

CRIME AND
MISCONDUCT
COMMISSION



QUEENSLAND

CRIME AND MISCONDUCT COMMISSION

TRANSCRIPT OF PUBLIC INVESTIGATIVE HEARING

CONDUCTED AT THE CMC, LEVEL 2, NORTH TOWER, 515 ST PAUL'S

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TERRACE, FORTITUDE VALLEY, WITH RESPECT TO

FILE: OPERATION TESCO

HEARING NO: 06/2009

DAY 47 – THURSDAY, 23 SEPTEMBER 2010

(DURATION: 139 MINUTES)

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LEGEND

PO Presiding Officer – MARTIN MOYNIHAN, CHAIRPERSON

CA Counsel Assisting – JOHN ALLEN

30 **INST Instructing – SUZANNE HARBIDGE and KATE McKENNARIEY**

HRO Hearing Room Orderly – MEL LETONDEUR

W Witness – PETER JOHN MARTIN

LR Legal Representatives - ALAN MacSPORRAN SC, with him MICHAEL NICHOLSON, instructed by KATE BRADLEY; CHRIS WATTERS, instructed by DANIEL CREEVY; TIM CARMODY SC, with him TROY SCHMIDT, instructed by CALVIN GNECH

THE HEARING RESUMED AT 10.04 AM

PRESIDING OFFICER: Yes, Mr Allen?

MR ALLEN: Mr Chairman, I call Peter John Martin and ask that he be sworn.

PRESIDING OFFICER: Yes.

PETER JOHN MARTIN, SWORN

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MR ALLEN: Is your full name Peter John Martin?

THE WITNESS: Yes, it is.

MR ALLEN: You've received a notice to attend this hearing?

THE WITNESS: I have.

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MR ALLEN: And do you recognise this as being a copy of that attendance notice?

THE WITNESS: Yes, I do.

MR ALLEN: I will tender that, along with the oath of service.

PRESIDING OFFICER: Exhibit 128.

ADMITTED AND MARKED "EXHIBIT 128"

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MR ALLEN: Do you recognise this document as a statement of yourself dated 21 September 2010?

THE WITNESS: Yes, I do recognise that document.

MR ALLEN: Could I take you to page 15, just before I tender it? The second paragraph starting "The concept" --

THE WITNESS: Yes.

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MR ALLEN: -- refers to a CMC report which I understand is currently a draft for discussion.

THE WITNESS: That's correct.

MR ALLEN: And not yet publicly released.

THE WITNESS: Quite so.

MR ALLEN: In those circumstances, would there be any objection if I sought a non-publication order with respect to that paragraph and -- including the quote?

THE WITNESS: I would strongly support that. I would make the point that at the time I prepared this statement I believed that that document was in fact finalised.

MR ALLEN: I tender the statement of the Assistant Commissioner and I seek an order that that paragraph on page 15 of the statement be subject to a non-publication order.

10 PRESIDING OFFICER: Well, the document's Exhibit 129. None of the other counsel want to make any submissions in respect -- no?

MR MACSPORRAN SC: No.

PRESIDING OFFICER: All right. And I order the separation of that paragraph that you clarified.

MR ALLEN: Thank you.

ADMITTED AND MARKED "EXHIBIT 129"

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MR ALLEN: Do you have a copy of your statement for your own reference?

THE WITNESS: Yes, I do.

MR ALLEN: You are an assistant commissioner in the Queensland Police Service?

THE WITNESS: I am.

30 MR ALLEN: And you joined the Queensland Police Service in January 1980?

THE WITNESS: I did.

MR ALLEN: And you have served in a number of uniformed positions?

THE WITNESS: I have.

MR ALLEN: Also as a detective in various locations?

40 THE WITNESS: That's correct.

MR ALLEN: And you have a broad range of experience as a commissioned officer which you describe in paragraph 2 of page 1 of your statement?

THE WITNESS: That's right.

MR ALLEN: You have been the Assistant Commissioner for the Ethical Standards Command since April 2008?

THE WITNESS: That's correct.

MR ALLEN: And amongst the responsibilities of the Ethical Standards Command are the investigation of allegations of corruption, misconduct and serious breaches of discipline including suspected unethical conduct.

THE WITNESS: Yes, that's correct.

10 MR ALLEN: And developing educational strategies to promote, reinforce and engender in all employees a full understanding of the expected standards of ethical behaviour?

THE WITNESS: Yes, that's right.

MR ALLEN: And taking steps to enhance ethical standards for employees of the Queensland Police Service?

THE WITNESS: That's true.

20 MR ALLEN: And that's amongst other functions which you describe at pages 1 to 2 of your statement?

THE WITNESS: That's correct.

MR ALLEN: If I could address some particular matters you deal with in your statement, and if I could take you firstly to page 9 of the statement? In the second paragraph there, you refer to a suite of initiatives that have been introduced in response to the revelations of Operation Tesco and that one of those is a plan to significantly expand the staffing for the Ethical Standards Command.

30 THE WITNESS: That's correct.

MR ALLEN: Can you be any more specific at this stage as to what is proposed in that regard?

THE WITNESS: Certainly. The Commissioner has, as part of a suite of strategies, some of those are a short, medium, longer term, but as part of the strategies that are proposed, one of those strategies is to increase the capability and size of the Ethical Standards Command having regard for the increased demand upon our services, and that increased capacity will be in a number of domains, one of which will be in the investigative area, to increase our investigative capabilities, so my view would be that we would have the means to be able to undertake primarily more investigations. But, moreover, a range of other functions including the administrative functions of my command which hopefully would contribute significantly to truncating the time-frames that investigations occur, but also in other domains of my enterprise, including the research functionality of Ethical Standards Command as well.

40 MR ALLEN: Okay. Well, what actual steps are going to be taken to increase the

investigative capability?

THE WITNESS: There will be an increase. At this stage it is proposed that there will be an increase of approximately two teams in the vicinity of about eight or so investigators for the internal investigation area. Eight investigators, having regard for the fact that we only have 49 investigators out of 107 or so permanent staff at Ethical Standards Command is a significant investment, and it is one that we will use to good effect to be able to undertake more primary investigations.

10 MR ALLEN: And at what rank do you expect those investigators will be?

THE WITNESS: My expectation at this stage is they will span commissioned officer rank. There will be some senior sergeants with the potentiality of a couple of sergeants but that is still to be determined.

MR ALLEN: All right. Apart from the additional eight investigators, how -- what other steps will be taken to achieve those increases in the administrative, investigative and research functions?

20 THE WITNESS: There will be at this stage an increase in the administrative capability of the command and that is the employing of a number of people who are administrative officers as opposed to police officers. They will perform a much, much needed role in terms of finalising complaints when they come into the command, quality assuring those complaints and making sure that they are finalised in an expeditious time-frame. So we will use that to good effect. Equally, there will be an enhanced capacity within the research area and the research area of my command is particularly important in terms of making sure that we keep a weather eye out on emerging trends in the medium and longer term with respect to ethical issues and what have you that are the subject of further investigation through
30 research.

MR ALLEN: And what's the proposed time-frame for the roll-out of the extra staffing?

THE WITNESS: My understanding is that this is a program to occur during 2011 and at this stage I would imagine that that would be realised toward the latter part of 2011. Subject to the Commissioner's further consideration.

40 MR ALLEN: Now, at times in the evidence there has been voiced concerns by serving police about the problematic nature of police investigating complaints at the local level; for example, an officer from a station investigating his own subordinates. It has been said that there is, firstly, a problem of public perception of a lack of independence in that, also potential for conflict of interest on the part of the investigating officer, but also, importantly, an impact on resources in that the burden of such investigations impacts upon the investigating officer's ability to carry out his operational duties. Has there been any consideration, perhaps in the context of these additional resources that are going to be provided to the ESC, in the ESC having some type of regional presence, of having officers stationed -- ESC officers stationed in regions for the purpose of investigations?

10 THE WITNESS: The short answer is no. It hasn't been considered within the suite of issues at the present time with respect to the staffing for Ethical Standards Command but I can tell you that over the last two and a half years I have thought about the merit of having a satellite unit -- a subset of ESC -- operating in disparate locations. I must admit I am not wedded to that notion. I have got a concern. I think as you move these individuals from the support of Ethical Standards Command, there could be a perception that they might be captured, if you like. They could be over sympathetic with police at a local level. I think equally a case might be made that that might not be a very efficacious use of resources and we would not achieve our ends in terms of objectivity. I have considered it. I must admit at this stage it would not be my preference. Certainly there would be some efficiencies in terms of having people on the ground potentially quicker to be able to conduct investigations but I do see some cultural issues associated with that.

MR ALLEN: If we look at the current situation, all Ethical Standards Command staff are based in headquarters in Brisbane?

20 THE WITNESS: That's correct.

MR ALLEN: In relation to the regions, each region has a professional practice manager?

THE WITNESS: That's correct.

MR ALLEN: At what rank, generally speaking?

THE WITNESS: That's an inspector, commissioned officer level.

30 MR ALLEN: Now, that inspector has a reporting line to ESC but actually answers in the chain of command to the local regional senior executive?

THE WITNESS: That's --

MR ALLEN: Is that right?

THE WITNESS: That's very true.

40 MR ALLEN: Okay. And how does that work in relation to the professional practice manager's involvement in internal investigations in the region? What's the process?

THE WITNESS: The process is, having regard for the fact that I have very specific obligations and a delegation from the Commissioner with respect to the management of complaints generally, I can provide the professional practices manager with a direction in terms of the nature and the direction of an investigation. And that if a local assistant commissioner held a different view, my view would be -- would have primacy, so to some degree in terms of the nature of the investigation, the direction of the investigation and the way the investigation

was to be run, that would be my call. That would be distributed -- my wish through the relevant PPM.

MR ALLEN: The PPM isn't actually conducting the investigations in most cases, is that right?

THE WITNESS: That's correct.

MR ALLEN: In any cases?

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THE WITNESS: No, no, not necessarily. In some cases a PPM may conduct an investigation but the usual strategy is for the PPM to triage complaints, bearing in mind the quantum of complaints that come through. They would triage the complaint, they would, in most cases distribute the complaint to a relevant investigating officer, and they would monitor the progress of the complaint having regard for whatever requirements I placed on that investigation.

MR ALLEN: The demands upon their time would usually mean that they'd have little time for actual hands-on investigation themselves.

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THE WITNESS: That would be true.

MR ALLEN: One PPM per region doesn't appear to be a very great resource commitment for that important role. Should there be more?

THE WITNESS: Well, there is a very disparate workload across the organisation. We have eight geographic regions and we have a number of specialist commands. I would say that the demand was very different, bearing in mind the inherent nature of each of those commands. Some commands I think would be reasonably comfortable with one PPM at commissioned officer level. Others, it would be a significant challenge having regard for the quantum of complaints that would come through.

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MR ALLEN: Is that a reason why there might be some benefit for an ESC presence in particular regions where the current demands upon the PPM in that region are too burdensome?

THE WITNESS: I can see where a case would be made for a PPM -- for an ESC presence in those busier regions but I go back to my earlier comment: it would not be without some inherent difficulties. And I just wonder at the end of the day whether or not it would be counterproductive in terms of being able to do what we do now somewhat remotely and making sure that there was not a cultural and meshing, if you like, between the work my people do and ultimately that which occurs at the region.

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MR ALLEN: A view was expressed by a witness yesterday that however it is done, the investigation at the local level should be taken away from line supervisors of the officers being investigated; for example, the sergeant investigating the constable. And that such investigation should be conducted by a commissioned

officer, by ESC or by the CMC. Is that something which is practical?

THE WITNESS: No, it is not.

MR ALLEN: Why not?

THE WITNESS: I understand the sentiment behind that and in a perfect world where we were absolutely flush with resources I could understand that in that particular situation, you know, you would have the luxury of being able to respond by having a senior officer undertake all investigations. But can I make the point that last statistical year, 09/10 we had almost 3,000 complaints. There is a numeric impossibility here. If you have a think about the resources of the Ethical Standards Command, 107 people of which case -- if I was at full strength -- and I am not -- I would have 49 investigators, 49 investigators to do 3,000 complaints. If that was to spill down into the commissioned officer level, then clearly the commissioned officers within the organisation are incredibly finite. They couldn't possibly, having regard for all of the other things that are expected of them, look after 3,000 complaints. I would also make the point that I think that it is a healthy thing for an organisation that bearing in mind that the complaints inevitably occur at the divisional level or the station level, that there needs to be some ownership of the causal factors and, you know, this emanated in many cases from a local level, and so the answers need to be found at the local level and moreover supervisors need to in most cases look at the issues that have ultimately led to the complaint coming in in the first instance. So I think it is a healthy thing for an organisation. But can I also make the point that if there was an allegation in a particular matter that was the subject of a complaint that there was a failure on the part of the supervisor then it naturally wouldn't go back to that supervisor to be dealt with. We would be looking for an independent investigator in that particular case.

MR ALLEN: And you do indicate in your statement that notwithstanding the nature of the complaint, the role of the supervisor is something which is examined.

THE WITNESS: Yes, yes. I am aware that certainly for the last 10 years in each and every complaint there has been a component which has examined the role of the supervisor. Particularly in terms of what the supervisor knew of the alleged behaviour, what could the supervisor have done to ameliorate or prevent the behaviour. Those issues are routinely examined. Moreover, it is a part of the standard pro forma that exists with respect to investigations generally.

MR ALLEN: So that guides investigators to examine that matter in each case, does it?

THE WITNESS: Absolutely. And, moreover, if a investigation report has come to my command and as part of the quality assurance process if that issue hasn't been canvassed we will routinely send it back to the region whence it came, or the division director or what have you, to make sure that the supervisory aspects are looked at on each and every occasion.

MR ALLEN: If I could go to page 10 of your statement and the second last

paragraph, can you explain what you're referring to there in relation to percentage increase and what you then say is expressed as a rate per 100 officers, and what it says about the number and increase of complaints in the south-east region as compared to the QPS generally.

10 THE WITNESS: What it shows there is that for the statistical year 09/10 we had 2,935 complaints. It indicates that there was an increase, numerical increase, of 20 per cent from the previous year. But there was in terms of rate, that is per 100 officers, which is generally the measure that we use having regard for the fact that it is -- to some degree it provides an inoculation against the effect of population. For example, Surfers Paradise division and Fortitude Valley would be very difficult areas to assess having regard for the resident population of a particular place. So what we do is we use a rate which is per 100 officers which is consistent with a national standard. And that's the difference between the number and the rate.

MR ALLEN: So the rate of 21 per cent --

THE WITNESS: That's right.

20 MR ALLEN: -- rate per 100 officers, is that the rate of an increase in complaints during that year?

THE WITNESS: Correct. I am sorry, just to clarify it, there was an increase from the previous year but the rate of complaint is 21 per cent per 100 officers, okay? So that is exclusive of increase. That is what the situation was for 09/10.

MR ALLEN: I see. So there was an increase of 20 per cent in complaints --

30 THE WITNESS: That's right.

MR ALLEN: -- across the QPS.

THE WITNESS: Correct.

MR ALLEN: And then this 21 per cent, does that mean that 21 per cent of officers were subject to complaints or that the number of complaints equated to 21 per cent of the number of officers.

40 THE WITNESS: Can I take that issue on notice and just have that clarified?

MR ALLEN: All right.

THE WITNESS: I wouldn't like to mislead you and I would be able to clarify that reasonably quickly.

MR ALLEN: Okay. Well, you may need then to take on notice the next question. In relation to the next sentence you deal with the south eastern region, and I am just trying to understand whether that means there is a higher frequency or a greater increase in complaints in that region as compared to the service generally.

THE WITNESS: What I can tell you with respect to the Gold Coast, is that there has been similarly an increase in complaints with respect to the Gold Coast which has mirrored the increase that's occurred across the organisation and that it occurs at a greater rate on the Gold Coast consistent with the fact that there is a greater rate of complaint against officers on the Gold Coast.

MR ALLEN: Right, okay. Well, if one looks at the 21 per cent and 30 per cent, perhaps 50 per cent greater rate of complaints?

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THE WITNESS: It is significantly higher.

MR ALLEN: Do you have any views as to why?

THE WITNESS: Yes, I do. It is not uncommon that in places like the Gold Coast, particularly Surfers Paradise division, and also places like Fortitude Valley where you have got a particular -- a particular type of engagement with the community where there is public Water Policing, a high concentration of licensed premises in close proximity, where the nature of the engagement with the community is

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adversarial, confrontational, where alcohol and other drugs are a factor in the arrest of those particular people, and those types of places generally are correlated with higher -- higher increases of complaints. That's not uncommon.

MR ALLEN: I see. So it is the nature of the job?

THE WITNESS: It is the nature of the engagement, that's right.

MR ALLEN: And the nature of the members of the public with whom the police are engaging?

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THE WITNESS: Quite so.

MR ALLEN: Does it translate in any way or tell us anything about the nature of the police who are carrying on those duties?

THE WITNESS: Well, it tells us that they are engaged in lots of contact with the public, it tells me that they are certainly engaged in lots of adversarial types of contact with the public to a higher rate than occurs in other places. And it is strongly correlated with complaint.

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MR ALLEN: Can we go to page 15 of your statement? I want to examine the first paragraph. You state that, "Unlike other industry areas and vocational pursuits where supervisors can supervise directly and unfettered, policing is often unique in terms of the supervisory processes." I take it then that you are saying unlike most industry areas or other industry areas, supervisors in the QPS don't have the means to supervise directly and unfettered?

THE WITNESS: In some cases they do, but in other cases, particularly in an operational context, the notion of supervision is quite difficult. In other vocational

groups, industry groups, for example manufacturing in a training setting or what have you, you have the -- you are in the fortunate position where you've got, you know, complete unfettered access to a particular individual that you might be supervising. The point that I was making by that statement is the notion of supervision at times is a very difficult concept, having regard for the fact that your supervisor may work at different days of the week to you, they might work at different hours of the day. You may not see your supervisor in some cases for a number of shifts so the notion of supervision in some cases can be a little problematic.

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MR ALLEN: Well, you are always going to have a shift supervisor, though, aren't you?

THE WITNESS: You will have a shift supervisor and a constable will have a person generally of higher rank to them that they can have recourse to and what have you, but the point that I make with that is that it may not necessarily be the same supervisor. So to go to one supervisor you may find that, yes, they were provided supervisory responsibilities for a particular shift but that might be the only time they have over the course of the previous month.

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MR ALLEN: Okay. So you may not have the continuity of supervision that can easily be delivered in, say, a factory shop floor?

THE WITNESS: That's true.

MR ALLEN: Are there changes to rostering or organisational structure that could provide more continuity and more capacity of direct unfettered supervision?

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THE WITNESS: To some degree, team-based types of rosters attempt to do just that. They attempt to provide stability where a group of people become familiar with each other and work at different shifts of the week and different days of the week. So to some degree, yes, it does, it tends to ameliorate that.

MR ALLEN: Any other approaches that can be taken to try and keep that continuity of supervision of junior officers by their supervisors?

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THE WITNESS: I think principally team-based types of supervision and cyclical types of rosters where people become comfortable working with the -- with a supervisor or a small group of supervisors probably would deal with that to some degree.

MR ALLEN: You say in the same paragraph that a further issue that compounds the notion of supervision is the centuries old concept of the office of constable. In what way?

THE WITNESS: I didn't mean to make a significant case of that but the point that I wanted to make was that in some institutions, you can give people, in a very linear sense, a direction to do things a particular way. The point that I wanted to make was that there is scope there for an individual to act unilaterally from the direction

of the supervisor, having regard for the fact that they do have this concept that they subscribe to and that is that they cannot -- they can operate having regard to certain circumstances that might unfold before them. But, as I said, I didn't indicate that was a significant point that constrains the relationship with supervision.

MR ALLEN: You are not suggesting that by virtue of the office police are less receptive or accepting of supervision?

THE WITNESS: Oh, no, no, not at all. That was not the point that I was making.

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MR ALLEN: In the last paragraph on that page, you talk about the ability of supervisors to identify risks and training deficiencies in their subordinates.

THE WITNESS: Yes, I think they are uniquely placed to do that.

MR ALLEN: That does depend, though, I expect, on the level of supervision, the continuity of contact they have with the officer?

THE WITNESS: That would enhance that opportunity, you are correct.

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MR ALLEN: Well, if you don't have that, you wouldn't have the opportunity, would you?

THE WITNESS: Oh, not necessarily. I would like to think that having regard for, you know, my interest in individuals, my knowledge and skill and what have you, that if I was working in a -- in a work unit with people that I didn't know all that well, that I would certainly be attuned to issues, for example that they might be disengaged or they might be alcohol affected or they may be -- have other, you know, work life pressures that might be imposing upon them. I would like to think I would be intuitive to that. It would certainly be enhanced, though, if I knew the individual well and they were part of my team that I worked with routinely.

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MR ALLEN: And the effectiveness of supervision by way of supervisors being placed to identify deficiencies, depends to some extent upon the skills of the supervisor?

THE WITNESS: That's true.

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MR ALLEN: On page 12 of your statement you refer to the Corruption Prevention Plan 2009-13?

THE WITNESS: Yes, I do.

MR ALLEN: I will ask you to have a look at a copy of that?

THE WITNESS: I have one here, thank you.

MR ALLEN: If we go to the detail of the strategic approach that's outlined from page 7 on, strategy number 1, strengthening the ethical culture is dealt with on

pages 7 to 8.

THE WITNESS: Mmm.

MR ALLEN: And what's outlined are key priority areas, actions and performance indicators.

THE WITNESS: Yes.

10 MR ALLEN: And a similar exposition of each strategy then occurs, for strategies 2 and 3.

THE WITNESS: Yes, that's right.

MR ALLEN: All right. In relation to the performance indicators, who is going to be responsible for collecting the information as to whether the -- as to what the performance indicators say about the success of the strategy?

20 THE WITNESS: That comes to me, my responsibilities and my area.

MR ALLEN: And what use is going to be made of it?

THE WITNESS: Well, we report through the annual report and a range of other vehicles --

MR ALLEN: I see.

30 THE WITNESS: -- progress against those, and constantly we monitor our performance. I report back to the senior executive conference. I work against those priorities. I provide a verbal report and I provide a quality early report in terms of trends of complaints and what have you, with respect to a broad range of indicators.

MR ALLEN: Okay. So the detail of the performance indicators that are outlined in the strategy, will they all be subject of reporting in the annual report?

40 THE WITNESS: I don't know whether they all will be. I haven't done a reconciliation but certainly we are asked to report against those in the annual report.

MR ALLEN: Well, would there be a more detailed record, though, of the --

THE WITNESS: Oh, yes.

MR ALLEN: -- performance indicators kept --

THE WITNESS: Oh, yes.

MR ALLEN: -- in ESC?

THE WITNESS: Within Ethical Standards Command we would have a progress against each of the performance indicators for this particular document.

MR ALLEN: I see.

THE WITNESS: This document is a product of my command. I am responsible for it. Equally, I am responsible for the performance indicators that are in that document.

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MR ALLEN: Okay. So those details as to the meeting of performance indicators will be kept and available?

THE WITNESS: That's right.

MR ALLEN: Appendix 2 of the document is at page 17. Could you explain what appendix 2 is.

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THE WITNESS: Appendix 2 is a framework that is provided as an indicator that senior executive officers and other senior officers, including officers in charge of stations and establishments could use when applying the corruption prevention plan. What it does is it allows individuals to identify risks and related issues and allows them to look at a risk analysis and risk management process. They can attribute a level of risk attached to the identified risk. They can identify and come up with a range of treatments to identify and ameliorate those risks and also it encourages them to look at a risk treatment officer or member to be able to deal with those risks and it encourages a regular review of those particular issues. So we provide that as some assistance to enable work units, districts, regions, commands and what have you to be able to manage -- to identify and manage their individual risk. So I guess to some degree what this hopes to do is to take what could be a theoretical plan and operationalise it to a work unit.

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MR ALLEN: At the local level who is going to be responsible for preparing the plan with that assistance?

THE WITNESS: At the local level, it would ostensibly come back to the senior executive member in charge. So it would be the assistant commissioner responsible for a region. It would be the chief superintendent who is the operations manager of the -- coordinator of the region. There would be a responsibility for district officers and down to the station level there would be an officer-in-charge ultimately responsible.

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MR ALLEN: So different plans at the respective levels depending upon the area of the responsibility?

THE WITNESS: That would be my hope, consistent with a normal risk management type of process.

MR ALLEN: I see. And down to what level?

THE WITNESS: I would think down to a work unit level. That is a divisional level, a station level, or alternatively it might be a specialist area that has a very unique and inherent set of risks.

MR ALLEN: So in relation to, say, Surfers Paradise down to the level of senior sergeant, officer-in-charge of the Surfers Paradise Police Station?

THE WITNESS: Yes, yes, that could be so.

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MR ALLEN: Well, will it be so?

THE WITNESS: Not necessarily. I don't know what the requirements are of the relevant senior executive member is down there but I can tell you that we provide it as a resource and it is up to the senior executive member as to whether or not they employ it in that particular location.

MR ALLEN: I see so it is up --

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THE WITNESS: It will be encouraged.

MR ALLEN: It is up to the assistant commissioner of the region as to whether it is done at all.

THE WITNESS: That's true.

MR ALLEN: Is it also up to the assistant commissioner of the region as to who reviews, monitors risk management plans at various levels?

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THE WITNESS: That's correct.

MR ALLEN: The ESC doesn't have a role in that?

THE WITNESS: We have a role in terms of coordinating risk management across the organisation. We provide a secretariat role to the strategic risk management committee and I co-chair the strategic risk management committee. There is a risk management process that overlays the entire organisation but specifically the responsibilities for risk management at the command or regional level is the responsibility of the assistant commissioner responsible for that area.

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MR ALLEN: Okay. And the assistant commissioner would determine what procedures are in place to review risk management plans within that region and any procedures for reporting up the line?

THE WITNESS: That's true provided it was consistent with the current policy for risk management.

MR ALLEN: You have spoken in your statement about gifts and benefits, and if I could take you to page 19, the third paragraph of your statement -- chairman, I

should tender a copy of the Corruption Prevention Plan 2009-2013 --

PRESIDING OFFICER: Right.

MR ALLEN: -- I have asked questions about.

PRESIDING OFFICER: Well, that's Exhibit 130.

ADMITTED AND MARKED "EXHIBIT 130"

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MR ALLEN: Thank you. You say, "Given the identified risks associated with alcohol and licensed premises, senior officers from the ethical practices branch in 2010 have delivered training sessions on the Train the Trainer Liquor Enforcement Course.

THE WITNESS: Yes, that's true.

MR ALLEN: Who is that training directed at? Is it liquor enforcement officers or supervisors generally?

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THE WITNESS: These were -- these were people who were identified that would be delivering the liquor investigators course. So these were -- these were trainers. So we were conducting train-the-trainer type of education.

MR ALLEN: I see.

THE WITNESS: So the expectation was, Mr Allen, that these trainers would then go out and train other people within the organisation in terms of how to police the objects of the Liquor Act.

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MR ALLEN: Which other people, officers who are tasked with liquor investigation only or also general duties officers?

THE WITNESS: They would be two-fold. They would be general duty police officers who would have an expectation of policing the Liquor Act and they would be specialist liquor investigators attached to the LEAPs units.

MR ALLEN: Do you know how many trainers have been trained in the course of that program?

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THE WITNESS: I am sorry, we conducted two courses and we trained 34 trainers.

MR ALLEN: And do you know what has occurred with the next level? Those trainers using that training themselves to --

THE WITNESS: No, I am sorry, I don't.

MR ALLEN: The next paragraph on page 19, in the last sentence you say, "I also monitor complaints relating to acceptance of gifts but acknowledge that there is

most likely to be underreporting of the acceptance of gifts and that the managing of the gifts register is something that occurs within each region command or division."

THE WITNESS: Mmm.

MR ALLEN: What -- is there a system of gift registers?

10 THE WITNESS: The responsibility is that if a gift is received at a district/regional level, that there is a register that exists at those particular locations. My understanding is that that -- that the gift is recorded by way of a report and a register at those locations. But there is central coordination of those gifts for the purposes of annual reporting and what have you, and I believe that the Director of Finance has responsibilities for those areas. Gifts generally don't come under my domain. I am not an expert with respect to the gift register, but I can say to you that one of the things that I monitor is the acceptance of odd gifts where it is subject of a complaint. Those particular issues are clearly matters that fall under my domain.

20 MR ALLEN: You are not familiar with the actual process of keeping and reviewing a gifts and benefits register at any level in the service?

THE WITNESS: I know that there are gift registers and I know that the expectation is that gifts of a certain value -- I'm familiar with the policy in terms of what the policy says concerning acceptance of gifts and benefits, but the reality is that these registers exist at a local level and they exist at a regional level, and that I am unfamiliar with what those registers might contain.

30 MR ALLEN: We heard evidence from an officer this week who said that the Surfers Paradise gifts register was started about a week ago, but you would not be able to fill us in on how it might have been that any gifts register had fallen into disuse or what process there would have been to monitor that? It's not something that comes within your remit?

40 THE WITNESS: No, it's not. That's a local management issue and certainly it's not something that would automatically be of interest to me. Having said that, my expectation is that if it was an issue of service policy that people would be maintaining a gift register, I wouldn't necessarily have cause to inquire in each district, division or region as to whether they had one or whether they didn't. I would expect that there was one.

MR ALLEN: At page 20, in the first paragraph, you refer to using data to identify potential subcultural issues, including complaints, risk analysis, intelligence section reports, internal witness report notifications, audit and inspection reports, research findings, significant event messages and police-related incident investigations. Can you explain how that works, or how do you get the statistics in relation to those issues, how is that data collated and then processed?

THE WITNESS: To some degree it happens in a reasonably scientific process. We conduct the RAIS, risk analysis and intelligence section.

MR ALLEN: Is that within ESC?

THE WITNESS: That is within ESC. There is a stringent criteria that we apply with respect to complaints generally and it's the -- there's a range of factors that we draw upon to determine the level of risk that an individual sits in within the organisation. So we draw on that particular data. I'm also responsible for internal witness support and we routinely make contact with individuals to ensure their welfare is maintained and support them in terms of making a complaint and what have you. We record that particular information, and any issues that they may raise with respect to the nature of their complaint or the causal factors that led to the complaint and what have you. There's a range of other indices, including our intelligence holdings and what have you.

We routinely assess that information, to ask ourselves some questions in terms of whether or not there's a particular emergence of a situation that might be emerging in a particular work unit.

One of the important learnings from the Dangerous Liaisons report was the importance to listen to the little things, particularly when it comes to the cultural issues that might exist in a particular work unit. For us, the learnings, particularly with respect to the armed hold-up unit of the state crime operation were very, very sobering, where you could see over a period of time there was a movement away from the organisational culture of a particular work unit, their behaviours were becoming very fast and loose, where there was a lack of compliance, a lack of good supervision and leadership and what have you.

PRESIDING OFFICER: They became a law unto themselves?

THE WITNESS: Your Honour, that's exactly right. One of the things we attempt to do through the sophistication of our process is to be able to identify these particular emerging issues before they manifest themselves in a Dangerous Liaisons type situation.

MR ALLEN: Who actually analyses the data that you are referring to and how is it recorded and reported up?

THE WITNESS: To some degree it is that there are these disparate areas that we can derive the data, but the analysis of it occurs to a large degree organically. There is no formula that you can feed this in and moreover run it through a system and all of a sudden it spits out a level of risk for a particular work unit. But we concentrate on making sure that all the systems that we have in place, we can extract as much information as we possibly can, to try to put in place the correct intervention at the right time to address this sort of behaviour before it manifests itself in terms of some more serious behaviour somewhere down the track.

MR ALLEN: You mentioned the witness support program. Could I take you back to page 11 of your statement. You detail what that program provides, what it is directed to. In the last paragraph on page 11, you say, "The number of public

interest disclosures has increased significantly through 2010." What are public interest disclosures, firstly?

THE WITNESS: Public interest disclosures are where an individual makes a -- they may make a complaint, they bring information forward, and they need not necessarily want to be classed as a whistleblower, they need not necessarily even want to be placed on some formal reporting regime, but we record them on the system accordingly and we offer them the same support as we would give a normal whistleblower.

10

MR ALLEN: So these are serving officers?

THE WITNESS: That's correct. Or staff members.

MR ALLEN: Or staff members. And you don't -- a public interest disclosure doesn't occur simply because a police officer or staff member makes a complaint or reports suspected misconduct by another police officer?

20

THE WITNESS: Not necessarily. If it's purely that they meet their obligations under 7.22 of the Police Service and Administration Act in terms of compulsory reporting, it doesn't necessarily mean that that's the case. It's the sort of disclosure whereby it's more than just perfunctory reporting. It is fairly significant from our perspective. It shows temerity, it shows that they have gone a step above and beyond, and we need to make sure that we support them and to a large degree protect them, and therefore we record them as such so that we can monitor and track and lend them the support that they are entitled to.

30

MR ALLEN: You say, "During the period 2009 to 2010 there were 68 public interest disclosures registered. During the same period, a total of 15 members entered as internal witnesses." What is required for someone to be entered as an internal witness?

THE WITNESS: These were people that came forward and specifically wanted internal witness status, and they were afforded all the protections and the level of support, a heightened level of support with respect to their coming forward and providing this evidence.

40

MR ALLEN: I see. You say then, "In comparison, there were two public interest disclosures and six internal witnesses for the period 2008 to 2009." That, as you say, is a significant increase in both -- well, firstly, in the number of public interest disclosures which have increased from two in one year to 68 in the next, and a fairly significant increase in internal witnesses of 6 to 15.

THE WITNESS: Yes.

MR ALLEN: Do you have any views as to the reason for such increases in those figures?

THE WITNESS: I think there are a range of reasons. We were relying upon, at

one stage, a legal opinion that was to some degree obsolete and was eventually overturned, in terms of whether the Whistleblower Protection Act applied to the Queensland Police Service, because of the unique and inherent system we had in place. So there was a definitional issue that we were grappling with. One of the things I would also say is that we now do things much, much better than we ever had in the past, in terms of marketing the internal witness support program. The knowledge and the willingness of people to come forward, their knowledge of the program and their willingness, I should say, has worked to our advantage. People are far more prepared to put their hand up and seek assistance. I would also add --

10 and the point was made by one witness yesterday in terms of the key role that the union have in this regard, and there have been some positive signs in that respect.

MR ALLEN: In relation to the increase in public interest disclosures from two to 68 in the respective years, is that at all related to the definitional issues?

THE WITNESS: Yes, it is, it is directly related.

MR ALLEN: How is that related?

20 THE WITNESS: It was directly related in terms of -- the legal opinion that we had is that the relevant Act didn't apply to the Queensland Police Service because we were in a unique category, and moreover, the system that we had in place met all of the requirements of the system that was required by the Act, but we were separate from that regime. In a subsequent legal opinion -- I'm not a hundred per cent sure, but I believe there was a Crown law opinion that overturned that and, moreover, as a result of that subsequent legal opinion we have now fallen into line with what occurs in other units of public administration and we consider the same assessment of what is a public interest disclosure as other units of public administration would.

30 Can I say to you that, having regard for the fact that an individual may not have been regarded as making a public interest disclosure, the reality is that we offer them the same support as if they had been in the program.

MR ALLEN: I see. It's just now, with the change in legal opinion, those complaints are being recorded as public interest disclosures within the ambit of the whistleblowers protection legislation?

THE WITNESS: That's my understanding, that's correct.

40 MR ALLEN: The program can only do so much, I expect. Are officers still vulnerable at all to victimisation or bullying if they make complaints?

THE WITNESS: Potentially, yes. Potentially, yes, although I see very, very little instances of it occurring these days. The level of support that is provided to individuals, and at an early case, to a large degree prevents that. And, moreover, if it occurs, people are more likely to come forward. But that's not to say it can't occur, and where it occurs, and where we have evidence of it, organisationally there is no tolerance for that and we act accordingly.

MR ALLEN: What are the obligations upon another police officer if they become aware of a fellow officer being bullied or harassed in circumstances where it's thought that that officer may have made a complaint or provided information to, say, the CMC?

THE WITNESS: The evidence is -- the expectation is incredibly clear, and it's clear in terms of the expectation would be on them to report and report forthwith.

10 MR ALLEN: So, for instance, if a station's worth of officers and their families were at a Christmas party and an officer opens up his secret Santa present and finds a can of dog food, you would expect that there would be some type of report coming from someone in relation to that matter?

THE WITNESS: I would. And I would think that that would be clearly unacceptable and I would be expecting somebody to report that. Moreover, with respect to my unit, that is the internal witness support unit, we would swing in to offer support to the individual who was the subject of the bullying or harassment.

20 MR ALLEN: So, you are not aware of officers feeling unsupported by supervisors or senior officers at the local level when they make disclosures?

THE WITNESS: I've got to say to you that I'm not. Can I also say to you that certainly the people within my command that have responsibilities for internal witness support make contact with those people. They regularly ask them, as part of a suite of questions, "Are you getting support? Who is supporting you?" They make them aware of who their peer support officers are, who the human services officers are and, moreover, chaplain support to be able to assist those people. If their position at a local station, district or division was untenable then we would assist them in terms of some other workplace.

30 MR ALLEN: I assume that that wouldn't happen in every case, though, that the persons in the witness support unit would contact supervisors? There might be cases where there is anonymity sought by the officer.

THE WITNESS: If they were anonymous and they had requested anonymity, then certainly that would be the case. That would be very true.

40 MR ALLEN: I'm just wondering whether the increase in officers seeking the support of the internal witness support unit could flow from them feeling that they are not supported at the local level, and so need that external support?

THE WITNESS: I must admit, I'm not picking that up. Can I say to you -- I mentioned before about the quantum of complaints that occur in the course of a year, and there's been a 20 per cent or so increase from the previous year to 2009/10. Of those 3,000 or so complaints, 25 per cent or so are complaints where a police officer or staff member has made a complaint against another police officer or staff member, and that's an incorrectly positive sign. I don't know what the figure is within other units of public administration, but I would be surprised if they were as high as that. A reasonably small proportion of that 25 per cent, about 750

or so complaints, would be people who feel they need support in terms of internal witness support, but we make that offer nonetheless.

MR ALLEN: Can I ask you about some workforce and human resources management issues you have dealt with. Perhaps if we could go to page 24 of your statement. In the second full paragraph you talk about the PACE program. Can you explain what that was?

10 THE WITNESS: In terms of recruit entry, there were two programs, this is up to a short time ago. The first one is the PROVE program and they are people who want to join the organisation who have no previous policing experience, and they join as a recruit, in all cases straight off the street, and they embark on a full seven-month recruit program. The other program is the PACE program and the PACE program is a specific abridged program for people that have previous policing experience, in some cases in Queensland, and in other cases in -- in the vast majority of places, in places external of Queensland.

MR ALLEN: So other states and other countries?

20 THE WITNESS: And it can be overseas, that's correct, yes.

MR ALLEN: How is their process of training and induction different from the PROVE program?

30 THE WITNESS: The PACE program had regard for these particular people's previous policing experience, and the abridged program was to bring them up to speed in terms of police practice that was inherently unique to Queensland and also the legislation that they would be operating on. So what was originally a seven-month program was truncated significantly, down to about, I think it was a month or two months.

MR ALLEN: I see. Did they then become first-year constables, essentially subject to probation for 12 months?

40 THE WITNESS: No, I don't believe so. I'm not an expert in the HR area or recruiting. The director HRD is better placed to comment on that. But I believe there were some concessions offered to them. Their training period was truncated, I believe so, and moreover, they started at a higher level than other constables did who went through the PROVE program. So there were some incentives to them coming in in that regard.

MR ALLEN: Can you explain the -- you have formed certain views about the PACE program, which after further analysis led to it being suspended indefinitely. Could you explain how you became concerned at all about the officers recruited pursuant to that program and what sort of analysis was involved in ultimately leading to that suspension?

THE WITNESS: I started to be concerned about the PACE officers over a period of time. I think it occurred reasonably shortly after I arrived at Ethical Standards

Command, which was in the early to mid part of 2008. One of the things that I do regularly is that I track the nature of complaints, and to drill down and just -- more than just the superficiality of a complaint, to look at the causal factors that might have contributed to it. I started to pick up that in terms of a broad range of complaints, the more serious end of complaints, the ones where we would stand down or suspend officers, in a numerically significant group of people, these were people with previous police experience. Over a period of time, my concerns were enlivened further by a number of these people consistently coming to light. They represented in a range of ways, assault, excessive use of force type of complaints.

10 There were attitudinal types of complaints, but at the really extreme end of the scale. I raised my concerns with the director HRD. I was armed with a number of these particular matters that I was able to speak and debrief with her. And over a period of time and as a result of these conversations and continuing to monitor and to manage the situation, I reached the stage that the PACE program was clearly unacceptable, having regard to what I was seeing was a significant overrepresentation of those particular people, that is people with previous police experience, in terms of complaints. And a decision was taken that what we would do is suspend that particular program; that anybody that showed the requisite merit, we would channel those people through the Prove program. The benefits of that

20 were that it gave us a longer period of time to assess their performance and, moreover, it also gave us an extra 12 months at the end of the program to be able to look at their progress and industry. And I thought, in terms of organisational risk, that that was a better process.

MR ALLEN: It sounds like officers had brought their own baggage with them; they had formed certain attitudes and values in other policing service and they weren't necessarily compatible with what the Queensland Police Service expected?

30 THE WITNESS: I agree with that. And they were certainly some of the things that I had form a view about as well.

MR ALLEN: You may not be able to comment, but was there any problem in screening PACE applicants because of a lack of access to complaint history in other jurisdictions or information -- other information from other police services?

40 THE WITNESS: That's a really important point, and it's something that I have had recent discussions with the director of human resources division on. I release, under 10.2 of the Police Service Administration Act, vetting requests from other police jurisdictions, and I do that in an inclusive way. My view is that I should be releasing this information, it's in the public interest to make a full disclosure about people who have previous police experience in Queensland. I'm not sure that we get the same level of courtesy from other jurisdictions, and the director HRD I think said that very capably yesterday when she was talking about some of the difficulties posed in that. It's my fervent hope that we can engage in some frank dialogue to make sure that other jurisdictions are equally as frank with us in terms of the antecedents relating to their former members.

MR ALLEN: Because that has implications for recruiting generally, not just PACE-type officers?

THE WITNESS: Very much so, I support that. Yes.

MR ALLEN: On page 22 of your statement, in the last paragraph you talk about trying to recruit the right persons, firstly. Then you say, "The next phase is to ensure recruits and first-year constables are subject to rigour and oversight to ensure they meet the expectation of the service." How is that done? How do you make sure they are subject to sufficient rigour and oversight so that that judgment can be made in the first 12 months?

10

THE WITNESS: Clearly that there is a fairly formal process that occurs with their relationship between them as a first-year constable and their field training officer. They work exclusively with the same field training officer for the first month or two. That person is uniquely placed to guide them and to mentor them and to show them the organisation and to demonstrate the organisational values. But to, moreover, report on their progress against a range of criteria. Then a range of first year field training officers that they work with beyond that over the next and subsequent 10 months or so, gives the organisation a fairly good opportunity to be able to assess, to make sure whether that particular individual has values that are consistent with the organisation's. And in some cases, regrettably, there are failures, where they don't. For example, first-year constables who are caught drink-driving, and the ramifications for that individual are fairly significant.

20

MR ALLEN: It sounds like the field training officer is a crucial role then?

THE WITNESS: It's very crucial.

MR ALLEN: Do you know what sort of training, including integrity training, the field training officer gets directed toward that particular role?

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THE WITNESS: I don't. It occurs in another area of the organisation that includes -- it occurs within the human resources domain, and that's not specific training that I provide, which is mainly in-service training.

MR ALLEN: Do you know if there's any restrictions or prerequisites of rank before someone can act as a field training officer?

THE WITNESS: Field training officers are usually constables or senior constables. They self-identify as being people who want that role and, moreover, they go through a selection process. Not everybody who puts their hand up to be a field training officer is a person who is acceptable, and, moreover, if you are determined to be a field training officer, you can lose that status, and there is a financial benefit associated with people being a field training officer as well.

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MR ALLEN: During the course of Operation Tesco it has become quite clear that there is a significant number of officers who are prepared to speak in very derogatory terms about persons who are suspected of reporting to the CMC or the ESC, calling them dogs, for example. There have been episodes, such as the secret Santa one that I have referred to you, which was extremely distressing to an officer,

and there have been other reports of officers being verbally abused, even by their immediate superior, because of the fact that they have been to a CMC hearing. Now, that doesn't seem consistent with the picture you are painting of officers being accepted and supported in making complaints. Does it indicate some particular problem with respect to a subculture, or maybe is it simply indicative that the picture is not quite as rosy as you believe?

10 THE WITNESS: I think what it points to, if those things are so, and I accept that, I think it's very worrying behaviour. Can I say to you that I think it is a microcosm of the organisation, and the organisation that I see is generally an organisation these days that accepts the fact that there is an Ethical Standards Command and the role they perform is an incredibly important role, and also the vast majority of police officers hold the view that there is a need for a CMC, and moreover it's in all of our interests to make sure that there is a very functioning and coordinated response from ESC and the CMC. I would have thought we would have moved well beyond that, and those types of allegations with respect to that particular work unit, they frustrate me.

20 MR ALLEN: Yes, thank you.

20 PRESIDING OFFICER: Can I just raise with you the question of police investigating police. It carries with it -- I mean, I do not disagree with your proposition that a healthy organisation should be able to effectively investigate complaints coming from within. But before I came here I spent some months looking at the criminal justice system, that led to a report. Both there and since I have been here, many, many people raise with me formally and inform their scepticism about police investigating police. I do not necessarily accept all of the considerations that have been raised, but, for example, I have had solicitors suggest to me that they have advised clients to just sell up and go, because of what was
30 happening after they had made a complaint about police. As I say, you do not accept all of that, but there is a very widespread perception -- we have done some informal scans of the landscape -- a very widely held perception that people don't accept that police can investigate police. That is very erosive of public confidence.

I think we have to address it better than we do at the moment. Do you have any thoughts about that?

THE WITNESS: Yes.

40 PRESIDING OFFICER: Before you answer, is that an identified risk in terms of the risk management, the erosion of public confidence in the context of police investigating police?

THE WITNESS: Your Honour, I do not disagree with you. I hold the view that there is a risk associated with that, there is no doubt about that. Can I say to you that there are times there where I conduct an investigation, where I could have easily sent it back to the region to have the investigation conducted there, but I retain that investigation because of an air of transparency. One, I have absolute confidence in the neutrality and the impartiality of my investigators, they are not

aligned to the regional interest, they are aligned to the public interest and the interests of justice and the organisations interests as a whole. So I make those calls on a daily basis, with respect to the nature of the investigation.

10 But, equally, it is really important that the relationship with the CMC -- and I am pleased to say that there have been times in the past where I have made a request of the Commission and I have said that there are very good and valid reasons that I would ask you to take this investigation over, would you be prepared to do that, and in the vast majority of cases that has occurred. Equally, there have been other matters that I have personally investigated or my officers have investigated, that I have said there would be an air of transparency and it would be important to public confidence if the Commission overviewed this, did an active overview of the entire investigation, and that has occurred. I think we can achieve those ends. But equally, for the same reasons as the numeric difficulty of investigating 3,000 complaints, if we were to all of a sudden say that all of those are going to be investigated by the ESC or alternatively we were going to move to a gold standard and all of those were going to be investigated at the CMC, I think there would be incredibly significant issues associated with that. So it is a difficult issue.

20 PRESIDING OFFICER: It is. But you can also develop the scenario that you will have a separate police force investigating this police force?

THE WITNESS: That is right.

PRESIDING OFFICER: In due course, that police force will become the target of investigation.

THE WITNESS: That is right.

30 PRESIDING OFFICER: I agree, it is very difficult to get the balance right. But I think that we both have to do more work in terms of putting out before the public what does happen and how it is carried out -- transparency. As we both know, it is resource demanding, quite resource demanding.

40 THE WITNESS: That is very true, and I support that. I am abundantly aware of community confidence, and legitimacy is an important point. And there will be some people that will just not accept the best most thorough investigation, where we put all of the steps in place with respect to impartiality, particularly from the point of view of the ESC investigators conducting an investigation, there will be some people that just will not accept that an investigation was thorough and professional under those circumstances, which is why it is incredibly important that we have got active oversight from the Commission, which naturally enough we do.

MR ALLEN: Thank you.

PRESIDING OFFICER: Yes, Mr MacSporran?

MR MACSPORRAN SC: Assistant Commissioner, if I can take up that issue with you firstly, the question of discipline and internal investigations, where you have

someone at the station, such as a sergeant, investigating his subordinate, you have given reasons why that is desirable in terms of having a supervisor take charge of and responsibility for his or her subordinate, in terms of discipline. But to what level of seriousness of the matter does that sergeant conduct the entire investigation? Is there a demarcation point or is there a guideline as to what matters can or cannot be investigated by that inline supervisor?

10 THE WITNESS: These would generally be reasonably low level matters. They might be, for example, a duty failure. They may be, for example, a perceived victimisation or harassment, it might be an inappropriate form of words that may have been used. It may even have been stepping over the mark in terms of an arrest, where there might be an allegation of a minor level of excessive use of force. But it wouldn't be matters that were complex, convoluted or of a reasonably higher level nature. Naturally enough, consistent with my earlier comments, it would also not be a supervisor that had, you know, knowledge or an interest in the particular matter that was the subject of investigation. For impartiality, we just wouldn't do that.

20 MR MACSPORRAN SC: Interest might be a motive to cover the failure of the supervisor that led to the misconduct?

THE WITNESS: Correct. That's very, very true. Particularly having regard to my earlier comments about the role of the supervisor, that is particularly important in all matters, but particularly with respect to those more serious matters, the role of the supervisor is critical.

30 MR MACSPORRAN SC: Is one of the advantages of retaining that system, to deal with relatively minor matters, that you have some speedy assessment and resolution of the issue?

THE WITNESS: That is one reason. The other is ownership.

MR MACSPORRAN SC: Now, where the matter goes to the Ethical Standards Command, that then is done by a team of impartial investigators?

THE WITNESS: Correct.

40 MR MACSPORRAN SC: That report then would go where -- that investigation report, would it be reviewed by someone else within the service?

THE WITNESS: The investigation that was facilitated by Ethical Standards Command?

MR MACSPORRAN SC: Yes.

THE WITNESS: Yes, in all cases that investigation is capable and would most likely be the subject of oversight by the CMC, depending upon their assessment. There is something called a matters assessed report, and that is the opportunity for the Commission to give me what instructions they have with respect to a particular

matter.

MR MACSPORRAN SC: And when they, that is the CMC, receive the complaint directly, they have an ability under their devolution principle to send it back to the service for investigation?

THE WITNESS: They do.

10 MR MACSPORRAN SC: To retain it, to send it back with regular monitoring, and so on and so forth?

THE WITNESS: That's very true.

MR MACSPORRAN SC: Where they have not sent it back but the report has been overseen by the CMC, they have an ability to direct further investigations to be carried out?

THE WITNESS: Yes, they can.

20 MR MACSPORRAN SC: They have an ability to, as it were, express their dissatisfaction with the way the investigation has been conducted?

THE WITNESS: They can.

MR MACSPORRAN SC: They can take over the investigation and conduct it themselves?

THE WITNESS: Yes, that's true.

30 MR MACSPORRAN SC: That, in turn, that is the activity of the CMC, is in turn reviewable by the parliamentary committee that oversees the CMC?

THE WITNESS: Yes, that's true.

MR MACSPORRAN SC: And a parliamentary commissioner, for instance, can report on the adequacy of the CMC's conduct in reviewing or conducting investigations of the QPS?

40 THE WITNESS: That's my understanding.

MR MACSPORRAN SC: Is it important that the public understand that there are those levels of oversight involved in all of these matters?

THE WITNESS: It is important, and I don't think that they do.

MR MACSPORRAN SC: Perhaps it is a matter where the public needs to be told and to understand that there is a significant degree of oversight, even where police are, in the first instance, investigating police?

THE WITNESS: That's right, and certainly within the disciplinary domain, there would be arguably no area of the organisation that is subject to more scrutiny than certainly my area or the disciplinary system generally.

MR MACSPORRAN SC: Is one of the factors that diminishes the service's ability to have an effective system of discipline the delay in that process?

THE WITNESS: That's true.

10 MR MACSPORRAN SC: Is there something to be said for a speedy resolution of issues, such that the officer concerned, the subject of the complaint, gets resolution quickly but understands immediately the full impact of the system upon his conduct or her conduct?

THE WITNESS: I strongly hold that view.

MR MACSPORRAN SC: In that regard, is there currently on foot a trial project called Verity?

20 THE WITNESS: Yes, there is.

MR MACSPORRAN SC: Can you explain briefly, if you could, what the details of that project are?

THE WITNESS: Verity is a current process that is trialled in two regions across the state, the north coast region, where it was implemented first and it was subsequently rolled out to Metro North region. The notion of Verity is to ultimately implement a more truncated type of disciplinary process that pushes, wherever possible, the notion of the assessment and the -- dealing with the matter
30 down to the local level, wherever possible. But, moreover, one of the most significant features of the Verity process is something called the ACDP process, it's the administrative consensual disciplinary process. Fundamentally, that particular process offers us the greatest opportunity -- and this is the partnership approach with the Commission that we have adopted over a long period of time -- but the roll-out of the ACDP process offers for us the greatest opportunity to be able to speed up, if you like, the resolution of matters while still retaining the rigour that we would expect with respect to dealing with complaints generally.

40 MR MACSPORRAN SC: Is that a project that is available for use by consent of the officer the subject of the complaint?

THE WITNESS: It is.

MR MACSPORRAN SC: So they have a choice of having a speedy resolution of a matter, if they accept responsibility for their behaviour and show an awareness of it and an ability and a motivation to correct it?

THE WITNESS: That's very true.

MR MACSPORRAN SC: In recognition of that cooperation, there is often a lower level sanction applied to the resolution of that conduct?

THE WITNESS: In some cases it is not even a lower level sanction, it would be generally within the range of what is expected, but the individual recognises that there is an agreed set of facts, they agree to those facts and, moreover, there is an agreed range of sanctions that are indicative and, moreover, the individual agrees that the facts are not in contest and, moreover, that the sanction that may be imposed meets the alleged behaviour.

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MR MACSPORRAN SC: Again, is the main focus of Verity with the less serious breaches?

THE WITNESS: That's true.

MR MACSPORRAN SC: It would seem to be difficult to make it work in the cases of particularly serious misconduct?

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THE WITNESS: Serious misconduct would generally -- one of the indications with that is that it would be a complete and full investigation; that it would go to a prescribed officer, usually at the level of Deputy Commissioner, because, naturally enough, a Deputy Commissioner has the power to be able to terminate employment of an individual; and on that basis is that Verity would not be appropriate and therefore we would move outside of the Verity process to put a matter before the Deputy Commissioner.

MR MACSPORRAN SC: Are you able to say at this early stage what the indications are for the success or otherwise of that project?

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THE WITNESS: I can certainly tell you anecdotally that there is a great degree of acceptance for it. Subject members report that they are very supportive of the approach, having regard to the fact that it does enable them to admit guilt early, it does enable them to have the matter resolved in a more expeditious timeframe and, moreover, from a psychological health perspective, because what we've got is we've got the means to be able to integrate those people back into the workplace without necessarily having them suspended for 12, 18 months or two years in some cases, through this long, laborious process that ultimately just leaves people in its wake.

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MR MACSPORRAN SC: That delay, which necessarily can result in suspension from duty, et cetera --

THE WITNESS: It can.

MR MACSPORRAN SC: -- has a wide-ranging deleterious impact on the resources available to the QPS, doesn't it?

THE WITNESS: Yes, it does. And in some cases -- there was a recently celebrated case involving a number of people from a specialist unit who were stood

down for a long, long period of time, and to lose that capability from a specialist area is incredibly problematic.

MR MACSPORRAN SC: This week we have had evidence about the self-appraisal test, for officers to make sure they are doing the right thing. It has been reported as the SELF test. I don't think it is has been reported, or it might not even be in evidence, what that consists of. Can you just articulate for us what the SELF test is, S-E-L-F?

- 10 THE WITNESS: Yes. Part of the corruption prevention plan talks about the notion of individuals making an assessment about a particular conundrum that they might encounter. In this particular case, the SELF test has been something that has served the organisation well for over a decade, probably about 15 years or so. And the SELF test is a mnemonic that stands for a range of questions, if you like, that people should ask themselves these questions when confronted with an ethical dilemma. The questions, for example, is, "Can your decision or the decision you are about to take withstand scrutiny?" Hence the S. The E is to ensure that your decision-making is consistent with service policy, procedures and what have you. "Is your decision lawful, is it compliant with all of the legislative provisions and what have you?" The last point is, "Is it fair? Is it fair to all concerned, including you as an individual, your workmates, your work colleagues and your family?"
- 20 Sometimes it is referred to the newspaper test: if your behaviour was to appear on the front page of the paper, or alternatively on the 6 o'clock news, what would be your reaction, how would you defend that to your family? So these are the sorts of simple tests that I think at the end of the day are quite useful for people when making a decision about a conundrum, an ethical dilemma.

MR MACSPORRAN SC: Again, it is not rocket science, is it?

- 30 THE WITNESS: It is reasonably simple.

MR MACSPORRAN SC: It just articulates what is obvious, that they are the sort of questions you should be asking yourself when you are looking at assessing your conduct?

- THE WITNESS: It is, and it would be reasonably obvious, except that sometimes people the subject of an issue with respect to an ethical dilemma can't see the dilemma because of self interest, so hopefully by asking them these questions they can challenge themselves and to try to look at a particular situation from a number of
- 40 different dimensions.

MR MACSPORRAN SC: It also, does it not, reinforces the need to constantly examine from this perspective their own conduct?

THE WITNESS: It does, you are right.

MR MACSPORRAN SC: It is a values thing?

THE WITNESS: That's right.

MR MACSPORRAN SC: Just for completeness can you confirm for us that that SELF test is set out in the corruption prevention plan that's been tendered here at page 13?

THE WITNESS: That's absolutely correct.

MR MACSPORRAN SC: Right. Now, dealing with gifts and benefits at page 18 of your statement, you set out some of the things that -- some of the issues that arise when you assess the appropriateness of the gift or benefit. Can you just highlight those for us again, if you would?

THE WITNESS: Generally speaking, gifts or benefits of a customary basis or of nominal value are acceptable but it has got to meet those two limbs, but in any event -- and there is a fairly significant policy approach wrapped around gifts and benefits -- but there are a range of questions that people need to ask themselves and satisfy themselves when making a determination as to whether the acceptance of a gift or a benefit is appropriate under the circumstances. If I could just raise them with you -- as you say, quite rightly, they are on page 18 of my statement. But the first one is, who is offering the gift or the benefit or offering the hospitality? The second one, what's the purpose of the offer? The third is, what's the timing of the offer? The fourth is, does the value of the hospitality or benefit exceed a nominal value? The fifth is, is the offer likely to be regular or repetitive? The sixth is, is it consistent with other service policy? The next is, could the acceptance compromise you and other person or the service? And the last one is, could the acceptance withstand public scrutiny? And they are articulated in policy, those particular questions.

MR MACSPORRAN SC: Right. Now, although it doesn't use the words or the phrase "conflict of interest" or "potential conflict of interest", would an honest assessment using those questions, reveal if there was a conflict or a potential conflict?

THE WITNESS: Yes, it would.

MR MACSPORRAN SC: Right.

THE WITNESS: It would certainly to my mind.

MR MACSPORRAN SC: Now, can I take you to page 4 of your statement? And you refer there in the second major paragraph to a national examination of issues. So the QPS collaborates with international organisations, does it, in terms of getting the mix right?

THE WITNESS: The issues that have been identified in Tesco and in other reports over a period of time are issues that to some degree are incredibly intractable. They are issues we are grappling with on a national basis. And as evidenced by the ANZPAA -- ANZPAA is the Australian New Zealand Policing Advisory Agency -- there are eight priorities there that we are currently looking at, and I have a

10 counterpart who is represented from each jurisdiction across the country on that particular forum. And some of those issues, if I could just run through them: Drug and alcohol use, the second one is declarable associations use of force, early intervention strategies, information security, falsifying and misleading information, social networking sites and the ethical health index. These are, as I said, the intractable issues that from a Ethical Standards Command perspective, western police agencies are grappling with across the globe and what we're doing is we're constantly benchmarking our performance against the performance of other agencies and we're tapping into the expertise that exists in other areas to make sure that, you know, we leverage off that whenever we can. One of those particular issues, the excessive use of force issues is one that Queensland is currently spearheading at the present time on behalf of the ANZPAA priorities.

MR MACSPORRAN SC: Some of those issues that are covered in that forum are the very issues that have been thrown up by Tesco.

THE WITNESS: I would agree with that.

20 MR MACSPORRAN SC: All right. Now, can I take you to page 11 of your statement where you deal with the -- where you say in the second paragraph, "A mature and proficient integrity system is one that encourages the individual who wishes to make a complaint and actively supports him," et cetera?

THE WITNESS: That's right.

30 MR MACSPORRAN SC: You deal with a similar issue at page 21 of your statement where you deal with the focus issues from the notice to attend. What sort of priority does the QPS place upon the ability to encourage complaint reporting and the support of individuals who do so?

40 THE WITNESS: I would like to think we place a high priority on that. Certainly from an organisational perspective and that my role on behalf of the Commissioner is to support those people to come forward and that I do whatever is reasonable to make sure that we constantly remind people of their obligations under 7.2 of the Police Service Administration Act. I often raise this at the senior executive conference and I know that my colleagues at the senior executive reinforce this to the key people. We raise it at OPR, the Operational Performance Review. There is a whole range of ways we attempt to get this message out. When people do come forward I see there is a greater willingness today than there ever has been in our recent past to support those people coming forward, and when I hear events such as the example that Mr Allen gave a short time ago, that fills me with great dread. But can I say to you that I think that's an aberration. I think the vast majority of people these days come forward, they meet their obligations and moreover when they do come forward they feel supported by the organisation.

MR MACSPORRAN SC: Would an indication that that system is operating healthily be the number of complaints received internally from police?

THE WITNESS: I would take that as a very significant sign of health and the

figure of 25 per cent of the total of our complaints at least to my mind speaks that people are meeting their obligations in that regard.

MR MACSPORRAN SC: Now, you have been informed and you have accepted, as you quite properly should, that there have been instances uncovered in Tesco that indicate that there are some people, one would hope the minority, who still don't accept this approach of police complaining about police.

THE WITNESS: Yes, that's right.

10

MR MACSPORRAN SC: In fairness to you, have you seen any evidence of that? Have you been provided with any evidence that arose out of Tesco that deals with that topic?

THE WITNESS: Certainly not to my knowledge, that particular issue hasn't come to light. From time to time where it is the subject of a complaint we will act and certainly where an internal witness will say that they feel they are not being supported at the local level we intervene.

20

MR MACSPORRAN SC: Now, at page 23, dealing with the topic of workplace and human resources management issues, you speak in the second last paragraph of targeted and random, in that case alcohol testing. There is no random drug testing carried out by the QPS, is there?

THE WITNESS: No, there is not.

MR MACSPORRAN SC: There has been evidence here from some individuals who promote the benefit to be obtained from such testing. Do you have a view and does the QPS have a view generally about that topic?

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THE WITNESS: In terms of the organisational view about that, at the present time there is a body of work that's occurring to assess that. I suppose that I have a personal view and that personal view is that I look to what's occurring, you know, what is occurring within the drug testing domain not only domestically, that is in a couple of jurisdictions that they currently employ it and have done for a period of time, but also in the international policing community as well. New York Police Department, for example, has conducted random target testing for many, many years. I am cognisant of how much that would cost. The half a million dollars or so that's projected that a random drug testing regime would cost in a year, my view is we could probably use that money better by doing a couple of things: encouraging prevention in the first end and making sure that supervisors, in particular, meet their obligations in terms of, you know, being alert to the signs of use and what have you. So I would hold the view that would be a very, very expensive way to be able to detect a very numerically small group of people which would be, you know, in the realms of perhaps one or two a year when we could use that money to very, very good effect having regard for the limited amount of discretionary funding that we have as an organisation. I would think that rather than get to the detection, we would move to reorientating to prevention. That would probably be a better use of those funds.

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MR MACSPORRAN SC: Is there a body --

PRESIDING OFFICER: I suppose there is an opportunity cost too, isn't there?

THE WITNESS: There is.

PRESIDING OFFICER: While policemen are being tested they are not out doing their work, as it were.

10

THE WITNESS: There is a lot of truth to that, your Honour. My view is that we could easily grab a fairly, you know, bureaucratic, administratively burdensome process around this to find the one or two individuals that we would find in a year. And from what I have seen domestically and overseas, I think that's probably what we would be talking about. What I would rather do is, I would rather build the capacity of the organisation, reach a level of maturity where people knew the signs to look for, where they could help their colleagues, refer their colleagues to treatment or what have you to prevent those sorts of situations occurring. I guess to draw an analogy, one approach is at the bottom of the cliff catching the people after they fall; the other is at the top of the cliff preventing people from jumping. I would rather be at the top of the cliff preventing people from jumping.

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MR MACSPORRAN SC: There is a body of research that indicates the random testing is not an effective way to uncover drug use.

THE WITNESS: There is and I am aware of the work of a number of leading academics in this area that would advocate that not only within the context of policing but in other domains for example the mining industry and what have you that a drug testing regime is unlikely to be successful in terms of making the workplace safe.

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MR MACSPORRAN SC: Is there a practical reason for that?

THE WITNESS: I think it comes down to the fact that many of the substances that we're testing for have an incredibly short life span within the individual and that having regard for the lack of sophistication with respect to tests, the window to actually detect an individual would be incredibly small. So the notion of us finding an individual for using benzodiazepines, opioids, you know, would be in a very, very small window and on that basis it would be very hard to justify the expenditure of half a million dollars accordingly.

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MR MACSPORRAN SC: All right. Can I take you to the response of the service to reports and recommendations of the CMC. And we have heard something about Grinspoon, you are aware of that?

THE WITNESS: Yes, I am.

MR MACSPORRAN SC: When did the service receive that report, approximately, can you tell us?

THE WITNESS: The service received, at least to my mind, an in-confidence copy of that report probably toward the early part of 2008. It may very well have been somewhere approaching the early to middle part of 2008.

MR MACSPORRAN SC: And part of the partnership approach between the Commission and the service is to provide recommendations which are then expected to be acted upon.

10 THE WITNESS: That's correct.

MR MACSPORRAN SC: In respect of Grinspoon, how many recommendations were made, do you recall?

THE WITNESS: My understanding there was about 37 recommendations or so.

MR MACSPORRAN SC: Can you give us a thumb sketch of what's happened to those?

20 THE WITNESS: Most certainly. In the time that we've had that report, bearing in mind it was provided to us initially as an in-confidence report, of the 37 or so recommendations that the report outlined, 36 were accepted. One is still a body of work that is occurring and we're doing further work around that and it's tied up to some degree in terms of issues that have been presented with respect to Tesco and SDPC review and a range of other things. Now, of the 36 or so recommendations that we have agreed, 17 have been implemented completely, so they are completely down and dusted and they are completely locked away. They have been implemented in their entirety. Another 18 are at various stages of progress. One of the recommendations is in the domain of the Commission and it relates to
30 inappropriate associations, and we're looking forward to getting that report from them at some appropriate time.

MR MACSPORRAN SC: And was there a significant body of work required to achieve that level of implementation in the short period you talk of?

THE WITNESS: Most certainly some of the recommendations were quite -- were quite voluminous in terms of the implications of the organisation. To give you an example, there was one recommendation, one of the 37 or so, that talked about doing a complete strategic review of all education and training to make sure that
40 the code of conduct and ethical standards issues and what have you was clearly articulated in every single piece of training that was conducted, and we've done that.

MR MACSPORRAN SC: That's one of the 17 that's been --

THE WITNESS: That's only one. That's only one of the 17 to be fully implemented but it is one of the 36 or so that we have agreed with. So some of them had significant implications for the organisation.

MR MACSPORRAN SC: We have heard something in evidence about the Dangerous Liaisons report.

THE WITNESS: Yes.

MR MACSPORRAN SC: And a response from the service has been to provide training to sergeants and above in respect of the recommendations made in that report.

10 THE WITNESS: Yes, that's correct.

MR MACSPORRAN SC: But not direct training for ranks below sergeant. Is there any reason why the whole of service hasn't been included?

THE WITNESS: It may not have occurred directly but certainly having regard for the fact that the issues identified by the CMC were very much pegged at supervisory levels within the organisation. So what we did was we trained all people at supervisory level, we trained officers in charge, sergeants, commissioned officers and the senior executive members of the organisation. We did some 4,400
20 or so training, many, many thousands of hours that was devoted to that. We had a print run of the document far exceeding that which originally came over to us. I think we produced something like two and a half thousand hard copies of that particular report and made available electronically the document to a broad range of people across the organisation. Every member of the organisation was encouraged to read the document but, moreover, those supervisors were encouraged at least this was my understanding -- that those supervisors would go back and start a level of dialogue with each of the people within their area of responsibility. I had an expectation that what would occur that at training days and
30 musters and other opportunities that those supervisors would get that message out of the report to each of those members. I am also aware that the Dangerous Liaisons report was also used as the basis of a whole range of other ancillary training and so the message, I believe, would have got out to a whole range of levels but in any event it should have through the supervisors.

MR MACSPORRAN SC: Thank you. Can I ask you in terms of the individuals who have been identified as engaged in misconduct in various forms by Operation Tesco, is it in fact the case that they slipped under the radar through your system or can you comment on that?

40 THE WITNESS: I can. And I don't believe that it is a case that they slipped under the radar. There is documentation that predates my arrival at Ethical Standards Command that we were in healthy dialogue with the CMC with respect to intelligence product as early as 2006 but certainly 2007. My knowledge of when I arrived in Ethical Standards Command, bearing in mind the beginning of 2008 there was the migration of information holdings to the Commission with respect to at least some of these particular people that are the subject of inquiry, as late as 2009. In August 2009, early October and late in October that same year, three separate occasions, further intelligence product was sent to the Commission about this very matter. So we were cooperating, albeit remotely, with the Commission

with respect to the furthering of these particular matters. I personally knew that the Commission had an interest in these matters. I knew they were the subject of investigation and had ultimately assisted in that process. I would also make the point that one of the other key strategies with respect to this was not only the investigative component but it was the audit and inspection of property points at the south eastern region of which case my people at Ethical Standards Command did that body of work on behalf of the Commission and in one particular instance it led to further matters that were of interest with respect to one particular person concerning property.

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MR MACSPORRAN SC: And that person concerning property was in fact one of the targets identified in Operation Tesco?

THE WITNESS: I believe that that individual was a person who was being examined within the context of Mason which is ancillary to Tesco.

MR MACSPORRAN SC: It is the same individual who is the subject of Tesco as well?

20 THE WITNESS: I would agree with that.

MR MACSPORRAN SC: Yes. Now, that same individual, is that person a person who came to the service with previous policing experience interstate?

THE WITNESS: I would agree with that.

MR MACSPORRAN SC: That's an example of one of the reasons why you've stopped that program?

30 THE WITNESS: I would support that.

MR MACSPORRAN SC: Just for completeness, Assistant Commissioner, can I take you to page 10 again? I think you commented, when being directed to the figures in your second last paragraph, you would like to take that on notice. Just to save time, were the figures compiled for you by Superintendent Huxley.

THE WITNESS: Yes, they were.

MR MACSPORRAN SC: That gentleman is in Court here today?

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THE WITNESS: Yes, correct.

MR MACSPORRAN SC: All right. Can you take it that we have spoken to him and he tells us that the rate expressed in your statement as a percentage, say 30 per cent rate per 100 officers, should in fact be 30, a number per 100 officers. Do you accept that to be the -- what the figure should represent?

THE WITNESS: I wouldn't disagree with that.

MR MACSPORRAN SC: So that's how we should read that. Wherever a percentage is referred to in that paragraph, you just remove the percentage sign on the number -- on the rate, yes. All right. I have nothing further, thank you.

PRESIDING OFFICER: Who is next?

MR SCHMIDT: Thank you, Mr Chairman. Assistant Commissioner, is it generally the case that the service has adopted a policy of prevention when it comes to misconduct rather than waiting for it to happen and resolving it afterwards?

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THE WITNESS: I agree with that.

MR SCHMIDT: And then that's supported by a policy of early detection where possible, isn't it?

THE WITNESS: That's correct.

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MR SCHMIDT: Now, if I take you to the perfect world which you have spoken about somewhat this morning, with no budget limitations, no resource limitations, you would accept that one way of early -- well, of prevention and early detection of misconduct would be to have junior officers supervised properly by sergeants, wouldn't you?

THE WITNESS: In a perfect world, yes.

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MR SCHMIDT: Now moving back into the real world where we've got budget limitations, it would be a case where you look at high risk locations such as Surfers Paradise and try and do everything you could within budget to make sure that there are appropriate numbers of sergeants on the ground working as front line supervisors, wouldn't you?

THE WITNESS: Yes, you would.

MR SCHMIDT: Now, there has been a little bit about who should be investigating who in evidence this morning. You understand the union's position is that noncommissioned officers and constables -- sergeant, senior sergeants, constables and senior constables -- should all be investigated by commissioned officers?

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THE WITNESS: Yes, I understand the position.

MR SCHMIDT: Just for the sake of the record, within the Queensland Police Service there is a very strong line between commissioned officers and the other ranks, isn't there?

THE WITNESS: There is a separation. Yes, there is.

MR SCHMIDT: It is a separation which is certainly observed by, for example, constables, sergeants, et cetera?

THE WITNESS: That's true.

MR SCHMIDT: Yes. Now, in respect to that you have indicated on my understanding that you are getting approximately, well, just under 3,000 complaints per year?

THE WITNESS: That's right.

MR SCHMIDT: You have some 49 investigators?

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THE WITNESS: In an optimum world.

MR SCHMIDT: That's right.

THE WITNESS: That's right.

MR SCHMIDT: So that equates to approximately 60 complaint files per investigator?

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THE WITNESS: Yes, except that much of the work that they do is also not subject to complaint. For example, death in custody investigations and a whole range of other things.

MR SCHMIDT: Certainly. And those death in custody investigations or critical incidents are not part of the 3,000 complaint files, are they?

THE WITNESS: No, they are not.

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MR SCHMIDT: Leaving them aside, if we then consider we have got commissioned officers throughout the service and throughout the regions, so if we doubled the number of investigators available that would bring it down to approximately 30 per investigator?

THE WITNESS: Mmm.

MR SCHMIDT: Sorry, just nodding, so --

THE WITNESS: I am sorry?

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MR SCHMIDT: Sorry, you were nodding?

THE WITNESS: Yes.

MR SCHMIDT: Okay. Now, part of the problem with that number of complaints is simply the workload, isn't it?

THE WITNESS: Yes, it is, and also one complaint is distinguished from another in terms of some of them are quite complex and it is more than just one officer doing one complaint.

MR SCHMIDT: Certainly. And do you have a case where full investigation is conducted in respect to just about every one of those complaints, with the exception of the Verity matters I will come to?

THE WITNESS: In a lot of cases they are, subject to a full investigation.

10 MR SCHMIDT: If we take the drink drivers for example, that's a case where an officers has been detected so far off duty driving under the influence of liquor, they are intercepted by local general duties staff. They are investigated. Necessary certificates are obtained. A 466 or a complaint against police is put in. It comes to your attention. So there is a criminal investigation conducted, there is also a discipline investigation conducted.

THE WITNESS: That's correct.

20 MR SCHMIDT: Okay. And the criminal investigation in most instances is over within a period of two weeks, I think most of them plead guilty on the first mention or the second mention date; do you accept that?

THE WITNESS: Yes, I do.

MR SCHMIDT: As part of that a summary of facts is put before the Courts so the Magistrate can actually sentence them, isn't it?

THE WITNESS: That's right.

30 MR SCHMIDT: But then a formal discipline investigation is launched into every possible and conceivable witness and all the rest of it which drags out that investigation, doesn't it?

THE WITNESS: And in some cases that's unnecessary and, moreover, it has been my experience that those investigations that occur at the local level, that is at the regional level, they go above and beyond that which would be prudent under the circumstances.

40 MR SCHMIDT: Thank you, sir, that brings me to my next point. You have spoken about the PPMs, professional practice managers in the regions, being under the control of their local assistant commissioner.

THE WITNESS: Yeah.

MR SCHMIDT: But then also reporting to yourself. So in effect they have two masters?

THE WITNESS: I made my point in terms of their reporting to me within the context of solely the disciplinary process, but in terms of administrative oversight, their normal functioning and what have you and reporting in terms of performance, yes, you are quite right, they report to the relevant executive member in charge.

MR SCHMIDT: If you look at a regional investigation conducted by a sergeant, that sergeant gets the file, investigates it, reports to his officer-in-charge or her officer-in-charge that officer-in-charge then overviews that investigation. If it is an officer-in-charge who has time and is dedicated to this, identifies any problems with the investigation, potentially sends it back, goes backward and forward, then goes through that officer-in-charge to that officer-in-charge to divisional inspector, who again engages in the same process. It then goes, if the district has a professional complaints manager in the district itself, it goes to that officer. It then goes to the district officer, the superintendent. It then goes down to the professional practice manager at regional level, who then places it back to the assistant commissioner, assuming that there is no problems with it all the way through and it doesn't have to go back, is that correct?

THE WITNESS: Yes, that's right.

MR SCHMIDT: And it then goes across to your office, it is looked at by your legal and policy staff or one of your investigators, it then goes back -- under your hand back to the assistant commissioner for further investigation or in most cases resolution, leaving aside dismissal notice, obviously. So that entire process could certainly be shortened, couldn't it?

THE WITNESS: That's the whole reason we want to fast track the Verity process.

MR SCHMIDT: Exactly. If the professional practice manager was actually to report directly to you as opposed to reporting to the local assistant commissioner that would prevent cases, I think you use the words officers becoming overly sympathetic to local officers of their area, wouldn't it?

THE WITNESS: That would be one strategy, yes.

MR SCHMIDT: And it would certainly ensure that there is a higher level of independence with regards to the investigation?

THE WITNESS: Yes, it could do.

MR SCHMIDT: Now, the current practice within the QPS is for a matter which is going to result in discipline charges it goes to a prescribed officer.

THE WITNESS: That's right.

MR SCHMIDT: Now, if we take a prescribed officer at assistant commissioner level that officer can do demotion and everything else bar dismissal, is that correct?

THE WITNESS: That's correct.

MR SCHMIDT: Now, the process is that that officer then issues what's called a notice to attend a discipline hearing, doesn't he?

THE WITNESS: That's right.

MR SCHMIDT: Part of that process is that he reads or she reads the brief of evidence, the discipline file, then decides that there is a prima facie case against the subject officer, formulates the charge, sends out the notice and directs that officer to appear before them?

THE WITNESS: That's correct.

10 MR SCHMIDT: So it is not really a case that the prescribed officer is really in the position of impartiality, is it? The prescribed officer has already seen the brief?

THE WITNESS: They may have seen the brief but at the end of the day I would hold the view that they would have the means to be able to make an impartial decision.

MR SCHMIDT: Your responsibility as the AC of Ethical Standards is the administrative side of the discipline process, isn't it?

20 THE WITNESS: That is correct.

MR SCHMIDT: So if I was to draw a parallel, it would be no different to police investigating a matter, then taking it to the local Magistrate, who reads the police brief, decides there is a prima facie case, charges the defendant, and then sits on the trial of the defendant and hears the matter, would it?

THE WITNESS: Yeah, yeah, except that we are talking here about an administrative process and not necessarily a criminal -- in the criminal domain.

30 MR SCHMIDT: You would agree, though, the rules of natural justice require that there be fairness?

THE WITNESS: Yes.

MR SCHMIDT: And not only fairness but also a perception of a lack of bias?

THE WITNESS: Yes, I would agree with that.

40 MR SCHMIDT: It is fundamental that members of the public firstly see the system is fair and transparent?

THE WITNESS: Yes.

MR SCHMIDT: Likewise, it is important that police officers themselves see that the system is fair and transparent, would you agree with that?

THE WITNESS: Yes, I would agree with that.

MR SCHMIDT: It becomes overly difficult, or even more difficult where you have

a professional practice manager making a recommendation to an assistant commissioner who then makes a recommendation to your office and then that goes back to that assistant commissioner to determine whether or not discipline charges should be laid?

THE WITNESS: Mmm.

10 MR SCHMIDT: So you would accept that a professional practice manager who was reporting directly to you and not to their assistant commissioner would be an improvement to the system?

THE WITNESS: I wouldn't necessarily. I hold the view it is certainly an option. It is an option that I think is worthy of exploration, but I wouldn't necessarily see it as being the panacea. My view would be that the current process that we're employing at the present time to explore the Verity model and, particularly ACDP, would have the potential to obviate a lot of the issues that you are outlining.

20 MR SCHMIDT: If Verity was to be rolled out across the State which I understand was planned?

THE WITNESS: That's right.

MR SCHMIDT: It is currently on hold, is that correct?

THE WITNESS: Yes, it is.

30 MR SCHMIDT: But if it was to be rolled out across the State, matters such as the drink drivers we have already referred to would be dealt with a lot quicker, wouldn't they?

THE WITNESS: Absolutely.

MR SCHMIDT: In fact, my learned friend Mr MacSporran was talking about the benefit to the subject officer of going through Verity with regards to reduction of penalty, and so forth. The real benefit to a subject officer with Verity is that the matter is dealt with in a timely manner, isn't it?

THE WITNESS: I would agree with that.

40 MR SCHMIDT: So there is not really a reduction in sanction as opposed to simply not having a matter hang over your head for 12 months or two years?

THE WITNESS: And that is a significant benefit from the current system that we have and I would agree with that.

MR SCHMIDT: Certainly, there are a number of benefits in that to the service in that you have an officer, in cases of a stood down officer actually stood down for a shorter period of time?

THE WITNESS: Quite so.

MR SCHMIDT: You also have a case where officers are able to have matters resolved, be seen to have matters resolved by their colleagues, be seen to have matters dealt with fairly and quickly, and that obviously has a corresponding effect upon station morale, doesn't it?

THE WITNESS: Yes, it does.

10 MR SCHMIDT: Now, we spoke -- you gave evidence before, I should say, about the oversight with regards to investigations where it is looked at at the station level, subsequently reviewed by your command, it is reviewed by the Crime and Misconduct Commission, it is reviewed by the PCMC, it is reviewed by the Parliamentary Commission, I believe, or it can be. In that regard, though, you would certainly agree that if the initial investigation was compromised then all of this overview is not always going to pick up that problem, is it?

THE WITNESS: It may not, but I would think it would be likely that it would.

20 MR SCHMIDT: Okay. If I had an investigation -- sorry, if a sergeant had an investigation where they were looking at, firstly, investigating somebody else from their station, and, secondly, looking at the role that one of their fellow supervisors had played in relation to that investigation or that complaint, and that sergeant decided to concoct a story and get the young constable to follow that story during the investigation and get the supervisor to follow that story, then it is going to be very, very difficult to actually come back over the top of that, pick up that that's been a concocted story, isn't it?

30 THE WITNESS: If you are going to have that level of attempt to defeat the system and you are going to have an individual that will be prepared to conspire to that degree, then it will be difficult to pick that up but, moreover, not impossible.

MR SCHMIDT: Certainly. And one of the biggest problems with sergeants and NCOs investigating their own is that the public, people that are making these complaints, sometimes hold that view that it is police looking after their mates, is that fair?

THE WITNESS: Yes, they do. Particularly they do hold that view and I think the Chairman made that point very well.

40 MR SCHMIDT: Certainly. So although the perfect world would be that commissioned officers perhaps are responsible for complaints against the other ranks in investigation of those complaints, rather than it being a case that we don't do it because of funding should we be looking at the processes involved in trying to shorten those to allow that process to occur?

THE WITNESS: I still have a fundamental problem that ultimately a complaint can be generated because of the actions or the perceived actions of an individual at a local level, and where is the institutional learnings for the individual, or the work

unit, or what have you, other than at the end result of the process if you don't involve the -- put it this way: I think that there are greater institutional learnings that can be derived by involving people at the levels of supervision that exist immediately above that particular individual. It is not the only way that it can be done but I think that there is potentially culturally a benefit associated with that.

MR SCHMIDT: Would you accept that the Dangerous Liaisons training that has been provided throughout the service has had an effect upon staff; improved their ethics generally?

10

THE WITNESS: ?

THE WITNESS: I think it has had a significant impact in a positive sense.

MR SCHMIDT: And the vast majority of those staff were not involved in the investigation of Dangerous Liaisons?

THE WITNESS: No, they weren't.

20 MR SCHMIDT: So it is a case that a matter was properly investigated by the Commission, a report was made and it was subsequently referred back to the service to deliver the educational aspects?

THE WITNESS: The learnings were very powerful from the Dangerous Liaisons Report.

MR SCHMIDT: So wouldn't that arise as well out of the investigation of allegations within a station?

30 THE WITNESS: Yes.

MR SCHMIDT: It can be done independently and then the outcomes of that be brought back and improvements made to conduct?

THE WITNESS: And that's certainly one of the issues that we currently look at at the present time, extracting the learnings from the investigation and making sure that that is put back to the local level or alternatively promulgated throughout the organisation.

40 MR SCHMIDT: Now, with regards to field training officers you have indicated that it is generally constables or senior constable level?

THE WITNESS: That's right.

MR SCHMIDT: And I think you started to go into a point, or tried to make a point that there is a level of supervision with respect to -- or consideration with respect to who is assigned to be a field training officer?

THE WITNESS: That's right.

MR SCHMIDT: And do you know what the detail is?

THE WITNESS: Yes, I do.

MR SCHMIDT: Okay. That's the local training officer, the district level training officers at every district?

THE WITNESS: That's right.

10

MR SCHMIDT: And they are responsible for managing first year constables for that initial 12 months of service?

THE WITNESS: That's right.

MR SCHMIDT: They are also directly responsible for assigning field training officers to each individual first year constable in their initial eight-week mentor phase?

20

THE WITNESS: Yes, they are.

MR SCHMIDT: That eight-week mentor phase is what happens as soon as they come out of the academy, isn't it?

THE WITNESS: That's right.

MR SCHMIDT: So those officers in particular would be looking at -- the DETO officers, I am talking about, would be looking at who would be a suitable field training officer, attempting to assign a more qualified or more experienced field training officer, particularly for that first mentor period, wouldn't they?

30

THE WITNESS: Yes, that's true.

MR SCHMIDT: You believe that works as an appropriate check and balance?

THE WITNESS: Yes, I do. I think it generally works well across the State. I think there are some challenges with it, but generally I think it works fairly well.

40

MR SCHMIDT: Certainly. Now, if I just move to the Internal Witness Unit, at the moment -- and you have indicated you weren't aware of the matters Mr Allen has raised -- but at the moment that unit does not have the power to actually transfer an officer immediately out of a station without that officer's consent, does it?

THE WITNESS: Without that officer's consent?

MR SCHMIDT: Yeah, without that officer's consent?

THE WITNESS: The short answer is no.

MR SCHMIDT: And with the officer's consent, it still doesn't have that ability, does it?

THE WITNESS: It doesn't have the ability but we are strongly influential in engineering that should that be the wish of the individual. There has been a couple of recent examples, as recently as a week ago, where we have been able to facilitate that in fairly quick time.

10 MR SCHMIDT: Would you support changes to policy and, obviously, the industrial awards which would actually allow where an officer consents in those circumstances to being transferred out of a location for witness support to actually offer that and assist and arrange for immediate transfer?

THE WITNESS: Not in all cases.

MR SCHMIDT: Okay. Obviously in the more serious ones where we're getting dog food and so forth sent to us?

20 THE WITNESS: In the more serious cases certainly. I would just want to be careful that it wasn't a one size fits all --

MR SCHMIDT: Certainly.

THE WITNESS: And a situation was created where a person could make a complaint and that was automatic grounds for a transfer.

MR SCHMIDT: You indicated right at the commencement of your evidence that there was going to be an increase in the staffing of ESC?

30 THE WITNESS: That's correct.

MR SCHMIDT: I think you indicated that the timeline for that was roughly late 2011?

THE WITNESS: That is my understanding.

MR SCHMIDT: Are you anticipating another two teams of investigators in late 2011 or is that going to be a gradual process, so will you get some early 2011 or ...

40 THE WITNESS: I'm not sure. That is still subject to being negotiated. My understanding is certainly the Commissioner's aspirational goal is to have that realised by the end of 2011.

MR SCHMIDT: Certainly. And one final issue in respect of the Surfers Paradise division gift register. I know you've indicated that you don't have any knowledge of matters at that level.?

THE WITNESS: I don't.

MR SCHMIDT: Would it be fair to say if a station or a division did not have a gift register, then there would likely be a gift register at divisional or regional level?

THE WITNESS: Yes, that would certainly be the case.

MR SCHMIDT: If a station, let's say, receives a bottle of wine at Christmas time and that is usually the only gift that the officers receive, there wouldn't be much point in maintaining an station-level gift register, would there?

10 THE WITNESS: No, it could certainly be captured at a more higher level register. I'm not sure what the requirements are of the south-eastern region in that regard.

MR SCHMIDT: So it's certainly the case that if a gift comes into a station without a gift register then the obligation is on the officer-in-charge and the other officers to report that, so that it goes up to the appropriate level to wherever the gift register is.

THE WITNESS: Yes, I would agree with that.

20 MR SCHMIDT: Thank you, Mr Chairman.

MR WATTERS: I just have a couple of matters, Mr Chairman. I won't keep you long, Mr Martin. You might know, I represent the commissioned officers union.

This has been covered fairly extensively, complaint rates, this morning, in answer to questions to the learned Counsel Assisting, Mr Allen, and to senior counsel, Mr MacSporran, but I just want to run over this. 3,000 complaints, in round figures, for the last year, 2009/10, that represents a 20 per cent increase on the previous year?

30 THE WITNESS: That's correct.

MR WATTERS: And we know, the Gold Coast, a little over 500 complaints, that represents a 29 per cent increase?

THE WITNESS: That's correct.

40 MR WATTERS: This is a dual-edged sword, is it not? By that I mean, in a perfect world, you would probably like to be in charge of Ethical Standards where there were no complaint against police, but isn't this actually an indicator of public confidence in the system, that people feel comfortable to come forward and make complaints about the conduct and actions of police where they are errant?

THE WITNESS: I would certainly have to agree that that's one interpretation. Certainly, from my perspective, I draw some comfort in the fact that people may feel that they feel that their complaints will be taken seriously, that we certainly have marketed the ways that people can make a complaint, and to some degree it could be construed as a positive sign that people feel very comfortable in coming forward and making a complaint, and that it would will be dealt with professionally, that could certainly be the case.

MR WATTERS: Related to that point, can I ask you this: you have told us that 25 per cent of those complaints over the last year were internal, that is generated by police or self-reporting.

THE WITNESS: That's right.

MR WATTERS: Do you know, and you may not, does that represent an increase on the previous year?

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THE WITNESS: In, it doesn't. The 25 per cent has been reasonably static over the last couple of years. But I could say to you that certainly if I were to go back 10 years or certainly the last 15 years, I would be very surprised if it was anything close to 25 per cent. Over the last couple of years it's been reasonably stable at 25 per cent. The point is here that from last year to the current year it's gone up in complaints generally 20 or so per cent, and so has the proportion of internal complaints gone up commensurate with that level of increase.

20

MR WATTERS: All right. This is covered in your statement of evidence, but it is something that has not been examined to any great extent here today; there is a portion of those complaints that are actually unsubstantiated, they are vexatious, they are made by litigious complainants; is that correct?

THE WITNESS: Yes, it is.

MR WATTERS: It's about 20 -- not quite 20 per cent, something like that?

THE WITNESS: That's true.

30

MR WATTERS: To be fair, policing is an occupational profession that by nature attracts some of that in the type of work it does in the community, would you accept that?

THE WITNESS: It does, that is so, and in some areas more so than others.

40

MR WATTERS: I only have one or two questions about what I will refer to as the hierarchy of complaint management, because that has been fairly extensively covered already today. But the hierarchy really runs like this, doesn't it; the most serious matters or criminal or serious misconduct are not only referred to but on occasions managed and investigated by the CMC?

THE WITNESS: Yes.

MR WATTERS: Then next on the ladder is your unit, Ethical Standards Command?

THE WITNESS: That's correct.

MR WATTERS: Then, out in the regions, commissioned officers, inspectors and

superintendents and so on, engage in investigations in, let's say, the next layer of the level of seriousness of complaint?

THE WITNESS: That's true.

MR WATTERS: That comes down then as you've told as to the divisional or establishment level. I'm just trying to paint a picture about the type of complaint, as these cascade. So, for example, we would accept that serious matters such as drug use by police, may well end up here at the CMC for inquiry. Where a member of the public needs to make a complaint about the demeanour or attitude of a police officer at the front counter of the police station -- and I don't mean in any way to demean the importance of that complaint -- that's really not the kind of thing that you are going to allocate to a commissioned officer to investigate, is it?

THE WITNESS: No, that's quite so. That could be resolved through a managerial resolution process reasonably quickly at the local level.

MR WATTERS: Commissioned officers, inspectors and superintendents around the regions, they would be involved in investigations, for example, where there might be high speed pursuit and an accident involving a police vehicle?

THE WITNESS: Yes, they may do. If there was an injury or serious injury, then more than likely that would be investigated by Ethical Standards Command.

MR WATTERS: The use of force sort of complaints, where there's an allegation of harm to a member of the public, a senior officer would investigate those?

THE WITNESS: In a lot of cases, yes, particularly where the injury was -- involved hospitalisation.

MR WATTERS: Finally, can I just ask you a couple of questions about the nature of some of the allegations, some of the conduct relating to Operation Tesco. We have heard over the last few days a range of conducts, mostly concerning the behaviour of officers off duty, not in every instance, but conduct, for example, about drug use that was off duty, steroids use off duty, the use of blue light taxis, ferrying police when they are off duty, police consuming free liquor at nightclubs and licensed premises off duty. My question around that is; how does the Ethical Standards Command, and perhaps even the service more generally, address or ameliorate that sort of conduct or behaviour, given that there's an extensive screening and recruitment process, given that there's education, training and development on an in-service and continual improvement basis across the service, and given that you've got a range of leadership and supervision and cultural matters that you address in respect of officers' behaviour, what next can you do in respect of these off-duty behavioural issues?

THE WITNESS: That's a really good point, and it's probably one of the most intractable issues that we have to contend with. The reality is that we often don't draw a distinction between on-duty and off-duty behaviour and we expect people off duty, particularly where their behaviour is likely to impact negatively on the

organisation, in terms of the reputation of the organisation, to behave in a way that limits that action. We provide the SELF test, we encourage people to go through that process when they are confronted with an ethical dilemma. But the reality is that at 2 o'clock in the morning when an officer is at a nightclub and they are confronted with a temptation, the supervisor is not looking over their shoulder, I'm not there, neither are my colleagues at the Ethical Standards Command, we require them to make good decisions having regard to the circumstances that they are confronted with. Where they don't and where the organisation finds out about that -- whether it be a supervisor or some other person -- then we expect them to meet their obligation in terms of reporting. We can't do anything about it if we don't know about it. And certainly the emphasis is on, one, prevention; but, secondly, encouraging people to meet their obligations in terms of reporting. But it's very difficult.

MR WATTERS: There were three commissioned officers that gave evidence in these proceedings earlier this week, on Tuesday, and each of them mentioned the role and the importance of the values of the individual officer and their individual responsibilities. While I'm paraphrasing, the tenor of their evidence is, well, the service can engage in the very best systems and frameworks to create a culture of integrity and to encourage ethical standards, but ultimately it's down to each and every officer to commit to those matters, both in their personal and professional life. That's the position, isn't it?

THE WITNESS: I support that. We are a very large organisation, 14,500, 10,500 sworn officers, and the reality is that we can't be looking over the shoulder of every single one of those people in an off-duty capacity. Their values, their morals, the things that make them tick, are inherent to that particular individual, and we would all wish that they subscribe to a perfect set of morals and principles and behaviour, but the reality is that they are subject to human frailty.

MR WATTERS: Thank you, Mr Martin. Thank you, Mr Chairman, that's all I have.

MR ALLEN: Thank you, Mr Chairman.

Assistant Commissioner, my learned friend Mr MacSporran asked you some questions about the QPS policy with respect to gifts and benefits, which you dealt with at page 18 of your statement. You referred there to the human resource management manual, and in particular to section 17.1.10.7. Could I ask you to look at a copy of the relevant part of manual. On page 3 of 7 we find that section 17.1. 10.7?

THE WITNESS: Yes, that is correct.

MR ALLEN: Does that list those questions that you have repeated in your statement and in your evidence --

THE WITNESS: Yes, it does.

MR ALLEN: -- that members are asked to consider when making a decision, as to whether it is appropriate to accept a gift?

THE WITNESS: Yes.

MR ALLEN: And (v), "Is the offer likely to be regular or repetitive?", I take it that if it is likely to be regular or repetitive, that is a factor against acceptance?

THE WITNESS: Yes, it is.

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MR ALLEN: And in relation to (viii), "Could the acceptance withstand public scrutiny?", how is the member expected to ascertain whether it would withstand public scrutiny or not?

THE WITNESS: It's on a subjective test. It's having regard for what would the ordinary person, when confronted with this, think, having regard to that set of circumstances? So if the potential acceptance of the offer was construed by an ordinary person, how would that be considered?

20

MR ALLEN: Do you know if the police service has considered any types of research evidence into public attitudes toward police officers accepting gifts?

THE WITNESS: No, I'm unaware of that.

MR ALLEN: That's not something which would be within the remit of ESC?

THE WITNESS: It could be within my research domain. Certainly it's an issue that I've got an interest in. But I'm unaware that we have done a body of work around that.

30

MR ALLEN: You are not aware of the police service actually relying upon others research efforts in that regard?

THE WITNESS: No, I'm not. There's a range of research that's undertaken in terms of community attitude, but in respect of gifts and benefits, I'm not aware that there is a body of work.

40

MR ALLEN: In your view, what conclusion would a police officer reach in asking those questions with respect to, say, regular receipt of half price McDonald's food??

THE WITNESS: My view is that probably the rank and file officer would, having regard for those questions, reconcile their acceptance of McDonald's generally reasonably comfortably.

MR ALLEN: As acceptable?

THE WITNESS: As acceptable.

MR ALLEN: When looking at who's offering it, the purpose, timing, value, its regularity, consistency with other service policy, and whether it has the capacity to compromise them?

THE WITNESS: I think that the sort of officer that I'm talking about is probably the officer that is an operational officer working on the ground, at odd hours of the night and day, and is looking at making a decision that probably accords with self-interest.

10 MR ALLEN: That is one example. At the other extreme you would have obvious corrupt offers. What about accepting, whilst off duty, in the district in which an officer works, free drinks in a nightclub?

THE WITNESS: If an officer was to consider those questions and to make a decision to accept that drink, I would have grave concerns about their decision-making. I would think the acceptance of an alcoholic drink in a nightclub, in circumstances where they were expected to meet their obligations under the Liquor Act --

20 MR ALLEN: Not at that moment, no?

THE WITNESS: Not at that moment, no, but in an off-duty capacity, that would cause me significant concern.

MR ALLEN: There's a difference between accepting a \$50 drink card in those circumstances and purchasing half price McDonald's, isn't there?

30 THE WITNESS: There's a significant difference. The difference, at least to my mind, centres around the expectations of them meeting their obligations at a later time in terms of the objects of the Liquor Act.

MR ALLEN: Surely there would be a difference in the answer to the question, "Could the acceptance withstand public scrutiny?"

THE WITNESS: Very much so.

40 MR ALLEN: If we look at the terms of section 17.1.10.7, it is prefaced with the words "In their official capacity as a members of the service, members are", and then it goes on, "not to solicit", "not to accept", with certain exceptions. Is there any policy with respect to -- I take it that that is not meant to confine the policy to on-duty officers?

THE WITNESS: No, I would agree with that.

MR ALLEN: It should not be read that way, that it is confined to police officers on duty?

THE WITNESS: No, it should not be read that way, particularly when other areas of policy talk about an officer's off-duty behaviour reflecting negatively upon the

organisation.

MR ALLEN: Do you agree that having the words prefaced "In their official capacity as a member of the service" might lead to persons adopting a construction that it is only referring to what they are doing in carrying out duties as a member of the police?

10 THE WITNESS: If they held that construct, I would think it would be incredibly self-serving. But I agree that it is, to some degree, limiting in terms of its pure linear interpretation.

MR ALLEN: Thank you. Those are the only matters I have, chairman.

PRESIDING OFFICER: You are free to go, of course.

THE WITNESS: Thank you, Your Honour.

WITNESS EXCUSED

20 PRESIDING OFFICER: When do you want to adjourn to?

MR ALLEN: Would 1.30 be suitable, chairman?

PRESIDING OFFICER: Yes.

THE HEARING ADJOURNED AT 12.23 PM

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EXHIBITS

EXHIBIT 128	Attendance notice and oath of service	3672
40 EXHIBIT 129	Statement of Peter John Martin	3673
EXHIBIT 130	Corruption Prevention Plan 2009-2013	3686