has
fairly significant and dramatic implications for the workforce.
- LR Thank you, Commissioner.
- W Thank you.
- PO Thanks very much. Do you have anything arising out of that Ms
FOTHERINGHAM?
- CA No, thank you, Chair.
- 20 PO Thank you. Do you want Dr MARTIN excused?
- CA Yes, thank you.
- PO Thank you. Thank you again, Dr MARTIN, for your time coming along.
- W Thank you.
- PO You're excused, thank you.
- 30 W I appreciate it. Thank you.
- PO Ms FOTHERINGHAM, we have to adjourn at midday. Is it worth starting
someone? We have someone here now, do we?
- CA Yes. I don't believe it is.
- PO All right. So if we give my apologies to the witness who is waiting. If we can
adjourn now and resume – I should be back by 2, but we'll try for 2 o'clock.
So have an extended lunch. We adjourn now to 2 o'clock, thanks.
- 40 HRO All stand. This hearing is adjourned.
- END OF SESSION