



**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 3 - WEDNESDAY 13 NOVEMBER 2019  
(DURATION: 52MINS)**

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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 – MARTIN MICKELSON  
LR Legal Representative – TROY SCHMIDT, for Queensland Police Union**

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HRO All stand.

PO Good morning.

CA Good morning, Chair. I call Acting Assistant Commissioner, Martin MICKELSON.

PO Good morning. Would you prefer an oath or an affirmation?

10 W Oath, thank you.

PO Thank you. If you could be sworn in.

HRO Take the Bible in your right hand and repeat after me. The evidence which I shall give.

W The evidence which I shall give.

20 HRO In these proceedings.

W In these proceedings.

HRO Shall be the truth.

W Shall be the truth.

HRO The whole truth.

30 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.

40 HRO Thank you.

W Thank you.

CA Good morning, Acting Assistant Commissioner.

W Good morning.

CA I believe you're substantive position is Chief Superintendent

- W That's correct.
- CA And you are currently in charge of the newly established Office of State Discipline?
- W That's correct, yes.
- CA And you have been awarded the Australian Police Medal?
- 10 W Yes, I have.
- CA And your career within the police service has spanned over 40 years?
- W That's correct.
- CA And your position is as a Prescribed Hearings Officer.
- W That's right, full-time.
- 20 CA And the responsibility for determining disciplinary sanctions and performance improvement strategies, involving sworn and unsworn members of the Queensland Police Service?
- W That's correct.
- CA Who are subject to disciplinary hearings?
- W That's right, yes.
- 30 CA And you played a pivotal role in the establishment of the Office of State Discipline?
- W Yes, I've been there since the commencement of the Office of State Discipline.
- CA And previously, your roles were as District Officer at the Gold Coast and, before that, the Logan district?
- W That's correct.
- 40 CA And you've also spent significant periods of time working in serious and organised crime investigation units, including corruption?
- W That's right.
- CA Criminal intelligence and specialist operational support capabilities?
- W Yes.

CA And you have been seconded to several external agencies during your lengthy career, including the former Criminal Justice Commission?

W That's right.

CA Australian Bureau of Criminal Intelligence at Canberra?

W Correct.

10 CA Australian Crime Commission, as Queensland Manager.

W That's right.

CA And Queensland Treasury?

W That's correct.

CA You were provided an attendance notice for today?

20 W Yes.

CA May the Acting Assistant Commissioner be provided a copy.

I tender that document.

PO Exhibit 50.

ADMITTED AND MARKED EXHIBIT 50

30 CA Have you prepared a submission?

W No.

CA Would you like to make an opening statement?

W No, not at this time. Thank you.

40 CA We just briefly talked about the Office of State Discipline. Part of the remit of that new section of the Queensland Police Service isn't in relation to charging criminally under section 408E of the Code, is it?

W No.

CA It is merely disciplinary action?

W That's correct.

CA Could you elaborate on some details in relation to the new Office, its functions and what matters go before it.

W Certainly. The Queensland government made a general election commitment back in 2015 to review the police complaint system and implement a new disciplinary system for the Queensland Police Service to ensure accountability and fairness to police officers and the public.

10 The QPS discipline system, I think it was fair to say, had attracted a lot of criticism over many years of being antiquated, taking far too long for matters to be determined and, basically, wasn't fair and it was inconsistent. And, in fact, the Regulations first were introduced in 1990 just after the Fitzgerald Inquiry and it had not really been amended or touched for an extended period of time.

And as I said, there had been ongoing complaints, both externally and internally, from the Queensland Police Service in relation to the system, which was often referred to as being broken.

20 Moving forward, as a result of the election commitment, a multi-agency working party was established in 2017, it was back led by the Chair here today, Mr MACSPORRAN, and it included membership of key agencies, obviously the QPS, but also the Crime and Corruption Commission, both police unions, the Queensland Police Union of Employees and the Queensland Police Commission Officers' Union, were represented, and a number of other stakeholder agencies. That committee progressed quite a number of recommendations which, in fact, became part of the new discipline bill, which was finally enacted on 31st October this year, 2019.

30 But before that, the committee came up with some agreed positions on perhaps trialling certain components of the draft legislation before it came into play, those things that could actually be trialled and we didn't have to technically rely on the new legislation as such. And that's where the Office of State Discipline came into being in June 2018.

40 As a result of an expression of interest, Assistant Commissioner Tony WRIGHT was given the rank of Acting Deputy Commissioner. And I was the District Officer on the Gold Coast as Chief Superintendent, and I was successful in that expression of interest, and I was given the temporary role of Acting Assistant Commissioner at the Office of State Discipline.

I might go into the role of the hearing officers shortly, but it is important to understand that one of the main features of the Office of State Discipline is that we are totally independent and operate independently from the Ethical Standards Command. Whilst we rely on the -- what's known as the PPMs, the Professional Practice Managers Network, and also the legal division in relation to document writing and legal advice and like nature, we're actually separated.

So, for example, the Office of State Discipline has nothing to do with internal investigations. It has nothing to do with the determination whether to undertake a matter criminally or via discipline. It doesn't have anything to do with the decision to suspend or stand down police officers who are subject to discipline action. So it is quite independent. And in fact, the role that I now undertake, since Mr WRIGHT retired recently, as the Acting Assistant Commissioner, I report direct to the Commissioner. So all other Assistant Commissioners in our organisation have a line, a direct line reporting to a Deputy Commissioner. And as I said, I report to the Commissioner.

10

One of the main features of the new discipline system is the Abbreviated Disciplinary Process. It is called ADP. And I might going into that shortly for you. But that basically came around to address some of those concerns I mentioned a moment ago about inconsistency, the significant periods of time it took to resolve matters.

20

So basically the ADP process has been introduced in the new legislation. We've been lucky enough to trial that for the last 18 months. And it has been quite successful. And it has been, compared to the old way of doing things, and whilst it is maturing, it is certainly a more rapid and faster way to process disciplinary outcomes. And it is quite fair to all persons involved in the process.

30

During the trial of the ADP, quite a significant number of matters have been resolved; approximately 60 since I've been there. The role I played, up until recently, which was the more junior of the roles, should I say, did most of those ADPs. So I've, in fact, personally done over 50 ADPs since that, since the inception of the office. And in my view, that has been quite successful. Like anything new, it started off a little bit rough, should we say, but, critically, there's a number of key stakeholders in that process, one being the Crime and Corruption Commission; the subject member, who's subject to the disciplinary matters, normally represented by one of the two police unions, and the majority are the Queensland Police Union of Employees, and other legal firms, Gilshenan & Luton, for example, and others.

So they all play a key role in that abbreviated disciplinary space. And if one of those stakeholders doesn't want to participate, then the ADP falls over, as such, it finishes, and then the matter would normally go, proceed to a full disciplinary hearing.

40

The ADP process is quick. It is supposed to respond in a less legalistic, less bureaucratic manner than what a full disciplinary investigation would normally do.

CA Do all matters that are referred to your unit go through an ADP, or are some more serious matters progressed without that?

W Yes. So there is the decision made whether it goes to the ADP. And there's some matters that are more serious that warrant going to a disciplinary hearing.

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For example, the more serious hearings normally would be considering sanctions of, perhaps, dismissal, or those very higher sanctions which normally would not be part of the ADP process.

CA With the ADP process, could you just outline exactly the features that are different from a normal disciplinary process?

10 W Okay, so the decision is made before it gets to the Office of State Discipline that it is a matter being investigated that requires a sanction. So it is only when matters come over to our office that there's usually a requirement for a disciplinary sanction.

Post the new legislation, post the trial, a lot of disciplinary matters were subject to full investigations. So that would be internal affairs investigators, or regional investigators, basically doing, taking a lot of statements, getting corroborative evidence, whether that be body-worn video cameras, query master checks from our IT department, say, in relation to the misuse of information. So very comprehensive, very, very long investigations, some taking years, in fact.

20 So that was really at the crux of changing into this new system that, where possible, we don't have to go down all those lines of inquiry. So basically, an officer commits an act of misconduct and shows some insight and remorse, and that the sanction is not likely to be something like dismissal, or along those lines. So on the basis of those things, and some other elements, it is the preferred carriage now, or the preferred way is to undertake the ADP instead of that full exhaustive internal investigation.

CA What is entailed in the ADP?

30 W What's entailed?

CA What does it comprise of? What steps occur?

W Okay. I have got a schematic here I could actually review that. So maybe just for the narrative I can go through this if the--

CA If you don't want that to become a public document and tendered, that's fine. If you just want to refer to it.

40 W Okay, I'll refer to it.

CA Yes.

W Just so it is in the narrative there.

A complaint is identified as being suitable for the ADP; firstly, that the sanction is required, the facts are quite clear and it is likely that the subject member would accept responsibility for their conduct or actions.

10 The Professional Practice Manager, in the location where the subject officer is working, or stationed at, seeks approval from the Investigation Case Manager to invite the subject member to participate in the Abbreviated Disciplinary Process. If that's approved, then an invitation to participate is normally signed by either myself or another senior officer in the State Discipline Office, and that gets sent out to the subject member, who is, as I said, normally represented by the QPUE or other union. And the subject member either says "Yes" or "No" that they're prepared to participate in that process. At that point, the ADP starts if they say "Yes". If not, it would normally go to a disciplinary hearing, a full disciplinary hearing. Obviously, the subject member discusses this with his union representative, or her union representative. And that's -- as I said, the ADP starts.

20 At that stage, if they accept it, then submissions or request submissions. So they get a period of time to come back with submissions in relation to the behaviour, the possibility of sanctions, and those sorts of things. And there's an opportunity at that stage to conference with all the key stakeholders. So the Professional Practice Manager, on behalf of our office, then negotiates and feels questions with the CCC, the unions and those sorts of things to iron out any issues.

The next key document is what we call the Form A, which is supposed to be a fairly succinct summarised form of the behaviour that is alleged and founded, because, as I said before, the subject member has actually admitted to the behaviour or the offending.

30 And it is at that stage, in the Form A, it is drafted normally by the PPMs. It comes over to the Office of State Discipline where a senior officer, the Prescribed Officer, whether myself or someone else, goes through that document. We will make changes as necessary. And importantly, it is then that the issue of sanction is looked at. And taking on everything in relation to the matter before me, I will then propose a sanction.

40 And at that point, the Form A goes to the Crime and Corruption Commission, to their Integrity Services Division where it is assessed and -- I mean, obviously there's a lot of moving parts in this process, but, by and large, the CCC then determine whether the proposed sanction by myself, or the other senior officer, is within scope of the behaviour that the subject member has done. And if the CCC then agrees, then it goes to the subject member and their union representative, and they then have a look and have a say. At any stage the stakeholders can withdraw out of the process. And as I've said before, that would then default back to having a full disciplinary hearing in most cases.

But if everyone says, okay, we're on the same page, by and large, with this matter, it then goes through. The sanction is then put in play. Then we have a very short summary form called the Form B. So it's really only three forms in this whole process. The Form B is signed off by me as the Prescribed Officer, if it was me, in relation to the sanction.



Importantly, to be fair, I've only talked about sanctions here, but there's actually in the new system a whole range of behavioural strategies to correct behaviour and the like. And so the sanction, plus other corrective behaviours or strategies are put in play, and then that becomes the sanction, the outcome of the disciplinary matter.

10 And once I sign the Form B off, that is it, the matter is completed. The officer will then go ahead and do whatever the sanction is, or it may well be, you know, a penalty units, they have to be paid. It may well be community service, they have to go and do the community service. It may be completing online learning products, those sorts of things. But, by and large, that's the matter, that's the matter completed. And that goes back to the basis and one of the fundamentals of the new system, that officers can rehabilitate, correct behaviours and then move on with their careers as an effective and efficient member of the police service.

So that, by and large, I hope, has explained the ADP process.

20 CA Yes, thank you. And how long on average does that process take per participant? Is it two months, three months?

W As I said, it started last year as a trial and, like anything, I suppose, it has taken a bit of time to get used to. But if I was going to say an average, at the moment, probably two-to-three months, thereabouts. Some have been quicker. And they are getting quicker as we get used to the new function. But, of course, the new legislation has brought in mandatory timeframes for investigations to be commenced and to be finalised, and so, taking due cognizance of those very important timeframes now, the process will get a little bit quicker.

30 CA And that's a permanent establishment of the Office of State Discipline from the Board of Management from the Queensland Police Service?

W That's correct. So as a result of the legislation being enacted on 31st October, the Board of Management has agreed to the establishment of the Office of State Discipline. The recommended resourcing from the committee, led by Mr MACSPORRAN -- and I might just point out, too, the Assistant Commissioner of the new Office has the discipline delegations of a Deputy Commissioner.

40 So I don't want to confuse you, but prior to the new legislation, the only senior officers in the service who could dismiss were -- the delegation was given by the Commissioner to the Deputy Commissioner. So basically, things like dismissal or comprehensive transfers, they were in the domain of only the Deputy Commissioners, and underneath that the Assistant Commissioners only had a limited range.

New legislation changes and, actually, by title, an Assistant Commissioner, Discipline, will have the discipline delegations of a Deputy Commissioner. So

that means the deputies can still do it. But really the workload to release not only the Deputy Commissioners, but all the other Assistant Commissioners, to let them get back to their substantive duties and their portfolios, is really at that level in the state discipline.

Then the other senior officer that the legislation, on recommendation from the committee, has made permanent, and that will be filled shortly, is a Chief Superintendent, Discipline, who will have the normal discipline delegation authority of an Assistant Commissioner of Police. It sounds a little bit confusing, but it is pretty straightforward. And that person will do, as I had done up until recent times, predominantly most of the Abbreviated Discipline Process matters.

10

CA And one of the aims of your new unit is to build up a level of internal expertise and continuity within the discipline environment; is that correct?

W That's correct.

20

CA And to assess and adjudicate on emerging issues which would impact on the service's organisation and reputation?

W Correct.

CA And for future risk?

W Correct.

30

CA How regularly and who assesses -- is there a regular review by a group of members of the Queensland Police Service who undertake that role-

W Emerging issues?

CA -of assessment and review? Yes.

W Yes. Certainly the Ethical Standards Command is a significant component in identifying, in the discipline space, identifying emerging issues and risks for the organisation, and they take into consideration more broadly what's happening in Australasia.

40

There's forums that meet twice a year for professional standards bodies, and likewise areas, that discuss the issues that are happening in each jurisdiction so they can get a reasonable grasp of what's happening now and, as importantly, what's emerging as potential emerging issues in that space.

And it is important that the Office of State Discipline is aware of those matters. Firstly, we would see them coming through on the matters that we're dealing with, but it is an important key role that we as -- I liken ourselves as the

gatekeeper for integrity for the organisation, and, as I said, I report to the Commissioner on these sorts of issues, so we need to be aware of them.

CA I'll talk in a little bit more detail about the disciplinary and the ADP, but while we're on the issue of prevention, really, managing risk for the future, you have provided the Commission with three disciplinary outcomes from, I believe, monthly newsletters; is that correct?

W Yes.

10

CA I'll just show you.

If this can be shown. Are those the three documents you provided to the Commission?

W Yes, I'm aware the service provided those.

CA I tender that document.

20

PO Exhibit 51.

ADMITTED AND MARKED EXHIBIT 51

CA Would you like to talk to those documents, explain how often they arise, where they are, which staff members, and the content of the de-identified case studies, how much content you put in them, if you could?

W Okay. Once I commenced duty at the Office of State Discipline, Acting Deputy Commissioner WRIGHT and myself, very quickly determined that we had a key role to play in the prevention space in relation to trying to minimise offending and negative behaviours by our employees.

30

And whilst a number of other areas, including Ethical Standards Command and within the regions and commands themselves, had various ways of trying to educate and let people know the proper things to do in the workplace and the things that would not be tolerated, we saw an opportunity, particularly with the Abbreviated Disciplinary Process, the amount of the numbers that we were doing, there was key lessons in there that if we could get out to the rank and file of the service, which numbers some 15,000, then that would be a very quick way of increasing awareness of the role and the impact of misconduct and negative behaviour in the workplace and what that could cost them both as an individual, potentially impacting on their families, potentially impacting on finances, potentially impacting on their ranks and, as important, the impact they have organisationally on the reputation and the communities' views of the Queensland Police Service as a whole.

40

We drafted, we went and spoke with the Commissioner of the day, Mr STEWART. We spoke with him for a period of time about what might be the

best medium, the best vehicle for that to use, and we came up with the hard copy and the electronic copy of the Police Bulletin, which is published each month of the year. From memory, we started in February or March this year, and every month since. There's six or seven de-identified matters that have come through our office. There's a few rare exceptions. There's a bit of left-over discipline matters that other Assisting Commissioners and Deputies have got, but, by and large, they're filtering out now. So a good 95% of all the examples since February or March this year, when they first came out, have been the determinations coming out of the Office of State Discipline.

10

So I just look at a matter and I pull out the pertinent points. Obviously, it is very important we're not out to embarrass the subject matter, or identify the location and those sorts of things. And basically, it is what you read. And what we put forward there is a bare basic identifier of the type of offending, the outcome, the rank, or the position, because we do determine disciplinary matters for our staff members under the Public Service Act as well, and we also just include there the type of discipline forum, whether it was a full hearing or whether it was an ADP.

20

Importantly, on that same document we have some prompts there. The QPS, for many years, has had in play what we call the self-test, which is a very quick ready reckoner. It is in every police notebook, it is in every police diary, and posters and screen savers. Basically saying, the self-test is would your decision withstand scrutiny? Will your decision ensure compliance with our policies and legislation? Is your decision lawful? And is your decision fair? So the self-test fundamentally underpins a lot of things.

30

So it is our way, as I said, just wrapping it up, to really get out with a reading audience, a viewing audience, because it is electronically available also, our magazine. So it is not only our 15,000 employees, I don't have the number here, but there is many other agencies and individuals who subscribe to that online. So it is quite a wide-ranging audience.

CA Are you able to particularise any public sector agencies that you know of, subscribe to?

W No, but I could take that on notice and come back to you on that through our Police Media Section.

40 CA Yes, thank you.

W Yes. So, you know, for example, there would be copies of it available here at the Crime and Corruption Commission, I would think, not only because you have seconded QPS members here, but there may be a mailing list there. But I can certainly take that away. And, as you would be aware, next Monday the Commissioner is appearing, as is Assistant Commissioner COWDEN, from Ethical Standards Command, so I can pass that information on to them if you wish.

CA Yes, thank you.

W Whichever way you wish it.

10 Whilst it is not everyone's, I suppose, career highlight to work in discipline, it is not something, a job a lot of people seek. What I do see as positives, and I certainly see it personally, is that we're playing a key role, in my view, in changing culture and behaviour slowly within our organisation. And I raise that because we have been individually called on a number of occasions, both Acting Deputy WRIGHT and myself, from subject members who have now gone through the new disciplinary process, albeit in the trial period, normally in the ADP space, have actually thanked us for the manner in which it has gone through and how quick it has gone through.

20 There's other feedback coming back from police establishments also that the, sort of the stuff that we're putting in the Police Bulletin, the information in the Police Bulletin, it has been a conversation starter in establishments and around meal rooms, and those sorts of things, about behaviours and consequences and so on. So I would like to think we're certainly playing our role in that space of prevention, which is so important.

CA Thank you. Just going back to the changes that have been recently enacted, could you explain the Local Management Resolution Plan?

W It is an area we don't have any visibility over or involvement with at the Office of State Discipline, but it is an absolutely critical role in the new discipline space.

30 Assistant Commissioner COWDEN I'm sure will have better numbers and stats for you next week. I just forget the percentage, but out of the majority of matters that fall within the discipline area, my understanding is that a significant number of matters are formalised and looked after in the LMP, Local Management Plan, space.

40 So it is about managers identifying behaviours in the workplace or instances in the workplace that should not be tolerated. It is about holding the subject member or the officer to account about those sorts of behaviours. In very simple terms, it is about nipping things in the bud before they get bigger. So the Local Management Resolution process is done at station level, or division level, or those sorts of things, and it doesn't come back into that more formal disciplinary process. The incident or the behaviour or the mannerisms of the officer is being addressed, a plan is drawn up of how they may address it, so it might be a bit stronger mentoring or more supervision in the workplace, and those sorts of things, and it is monitored locally -- I stand corrected, but I'm pretty sure it is monitored by the Ethical Standards Command, but it is not managed, because it is managed locally, so it is actually a fundamental cornerstone of the new

discipline process that, again, not everything has to be moved in and taken over with a full-blown disciplinary investigation and those sorts of things.

CA When it comes to the misuse of information matters, isn't it the case that that particular subject of misconduct forms one of the three key areas of focus of your new unit, as well as harassment or bullying and domestic violence matters, and that all matters of those three types are directed to your unit for investigation?

10 W Yes, correct.

CA Could you explain in a little bit more detail about that?

W Okay. So upon commencement of the unit last year, there was the discussion with the Senior Executive, predominantly the three Deputy Commissioners of Police and the Commissioner at the time, Mr STEWART, about, you know, organise -- what discipline -- you know, they all impact on the organisation, would be a fair comment to say, but more than others. So what's topical, what's at greater risk of the organisation from a reputation perspective with the community, and the themes, if you like to call them that, or the subject matter of misuse of information, police involvement in domestic and family violence as respondents, and/or failure of duty in responding to domestic violence and negative workplace behaviour in the sense of potentially multiple allegations of -- or, very long-standing negative workplace behaviour, as opposed to maybe a one-off, which would be probably handled in a different way. So those three, and there will be others as time goes on from an organisational perspective. A directive was put out that any of those sorts of matters that equate to misconduct will come to the Office of State Discipline to be determined.

20

30 It is probably a point in time I should raise that Mr STEWART, as Commissioner, and now Ms CARROLL as Commissioner, have all put out directives, QPS-wide directives via email, in relation their views; for example, in relation to misuse of information. I just can't remember. Mr STEWART put one out in March 2016 and then in December 2018. I just forget which one of those, but he at that time made it absolutely crystal clear, it was a line in the sand had been drawn in the organisation, and any incident of misuse of information would be misconduct. So that was direct from the Commissioner. And subsequent to that, our new Commissioner, Commissioner CARROLL, has put out a very firm advice and directive on the same subject only recently, in the last couple of weeks.

40

You know, that's one of those things, as I said, that needs to be consistent. We need to have, as I said, consistency in determining the matters, consistency in sanction, and really not only to show that in the discipline space to the relevant subject member, but to actually send a very strong signal and a very firm deterrent throughout the organisation that that behaviour won't be tolerated. So that, I hope, answers that question of why certain matters go to the Office of State Discipline for determination as opposed to going to other areas.

CA With the determination of does the matter go through ADP or is it disciplinary, the seriousness of it, really, is triaging in a way, one of the factors is the privacy impact; is that correct?

W Correct.

10 CA In considering that, is the degree of risk to the safety of the victim, say, in a domestic violence situation, where the victim is concealing their contact details from an ex-partner, is a degree of safety as a result of the misuse of information, is that a factor which makes the action more serious and would rise to disciplinary above ADP?

20 W Correct. You know, each -- I think it is very important to state here that I look at each individual matter on the merits of, you know, the case itself, on the evidence, the strength or otherwise. We use the Briginshaw Principle, you know, on the balance of probabilities, as opposed to the more formal legalistic 'beyond all reasonable doubt'. And with that, I have a set of parameters. Say, if we're talking misuse of information-

CA Yes.

30 W -the things I would take into consideration, for not only deciding whether to allow an ADP, or whether it goes to a disciplinary hearing, and remembering the stakeholders and the ADP can leave that process, too, if they wanted to go down a full disciplinary hearing. Sometimes I think it would be fair to say both the CCC and the unions may wish to have a disciplinary hearing done on the matter because that allows them to review the matter down the track at QCAT, whereas, the ADP, as I explained before, once the Form B is done, the matter's finished. I'm not sure if I did say, but I should have, it can't be appealed. It is done and dusted.

So there are reasons why the stakeholders of the game may or may not buy in or buy out of an ADP process.

40

So some of the factors though about determining which way we would go, either the quick process, the ADP or a disciplinary hearing, and also I think included in that is the severity of the sanction that I would be starting to think about, would be the, and this is in no priority order, the time since the actual incident or behaviour took place.

Now, in the misuse of information space, critical to that, and this is my thinking, is those three key messages from the former Commissioner, Mr STEWART, and more recently Commissioner CARROLL, so March 2016, December 2018, and October 2019. So they are very much lines in the sand. And I think everyone, I can't talk on behalf of the union or the CCC, but they always relate to certain dates and they're three key dates.

Certainly what you mentioned there before, if there was a matter that the misuse of information involving the subject member was somehow involved in a DV matter and had put a person, whether it was the aggrieved or other in harm's way, which certainly be a significant factor.

10 Other ones are the circumstances, whether they're second or third party involvement. The benefit or otherwise to the officer. The rank of the member is important. I have a very firm view that the more senior you are in the organisation, then there is more expectations of you and of your responsibilities, and leading by example in the organisation. I've already said the timing of when the behaviour occurred with the Commissioner's directives, the three directives we've spoken about.

Importantly single checks versus multiple checks. An example of that would be are we talking an officer who has looked themselves up on the computer to see if their car rego was out of date, or something like that, or has done multiple checks for family members and neighbours, or all of those sorts of things.

20 And also on along the same lines, were the checks or the misuse of information or accessing databases done on single occasions or multiple occasions. Whether it was done on duty or off duty. Whether the officer has shown an element of insight and remorse. Remembering in the ADP space, if they don't put their hand up and say "You know, I've done wrong" and those sorts of things, then the ADP doesn't continue, it will go down the normal disciplinary hearing path. Previous similar behaviour.

30 Importantly, any predatory-type behaviour. And it is unfortunate that we have had a couple of those. So that's an officer who, in our view, is showing and displaying some sort of predatory behaviour, finding details of a member of the community and attempting to communicate with them, and so on.

Sorry, finally - these are just some dot points I did this morning - whether the misuse offending was done in concert with other misconduct. And sometimes we see that, too, that it is just not a stand-alone accessing information, it may well have been two or three matters that are, sort of, align, all happened at the same time, and that also would be something I would be considering.

40 In all of those things I've just outlined there, the sorts of thoughts and processes going through my mind of where I'm going to, one, depend on is that matter going to -- is it right, does it fit right for the ADP, quick and fast resolve, move on, or should it be disciplinary hearing, full disciplinary hearing that potentially has more serious sanctions and so on.

CA And when an officer or a member of staff resigns during the process, is it your practice to pursue post-separation disciplinary proceedings? I believe that goes back to Ethical Commands Standard, does it, or is it with you?



## OFFICIAL

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W So to be fair, I mentioned earlier on Acting Deputy Commissioner WRIGHT has just retired. They're commonly known as a section 7A for police officers, or a section 188A under the Public Service Act for our staff members. And it was that role that Mr WRIGHT undertook that did most of those 7A and 188A. And I've just moved into that space now, so I will be responsible for those, although I have not done any to date, although I'm led to believe there's a couple coming my way.

10 My understanding is both of those are called a post-separation declaration. And I mentioned the 7A's under the Police Service Administration Act, and the 188A is under the Public Service Act. It is to provide a scheme for the police service to investigate a former employee. So as, quite correctly, you say someone -- an investigation has started, that they have decided to resign and have been allowed to resign during that process before a formal determination has been made.

20 The post-separation declaration is made subject to certain legislative provisions. It is managed by Ethical Standards Command. So the coordination, it's "managed" might be the right word there. They're actually done -- the action is taken in the Office of State Discipline. And the CCC, I believe, has oversight of the 7A and 188A matters.

As I said, I haven't had a lot of involvement in it, but I think the basics are that it must happen within two years of the officer or member leaving the organisation. Importantly, the declaration, the disciplinary declaration may be made if the action that would have been taken against the member if still employed would have been dismissal, suspension, without pay for at least three months, probation, or demotion.

30 Again, it is that higher-end stuff that if a member left during an investigation, but before the determination, then it would be on the basis that that was the probable sanction that the 7A matters would go ahead. And I think there's a lot of work in them. They're not that different, I believe, to, really, a full disciplinary hearing, because you're actually hearing the matter and determining the matter, and if they stayed in the job, this is what the outcome would be. And that's that, yes.

CA Thank you. I won't be a second.

40 Thank you, I don't have any further questions.

PO Thank you.

Mr SCHMIDT?

LR Chair, can I just ask for leave for a very brief matter, and that's just a little bit of clarification around LMR and what's required there? And then there are two points that perhaps just for the sake of correcting the record?

PO You have leave, Mr SCHMIDT.

LR Thank you.

AC, you referred to the new discipline system legislation commencing on the 31st.

W Yes.

10 LR Could I suggest to you that the 31st was the day that the email went around the service, it actually commenced on the 30th? I actually have a copy of it here with a sent on it if you want to look it.

W Okay. 30th October, yes. Correction.

LR Just for the sake of the record.

W Okay, yes.

20 LR And you've referred to the Commissioner's email back in March of 2016.

W Yes.

LR Can I suggest that was the one by Commissioner STEWART, which was the initial email and said "This is a line in the sand"?

W Correct.

30 LR From this date misconduct if you look up things and you shouldn't be; you accept that?

W Yes, I accept that. I just couldn't remember -- I do remember in one of the two the word "misconduct" was mentioned, so I'll take that.

LR Yes, certainly.

40 LR Now, you spoke before about LMR, Local Management Resolution. Can I suggest to you that the LMR doesn't actually require a finding, or it doesn't involve a finding that an officer has done something wrong? You're just nodding there, sir. Is that a yes?

W So the LMR--

LR Doesn't actually require a finding, or doesn't involve a finding that an officer has done something wrong?

W That's correct.

LR So, effectively, it is the employer, the QPS-

W Yes.

LR -identifying that there might be an issue, and that there is a need for retraining, or guidance, or assistance to that officer to develop them professionally?

10 W Absolutely. And that goes into what I was saying, it is about identifying if there's issues and behaviours and patterns, nipping it in the bud before it becomes a main issue.

LR Exactly. And it is about engaging the officer as well, isn't it?

W Absolutely.

LR Yes. And it is more of a preventative strategy that recognition that things may have been able to be done better?

20 W Most definitely.

LR But not necessary that they were done wrong?

W Correct.

LR Yes, thank you.

Thank you, Chair.

30 PO Thank you.

Anything arising out of that, Ms FOTHERINGHAM?

CA No, thank you, Chair.

PO Thanks very much, Acting Assistant Commissioner, for coming. You're excused.

W Thank you, sir.

40 CA Chair, the next witness is at 2 o'clock.

PO Okay. Very well. So we'll adjourn until 2 o'clock.

HRO All stand.

This hearing is adjourned.

END OF SESSION