TRANSCRIPT OF PROCEEDINGS

INDEPENDENT COMMISSION OF INQUIRY INTO QUEENSLAND POLICE SERVICE RESPONSES TO DOMESTIC AND FAMILY VIOLENCE

COMMISSIONER: HER HONOUR JUDGE DEBORAH RICHARDS

COUNSEL ASSISTING: RUTH O'GORMAN QC

ANNA CAPPELLANO

Land Court of Queensland, Brisbane Magistrates Court,
Level 8/362 George Street, Brisbane.

Monday, 1 August 2022

1   COMMISSIONER: Yes.
2
3   MS CAPPELLANO: Good morning, Commissioner. There are two
4   witnesses due to give evidence today, and both of those
5   will be in person. Each witness has provided a statement
6   to the Commission, and there's also a document prepared by
7   the Commission outlining some of the statistics in the
8   statement of Ms Foulger. All this material has been
9   distributed to the parties, and I tender as a bundle the
10   statements of David Nixon, the statement of
11   Elizabeth Foulger, and the spreadsheet of complaints
12   breakdown contained in the CCC statement.
13
14   COMMISSIONER: That will be tender bundle N and
15   exhibit 20.
16
17   **EXHIBIT #20 TENDER BUNDLE N**
18
19   MS CAPPELLANO: There is also a draft non-publication
20   order in relation to attachments 4 to 6 of the statement of
21   witness Elizabeth Foulger.
22
23   COMMISSIONER: Yes. I'll make that order. No objection
24   from the parties, I presume.
25
26   MS CAPPELLANO: Thank you.
27
28   COMMISSIONER: That will be exhibit D.
29
30   **EXHIBIT #D NON-PUBLICATION ORDER IN RELATION TO ATTACHMENTS**
31   **4 TO 6 OF THE STATEMENT OF WITNESS ELIZABETH FOULGER**
32
33   MS CAPPELLANO: I call David Nixon.
34
35   COMMISSIONER: Ms Juhasz, You have leave to appear in
36   relation to the next witness.
37
38   MS JUHASZ: Yes.
39
40   COMMISSIONER: You're not seeking to cross-examine this
41   witness at all?
42
43   MS JUHASZ: No.
44
45   COMMISSIONER: All right. Thank you.
46
47   MS JUHASZ: Not at this stage. Depending, I suppose, what

1   comes out in the course of the hearing.
2
3   COMMISSIONER: You'll have to apply for leave to appear if
4   you do.
5
6   MS JUHASZ: Yes.   Thank you.
7
8   **<DAVID NIXON**, sworn:
9
10   **<EXAMINATION BY MS CAPPELLANO:**
11
12   Q.   Good morning, Detective Inspector. You've prepared a
13   statement for the Commission of Inquiry?
14   A.   Yes, I have.
15
16   Q.   And you have a copy of that statement with you?
17   A.   Yes.
18
19   Q.   And the attachments referred to within, and you're
20   free to refer to those throughout your evidence as
21   required. Detective Inspector Nixon, in your statement you
22   indicate that you've been a police officer since 1987?
23   A.   That's right.
24
25   Q.   And so that's a period of approximately 35 years?
26   A.   Yes.
27
28   Q.   You're currently the state coordinator within the
29   Ethical Standards Command?
30   A.   That's right.
31
32   Q.   And that's generally known as ESC?
33   A.   Yes.
34
35   Q.   And you've been in that role for over six years?
36   A.   Yes.
37
38   Q.   Now, in this role as a state coordinator of the ESC
39   you are in charge of overseeing the day-to-day management
40   of the conduct and complaints handling process?
41   A.   Particularly as they're first received, yes.
42
43   Q.   At the assessment stage; is that correct?
44   A.   When they first come into ESC, if they get passed
45   elsewhere for inquiries or investigation, then I don't have
46   that same level of oversight that I do when they first come
47   in.

1
2 Q.   In terms of your knowledge of the processes generally,
3 that detail of the current QPS conduct and complaints
4 handling process is firmly within your area of expertise?
5 A.   Yes.
6
7 Q.   Now, before I ask you to talk more specifically about
8 the specifics of the current QPS complaints and conduct
9 handling processes I want to ask you about some of the
10 statistics that you've provided to the Commission in
11 attachment 3 to the statement. Mr Operator, I ask that
12 that be placed on the screen. The pinpoint reference is
13 [DJN.004.0002]. Is that - it might just be on the screen
14 in front of you?
15 A.   Yes, it is.
16
17 Q.   Now, just to confirm what's contained within these
18 statistics, do I understand correctly that these statistics
19 cover a five and a half year period from 1 January 2017 to
20 3 June 2022?
21 A.   Yes.
22
23 Q.   And they outline statistics in relation to complaints
24 which relate to domestic and family violence?
25 A.   Well, there's two sets there. They're complaints and
26 allegations. The first set is for all allegations for all
27 complaint categories, and then the second set of data
28 relates to domestic and family violence related complaints,
29 either as member-involved domestic violence or whether it's
30 a failure of duty.
31
32 Q.   So, if we just look at the first column where it says
33 "Complaints and allegations", do I understand correctly
34 that the difference between complaints and allegations in
35 this context is that a person might make a complaint, for
36 example, about allegations in relation to domestic violence
37 but within that single complaint there might be a number of
38 allegations?
39 A.   That's correct.
40
41 Q.   In relation to the other material - and if we just go
42 back and see the full screen, please - down the bottom
43 where it there says the percentage of DV-related
44 allegations versus total state allegations, that speaks for
45 itself and demonstrates, for example, in 2022, the first
46 six months, 22 per cent - sorry, 12.22 per cent of
47 complaints of the total complaints were DV-related

1   complaints; is that correct?
2   A.   Correct, correct.
3
4   Q.   And if you're looking at the difference between
5   allegations it's about 10 per cent of all - total
6   allegations related to domestic and family violence?
7   A.   Yes.
8
9   Q.   If we just move over to the bottom right-hand corner,
10 that outlines the time spent in relation to specific
11 allegations - is that allegations and complaints?
12 A.   That's the detailing of a particular complaint file.
13 So you've got two outliers there, and then you have the
14 average time there of 119 days.
15
16 Q.   Thank you for explaining that. I want to ask you now
17 about the two pie graphs.
18
19 COMMISSIONER: Sorry, you probably said this. Allegations
20 and complaints, the difference is what?
21 A.   You might receive one complaint but contained within
22 that complaint there could be a number of separate
23 allegations. It could be a failure of duty on a particular
24 occasion by a particular person. There could be separate
25 subject members nominated. So there could be quite a
26 number of allegations per a particular complaint.
27
28 COMMISSIONER: Okay. So they might complain about six
29 officers?
30 A.   Yes --
31
32 COMMISSIONER: Five different things?
33 A.   -- for three separate issues for each of them, yes.
34
35 COMMISSIONER: Yes, okay.
36
37 MS CAPPELLANO: If we could just put the two pie graphs
38 up, please, Mr Operator. Before I ask you about the
39 specific statistics, I just want to make sure that there's
40 an understanding of the terminology there. On the
41 right-hand side of that document you indicate there's a
42 number of different outcomes: NFA, LMR, open, hearing and
43 ADP?
44 A.   Yes.
45
46 Q.   I'm just going to take you through each of those.
47 NFA, as I understand it, stands for "no further action"?

1   A.   That's right.
2
3   Q.   And that's self-explanatory?
4   A.   There can be - a number of circumstances can lead to
5   a "no further action". That could be that the complaint
6   was found to be lawful and reasonable. It could be where
7   the officer has been exonerated of any involvement. It
8   could be it was frivolous and vexatious, or it could be
9   there was just no information to support being misconduct
10   or disciplinable conduct.
11
12   Q.   And they're decisions made by --
13   A.   Well, at any stage.
14
15   Q.   At any stage. So that decision for "no further
16   action" isn't always made by people within the ESC; it
17   could be at the district or station level as well. And "no
18   further action" means that --
19   A.   That's it.
20
21   Q.   -- nothing further occurs?
22   A.   That's it, yes.
23
24   Q.   Then if we move to LMR, which I understand means
25   "local management resolution", does this mean that there is
26   no formal finding about the complaint made and there's no
27   formal sanction imposed but instead the responsibility for
28   addressing the conduct that's the subject of the complaint
29   is given back to the officer's direct supervisor at a
30   station level?
31   A.   Pretty much. "Local managerial resolution" is a
32   management response, and it's about correcting behaviour,
33   preventing further behaviour, giving guidance where
34   necessary. It's not a formal sanction. It's a mechanism
35   for improvement and maintain professionalism. However, in
36   saying that, with the new changes it was brought about to
37   be included for a person's history should there be
38   subsequent matters that come forward so they can be
39   referred to.
40
41   Q.   And by "new changes" are you talking about --
42   A.   The current discipline system.
43
44   Q.   And that's from 2019?
45   A.   Yes.
46
47   Q.   In terms of the other circumstances in which an LMR,

1   or a local management resolution, gets imposed, for
2   example, at page 12 - and we don't need to go to this - of
3   the complaint resolution guidelines it indicates this could
4   occur in some circumstances where there is some evidence
5   that the alleged conduct occurred. However, instead of
6   going further and investigating that complaint the QPS
7   determines that that matter can be adequately addressed
8   through professional development, and an actual
9   disciplinary sanction is not required?
10   A.   Correct.
11
12   Q.   In terms of looking at the rigour, I guess, of any
13   local management resolution, that would be dependent on the
14   individual supervisor who was imposing that?
15   A.   Well, no, the determination has to come from a
16   delegated authority, which in our terms is a level 3, which
17   would be a superintendent or their equivalent. So they're
18   the case manager in all instances, and they would be
19   ultimately the decision maker to say, yes, that's suitable
20   to be dealt with by way of an LMR.
21
22   Q.   And that person you're talking about, the case
23   manager, is somebody at the district level, not the ESC?
24   A.   Well, typically it's - that's - well, it can be at
25   ESC. If ESC do the investigation it would be the detective
26   superintendant within the Ethical Standards Command if we
27   assume an investigation. If --
28
29   Q.   Just if you're talking about those assumed
30   investigations, is it the case that the Internal
31   Investigations Group investigates in about 20 per cent of
32   cases?
33   A.   Of all the cases, you mean?
34
35   Q.   Yes.
36   A.   That's probably - that number would be about right,
37   yes. I don't --
38
39   Q.   So about 80 per cent would go back to the district?
40   A.   Yes.
41
42   Q.   And the person who's making that decision, is that the
43   case manager at the district level; is that correct?
44   A.   Yes, and that's of a superintendent level.
45
46   Q.   And they're the person signing off on an LMR, but the
47   person who's actually imposing the LMR would be the

1   supervisor at, say, a station level?
2   A.   They would be responsible for ensuring that it occurs.
3   So, depending on the nature of what the strategies were
4   that were contained within it, they would be responsible
5   for making sure that it had happened.
6
7   Q.   And depending on the individual involved, that
8   individual supervisor, some LMRs might be particularly
9   involved? For example, if there was a failure of duty in
10   relation to a domestic and family violence investigation,
11   an LMR might involve a detailed professional development
12   strategy, further training in relation to domestic and
13   family violence and supervision?
14   A.   That's exactly right. They're designed to be able to
15   provide strategies that are relevant to the behaviour. So,
16   regardless of what the complaint category was, if it was
17   quite minor it might be not much more than doing one of our
18   online products or being given guidance, which might be
19   appropriate for those circumstances. Where the behaviour
20   might be greater than that or the strategy is required to
21   be more than that, they would be more detailed. There's no
22   set --
23
24   Q.   Parameters.
25   A.   That's right. It's what's relevant.
26
27   Q.   The converse of the example that I just explained a
28   moment ago with a detailed LMR - conversely, depending on a
29   particular supervising officer, there could be quite a
30   minimal approach where an LMR might be guidance and the
31   guidance could consist of being brought into an OIC's
32   office and being told, "Don't do that again. Read the
33   OPM"?
34   A.   That's true, but the LMR is prepared by the
35   professional practices manager in association with
36   the instruction of the case manager. So it's not a matter
37   of just being forwarded back to an officer in charge and
38   saying, "Here, put an LMR together." That's already
39   formulated and provided to be completed.
40
41   Q.   And that LMR, if it was saying guidance, that guidance
42   would be at the discretion of the direct supervising
43   officer?
44   A.   That's right.
45
46   Q.   While it's clear from the conflict resolution
47   guidelines at page 23 that a case manager or a practice

1   manager has the ability to review LMR - I think the wording
2   is they may review or provide feedback - it's not mandatory
3   that LMRs are reviewed as to whether or not they're
4   completed by the case manager or the PPM?
5   A.   Not by them, no. But there is a responsibility and
6   they will monitor that they have been completed. There's a
7   closing process for our complaint files. So before a
8   complaint file can be closed we need to be satisfied that
9   all the requirements of the LMR have been completed, and
10   that will be completed, then it will go back through the
11   system and then the matter can be - file closed.
12
13   Q.   And that would be uploaded onto Ignite; is that
14   correct - uploaded into the system?
15   A.   Into PIPS, the PIPS, which is our complaint database.
16
17   Q.   But that gets done at the district level or the
18   station level?
19   A.   Well, at the PPM --
20
21   Q.   Uploading and the signing off on it?
22   A.   At the PPM level. They have access to the system.
23   The general police don't have access. It's a quite
24   restricted access. So PPMs are ESC members, and they have
25   the access.
26
27   Q.   Do you have any statistics on how often there is that
28   oversight of an LMR in practice?
29   A.   How do you mean? I'm not sure.
30
31   Q.   In terms of when a matter is concluded --
32   A.   Yes.
33
34   Q.   -- there's a signoff and boxes are ticked --
35   A.   Yes.
36
37   Q.   -- to say, "This has been completed"?
38   A.   Yes.
39
40   Q.   And it's uploaded onto the record?
41   A.   Yes.
42
43   Q.   But is there any statistics on how often that is
44   reviewed to confirm, yes, in fact people did do that or,
45   yes, in fact --
46   A.   Yes, every time. It has to be completed. So the PPMs
47   monitor it. When they're satisfied that it can be closed,

1   it goes through a process. We have a governance process
2   within our Complaint Management Unit, and that would go
3   through, and making sure the LMR has been completed, it has
4   been endorsed so it's completed, and finalise - where a
5   person fails to complete it they could become the subject
6   of further allegations for failing to complete it.
7
8   Q.   Thank you. I understand the LMR process as explained.
9   In terms of the next orange outcome there, that's open, and
10   I understand that means the matter is not finalised,
11   there's no outcome as yet?
12   A.   That's right
13
14   Q.   In terms of hearings, that, as I understand it, is a
15   matter is contested and it's proceeded - it has proceeded
16   through a disciplinary hearing?
17   A.   Well, it's at that stage. So that would indicate that
18   the complaint manager is satisfied that - because they have
19   an authority under the Police Service Administration Act --
20
21   Q.   And, just to be clear, the complaint manager is the
22   person at the district level?
23   A.   The superintendent, yes, and they would need to sign
24   the authority - it's called a 7.10 referral - and that
25   would go then for consideration of a prescribed officer to
26   consider it for a hearing.
27
28   Q.   So would some of the purple wedge that is said
29   "hearing" be things that are not yet finalised?
30   A.   That's correct, or that would be not yet finalised,
31   they're to be determined.
32
33   Q.   Now, in terms of the - are you talking about open or
34   are you talking about hearings?
35   A.   No, sorry, the hearings, they're the ones that have
36   gone to hearings.
37
38   Q.   Yes, sorry, this is what I'm talking about. The
39   hearings that are purple on that chart, they have actually
40   been finalised?
41   A.   Yes.
42
43   Q.   They have gone to hearing and been finalised. The
44   other situation you were talking about would be the orange
45   and the open?
46   A.   That's right.
47

1   Q.   In terms of those hearings, is there any - on this
2   graph there's no recording of the outcome of any hearing?
3   A.   Not on that graph, no.
4
5   Q.   And is that something - so we don't see here how many
6   of those three per cent of matters went to a - were
7   substantiated or what sanction was imposed in relation to
8   those hearings?
9   A.   That's right.
10
11   Q.   Does PIPS, which is the new system, have that data?
12   A.   The data is obtainable. When they come back - as an
13   LMR would come back, it comes back into the system, for
14   particular matters you can have a look at the complaint
15   file and then you can extract the outcome for that
16   complaint file, in the specific one, if that's what you're
17   getting at. Can I give you a stat of how many were
18   substantiated versus not substantiated, I don't have that
19   material but that can be obtained.
20
21   Q.   But is it correct that the way in which that's
22   obtained is having to go into individual case files; it's
23   not data that's readily available?
24   A.   I would have to speak to the people who administer
25   PIPS to find out whether they can have an easy search
26   function for that or not, because we also have the Office
27   of State Discipline and they administer the disciplinary
28   hearings and they would keep their own records as well. So
29   there could be a number of - multiple ways of getting that
30   information.
31
32   Q.   But for the purposes of today and the information that
33   we have before us, looking at that, on the top graph it's
34   three per cent, on the bottom graph it's 2.5 per cent.
35   Looking at that, they are matters that have gone to
36   hearing?
37   A.   Yes, or at --
38
39   Q.   But we don't have any data which determines whether or
40   not - how many of those three per cent were substantiated?
41   A.   That's right.
42
43   Q.   And we don't have any data which indicates how many of
44   the substantiated matters - what - sorry, with the
45   substantiated matters what the outcomes are, whether they
46   were LMR or whether they were --
47   A.   No. We could obtain that information, but I don't

1   have it.
2
3   Q.   In terms of the abbreviated discipline proceeding, is
4   it - this is using very simplistic language, but is it in
5   effect a sort of plea bargain arrangement where the QPS in
6   consultation with the CCC would make an offer to
7   impose - would look at a matter, determine a disciplinary
8   sanction, offer that to the subject member, the police
9   officer who it related to, and if that police officer
10   accepted that sanction it could proceed through the ADP
11   process --
12   A.   It's --
13
14   Q.   -- rather than going through a full hearing?
15   A.   It's an accelerated process where people would agree
16   to the circumstances and a range of what the sanction might
17   be would be considered --
18
19   Q.   Yes.
20   A.   -- and then people would agree that that would be
21   fair, and then if they all agree upon that then a sanction
22   would be imposed through that process.
23
24   Q.   And, again, just as we discussed with the hearing
25   process, the data that we have here doesn't demonstrate
26   that of the --
27   A.   That's right.
28
29   Q.   Around one per cent or just under one per cent that
30   went through that plea bargain type process what the
31   sanctions were in relation to that?
32   A.   I can't say what the sanctions were. But, if they
33   have agreed to it, obviously it's proceeded as opposed to a
34   finding that it wasn't substantiated.
35
36   Q.   Yes. So they would all be substantiated?
37   A.   That's right.
38
39   Q.   But we don't have the data on what sanctions were
40   imposed, and that could range from an LMR to a dismissal?
41   A.   Dismissal.
42
43   COMMISSIONER: Can I just ask something before we leave
44   this graph. Is this just this year, these numbers we're
45   looking at?
46   A.   No, they were from the larger population going back
47   from 2017.

1
2   MS CAPPELLANO: That's the five and a half year data.
3
4   COMMISSIONER: Sorry?
5
6   MS CAPPELLANO: As I understand it, it's the five and a
7   half year data.
8   A.   So if you went back to the original - that's it.
9   Those images represent the outcomes for that period.
10
11   COMMISSIONER: Yes, but the little round - this is how
12   good I am at statistics, Inspector. The little things we
13   were just looking at - the "Allegations outcomes (state)",
14   "Allegation outcomes (all DV related)" - the round - pie
15   graph; that's what I was trying to think of - what period
16   is that?
17   A.   That's the five and a half year period.
18
19   COMMISSIONER: That doesn't seem to add up. There was
20   2,241 allegations in January to June this year, and we're
21   only talking about - okay, no, that's my maths, sorry.
22   I think that's my maths. So that's all of them as an
23   aggregate, is it? All of the allegations as an aggregate.
24   Can I also ask you about the hearings. Who hears the
25   matters?
26   A.   Within the QPS we have an Office of State Discipline.
27   That has, as a regular commitment, an
28   Assistant Commissioner who has the authority and
29   delegations of a Deputy Commissioner, and it has a
30   Chief Superintendent, and they deal primarily with the
31   matters that go to hearing. However, there's an ability
32   for matters to also go straight to a suitable level of a
33   commissioned officer who has done the appropriate training.
34
35   COMMISSIONER: Okay. So who is the
36   Assistant Commissioner?
37   A.   Is Assistant Commissioner Carless.
38
39   COMMISSIONER: Sorry?
40   A.   Carless.
41
42   COMMISSIONER: Carless?
43   A.   Yes.
44
45   COMMISSIONER: And the Chief Superintendent?
46   A.   Martain. Ben Martain.
47

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 1    COMMISSIONER:   And down to what level if they don't hear
 2    it?
 3    A.    Well, he's the Chief Superintendent, and then after
 4    that, depending on the nature of the behaviour, a decision
 5    can be made that the complaint could go to a person who has
 6    done the suitable training as a prescribed officer to deal
 7    with a lower level matter, for argument's sake, that
 8    wouldn't necessarily require the authorities that those
 9    higher positions do.
10
11    COMMISSIONER:   Okay.  And what level does that go down to?
12    A.    Commissioned officer.  So that could be an inspector
13    by rights.
14
15    COMMISSIONER:   Okay.  So is an inspector the lowest level
16    of a commissioned officer?
17    A.    Commissioned officer.
18
19    COMMISSIONER:   Okay.  And what's the training?
20    A.    There's a course that they have to undertake.
21    I haven't - yes, it's a course.
22
23    COMMISSIONER:   How long does that go?
24    A.    I don't know.
25
26    COMMISSIONER:   Do you know if it's online or face-to-face?
27    A.    No, no, it's a face-to-face.
28
29    COMMISSIONER:   And where does the hearing take place?
30    A.    As I understand it - and these are questions for the
31    Office of State Discipline.  Principally it's outside our
32    area.  But, as I understand it, they're largely done on the
33    paperwork --
34
35    COMMISSIONER:   Hopefully you know about the hearings?
36    A.    Well, that's outside - the hearings is a separate part
37    past the Ethical Standards Command.  There's some
38    independence, and it is important that we do have the
39    complaint process, and then the decision making outside of
40    that for the hearings occurs outside of Ethical Standards
41    Command.  So there is the Office of State Discipline, which
42    is totally separate to us, not part of us, and the
43    complaints go to them and they deal with them.  Largely,
44    they're done on the paperwork.  It's not like there's a
45    hearing in this circumstance here, but there is
46    opportunity --
47
```

1   COMMISSIONER: So when you say it's a hearing it's really
2   just a review; is that right?
3   A.   Well, yes, but there's opportunities for submissions
4   to be provided and then consideration by the prescribed
5   officer.
6
7   COMMISSIONER: Submissions by the person who made the
8   complaint?
9   A.   Or the subject member, who will have his legal
10   representatives provide submissions whether he should be
11   found to have done the wrong thing or not, or whether he
12   will try and mitigate the behaviour, whether there should
13   be a discussion around what the sanction might be.
14
15   COMMISSIONER: And then there's an avenue of appeal to
16   QCAT; is that right?
17   A.   That's right. So if it's in the police realms it will
18   go to QCAT. If it is staff members, I understand it goes
19   to QIRC.
20
21   MS CAPPELLANO: Thank you, Commissioner. Just in relation
22   to the sanctions, there have been requests for specific -
23   when we're looking at just that hearing point of view,
24   there has been requests under notices to produce to provide
25   what the actual outcomes of sanctions are. The information
26   that the Commission has received to this date is that,
27   because that's not kept electronically, from a manual - you
28   would have to go back through manually looking through
29   specific case files. Do I understand that your evidence
30   today is that that's not the case and that is information
31   that would be able to be provided to the Commission?
32   A.   The actual outcomes, we would need to extract that
33   from the complaint database. In terms of the ratio of
34   substantiated versus not substantiated ones, I think that
35   would be able to be done through our PIPS database through
36   the running of scripts or the process that they do there
37   for doing searches of those matters which went to a hearing
38   which had an outcome or had an NFA attached to it.
39
40   Q.   But do I understand it is a process that can be done
41   in terms of finding how many of the three per cent that
42   went to hearing were substantiated versus unsubstantiated?
43   A.   I believe it would be.
44
45   Q.   And then that's another process, although maybe a
46   time-consuming process due to the level of data that the
47   ESC keeps, as to the outcomes of the - the outcomes of

1   those substantiated --
2   A.   They might need to be extracted separately, and I'm
3   talking about the complaint management database that
4   started with PIPS from the older system.
5
6   Q.   And that started in May 2021?
7   A.   Yes.
8
9   Q.   So at least from that point in time you would be able
10   to provide that information to the Commission?
11   A.   I believe it could, yes.
12
13   COMMISSIONER: Can I just ask something about that hearing
14   and the appeal process. Is that a right of appeal by the
15   complainant as well, or is it just the police officer?
16   A.   No, police officer.
17
18   COMMISSIONER: Okay. And is there a right of appeal from,
19   for example, your determination of the local management
20   resolution by the police officer?
21   A.   No.
22
23   COMMISSIONER: Okay. And what about is there any --
24   A.   Sorry, they can be involved in the process in forming
25   a local management resolution. But ultimately if they
26   disagree with the one that was put in place by the
27   supervisor that would stand.
28
29   COMMISSIONER: Okay. And obviously no right of appeal for
30   a complainant? Someone who has complained has no right to
31   seek a review of your decision?
32   A.   No, that's right, because ultimately this is a
33   relationship between the employer and employee.
34
35   COMMISSIONER: Yes. Sorry, go on.
36
37   MS CAPPELLANO: Thank you, Commissioner. Now, the final
38   question I wanted to ask from a terminology point of view
39   related to what amounts to the DV-related allegations.
40   Now, is it correct that in this context you're talking
41   about complaints against the police where there are
42   allegations that the police officer has been a perpetrator
43   of domestic violence?
44   A.   That's right.
45
46   Q.   And that's sometimes referred to as member-involved?
47   A.   Correct.

1
2   Q.   There's allegations involving a failure of duty in
3   relation to misuse of - sorry, failure of duty in a
4   domestic and family violence investigation?
5   A.   Yes.
6
7   Q.   And then also misuse of information allegations in a
8   domestic and family violence context?
9   A.   Yes.
10
11   Q.   Is it the case with that last category that isn't
12   automatic data that's kept but you have to go through and
13   sort of specifically search to get that?
14   A.   Yes, you would need to. We do put themed words
15   against the allegations as they're made to make that
16   process easier, but, as you can appreciate, getting a
17   database, getting all the information that you might need
18   at some point --
19
20   Q.   Of course.
21   A.   So the question around the member-involved behaviour,
22   that does have its own category for the domestic and family
23   violence issues. The failure of duties is just a generic
24   allegation code, but we can search amongst that for ones
25   that relate to domestic and family violence through the
26   search function. We have codes that will match up to the
27   codes applied by the CCC, so we need to make sure that
28   we've got equal comparison.
29
30   Q.   And then for the misuse of information you have to
31   search --
32   A.   We will have "information misuse", but then it will
33   have the theme words to assist in searching.
34
35   Q.   And is misuse of information always considered when
36   you're looking at the DV-related outcomes?
37   A.   No, if it forms part of the circumstances that are --
38
39   Q.   Sorry, I probably wasn't clear then. Are misuse of
40   information matters which are DV related always counted in
41   the police data where it's referring to DV-related?
42   A.   No, this was specific to the inquiry that was
43   requested as part of the statement, and you can see they're
44   very small numbers. So it depends on what the request is.
45   So I'm not sure --
46
47   Q.   So, in terms of your record keeping or if you're

1 looking over trends, misuse of information which are DV
2 relevant wouldn't always come up in those trends?
3 A.   Well, if we went looking for trends, yes, we would.
4 I mean, we have identified that in many cases where a
5 person might be subject to domestic and family violence
6 behaviour that there is a correlation to their access to
7 our database, and in many instances where there is concern
8 we would do audits to check whether or not that's the case.
9
10 Q.   But just on this issue if I could ask you about how
11 often misuse of information is included as DV-related
12 behaviour when the QPS are looking at those types of trends
13 in complaints. Can I just take you to paragraphs 27 and 28
14 of your statement?
15 A.   I've only got 14 pages.
16
17 Q.   Paragraph, sorry, on page 6.
18 A.   Sorry. Yes.
19
20 Q.   When you're talking about - there you talk about at
21 paragraph 27 that where there's allegations of police being
22 the perpetrators of domestic and family violence there's a
23 specific complaint category?
24 A.   That's right.
25
26 Q.   When you talk about a person not responding
27 adequately, a failure of duty, in terms of domestic and
28 family violence, you talk about it being under the generic
29 category "failure of duty" but then identifying the key
30 word search of "domestic and family violence"?
31 A.   That's right.
32
33 Q.   In your consideration there of the different subsets
34 of types of allegations involving domestic and family
35 violence, misuse of information isn't recorded there?
36 A.   Well, it would be recorded in the same way that the
37 failure of duty is. So if you're doing a request for
38 failure of duty which related to domestic and family
39 violence, you would be able to do a search on that.
40
41 Q.   You would then do key words?
42 A.   Equally, for information misuse, the key word search
43 would still apply.
44
45 Q.   But in terms of your - I'm trying to work out whether
46 or not the QPS would always have failure to - failure -
47 misuse of information considered when looking at overall

1   trends when it comes to domestic and family violence
2   complaints, because in your statement when you outlined the
3   different categories there, for example, misuse of
4   information wasn't included?
5   A.   Well, no, it's not. But I mean it's in our database.
6   So if it's in there we can extract the data depending on
7   the search that's required, I guess. So when we're looking
8   at trends and information that might support analysis of
9   where things are happening, what we should be looking at,
10   all that information is now contained in PIPS, which we
11   didn't have previously. So, depending what you're looking
12   for, it will be there.
13
14   Q.   So the information is in the database but it's
15   dependent on the person looking for those trends to
16   identify "misuse of information" as a relevant category?
17   A.   As is the failure of duty, yes.
18
19   Q.   Now if I could just take you - Mr Operator, if we
20   could go back to that previous attachment with the two pie
21   graphs. Now if I could just make sure that we understand
22   what the data is saying here going through those pie
23   graphs, and, if I can begin by looking at the bottom data,
24   what that indicates - correct me if I'm wrong - is that
25   about 11 per cent of allegations are still open?
26   A.   Yes.
27
28   Q.   So, if we set that to one side, we know the outcomes
29   in the remaining 89, 90 per cent of matters; is that
30   correct?
31   A.   That's right.
32
33   Q.   So, looking at that 89 per cent of matters that are
34   DV-related allegations against police members that were
35   finalised over the last five and a half years, that graph
36   demonstrates the outcome in about 70 per cent of those
37   cases was that no further action was taken?
38   A.   That's right.
39
40   Q.   The outcome in 16 per cent of the cases was that a
41   local management response was appropriate?
42   A.   Yes.
43
44   Q.   And so together no further action or local management
45   response account for about 85 to 86 of the 89 percentage of
46   allegations?
47   A.   That's right.

```
1
2     Q.    So, of the remaining three per cent of matters, just
3     over one per cent were resolved by way of alternative
4     dispute process?
5     A.    Yes.
6
7     Q.    But we don't know what sanction was imposed in those
8     cases?
9     A.    That's right.
10
11    Q.    And about 2.5 per cent went to hearing; is that
12    correct?
13    A.    Yes.
14
15    Q.    But we don't know how many of those cases that went to
16    hearing were substantiated?
17    A.    That's right.
18
19    Q.    And we don't know what sanctions --
20    A.    On this data here, yes.
21
22    Q.    Yes.  And we don't know what sanctions were imposed in
23    that 2.5 --
24    A.    That's right.
25
26    Q.    Or whatever percentage of the 2.5 per cent were
27    substantiated?
28    A.    That's right.
29
30    Q.    Do you agree that that's an accurate summary of
31    the outcomes of the domestic and family violence related
32    complaints against police officers over the past five and a
33    half years?
34    A.    Yes.
35
36    Q.    And that's allegations involving police perpetrating
37    domestic violence, allegations involving failure of duty
38    for domestic violence?
39    A.    Yes.
40
41    Q.    And allegations involving misuse of information in
42    relation to domestic violence?
43    A.    Yes, and they only form a very small part of those
44    numbers, but, yes, in terms of the allegation, that's
45    right.
46
47    Q.    The misuse of information?
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 1      A.   Yes, the numbers of those is much smaller.
 2
 3      Q.   By "those" you're talking about misuse of information?
 4      A.   Yes, yes.
 5
 6      Q.   Not DV totally?
 7      A.   Yes, that's right.
 8
 9      Q.   Because the DV, for example, last year was 10 per cent
10      or 12 per cent --
11      A.   That's right.
12
13      Q.    -- of all allegations.  Now, would you agree if we
14      look at the top map that those trends are quite similar
15      when we're looking at total allegations against police over
16      the last five and a half years?
17      A.   That's right.
18
19      Q.   And I'll take you through those?
20      A.   Yes.
21
22      Q.   Now, can I just confirm when we're looking at the
23      total allegation outcomes statewide the DV statistics would
24      be in that top graph as well; is that correct?
25      A.   Yes.
26
27      Q.   But it would also be every complaint against police;
28      so if someone thought that the police were rude to them --
29      A.   Yes, that's right
30
31      Q.    -- as well as excessive force allegations, that's
32      everything?
33      A.    It shows a close trend between the two.
34
35      Q.   Yes.  And in that case it shows about eight per cent
36      are still open?
37      A.   Yes.
38
39      Q.   About 70 per cent have no further action taken?
40      A.   That's right.
41
42      Q.   About 18 per cent went to the local management
43      resolution?
44      A.   Yes.
45
46      Q.   And then that total again of no further action and
47      local management resolution is about 88 per cent of the
```

1   92 per cent that have been finalised?
2   A.   Yes.
3
4   Q.   Less than one per cent of cases went to the
5   alternative dispute - sorry, alternative discipline
6   procedure, and we don't know the outcomes of those?
7   A.   That's right.
8
9   Q.   About three per cent went to hearing. Sorry, you
10   nodded but you'll have to speak?
11   A.   Sorry, yes.
12
13   Q.   And we don't know how many of that three per cent were
14   substantiated?
15   A.   That's right.
16
17   Q.   And we don't know --
18   A.   Well, I don't know off this graph, but we would know,
19   yes.
20
21   Q.   But this is the material that's been provided to
22   the Commission?
23   A.   That was requested by the Commission, yes.
24
25   Q.   Yes, but in circumstances where the Commission has
26   also requested outcomes and substantiation rates and have
27   been told by the ESC that that isn't able to be produced?
28   A.   I don't know about that part, no.
29
30   Q.   You weren't part of that data analysis and extracting
31   process?
32   A.   No.
33
34   Q.   Okay. Do you agree that that's an accurate summary of
35   the total outcomes over the five and a half year period?
36   A.   Yes.
37
38   Q.   Now, Inspector Nixon, I would like to take you now to
39   the complaints handling process and get you to explain that
40   in a little bit more detail now that we understand what the
41   different outcomes are able to be.
42   A.   Sure.
43
44   Q.   I might take you - and this doesn't need to be shown
45   on the screen initially, Mr Operator, but if I could take
46   you, Detective Inspector, to paragraph 10 of your
47   statement. At paragraph 10 you talk about complaints being

received by the QPS in two basic forms, either as a
Policelink complaint or as a complaint to be dealt with
through the disciplinary system. Now, Mr Operator, could
I have I think it is attachment B to Detective
Inspector Nixon's statement placed on the visualiser, and
the pinpoint reference for that is - that's it; thank you.
I don't - if it's easier, just the flowchart could be in
focus.

OPERATOR: Do you want the whole thing or just the first
half, for example?

MS CAPPELLANO: I think just the first half might be
useful. Sorry, no, the whole thing. I thought you meant
the first page. Now that's the complaint flowchart, as
I understand?
A.   Yes.

Q.   It might be useful to have this up because it can be a
bit complex when we're talking about these things. So
I would like you to talk to the flowchart.
A.   Right.

Q.   Now, you say in your statement there's two basic
forms: Policelink or complaint to be dealt with through the
discipline system. Now, are you able to explain that with
reference to this flowchart, because, as I can see, there's
five different ways in which complaints have come into that
flowchart?
A.   Yes.

Q.   One being Policelink.
A.   Right. So Policelink is where there's a mechanism
that a person can ring the Policelink phone number or do an
online form, and that goes to Policelink. There's a
triaging process adopted by them. So, for those matters
which are clearly a lawful and reasonable action, they'll
maintain contact with the person who calls or who writes in
and gives them the outcome to say that that won't get
compressed as a - continued as a complaint, and they're the
type of ones where they would complain that the police
helicopter is flying over their house frequently. These
are real things. Or they would say the radar speed camera
is sitting outside their house too frequently. So that
type of level of lawful and reasonable would be
communicated back to the person who calls, and there is a
mechanism there that if they're not happy with the advice

1   they get they're given contact details for our office at
2   the CMU so they can progress it further if they choose.
3
4   If it's a service delivery issue, for example, and
5   it's quite clear to the Policelink operator, that will get
6   sent straight to the officer in charge of the area that's
7   related to it. The example I provide in my statement is
8   where there's ongoing hooning in a particular area and
9   they're seeking more patrols. So for those type of issues
10   which is quite basic they would go straight to the officer
11   in charge of that area. All other matters go via the PPM,
12   and they will then deal with the complaint file as it is.
13   So they'll look at it and if there's any misconduct
14   involved with it, it will then get supported into the
15   discipline system, and that's where it shows the entry
16   point there on Policelink on that graph.
17
18   Q.   Okay. So, just to clarify, the Policelink complaint
19   that you discussed from paragraph 10 of your statement is
20   different to the Policelink on the flowchart; that's a
21   process that occurs --
22   A.   That's the entry point, yes, because --
23
24   Q.   Prior to getting onto the --
25   A.   So that's where the PPM will have received a
26   notification from Policelink, they're satisfied that it
27   constitutes misconduct, and then they will incorporate that
28   then - from the Policelink report that will go through into
29   our database and become a complaint in the discipline
30   system. All other matters would be referred back to the
31   relevant officer in charge to deal with.
32
33   Q.   So the Policelink complaint - when you said there were
34   two basic forms of complaint, either Policelink complaint
35   or for a complaint to be dealt with through the
36   disciplinary system --
37   A.   That's right.
38
39   Q.   The Policelink complaint that you're referring to is
40   different to what's on the flowchart; is that correct?
41   A.   Well, the flowchart is to show that's where the
42   information is received from.
43
44   Q.   But that process that you discuss from paragraph 11
45   about the Policelink complaint, whether it's a service
46   delivery issue or the helicopter issue, that's something
47   that's not displayed on the flowchart; is that correct?

1   A.   That's right. They're triaged effectively prior to
2   coming into the discipline system. They're entry points of
3   where information might be received.
4
5   Q.   So what is on this flowchart is the matters that
6   haven't been triaged out but that are part of the
7   disciplinary complaints system; is that correct?
8   A.   Or for the Policelink one which has been triaged
9   through the PPM, who says, "That complaint's come via
10   Policelink. We are satisfied this needs to sit within the
11   discipline system," and that will come into the entry then,
12   as the Policelink would indicate.
13
14   Q.   Can you indicate broadly speaking what matters are
15   within the disciplinary system as opposed to what matters
16   get triaged and cut out?
17   A.   I think at the highest the matters that wouldn't go
18   in, that couldn't fit within it, would be a complaint that
19   someone showed some incivility or some rudeness perhaps in
20   a police station, would be dealt with. If there was no
21   other information to support it and a person was unhappy,
22   that should be properly dealt with by a supervisor in the
23   workplace, and that would remain there. Anything that
24   becomes disciplinable conduct which is something that could
25   be dealt with by way of a hearing or by a PDSD should then
26   come into our discipline system and --
27
28   Q.   PDSD?
29   A.   Professional development strategy document. So it's a
30   PDS.
31
32   Q.   Sorry?
33   A.   Sorry, I apologise for the acronym. So that's the
34   document that when a complaint is first received we must
35   always consider to deal with the behaviour in the first
36   instance if in fact one is required.
37
38   Q.   And the flowchart which you've provided covers the
39   disciplinary complaint side of things?
40   A.   Yes.
41
42   Q.   Not the helicopter or the --
43   A.   No, that's triaged prior to here. So, where it says
44   "Policelink", all the information that we've spoken about
45   Policelink so far has either been triaged out of it or for
46   those matters that a complaint that was received via
47   Policelink and has been dealt with by the PPM, that's

1 where - that point there is an entry point to show that it
2 came via the Policelink process.
3
4 Q. So if we focus now just on the disciplinary system,
5 which I understand is demonstrated by this flowchart?
6 A. Yes.
7
8 Q. You indicate at paragraph 18 of your statement that
9 complaints can be received in a number of ways both through
10 an internal and an external form?
11 A. Yes.
12
13 Q. And you can see the different - whether it be web
14 portal, 466, Policelink, email, letter or external agency
15 such as the CCC --
16 A. Yes.
17
18 Q. Are the types of forms?
19 A. Yes.
20
21 Q. Is everything other than the web portal external?
22 A. Well, yes, because the Policelink ones would come in
23 via the 466 --
24
25 Q. From the public?
26 A. That's right. So everything else - and that's not an
27 exhaustive list. If it comes in any way, we're quite
28 conservative in the approach that we would take about
29 accepting complaints. So, depending on how it comes in, if
30 it gets to our system it will go in this.
31
32 Q. Now, in terms of internally sourced disciplinary
33 complaints, you talk about these in paragraph 19 of your
34 statement, and I would like you to explain this process if
35 you would. What's the - prior to - because there's a 466
36 process there, but do I understand from the evidence that
37 you give in your statement that there's another step that's
38 not on the flowchart where there's an initial officer
39 assesses a matter and deals with it by way of a desktop
40 managerial resolution?
41 A. That's the 466 and the 465 --
42
43 Q. Okay. Can you explain that process for us, please?
44 A. Okay. So the QP 466 is a - it's the same button on
45 our internal database on the web portal that you would push
46 and then you come up with two options. There's a decision
47 tree there, effectively. So the first one is the 465, and

1   that really is for those behaviours which would be suitable
2   to be dealt with by way of a desktop management resolution.
3   So where there's an officer who has - doesn't have repeated
4   behaviour, it's a one-off behaviour, not likely to be
5   repeated, not particularly serious, our discipline system
6   would indicate that needs to be dealt with quickly.
7   There's a desktop resolution process that says that the
8   supervisor can then go and deal with that. In all cases
9   those matters come to ESC and there's some oversight for
10   each of those that are dealt with.
11
12   Q.   Sorry, can I ask about that point. Do they come to
13   the ESC after that decision has been made and they are then
14   reviewed, or does ESC make that decision?
15   A.   In a technical sense it's both. The supervisor who
16   first receives it can make that decision and can
17   immediately deal with the behaviour by way of providing a
18   local management resolution and dealing with it so it's
19   quickly dealt with.
20
21   Q.   And that would be a 465 --
22   A.   That's right.
23
24   Q.   -- desktop managerial resolution?
25   A.   Regardless of whether they have dealt with it, the
26   information still comes into ESC for the oversight.
27   They're not as common as the complaints that would come in,
28   they would get assessed at ESC, and then there's two levels
29   there. It will either be assessed as a matter suitable to
30   go back as a desktop manager or a client service issue, and
31   they get dealt with through that state coordinator
32   mentioned on the --
33
34   Q.   Yes.
35   A.   That's really a check and balance, I guess, to make
36   sure it's not misconduct or we haven't missed anything.
37
38   Q.   So that's a review, though, not --
39   A.   Yes.
40
41   Q.   The person making that decision - I think you said
42   technically it's both, but in practice is the person making
43   the decision about whether or not it's a desktop resolution
44   or it's elevated to a complaint --
45   A.   That's right.
46
47   Q.   -- is who is referred to as the initial assessing

1   officer; is that correct?
2   A.   No. The initial assessing officer occurs before the
3   465 is completed.
4
5   Q.   Okay. So who's the initial assessing officer?
6   A.   Well, that's the person of the rank of senior sergeant
7   or above.
8
9   Q.   At what level? Where are they based?
10   A.   Wherever the complaint comes in.
11
12   Q.   In the station?
13   A.   That's right. So the purpose of that is just to make
14   sure that if the first-year constable on the front counter
15   receives a complaint there's a degree of oversight or an
16   experienced oversight that can be applied to make sure
17   that, one, it is a discipline complaint; two, is there any
18   immediate concerns that we need to make, you know,
19   evidentiary conditions, is it something that could be dealt
20   with expediently through the 465 process, is it more
21   serious and needs to go through the 466 process, is there a
22   need then to elevate the concerns to the higher level
23   within the district because maybe there needs to be a
24   movement of an officer from one location to another - those
25   type of management issues. So it's to cover off on the
26   very early details to make --
27
28   Q.   And that initial - sorry, I didn't mean to interrupt
29   you.
30   A.   It is just to make sure that there's a suitable senior
31   person within the district that can make decisions around
32   the immediate advice where a complaint is made.
33
34   Q.   Prior to a decision being made about a 465 or a 466?
35   A.   That's right.
36
37   Q.   Then there is a person - the assessing officer is a
38   person at the station that the complaint's made about who
39   makes a decision whether or not to elevate it to --
40   A.   At that station or another station. It could be a
41   PP- - it's whoever is available of that rank that is - they
42   can make contact with.
43
44   Q.   And so it's dependent on that initial assessing
45   officer's decision as to whether or not it proceeds through
46   this formal complaint flowchart?
47   A.   Yes, that's true. The reservation I have is I can't

1   think of a situation where it wouldn't progress unless the
2   complaint that came in was quite trivial, if that makes
3   sense.
4
5   Q.   And those decisions of the initial assessing officer,
6   the person at the sergeant level at the station where the
7   complaint has arisen, aren't recorded anywhere on the ESC
8   databases or the QPS databases?
9   A.   Yes, there is. So if they made a determination that
10   the actions were lawful and reasonable there's another
11   button on the web portal, a 464B, and you can complete that
12   and then you would say, "This person came into the police
13   station on this date, they made this complaint, we reviewed
14   the body-worn footage, whatever we did, and we were
15   satisfied the actions were lawful and reasonable," for
16   example.
17
18   Q.   This might be another area which you, Detective
19   Inspector, haven't been involved in, but those questions
20   have been asked of the ESC to provide that information?
21   A.   Okay.
22
23   Q.   Is that another area if that information is available
24   can you take on notice to provide the statistics in
25   relation to how many matters proceeded through the 464B
26   process?
27   A.   The lawful and reasonables, yes, I think we can do
28   that. I have the reservation around the 465 process
29   because that's an entry level into our system. So,
30   regardless of whether it comes in as a 466 or a 465, it
31   comes into our Complaint Management Unit and they'll review
32   it in there as well, and then if necessary they'll prepare
33   the complaint file for the relevant area. So it either
34   goes to our Complaint Assessment Committee or it goes to
35   the state coordinator committee to determine what should
36   happen with it. So there's a second process, and the
37   complaint file that then gets generated. I would have to
38   check whether or not there's any change to the 465 entry
39   process in PIPS.
40
41   Q.   However, can you take on notice to provide that
42   information --
43   A.   Sure.
44
45   Q.   -- so that there is the data of how many matters that
46   have come in have gone through these different processes.
47   So, while there is oversight you talk about with the state

1   coordinator role, the 465 process again isn't on this
2   complaint flowchart in terms of coming in?
3   A.   A 465 comes - is the web portal. Where it says
4   QP 466, you can take that to include a 465 because they
5   all --
6
7   Q.   Why doesn't it say 465?
8   A.   Well, because typically they're a desktop manager and
9   they're client services ones. It probably should have a
10   465 for completeness because --
11
12   Q.   Okay. So in reality the matters which are 465 don't
13   come through this process; they have already been resolved
14   in a desktop management style at the station?
15   A.   No, they all come through.
16
17   Q.   Okay. So that's just a typo in the flowchart?
18   A.   Well, that's right, yes, it should have a 465.
19   QP 465s will also come via the web portal, and they will be
20   considered. In the most part they haven't been determined
21   with an outcome. On rare occasions they will be. When it
22   gets to the state - if they're not elevated within our
23   Complaint Management Unit as clearly misconduct, they would
24   come to the state coordinator meeting and determinations
25   will get made out of there for no further action where it's
26   quite clear that no - it's lawful and reasonable, whatever
27   those criteria might have been, or alternatively they would
28   be returned back to the district to deal with as a - well,
29   it says there no further action for assessment inquiries
30   because there's not enough information or for a management
31   process.
32
33   Q.   And if it is possible to find that data in terms of
34   how many matters come through as a 465 and the outcomes of
35   those 465s, you'll take on notice to endeavour to do that
36   for the Commission?
37   A.   Sure.
38
39   Q.   In terms of the externally sourced complaints that's
40   top level again, one of the agencies which you talk - that
41   includes complaints from the public; is that correct?
42   A.   Yes.
43
44   Q.   It also involves complaints that have been devolved
45   from the CCC?
46   A.   Yes.
47

```
 1    Q.    And the complaints coming back from the CCC, would
 2    that also include complaints which have been made by the
 3    public directly to the CCC but then been devolved back to
 4    you?
 5    A.    That's exactly right.  They would be referred to as a
 6    section 36 notification to us.
 7
 8    Q.    And would you agree that when you're looking at those
 9    type of complaints the overwhelming majority of those
10    complaints coming from the CCC have been sent back for
11    investigation by the QPS?
12    A.    I'm not sure.  So where we get a section 36
13    notification from the CCC?
14
15    Q.    Yes.
16    A.    So that could be one of those they referred to us with
17    no further action, it could be police misconduct.  No,
18    I don't know that I would agree that they would all go for
19    investigation.  They might go for assessment inquiries.
20    Some might be finalised as no further action.  We have the
21    advantage of reviewing body-worn footage.
22
23    Q.    Sorry, when I meant investigated by the police, what
24    I was referring to is that the police are the people making
25    the call on what the outcome is?
26    A.    Yes, that's right.
27
28    Q.    So it might not have a formal investigation.
29    A.    That's right.
30
31    Q.    In fact, most don't seem to have a formal
32    investigation.  But it comes back from the CCC for the
33    police to determine whether there is no further action,
34    whether there's a local managerial response, whether
35    there's formal further investigations or whether there is a
36    ADP plea bargain of offered; is that correct?
37    A.    Well, when they come to us it will be - one of three
38    things will happen.  So it will come into our assessment
39    committee and it will either be finalised as no further
40    action because there's evidence to support that, and
41    there's a lot of rigour around that to support those; or,
42    alternatively, it will come to us where we just don't have
43    enough information to make a decision, so it will go for
44    assessment inquiries; or where there is enough information
45    and we're satisfied that there is some concern around the
46    allegations it would go to investigation if we thought it
47    was a complaint that should be or could possibly dealt with
```

1   by way of a sanction.
2
3   Q.   Okay. Now, you talk about the Complaint Management
4   Unit at the top of paragraph 24. The Complaint Management
5   Unit, that's staffed by some administrative staff and sworn
6   police officers?
7   A.   That's right.
8
9   Q.   But all QPS staff?
10   A.   Yes.
11
12   Q.   And you say at paragraph 25, "Complaints involving
13   allegations of domestic and family violence or a police
14   failing in their duty to deal with domestic and family
15   violence are dealt with in the complaints system in a
16   consistent approach to any other allegation made against
17   police"?
18   A.   Yes.
19
20   Q.   I'm just not sure exactly what you mean in relation to
21   that?
22   A.   Just to clarify that domestic and family violence
23   related allegations are no different than one of anything
24   else of police --
25
26   Q.   Excessive use of force?
27   A.   Drink driving or excessive use of force or --
28
29   Q.   Certainly. Thank you. I understand what you meant by
30   that. Then if you look at - I took you to paragraphs 27
31   and 28 before, and that's where you were talking about
32   matters where there's police - allegations of police
33   perpetrating domestic and family violence, going to that
34   certain category of unprofessional personal conduct with
35   the subtype of domestic and family violence. You talk
36   about matters where there was a failure of duty to be
37   within that specific category. What about - where do
38   misuse of information fall? Do they have a certain
39   category that they --
40   A.   Yes.
41
42   Q.   And what is that?
43   A.   It's information misuse. I don't know the category
44   number, but it is information misuse.
45
46   Q.   Certainly. No, I don't need to know the category
47   number. Can I ask you this: are there certain trends into

1   how those different types of allegations involving domestic
2   and family violence are dealt with - are classified, as in
3   are they classified "misconduct" or "discipline, not
4   misconduct", or is it --
5   A.   Misconduct.
6
7   Q.   -- on a case-by-case basis?
8   A.   It's all on a case-by-case basis on the circumstances,
9   but they're all misconduct.
10
11   Q.   Okay. Now, if we just look - you then move on to talk
12   about complaint assessment, and this is perhaps easiest
13   understood by looking at the flowchart again. Do
14   I understand correctly that matters which are discipline
15   and not misconduct go down one avenue?
16   A.   That's right.
17
18   Q.   And the matters which are misconduct go down the other
19   avenue?
20   A.   It's probably easier to - for understanding that
21   breaches of - formerly it was called "breaches of
22   discipline". So those more minor matters would be the
23   breaches of discipline. So they're the "discipline, not
24   misconduct" matters. It's just terminology that's in the
25   legislation. So they're the minor matters that would be
26   dealt with through the state coordinator process but does
27   not include anything that's misconduct. All misconduct
28   matters go to the Complaint Assessment Committee.
29
30   Q.   And the outcomes for those "discipline and not
31   misconduct" matters ultimately are no further action, LMR
32   or MP, which is management plan?
33   A.   Or assessment inquiries.
34
35   Q.   Now, what is the difference between assessment
36   inquiries or management enquiries and investigative?
37   A.   An assessment inquiry would largely be - well, where
38   you just don't have enough information. It might be that a
39   quick review or an understanding from the district of what
40   has happened in a particular case - it might be a review of
41   a patrol log. It could be speaking to a few people who are
42   nominated as either subject members or witnesses who might
43   be able to clarify what's going on. It could be a
44   complaint that there's been excessive use of force in a
45   watchhouse, so it might be to go and recover the watchhouse
46   video footage to review that. It could be any range of
47   things for assessment inquiries, and investigation - and

1 you'll find that - I haven't put it in there, but I've -
2 doing the state coordinator role, I don't think it would be
3 appropriate for any matter that goes through that stream to
4 go to investigation. If it does, it would be suitable then
5 to go across to misconduct, so it shouldn't --
6
7 Q.   Yes, and that was what I was going to ask: for those
8 matters they get resolved and they're either no further
9 action, LMR or --
10 A.   That's right.
11
12 Q.   -- MP? What is the difference between management
13 process, MP, as opposed to an LMR?
14 A.   LMR really is where we think there's a shortcoming
15 somewhere or there's a learning to be gained by putting in
16 the process a local management resolution, which is an
17 outcome --
18
19 Q.   Yes.
20 A.   -- for behaviour. A management process could be
21 something where it goes back to deal with a management
22 response. It could be a client service issue where a
23 person just doesn't understand what's happened by police,
24 and sitting down and talking to them they might better
25 understand what had happened, in fact realised that police
26 had acted quite appropriately. It could be that, for
27 argument's sake, someone complained that police didn't turn
28 up in a timely fashion to their break and enter, but
29 someone might go and speak to them and explain, well, on
30 that night - that was a particularly busy night, there were
31 all these other matters that had a higher priority than the
32 break and enter, and they might then think, "Well, that's
33 okay." So it's --
34
35 Q.   So is it a manager dealing with a member of the
36 public?
37 A.   Well, it could be. That could be an example. It
38 could be where it goes back for some further inquiry.
39 Ultimately there could be some disciplinable conduct comes
40 out of it, but, really, it's to go back to the management
41 and say, "This doesn't appear to fit within the discipline
42 system. You might need to just have a bit of a look and
43 work out a local resolution."
44
45 Q.   So it's a less formal local management resolution?
46 A.   Well, no, a local management resolution is an outcome
47 for disciplinable conduct. A management process is just to

1   go back to the management and say, "Listen, we've got this
2   complaint. We're not satisfied on the information that we
3   have that the police have necessarily done the wrong thing
4   here, so you might want to go and have a bit of a look at
5   it." It might be those matters that were triaged
6   otherwise - you know, we spoke about earlier with
7   Policelink, they might have come through the system in
8   another fashion and it might be the same sort of thing for
9   them. So it might go to an officer in charge to deal with
10   a person who doesn't understand what's going on. It might
11   be to go back to a district because a person making the
12   complaint has some mental health challenges and there might
13   be some referral options that might assist them. It's that
14   process to go back and --
15
16   Q.   And that management process isn't on the statistics we
17   looked at before on those graphs because it's not a formal
18   outcome; is that correct?
19   A.   That's right. That's a way of dealing with it from
20   out of that committee, to go back to the district. Out of
21   that, it would go back and they would say, "Listen, there's
22   some poor behaviour here. There's an LMR," or, "No,
23   everything's done properly. It's an NFA."
24
25   Q.   So then if we leave the "discipline, not misconduct"
26   side of flowchart --
27   A.   Yes, and go across to "misconduct".
28
29   Q.   -- and move onto "misconduct", you define "misconduct"
30   at paragraph 33 of your statement as conduct that's
31   "disgraceful, improper, unbecoming of an officer or shows
32   an unfitness to be or continue as an officer or does not
33   meet the standard of conduct the community reasonably
34   expects of an officer"?
35   A.   That's legislated.
36
37   Q.   In the dictionary of the Act?
38   A.   Yes.
39
40   Q.   Now, you also go further at paragraph 34 to talk about
41   the test for determining whether somebody meets the
42   threshold to report, and you say it's well established by
43   the Crime and Corruption Commission in their publication
44   "Corruption in focus: A guide to dealing with corrupt
45   conduct in the Queensland public sector", and you talk
46   about, "There must be evidence sufficient for a reasonable
47   person to suspect corrupt conduct which in the case of the

1   police officer when considering misconduct."
2
3   Now, I don't understand the relationship between
4   corruption definitions within the Crime and Misconduct Act
5   and the relationship in terms of meeting a threshold for
6   misconduct within the police disciplinary system, and so
7   I would like you to explain that. But can I just ask this
8   question first: the definition of "corruption" in the crime
9   and misconduct process is very different to misconduct?
10   A.   Yes. So that definition comes from the Crime and
11   Corruption Commission out of their "Corruption in focus",
12   and that was a paper that went out to all areas of units of
13   public administration. It was put in the statement because
14   it does provide a good test of where the threshold sits.
15   Our complaint resolution guidelines have largely adopted
16   that but have put it in through the misconduct relevance,
17   and you'll see in my statement - whilst it mentions
18   "corrupt conduct" in my statement, that's only because
19   that's what's in the "Corruption in focus". It's the same
20   relevance as it is for us for misconduct. So what it's
21   saying is there needs to be more than a bare or idle
22   suspicion that something happens. There needs to be some
23   sort of evidence to support that or a tangible belief that
24   there's something more than just a whim, if you like.
25
26   Q.   So the definition of "corruption" within the crime and
27   misconduct - "Corruption in focus" doesn't actually play
28   into the --
29   A.   No, no. That's where the definition --
30
31   Q.   -- misconduct. It's just a test?
32   A.   Yes.
33
34   Q.   Certainly.
35   A.   And where that says "corrupt conduct" you could
36   replace that with "misconduct". It's the test that you
37   would apply to decide whether or not information that you
38   have should be considered as a complaint.
39
40   Q.   Thank you. I understand that now. In terms of
41   misconduct, that's assessed by CAC, which is the Complaint
42   Assessment Committee. Again, that's QPS staff, largely
43   sworn officers?
44   A.   Yes.
45
46   Q.   But some staff members. Then the flowchart
47   demonstrates how things can be - how things proceed?

1   A.   Yes.
2
3   Q.   And once it's assessed you've explained what each of
4   those - it can be no further action at that stage,
5   assessment inquiries or management inquiries; you just
6   explained that?
7   A.   Yes.
8
9   Q.   Those definitions which you talked about previously
10   apply to misconduct as well?
11   A.   Yes.
12
13   Q.   Ringing up the station or looking at CCTV videos and
14   things like that?
15   A.   That's what the assessment - yes.
16
17   Q.   And management process, that was also the same as what
18   you've just described?
19   A.   Yes.
20
21   Q.   Or a formal investigation?
22   A.   That's right.
23
24   Q.   Now, in terms of a formal investigation, can I just
25   ask you about what sorts of things are focused on in that
26   investigation - and perhaps, Mr Operator, if I could have
27   page 29 of attachment A placed on the visualiser. That's
28   attachment A to Inspector Nixon's statement, the pinpoint
29   reference being [DJN- - yes; thank you. In terms of the
30   investigation, the dot points - that whole page, but in
31   particular the dot points indicate the different things
32   that a case officer should do when they are forming an
33   investigation: reviewing the file, obtaining versions --
34   A.   Yes.
35
36   Q.   All those sorts of things?
37   A.   Yes.
38
39   Q.   Do I understand from the procedures outlined in those
40   dot points but also more generally in the complaint
41   resolution guidelines that when investigating a complaint
42   the focus there is on the individual allegations the
43   subject of that specific complaint?
44   A.   Well, the focus is, yes.
45
46   Q.   And so in the course of this inquiry we've talked
47   particularly in the domestic and family violence space

1   about the importance of looking at patterns of behaviour as
2   opposed to looking at an individual instance. Is it the
3   case that courses of conduct and patterns of behaviour are
4   not the focus when looking at complaints when it comes to
5   the investigation of complaints against police but the
6   focus is instead on that individual act?
7   A.   Well, the - there's two steps, I suppose, to that.
8   The investigation really is about the behaviour of
9   the officer, and there's a consideration obviously that
10   that would go to a prescribed officer for a sanction to be
11   imposed, whatever that might be. It also says that when
12   the complaint goes out it pre-supposes that there would be
13   a criminal investigation where there is a degree of
14   criminality potentially involved in what's going on.
15
16   But, to answer your question, one of the things that
17   we do at CAC, and it's a more recent thing, is where an
18   officer might be listed as a subject member we will then
19   cause for audits to be done around their behaviours either
20   as an investigator of DV in their own area and how they
21   have dealt with DV matters themselves, whether there's any
22   correlation between that and poor behaviour - it's only
23   fairly new.
24
25   Q.   How new?
26   A.   The last six months, or probably even less than that
27   maybe - where the discussions out of our assessment
28   committee will say to go back and review perhaps the past
29   10 DV matters that this person attended to and make sure
30   that we're satisfied that they were dealt with properly.
31   That could be for both the person who is a perpetrator or
32   as a failure of duty.
33
34   Q.   Now, this is occurring at the CAC level you're talking
35   about looking at patterns of behaviour?
36   A.   Yes.
37
38   Q.   Is it the case that those details when you look at
39   that information about somebody's pattern of behaviour is
40   contained within the PIPS system with the ESC?
41   A.   Well, their history certainly is, yes.
42
43   Q.   And is there a document for any subject member where
44   you can get their disciplinary history, a simple document,
45   like a criminal history?
46   A.   The PIPS system does provide that. There's some
47   issues that's being - because it's only a new system and

1   we're still adopting - it should be a one button, pushes it
2   and you get this printed out as the old system had. It's
3   not straightforward at the moment. There is some manual
4   work involved in that. But essentially it does provide
5   that information, and it's hoped that in the next lot of
6   improvements to the system that that will be one of the
7   things that come through.
8
9   Q.   And when are they due?
10   A.   There was a freeze recently. We've got the business
11   analysts who look after that stuff. They're continually
12   doing it. We've got a contractor in at the moment who has
13   been helping out and provide all the technical knowledge of
14   how we can change it. It revolves around procurement. It
15   revolves around contracts, warranties. I can't tell you
16   much more than that. It's an ongoing --
17
18   Q.   Is the short answer you don't know?
19   A.   It's a lot of work involved in it, but it's on the
20   list.
21
22   Q.   In terms of the - so if we're then looking at that
23   pattern of behaviour or somebody looking at the pattern of
24   the behaviour, the capacity, all the pattern of behaviour
25   information would be on the PIPS system, which CAC could
26   access; is that correct?
27   A.   Yes, and we get it every day. Every day that we sit
28   in our Complaint Assessment Committee our intelligence
29   people will come in and they will brief on the person's
30   history of what their behaviours have been for discipline.
31
32   Q.   Now, if the matters are referred, as you see on the
33   flowchart, the matters are largely investigated in the
34   district level by case managers and then case officers?
35   A.   That's right.
36
37   Q.   So in almost all cases it would be the case officer at
38   a district level or a station level investigating -
39   conducting an investigation?
40   A.   Yes, but there will be consideration as to who that
41   should be. It would be inappropriate to send one of those
42   back to the same station, for example, where the person was
43   working. It might be that a neighbouring division might be
44   required. It will go back to a district. So there's
45   options within a district to provide a person who's
46   independent to what's gone on and can conduct the
47   investigation, and at the level and have the skill set to

1   be able to do the investigation specific --
2
3   Q.   In terms of the information that that person is
4   provided with, however, the PIPS database, as I understand
5   it, is - only has access from ESC; it's not general duties
6   officers or people in the districts wouldn't be able to
7   access the PIPS database to get any disciplinary history or
8   investigate from a pattern of behaviour or course of
9   conduct point of view?
10   A.   That's right.
11
12   Q.   So, in the cases where there's a person in the
13   districts being a case officer investigating, they wouldn't
14   have access to that pattern of behaviour data?
15   A.   Not at the case officer level. Certainly at the
16   district officer and PPM level working within that district
17   do, and they have that knowledge. But the case officer is
18   given a package, essentially, of what is contained in PIPS.
19   It will be the summary, it will be the expectations, and
20   there's a pre-formatted message that goes to them. They
21   get that, and they'll be provided with the details of what
22   the allegations are, and then they would investigate that
23   specific complaint.
24
25   But, to answer your question about that greater - the
26   more holistic approach to the individual, the knowledge for
27   that comes from out of - well, initially, from out of our
28   intel section when we do our Complaint Assessment
29   Committee, and the local level PPMs will also have that
30   knowledge and access to the material, and the district
31   officer as well.
32
33   Q.   Am I correct in my understanding that any of the
34   pattern of behaviour type knowledge would be imposed or
35   would be utilised at a stage where a claim has been
36   substantiated and then looking at the sanctions rather than
37   in working out whether or not something should be
38   substantiated?
39   A.   The investigation will occur first to establish
40   whether or not the claims can be supported. The
41   consideration of the person's history really comes into it
42   when the case manager must determine what happens with the
43   outcome of those inquiries. So if the evidence comes back
44   that it's lawful and reasonable and there's nothing to say
45   that that was wrong and everyone agrees that that's the
46   case, then that would be finalised NFA, despite the fact
47   the person might have a lengthy history.

1
2   If, however, the information comes back and it
3   supports the facts of what the allegations were, it then
4   becomes a matter for the case manager to decide based on
5   all the circumstances, which includes the history, as to
6   whether or not an LMR would be appropriate or whether it
7   should be dealt with by way of a prescribed officer
8   hearing.
9
10   Q.   So really that pattern of behaviour course of conduct
11   is relevant to what penalty's involved, but when we're
12   looking at the investigation of whether or not something is
13   substantiated that's just the focus on the individual
14   allegation; would that be correct?
15   A.   That's right. If the evidence supports it, then it
16   will get elevated - well, if the evidence supports it, the
17   decision is on the case manager to decide what should
18   happen, and one of his considerations will be the person's
19   history, and that gets back to earlier on when we spoke
20   about the discipline system and the changes where an LMR
21   now forms part of the consideration that can be applied by
22   a case manager when they make a determination what should
23   happen with a file.
24
25   Q.   Now, if we just put the flowchart back up,
26   Mr Operator, please. You talk - you can see there's that -
27   first, it can be assessed in those various - no further
28   action assessment inquiries, different outcomes can occur,
29   and then the different ways in which it can be tasked down?
30   A.   Sorry, which one are we looking at? Are we looking at
31   the --
32
33   Q.   We're looking at misconduct.
34   A.   Yes, okay. Yes.
35
36   Q.   And then the middle orange box?
37   A.   Yes.
38
39   Q.   We've just talked about that, and then in terms of any
40   investigation, so if it moves past that level and goes to
41   some sort of investigation --
42   A.   Yes.
43
44   Q.   That investigation can be tasked to the Internal
45   Investigations Group, the IIG?
46   A.   Yes.
47

1   Q.   And, as I understand it, about 20 per cent of matters
2   are dealt with by the IIG and about 80 per cent of matters
3   would go through the other path, and that path is to go to
4   a professional practice manager, the PPM, which you've
5   discussed?
6   A.   Yes.
7
8   Q.   And then that gets given to a case manager, and then
9   the PPM - sorry, and then the case manager would then refer
10   that to a case officer, or the PPM can also refer to a case
11   officer?
12   A.   It will be the case manager's decision, and at the
13   same time they have got to consider that PDSD - we spoke
14   about that before, the professional development strategy
15   document - and that's whether or not the behaviour is such
16   that they need to put some controls in place.
17
18   Q.   So the case manager can stop an investigation and say,
19   "No, we've looked at this and we think it could be an NFA
20   or an LMA," at that point?
21   A.   Yes.
22
23   Q.   But, if they say further investigation's required,
24   that's when it would go down to the case officer?
25   A.   That's right. But, in saying that, the Complaint
26   Assessment Committee will make a determination as to
27   whether it should go for assessment inquiries or
28   investigation. In the first instance when it is received
29   by a district, if IIG don't hold the investigation, it
30   would be for an investigation. As more information comes
31   forward which might support that it's an NFA - maybe
32   there's video footage that was available that shows that it
33   no longer requires further inquiry because it is quite
34   clear what has happened - then it would be for the case
35   manager to decide whether to pursue it further or to say
36   that, no, he's satisfied that that one's resolved.
37
38   Q.   And that's a process which has led you at 41 to
39   indicate that the majority of the complaints requiring
40   assessment inquiries or investigation will be referred to
41   the command or district where the subject member is
42   located?
43   A.   That's right.
44
45   Q.   Then in relation to dealing with - at paragraph 52 you
46   talk about conflicts of interest, and if I could get
47   attachment 3 - sorry, attachment 1, the complaint

1   resolution guidelines, page 34, placed up. What you say is
2   that where a case officer is assigned a complaint and an
3   actual or perceived conflict of interest is identified
4   between the parties involved the case officer is to notify
5   the case manager, who will then consider whether or not the
6   case officer should be appointed?
7   A.   Right.
8
9   Q.   And what you say in your statement is taken directly
10   from the complaint resolution guidelines?
11   A.   That's right, yes.
12
13   Q.   And that's the section at 5.1 that really deals with
14   how conflicts of interest are managed within the ESC?
15   A.   I think it's much more than that. I think that would
16   probably be a third tier. I think there's three tiers of
17   conflict consideration. The first one is at CAC. There is
18   genuine discussion which occurs there as to how a file
19   should be dealt with, whether it should go to IIG for that
20   purpose, whether it should be detailed - and CAC will
21   provide instruction, whether or not it should be managed by
22   the PPM at that area but should be investigated by someone
23   elsewhere.
24
25   COMMISSIONER: What's IIG?
26   A.   Internal Investigations Group. That's the detectives
27   that are associated within Ethical Standards Command. So
28   there will be discussions at that level. So that's the
29   more holistic, the greater - you know, the statewide
30   approach, I suppose. The next step is the - when it's
31   first received by the PPM, the PPM will then speak to the
32   case manager.
33
34   MS CAPPELLANO: Sorry, just with that first tier, you
35   accept that - is the first tier of protection saying -
36   I just want to make sure I understand your evidence
37   correctly and I haven't confused it. Are you saying the
38   first tier of protection is that matters don't get
39   investigated at the district level or the station level;
40   instead they go to the IIG?
41   A.   That would be one option. What I'm saying is the
42   Complaint Assessment Committee will consider the complaints
43   as they come in for a range of things that the committee -
44   it does a whole heap of things there, but one of the things
45   would be is there any concerns of conflict as to who would
46   investigate the complaint. Sometimes people will put that
47   in their complaint. Sometimes they come from the CCC

```
1    saying, "We don't want the police to investigate," you
2    know.  I mean --
3
4    Q.   What happens when they say they don't want the police
5    to investigate?
6    A.   If they're sent to us, we'll investigate.
7
8    Q.   And that would fall --
9    A.   It might have been an unreasonable expectation on
10   their part, or it might have been a reasonable expectation
11   on their part.  If it's referred to us --
12
13   Q.   Do you always follow the CCC guidelines when they say,
14   "We don't want police to investigate"?
15   A.   Where they come across we wouldn't probably disagree
16   in most circumstances.  We do have an opportunity for those
17   matters of dispute to go to our Joint Assessment and
18   Moderation Committee.  We sit every fortnight.  So it
19   provides an option there to discuss any issues where there
20   could be a conflict or where there's an issue for them to
21   assume an investigation, for argument's sake.  That doesn't
22   typically occur at that meeting, but it is certainly a
23   meeting where we can thrash it out if it wasn't
24   appropriate.
25
26   Q.   But, when you say it's not appropriate for police to
27   investigate, you mean police at the district level, not
28   police, because obviously it is the police in the IIG
29   investigating it?
30   A.   So for the complaint that comes in - if IIG are
31   investigating a complaint, then it will be a decision from
32   out of CAC that they should do it.  That could be for any
33   range of reasons.  One could be for conflict.  One could be
34   because of the sensitivities involved.  One could be
35   because it's across the whole state.  Subject members
36   aren't just confined to one particular area.  It could be
37   for any particular reason.  It could be a quite serious
38   allegation, so it might go to IIG.  All other matters would
39   go to - back to the district to be dealt with.  Which
40   particular district it would be will be some consideration
41   by the Complaint Assessment Committee depending on the
42   circumstances that are contained within the nature of the
43   complaint.
44
45   Q.   And, again, looking at that, what you call the first
46   tier of protection, it is only 20 per cent of matters which
47   go to IIG?
```

1   A.   Yes, and I'm not suggesting for a minute that they -
2   all of that 20 per cent go to IIG because there's a
3   conflict involved somewhere so they go there. They will go
4   to IIG for any range of reasons, one of which may be there
5   could be a conflict perceived.
6
7   Q.   I think I understand what you refer to as that first
8   layer of protection. What's the second layer?
9   A.   The second layer is when the complaint is forwarded to
10 the district, and the PPM will receive it. They will
11 then --
12
13 Q.   Just about the PPM - sorry to interrupt, but just so
14 I understand the PPM - they reside in the district,
15 although they are part of ESC, they're not separately
16 located, they are PPMs for a particular district; is that
17 correct?
18 A.   Yes.
19
20 Q.   They're located throughout Queensland?
21 A.   But they are ESC members, senior sergeants who have an
22 expertise in the discipline process. They can guide and
23 support and do a range of functions, of which would be to
24 provide support, assistance, recommendations, advice to a
25 complaint manager, which they would do on receipt of a
26 complaint. So, between the PPM and the case manager, they
27 would decide, "Hang on, we know this person. There is a
28 conflict in here. We'll go and get this file investigated
29 by somewhere else." So they can have that level of
30 discussion around their knowledge of the local area and of
31 the parties involved as to whether there is a potential
32 conflict that needs to be considered as part of the
33 allocation of a file.
34
35 Q.   Okay. So the PPM looking and seeing if there is a
36 conflict is what you refer to as the second layer of
37 protection?
38 A.   With the case manager. So it's not just the PPM; it's
39 the case manager as well, the superintendent.
40
41 Q.   Yes. And that's the superintendent from that
42 district?
43 A.   Yes.
44
45 Q.   And then the - is it - this is what's --
46 A.   This would be the third tier, essentially. Where it
47 is assigned to a case officer, there is an obligation on

them that they would then need to report it immediately to
the case manager to let them know that they believe there
is a conflict, and the case manager would then make a
decision as to what should happen with it from there.

Q.   Now, you say that case officers shouldn't be appointed
to investigate members that they supervise. Why is that
important?
A.   Because the supervisor could be a subject member.

Q.   Yes.
A.   Because one of the considerations when we do an
investigation is what responsibility or what role did the
supervisor have in the behaviour of the officer.

Q.   And so that certainly would be a conflict of interest
if there was that person supervising from the same office -
or "office" is probably the wrong word but the same station
or establishment --
A.   Particularly if it came down to their performance in
the workplace. If it was off-duty behaviour, well, that
might be a different circumstance. But, regardless, a
supervisor shouldn't be investigating - investigating as a
separate to assessment inquiries --

Q.   Yes.
A.   -- their own people that they might be a subject
member for.

Q.   Would that same conflict apply to somebody within a
particular station or establishment investigating someone
else from that station and establishment?
A.   It would depend on what the nature of the complaint
is. It could be something really quite small. It could be
that the --

Q.   If we're talking about domestic violence related
complaints, for example?
A.   Okay. Well, domestic violence related complaints are
on the higher end. So it would be expected that there
would be a good degree of independence of who would do it,
and I wouldn't expect it would necessarily be someone from
the same station. In saying that, if we're talking about
the Gold Coast, there's a lot of police on the Gold Coast.
If we're talking about a small rural area, it might be that
there would be another area nearby that would necessarily
get the complaint to investigate, do you know what I mean?

1   So --
2
3   Q.   Yes.   No, I understand what you're saying about the
4   different sizes of places?
5   A.   Yes.
6
7   Q.   You also say that it's important that complaints are
8   investigated by somebody higher up as opposed to being of
9   the same rank.   Perhaps you don't say that; it might be in
10   the complaint resolution guidelines instead --
11   A.   It does suggest that you should be.   It's preferable
12   that that would occur.
13
14   Q.   And why's that?
15   A.   I think that's just the hierarchical system of
16   directions being provided to a person to give their
17   responses.   Technically, it's a direction from
18   the Commissioner, but the direction would come from a
19   person more senior, and also because they have that more
20   authority around the investigation and conduct of an
21   investigation of a person.
22
23   Q.   If we just look at 5.1, do you accept there - if we
24   put aside the other layers or tiers that you have suggested
25   but which aren't explicitly in the conflict resolution
26   guidelines under the heading "Conflicts of interest", do
27   you accept that the onus really is on a case officer who
28   might have a conflict to identify whether or not there is a
29   conflict?
30   A.   No.   I think those first two tiers are much more
31   important.   I think this is a third one, which is just a
32   situation where the people involved in the original
33   decision making didn't know that maybe they worked together
34   many years ago somewhere else or maybe they - despite the
35   fact they're not in the same station, they might socialise
36   with each other, and you don't know that.   So I think the
37   greater conflict considerations is around those first two,
38   but this is a third tier, where a person, if they believe
39   they have a conflict, should raise that.
40
41   Q.   Do you accept that the very fact that a person has a
42   conflict might make it less likely that they would raise
43   it?
44   A.   I don't know how to answer that.   I mean, that's up to
45   the individual as to whether they would or not.   I would
46   like to think not.
47

1   Q.   Perhaps I'll ask in this way: do you accept that
2   therefore the system of conflicts of interest that is
3   actually outlined under the heading "Conflicts of interest"
4   in the complaint resolution guidelines is dependent really
5   on that individual officer at the investigating --
6   A.   At that part there it certainly is, and I can say
7   people - "frequently" is not the right word, but will often
8   mention that maybe they're not the best person to do an
9   investigation because they know that person socially or -
10   not that they can't do it properly, but just for that
11   perception reason that perhaps they shouldn't, and that
12   information is raised and then it would be allocated to
13   someone else.
14
15   Q.   If that does occur frequently, does that demonstrate
16   that those first two tiers that you refer to aren't able to
17   pick up conflicts --
18   A.   No, I don't think I - I think I corrected - I don't
19   think I said "frequently". It does occur.
20
21   Q.   Okay.
22   A.   Infrequently I would suggest would be probably more
23   accurate. But it certainly does occur where people will
24   come forward and say, "Listen, I can't do that," or
25   "shouldn't do that", or, "I just want to let you know
26   I know this person in this arrangement. Are you happy with
27   that?"
28
29   Q.   In terms of this declaration of conflicts under 5.1,
30   you would know that in certain jobs or if somebody is about
31   to sit on a board they have to fill out a conflict of
32   interest declaration form officially declaring "I don't
33   have a conflict" or "these could be perceived conflicts"
34   and outlining them. Does that process occur in a
35   formalised way?
36   A.   No, it doesn't, and I don't think we do that well. We
37   have asked for within the PIPS database to have a
38   particular tab that we can record it in there. I suspect
39   that - and it is very difficult to say, but I suspect that
40   what happens is where those conflicts occur people make a
41   notation, particularly where there is a real consideration
42   or a change of case officer, that that will be mentioned in
43   the specific complaint file, but there is nowhere you can
44   just immediately go to and do a search and say, "This is
45   where it's recorded." So that's in our scope of works to
46   be included into PIPS.
47

1   Q.   What you're talking about is more like a conflict of
2   interest register. I'm more talking about every time a
3   case officer is assigned a matter whether they are required
4   to fill out a declaration, like you would be - if you start
5   a new job in the Public Service, you might be retired to
6   fill in a declaration?
7   A.   No, we don't have that.
8
9   Q.   And in fact turn their mind to the explicit matters
10   that are referred to in 5.1. Does that occur?
11   A.   No.
12
13   Q.   Can I ask you now about a different topic, and that is
14   what you talk about at paragraph 49 --
15   A.   Sorry, I should just say it doesn't occur within the
16   complaint system. There are other areas where that might
17   occur but not within the complaint system. So things like
18   declarable associations, procurement, those type of things,
19   we'll have forms - secondary employment. There are forms
20   where you need to make a declaration for those things. But
21   when we're talking about the complaint system, no, we don't
22   have what you're talking about.
23
24   Q.   So those forms exist within the QPS but they're not
25   applied --
26   A.   For those specific areas, yes.
27
28   Q.   -- in complaints, for the investigation of complaints?
29   A.   That's right, there's nothing for complaints. But if
30   I wanted to have secondary employment there would be a form
31   that I would need to complete to say I want secondary
32   employment. That's around the - is there a conflict to the
33   organisation and needs to be signed off by a suitable
34   person.
35
36   Q.   Now, you say at paragraph 49 of your statement, "The
37   CCC may choose to assume an investigation in which case
38   they will provide advice of this to the QPS"?
39   A.   Yes.
40
41   Q.   Now, if we're looking at the role of the CCC I guess
42   generally, would you accept that the - if anything is
43   defined as misconduct within the CCC legislation - and
44   we'll hear more specific evidence about this from other
45   witnesses, but as somebody in ESC would you accept that
46   automatically any misconduct as defined under the CCC Act
47   has to be - get sent back to the QPS to investigate, and

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 1    when I say investigate I'm meaning a broad thing there -
 2    working out what the outcome is?
 3    A.    Sure.   Under their legislation they talk about police
 4    misconduct and corrupt conduct.   That's their two
 5    definitions they work to.   So when they refer a matter back
 6    to us we will record it as they have provided it to us in
 7    their - what they call a matters assessed report, which is
 8    a MAR, and that's their notification to us of the complaint
 9    file.   So the corrupt conduct ones will always go to our
10    Complaint Assessment Committee.   The police misconduct
11    ones, if there is something of quite low level behaviour
12    but still being referred to us, it may through the
13    Complaint Management Unit when it's first received from the
14    CCC go into the state coordinator.
15
16    Q.    But if we're talking just more broadly, not where it
17    gets looked at within the QPS --
18    A.    Okay.
19
20    Q.    If we're talking just more broadly, would you agree
21    that it's only less than one per cent of cases that matters
22    stay up with the CCC to be --
23    A.    It's quite small, yes.   I'm not sure of the
24    percentages, but that sounds about right.
25
26    Q.    So in effect for that perhaps 99 per cent of matters,
27    and this is in relation to domestic and family violence
28    related complaints or total complaints, that they, even if
29    they had been to the CCC, are investigated by the QPS?
30    A.    That's right.
31
32    Q.    And, of those, 80 per cent of those cases would be
33    investigated at the district level?
34    A.    That's right.
35
36    COMMISSIONER:   While counsel is looking through her
37    paperwork there, at paragraph 40 you're talking about the
38    committee considering professional development strategies,
39    et cetera, et cetera.   "Additionally, each complaint is
40    assessed for Human Rights limitations as provided within
41    the Human Rights Act"?
42    A.    That's right.
43
44    COMMISSIONER:   What does that mean?
45    A.    So there's an obligation on all Queensland government
46    agencies obviously that we must give consideration to the
47    human rights.   So what will happen is whenever a complaint
```

1   is - occasionally we receive a human right specific
2   complaint only, "My human rights were violated or were
3   breached by [something]," and we saw a little bit of that
4   with the COVID quarantining, so there was some specific
5   ones for that.

7   Putting those aside, every time there's a complaint
8   that would come in, say an excessive use of force, we would
9   consider whether or not there is a human rights limitation
10   that could be related to that, and if there is we will
11   create an allegation separate to all the others, and we
12   consider a person's human rights when we do the
13   investigation. So typically you would find that if the
14   allegations were supported then there would be a
15   limitation - unreasonable limitation of the human rights.

17   Likewise, if you found that the behaviour was lawful
18   and reasonable, then there's probably not an unreasonable
19   limitation. It can be, however, on rare occasions - say,
20   someone was held in custody and it was quite reasonable
21   that they should do that and their complaint was that they
22   were held in custody, a review might show that they were in
23   custody probably a bit longer than perhaps they should have
24   been. So in that case we might say, "Well, hang on, yes,
25   it was lawful and reasonable, but the person's detention
26   may have been unreasonably limited. It might have been a
27   little bit longer than perhaps it should have been." So we
28   consider all those. We have annual reporting obligations
29   to the Human Rights Commission, and that forms part of our
30   reporting structure, and that gets extracted out of our
31   PIPS database.

33   COMMISSIONER: Thank you.

35   MS CAPPELLANO: Thank you, Commissioner. Just in relation
36   to a topic we were discussing right back at the beginning,
37   and that was the NFA, no further action, outcome, is it
38   also the case that sometimes an NFA is based on or it
39   might - sorry, I'll start again. NFA, I think you gave
40   some examples of when you might take no further action. It
41   might be that there's just not enough evidence or it can be
42   dealt with in a different way. Is one of the reasons
43   things fall under that outcome NFA, or no further action,
44   is based on what's referred to as an unjustifiable use of
45   resources?
46   A.   Yes, that's right.

1   Q.   Then, just finally, at paragraph 76 you talk about
2   some processes that are relevant to complaints
3   incorporating domestic and family violence allegations.
4
5   COMMISSIONER: Sorry, which paragraph?
6
7   MS CAPPELLANO: Paragraph 67.
8   A.   Yes.
9
10   Q.   Now, perhaps, sorry, Mr Operator, if that could just
11   be placed on page 13. If we just look at the first three
12   of those, is that there - "generic" might be the wrong
13   word, but they're broad processes within the ESC processes
14   that might have - that domestic violence could fall under
15   but they are not specifically targeted?
16   A.   Absolutely. The second and the third one are
17   governance processes. The first one is the arrangement or
18   the meeting that we have with the joint assessment
19   committee we have with the CCC, and that facilitates a
20   discussion on all those matters of which they have
21   oversight or any other matter that they may wish to
22   discuss. So if there was an issue, regardless of whether
23   that was around domestic and family violence, and it became
24   an issue for whatever reason, we can discuss it.
25
26   Q.   And then in terms of the audit you talk about a daily
27   review which is - sorry, subsection (d)?
28   A.   Yes.
29
30   Q.   "Daily review of Q-Prime occurrences to ensure all
31   police and private D&FV applications and breaches are
32   recorded in the discipline system"?
33   A.   Yes.
34
35   Q.   Now, does this - I don't really understand what that
36   means. Is that every DV occurrence someone from ESC sits
37   there and reviews?
38   A.   For member-involved domestic violence there is a
39   search conducted. So, regardless of whether it's a
40   complaint that comes into the police station and a
41   domestic violence application or protection notice is
42   issued, it will also capture private DV applications which
43   occur so that our command is alert to and the district is
44   alert to those matters which have just been raised.
45
46   Q.   When did that start?
47   A.   At least six months ago I would have thought.

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1
2   Q.   Okay. And prior to --
3   A.   Maybe - yes, I would think six months, yes, start of
4   the year, probably, yes.
5
6   Q.   So that daily review is daily review of private or
7   police applications that are member-involved?
8   A.   Yes. So that's --
9
10   Q.   Where there's allegations police have committed
11   domestic and family violence?
12   A.   Yes.
13
14   Q.   Now, you said that's been going for six months?
15   A.   That's a figure - I don't know --
16
17   Q.   No, I'm not holding you to that, Inspector, but is it
18   the case that prior to that there were matters falling
19   through not coming to the attention of the ESC?
20   A.   Yes, that's right. Going back probably 2019 or so
21   there was - we started to identify, and it was largely
22   through the DV Command identified it, where particularly
23   private DV applications were getting made. We weren't
24   becoming aware of those. What had happened, as
25   I understand it, was that within QPRIME there was a number
26   of entities in there where the police might be listed as a
27   police officer but might also have their own personal
28   details in there. So in those - we ended up getting them
29   all merged so that the one identifier was for that one
30   person. But there were instances where we were not seeing
31   some of them come through, and we've corrected that now.
32   That's probably going back 2019, 2020 maybe, back to then.
33
34   Q.   You identified they were getting missed in 2019/2020?
35   A.   DV Command did as part of their review. It must have
36   been just after the DV Command was created I suspect in
37   terms of timeframes. So they identified it, and from there
38   we've had liaison with the QPRIME experts. So they have
39   all been merged. So the belief is that they can't occur
40   again. They were missed previously.
41
42   Q.   And that would demonstrate that complaints aren't
43   being made directly to the police or the ESC about --
44   A.   That's where the private DV ones were occurring;
45   that's right.
46
47   Q.   Now, at paragraph (h), subparagraph (h), you talk

1   about the allocation of ESC domestic and family violence
2   liaison officers.
3   A.   Yes.
4
5   Q.   And sexual victim liaison officers. Has this started
6   yet?
7   A.   They're appointed, yes, and they do do --
8
9   Q.   What do you mean by "appointed"?
10   A.   We've got two people who do that role. They have been
11   appointed based on their experience, having worked at rural
12   and remote areas from child protection areas and who have a
13   degree of expertise already, not to say that they won't
14   continue to build on that and provide expertise within our
15   own command through our investigations, and equally the
16   intention would be to conduct audits for those matters that
17   come through where the subject member is a member involved
18   DV and start having a bit of a look at that. I'm not sure
19   exactly what the audit function will be. That's still
20   being worked out. But they're appointed.
21
22   Q.   I understood from some evidence that's been given in a
23   different statement but from police that things are being
24   discussed in a future tense. So is there any difference
25   between being appointed and having started work?
26   A.   They're appointed. I think they already have started
27   work. They will have that role --
28
29   Q.   Do you know when they started?
30   A.   They're on our web page. They were appointed, started
31   I'm guessing two, three months ago probably, maybe more.
32
33   Q.   And do you have any statistics on how often those
34   people are utilised?
35   A.   No, no.
36
37   Q.   And do you keep any - is there any record keeping
38   about that level of utilisation? I'm not asking for you to
39   have that statistic at hand, but is there any record
40   keeping of how often ESC is calling upon people?
41   A.   I think it's fair to say it's very early days and it
42   hasn't formed a mature approach as to what's happening with
43   it. But certainly they'll be involved. They come with
44   expertise they would use amongst our own IIG investigators
45   where we might be involved in --
46
47   Q.   And so where are they placed? In IIG or --

1   A.   Yes, they're already people who hold those positions.
2
3   Q.   Within IIG?
4   A.   Yes.
5
6   Q.   They're not --
7   A.   No.
8
9   Q.   At the PPM level; it would be assisting at the IIG
10   level?
11   A.   They're investigators, yes. One is a detective
12   sergeant; one is a detective senior sergeant.
13
14   COMMISSIONER: So are they already in the IIG or are they
15   new, additional to?
16   A.   No, they're not additional to. They're just members
17   from in there who have good experience with dealing with
18   those --
19
20   MS CAPPELLANO: I think you said that they had come from
21   rural and remote areas --
22   A.   One fellow.
23
24   Q.   And had child protection experience?
25   A.   Yes.
26
27   Q.   What about domestic and family violence experience?
28   A.   I think by virtue of working in the rural and remote
29   area there was a lot of experience gained from out of
30   there. That's why they were picked because they did have
31   experience in it. It wasn't just because, "Here's a
32   criteria. They fit." It was because they did have the
33   experience. I don't know their history, their background
34   in detail. But within our command they were the people who
35   were well regarded as having that higher level of
36   expertise, experience.
37
38   Q.   But certainly the ESC hasn't taken people who have
39   expertise working in a DFV VPU, for example, and brought
40   them into the IIG?
41   A.   I think that would be a good permanent option.
42
43   Q.   But that hasn't happened?
44   A.   No.
45
46   COMMISSIONER: Just out of curiosity are they male or
47   female?

1   A.   Both males. And we have sexual violence liaison
2   officers as well.
3
4   MS CAPPELLANO: You said there were two people. Do those
5   two people cover the roles of sexual violence liaison
6   officer and --
7   A.   No, there's only domestic and family violence.
8
9   Q.   The two people are domestic and family violence
10   liaison officers. And they haven't come from a VPU?
11   A.   They are investigators. They're within our IIG. So
12   they're detectives.
13
14   Q.   Okay. And they haven't done any specific domestic and
15   family violence training?
16   A.   I'm not sure.
17
18   Q.   But certainly they didn't do that as part of their
19   recruitment process?
20   A.   For their appointment. Whether they are now, whether
21   they already had it existing, I don't know; but they were
22   based on - that's not part of the area where I sit, but
23   that was based on their experience and skills.
24
25   Q.   And then in terms of paragraph (j) you talk about the
26   Command Business Unit review in February 2022 and you've
27   developed an engagement initiative with the DFV community
28   service providers "to build relationships and trust with a
29   view to enhancing confidence in the QPS discipline system.
30   This initiative seeks to provide a more victim centric
31   approach and a safe alternative pathway to report DFV
32   matters." I understand, I guess, there isn't a long period
33   of time since February to where we are at July, but has
34   this initiative commenced?
35   A.   Yes. Again it's very early days and it's very
36   difficult in our complaints system where you're dealing
37   with the employer/employee relationship, because it's about
38   managing that person, how to also assist the victim. This
39   is an initiative that came out of that business unit
40   review. So what it is is about the PPMs in their own
41   particular area engaging and linking in with all the
42   network groups that already exist; so the vulnerable
43   persons units and linking in with those groups. In some
44   places there's not a unit there, or they're forming. So
45   it's only very early days.
46
47   I know in a couple of instances where we've become

1   involved and got in there it's been well received. Other
2   areas it still a little bit more standoffish because why
3   would ESC become involved in this good networking group
4   already, and it's about developing those relationships to
5   say, "Well, we're here to say this is what the approach
6   would be," and give an understanding of what would happen
7   where an officer would be a member involved,
8   domestic violence perpetrator, for argument's sake; what
9   would happen to try to break down the barriers of concern
10   and to allow people to feel more free to make complaints,
11   whether they are partners of the police or whether police
12   failure of duty or whatever it might be.
13
14   Q.   Is there any tracking of what this level of
15   involvement from this initiative, is there any way in which
16   you can actually see what has occurred so far and what is
17   intended or is it more on an ad hoc basis?
18   A.   There's a very rudimentary spreadsheet that was
19   created, and it is very rudimentary, of where the groups
20   have already been established, where they're seeking to
21   establish them, the type of response that they got to it,
22   their frequency of meetings. But that's about it at this
23   stage. It's only quite new.
24
25   Q.   And you can take that on notice to provide to the
26   Commission?
27   A.   Sure.
28
29   Q.   You've mentioned a few times in your evidence about
30   the fact that the complaints system, and correct me if I've
31   interpreted this incorrectly, but the complaints system is
32   really focused on the employee/employer relationship; is
33   that fair?
34   A.   Yes, I think so. Yes.
35
36   Q.   From the ESC involvement, the current QPS complaints
37   and conduct handling process is really focused on the
38   subject member rather than the complainant?
39   A.   Well, it goes back to the legislation, 7.1, which
40   talks about the purpose of discipline and what we do. As
41   it defines it, it's about guiding, correcting,
42   rehabilitating or disciplining where necessary. So, yes,
43   our process is driven around legislation. So, yes, I think
44   the answer to that is it is driven towards the offending
45   behaviour more so than the victim behaviour.
46
47   Q.   And more so the needs of the subject member who is the

1   subject of a complaint and their relationship with the QPS
2   rather than the needs of the victim or the complainant?
3   A.   I think that's true.
4
5   MS CAPPELLANO: Thank you. I have no further questions.
6
7   COMMISSIONER: There was a fairly disturbing article in
8   The Guardian on the weekend.
9   A.   I didn't see it.
10
11   COMMISSIONER: Have you heard of it?
12   A.   Which one?
13
14   COMMISSIONER: About Facebook posts by police officers
15   current during this Commission of Inquiry?
16   A.   No, I haven't seen it.
17
18   COMMISSIONER: Making derogatory remarks about victim
19   survivors?
20   A.   No, I haven't seen it.
21
22   COMMISSIONER: All right. So the only question that I was
23   going to ask you about that was the Ethical Standards
24   Command said that they have received a complaint. You
25   don't know anything about it?
26   A.   I haven't seen that one, no.
27
28   COMMISSIONER: All right.
29   A.   It was only the weekend. It may have been dealt
30   with --
31
32   COMMISSIONER: Can you find out if they have actually
33   received a complaint or whether it's the earlier complaint
34   about earlier Facebook posts?
35   A.   Sure.
36
37   COMMISSIONER: I'm going to adjourn for morning tea.
38   A.   Okay. I'll write my notes then.
39
40   COMMISSIONER: Let's do that right now. Thank you.
41
42   **SHORT ADJOURNMENT**
43
44   COMMISSIONER: How did you go, Inspector?
45   A.   It went to our Complaint Assessment Committee this
46   morning. So the information was received it must have been
47   Friday through our media unit. They have generated a

1   complaint. It's gone out to one of our areas for
2   investigation.
3
4   COMMISSIONER: So you haven't got any more information?
5   A.   No.
6
7   COMMISSIONER: Is there a file that's been generated or
8   are they still trying to find out?
9   A.   Yes, it's gone to our Complaint Assessment Committee
10 this morning. So it's actually being with. It was already
11 prepared to be into the system. So it's gone out to
12 North Brisbane district for them to conduct investigations
13 into the behaviour, and I understand there's a subject
14 member who may be --
15
16 COMMISSIONER: Has already been identified or something,
17 or who made the complaint?
18 A.   I don't know that a complaint was made. I think it
19 was picked up through the process.
20
21 COMMISSIONER: Okay. All right. Thank you.
22 A.   So it needs to be dealt with.
23
24 COMMISSIONER: Yes. Thanks very much, Inspector. Thanks
25 for that information. Ms Hillard?
26
27 **<EXAMINATION BY MS HILLARD:**
28
29 Q.   Inspector, I'll just go through some parts of your
30 statement first of all and talk about some specific parts
31 of it. At paragraph 5 of your statement, just for the
32 record or proceedings it's [DJN.001.0002], so at
33 paragraph 5 you speak about this 2016 change of the
34 process. Were you involved in that change of the process
35 or the development of the change?
36 A.   No, that was very high level. That was the Chair of
37 the CCC at the time, the Police Minister, QPS senior
38 representatives, unions, and I understand the
39 Attorney-General's office. Higher level.
40
41 Q.   We're hearing from Assistant Commissioner Scanlon
42 later on in the week. Would that be something that she
43 might be able to answer about the rationale behind it?
44 A.   I wouldn't think that she was part of that as well, to
45 be honest with you. I'm not sure. I think that would be
46 at a senior level of the people involved in legislation
47 change and process.

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1
2   COMMISSIONER: There was legislation assented to. So
3   presumably there might be Hansard, if you're interested,
4   Ms Hillard.
5
6   MS HILLARD: At paragraph 19 of your statement, this is
7   where there was reference to internally sourced
8   disciplinary complaints.
9
10   COMMISSIONER: Sorry, paragraph what?
11
12   MS HILLARD: Paragraph 19 at page 5 of your statement
13   there's reference to the code 466 or the QP466?
14   A.   Yes.
15
16   Q.   And Counsel Assisting took you through parts of the
17   table, and can I just ask a few questions about
18   paragraph 19, the 466 code, and paragraph 20, the 465 code?
19   A.   Yes.
20
21   Q.   As I understood your evidence that both of those are
22   internal matters that can be raised by an officer about
23   another officer; that's right, isn't it?
24   A.   They're reporting mechanisms of a way of getting them
25   into the complaints system. So if someone comes into the
26   front counter of a police station and makes a complaint to
27   he police officer he would then jump on the system, hit the
28   tab that allows for a 466 or a 465, and then would put the
29   complaint on there. Likewise, if it was a police
30   identified behaviour of another police officer they would
31   do the same thing.
32
33   Q.   And you spoke about the 465 process and you made
34   reference I thought in your evidence to that can be
35   considered at a desktop level and it may not be a serious
36   matter; is that typically the type of 465 classification?
37   A.   That's the only type that they can be. It has to be a
38   one-off, not likely to occur, something that's suitable to
39   be dealt with with a management response.
40
41   Q.   And if it is a 466 it is not a one-off and it is
42   something that --
43   A.   It could be a one-off.
44
45   Q.   All right. A 466 then, if an officer is identifying
46   in this web portal process that it's not a 465 that's a
47   one-off and it's a 466 then it be escalated through other

1   processes; is that right?
2   A.   When they complete that report either way they both
3   come into our complaint management unit. So one they
4   nominate that it's a lower level and they will indicate
5   that we think we can deal with this by way of a desktop
6   managerial resolution. There is still oversight added in
7   that state coordinator committee meeting that we spoke
8   about, or in some cases they will deal with it on their own
9   volition immediately because that's appropriate and then it
10   still comes into the oversight of that action. The other
11   ones, behaviours, it still comes into complaint management
12   whether it's a 465 or a 466 and they move into the
13   Complaint Assessment Committee as misconduct.
14
15   Q.   So am I correct in understanding your answer there
16   that not all 466 matters go through to an oversight of
17   conduct committee?
18   A.   Yes, they do. They all do. There's an assessment
19   committee. So once the complaint is made they're assessed.
20   So they all do, for misconduct.
21
22   Q.   So it can't be capped at an officer level or an
23   officer in charge level; it always will go to that
24   assessment committee?
25   A.   Yes/
26
27   Q.   And in relation to --
28
29   COMMISSIONER: Well, if they do a 466?
30   A.   A 466 will come through --
31
32   COMMISSIONER: If they do one.
33   A.   Yes.
34
35   COMMISSIONER: So if someone comes into the front counter
36   and the officer thinks it's not worth doing a 466 then you
37   won't see it obviously?
38   A.   We would never know about it; that's right.
39
40   COMMISSIONER: Is there a triage system for the front
41   counter like Policelink?
42   A.   No, that's where it talks about that initial assessing
43   officer. That's the purpose of that, I suppose. So if you
44   have a junior person on the front counter and someone comes
45   and wants to make a complaint, then the responsibility
46   would be to go and speak to that senior sergeant or above
47   and get some guidance as to what you need to do.

1
2   COMMISSIONER: It might be just I might come in and say,
3   "The dog next door is yapping a lot and I called the police
4   and they didn't come out quickly"?
5   A.   That's right. That's one of those service delivery
6   issues that we speak about.
7
8   MS HILLARD: Where you refer, though, to a service
9   delivery issue if a person comes into a counter and wants
10   to make a complaint of domestic and family violence and a
11   DV occurrence isn't made, their details are not made,
12   that's not a minor matter, is it?
13   A.   Not at all.
14
15   Q.   And in that sort of scenario when that happens when a
16   466 code is also entered what would be the normal process?
17   A.   So once it goes through the 466 it's effectively - the
18   mechanism is you push the one tab and you've got a decision
19   tree, really. You can either go the 465 or the 466. You
20   put your information in. Despite whichever system you use,
21   all that information still comes into our Complaint
22   Management Unit where we've got the administrative staff
23   and we've got the four senior sergeants and the four
24   sergeants. They review the material. They might do some
25   checks on our QPRIME database. They might review body-worn
26   footage and do the very early preliminary build-up of the
27   complaint file. They will put complaint codes against it.
28   They'll put times, referral times to the CCC if we received
29   it from them, other notification details, and then it will
30   go to the assessment committee.
31
32   Q.   Before it goes to the assessment committee am
33   I correct in understanding what you've just described and
34   your other evidence that the victim or the complainant or
35   the person making the complaint in that scenario, the
36   domestic and family violence one that I've just given you,
37   would not be contacted?
38   A.   They will receive a notification, an auto-generated
39   notification out of the system to say that the complaint
40   has been generated. Where they first make the complaint
41   would be where the contact occurs.
42
43   Q.   And I'm correct as well, aren't I, that despite there
44   being some more recent in February of this year reference
45   to engagement with domestic and family violence service
46   providers that there's no victim's advocate, if I can use
47   that word, to speak on behalf of the victim in the process

```
 1       that we're talking about
 2       A.    What do you mean by the victim's advocate?
 3
 4       Q.    Anyone to speak on behalf of the victim?
 5       A.    Well, to answer your question there is no one person
 6       who would come in.  But I think we receive the information
 7       and we would consider that on behalf of the victim the
 8       information that they receive.  But is there a person that
 9       gets in there and talks to - no, there's not.  But the
10       information comes in.  So the consideration is around what
11       their complaint is.  What their wishes are will be included
12       in there, I suppose, in many cases.  But the consideration
13       by the CAC is the victim is considered, if that's what you
14       mean.  But is there a person who actually advocates for
15       them and says this, that or the other?  No, there's not.
16
17       Q.    And in respect of the complaint of a domestic and
18       family violence victim that we've been talking about coming
19       in and a 466 code has happened, is it common or can you say
20       otherwise that those matters often end up being a
21       managerial desktop resolution?
22       A.    For?
23
24       Q.    If a person is turning up at a police station trying
25       to make a domestic and family violence complaint, the
26       officer doesn't take it and then there is a complaint about
27       that, can you say how common or not they get resolved by a
28       managerial desktop resolution?
29       A.    No, I would think that they shouldn't be ever a
30       complaint of domestic - where the police officer is the
31       perpetrator, you mean?
32
33       Q.    Not the police officer the perpetrator; any victim
34       of --
35       A.    You're talking about a failure of duty.  So there is
36       potential for a failure of duty that could occur, but
37       I think that would be very, very remote or rare.  It would
38       have to be such a minor thing that a - for a failure of
39       duty that an entry hadn't been completed properly in the
40       occurrence.  But for anywhere where it was a person who
41       hadn't don't their job properly around domestic and family
42       violence is misconduct.
43
44       Q.    In the usual process of what you're speaking about, if
45       it is identified what you're saying it would be misconduct,
46       it should then go down the tree that you were speaking to
47       Counsel Assisting about of then an assessment of either
```

1   discipline for not misconduct or actual misconduct?
2   A.   Misconduct.
3
4   Q.   And then that enlivens, does it not, a decision about
5   disciplinary proceedings, referral, investigation and
6   sanctions; am I correct?
7   A.   Once it goes down that path, yes, that's right.
8
9   Q.   In respect of the outcomes then in respect of that
10   kind of scenario, a person failing to perform their duty,
11   management responses or retraining or remedial actions, are
12   you aware of what type of remedial actions might be made or
13   ordered in that case?
14   A.   That's a pretty difficult question because they have
15   to be based on the behaviour that was subject to the
16   discipline. So if it was something where it was a training
17   issue, someone just didn't simply know how they to fill out
18   a form or they filled out a form incorrectly, they would
19   get some guidance and some training around how to do that.
20   If it was more serious, that the person had just not
21   accepted a person coming in at the front counter of a
22   police station because they just couldn't be bothered or
23   something like that, that's going to be much more serious
24   and I can't imagine that that would receive a local
25   management resolution for something like that, you know.
26
27   So in between those there's the behaviours that occur
28   and it needs to be specific to what the behaviour was and
29   the extent of the behaviour, whether it is domestic and
30   family violence or any other complaint category. That
31   comes down to the local knowledge of the PPM and that case
32   manager we spoke about who are best positioned to know, "Is
33   this an ongoing behaviour of this person? Do we need to
34   put other management strategies in place? Is it a one-off?
35   Were there other issues involved at the time?" I'm just
36   not sure there's a one size fits all in a circumstance
37   where LMR, because it's really designed about that
38   individual, about improving their behaviour either through
39   correction, rehabilitation or guidance or where necessary a
40   discipline process, sanction.
41
42   Q.   Where a person has been the subject of a 466 complaint
43   and they are also a field training officer does that factor
44   into any of the considerations or does that get referred to
45   the education training unit?
46   A.   From my position that's a difficult one. That is part
47   and that is an important part of the considerations of what

1   happens when a person is the subject of a complaint and the
2   file is returned. That's, we spoke about it earlier, a
3   PDSD. So that's where consideration about their roles,
4   their responsibilities should occur. In particular things
5   could include whether they remain as a field training
6   officer. They last for six months. So that's just a
7   process while the complaint is being dealt with to make
8   sure that the service is managing that officer properly.
9   Longer term, it comes down to any other performance issue
10   I would expect about the person's suitable to be a field
11   training officer. It is a very important role and that
12   would be a suitability issue, I would have thought.
13
14   Q.   So you say that it would have been a suitability issue
15   that you would have thought, but is there a formal part of
16   any of the processes that requires you to consider, "Is
17   this person a field training officer: yes or no?"
18   A.   Not in our discipline space.
19
20   Q.   And referring it then to someone else to remove their
21   field training officer status?
22   A.   There's not a formal process to say, "Here's a tick
23   box. Are they an FTO? Yes, we've got to go down this
24   pathway." That circumstance could be for people who have
25   any different range of responsibilities in our
26   organisation. It would be very hard to be prescriptive
27   about a lot of ranges of skill sets that people have of
28   whether they should or shouldn't do it, and that's really
29   I think the basis for why we do have those PDSDs. It needs
30   to consider all those factors, what responsibilities they
31   have and whether they should continue to have them.
32
33   Q.   I just want to run through a couple of matters about
34   what may also be examples of failure to provide duty. So
35   we've canvassed coming into the police station and not
36   making a complaint. If I can focus in on some other
37   matters. There's been some evidence in this Commission
38   about officers not taking comms calls or taking other comms
39   calls so they don't have to attend to a domestic and family
40   violence incident. Would that be failing to perform duty?
41   A.   I would think so, yes. Again it's all about context.
42   What were the circumstances? And it comes back to that
43   thing that we spoke about, that reasonable suspicion test
44   about whether the circumstances were quite genuine. If the
45   person was going out of their way to avoid work every day
46   of the week that's a failure of duty. If there were a
47   couple of jobs and they had to adopt a priority policing

1   response and it took one over another then that would be
2   expected of them. So each one on their own merits. But I
3   would think a failure of duty for anything involved in
4   domestic and family violence is always misconduct.
5
6   Q.   And, appreciating what you said about anything
7   involving domestic and family violence, not making a
8   domestic and family violence occurrence entry despite
9   someone turning up to the station or on a call-out, would
10   that be a failure of duty?
11   A.   I think that goes down to the business rules around
12   reporting. If it was established that domestic and family
13   violence did not occur there should still be an occurrence
14   completed and there would be a no DV occurrence so it's
15   recorded there. So that's getting to the question around
16   street checks in lieu of that, and street checks shouldn't
17   be completed, and that's been made quite clear in our
18   organisation that's inappropriate --
19
20   COMMISSIONER: You've just done a study on that, haven't
21   you?
22   A.   Sorry?
23
24   COMMISSIONER: Your command has just done a survey on
25   street checks, whether they should be recorded as --
26   A.   Yes, and they're going back doing another one as well;
27   that's right.
28
29   MS HILLARD: And just in respect of some other matters,
30   not laying criminal charges where criminal charges are
31   open, that is considered a failure to perform duty?
32   A.   That's getting more difficult again --
33
34   Q.   Sorry, I should preface it by saying that if someone
35   is saying, "I want to charge," and then charges are not
36   laid is that a failure to perform duty?
37   A.   Not necessarily. That's a different kettle of fish
38   because what we're talking about there is the officer
39   constable and the decision to initiate a prosecution. So a
40   person might make a complaint, and say it wasn't domestic,
41   it might be a break and enter or it might be a theft of a
42   car. Regardless of what the complaint type was, it still
43   needs to be investigated and the officer has to consider
44   whether the discretion to prosecute is met. Is there
45   sufficient evidence and is it in the public interest?
46   I think the public interest test would always be met in our
47   question here. But the sufficiency of evidence for a

1   criminal charge, I don't know that a decision not to
2   prosecute somebody immediately goes in as a failure of
3   duty.
4
5   Q.   It does, though, doesn't it, where the person is
6   saying, "I've got evidence," and they have got phone,
7   photos and things like that; that would be a failure of
8   duty?
9   A.   Each one would have to be on its merits. If they have
10   got that and that's been reviewed, then I would think it
11   comes down to the investigative process for any other
12   matter. A hypothetical, but where there's clear evidence
13   of a prosecution that should occur then it should occur.
14
15   Q.   In terms of not making PPMs in respect of someone
16   attending a police station, and there's been a lot of
17   evidence about people turning up at a police stations,
18   making a complaint of domestic and family violence, and the
19   response is met to the effect, "We didn't attend the
20   call-out, insufficient evidence, make your own private
21   application", where would that fall on the spectrum of
22   failure to provide a duty?
23   A.   I think that does fall within a complaint, if people
24   have gone out of their way not to take a complaint that
25   should have been taken. The severity of it is the
26   question, I suppose. Does that fall into a local
27   management response or a desktop managerial response or is
28   it more serious; each one on its own merits in the context
29   of the behaviours that they have done?
30
31   Q.   What about police officers intentionally not
32   activating their body-worn camera footage presumably to not
33   have accountability, I expect? Would that be a failure --
34   A.   That's a failure of duty, of course. There's a
35   notation that's gone around expecting people that would do
36   that for domestic and family violence complaints at police
37   counters.
38
39   Q.   And in terms of the general matters that I've been
40   speaking about here you were asked some questions about the
41   outcomes that have happened from the domestic and family
42   violence complaints data that you've been referred to. Is
43   that broken down or can it be broken down into these types
44   of complaints or is it not really assessed at that sort of
45   level?
46   A.   I'm not clear.
47

1 Q.   You were asked about whether or not matters have been
2 substantiated or unsubstantiated.
3 A.   Yes.
4
5 Q.   Is the data kept or broken down into attending a
6 police station not taking a complaint or is it broken
7 down --
8 A.   For the failure of duty behaviour? It can be obtained
9 by going through the individual file and then you'd see
10 what the complaint was. You won't find a database that you
11 can necessarily easily get that information. It depends on
12 how it was included in the precis of the complaint when it
13 comes in and whether it covers that extent.
14
15 Q.   When we're talking about a failure of a police
16 officer's duty to exercise their duty and you're
17 investigating it or your unit is investigating it, there is
18 still no contact with the victim to ascertain what other
19 information they have to support their complaint, i.e.
20 charges, independent evidence --
21 A.   If it's an investigation necessarily I think you would
22 need to be speaking to the concerned party, unless all the
23 information was already provided in a format that there is
24 no more information so the investigation would go on.
25 There is an obligation, it's in our complaint resolution
26 guidelines, that every eight weeks a concerned party should
27 be updated as to status. I can't take it much more than
28 that. Some people will speak to them very well. Other
29 people, they may not get the service delivery they expect.
30
31 Q.   When we're talking about levels of the service
32 delivery that people expect, when we talk about numbers of
33 the complaints that you have on the table - and this is
34 table [DJN.004.0002] - it was broken down into the total
35 complaints and allegations, and in the top of the table on
36 the screen there, we'll go over to the right-hand side, and
37 we can see 2022, January to June, and we've got the numbers
38 990. So they're the actual complaints that have been
39 received; that's correct?
40 A.   Yes.
41
42 Q.   And the allegations of 2,241, they are the allegations
43 contained within those 990 complaints?
44 A.   That's right.
45
46 Q.   In respect of identifying those allegations is that
47 identified in the complaint itself or is that identified as

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 1    the complaint progresses through the matter?
 2    A.    Well, both.  When the complaint is first received and
 3    based on the information allegations will be drawn up for
 4    those based on all the information, what the key issues
 5    are.  So they'll form allegations.  They will get assessed
 6    based on those allegations and a referral is subsequently
 7    made to the CCC for those matters of misconduct.  When the
 8    CCC have had their opportunity to assess the file they'll
 9    send it back to us.  We will modify our records to
10    replicate their assessment so we've got apples with apples.
11    Then along the way of an investigation if further
12    allegations are identified they can easily be added.
13
14    Q.    But not everything goes to the CCC to be looked at,
15    though, does it?
16    A.    Misconduct matters do, yes, and domestic and family
17    violence, they will all go.  I can't recall one incident of
18    domestic and family violence in that committee that I sit
19    on that gets dealt with there.
20
21    Q.    And then when we look at the numbers under the table
22    underneath and we move over to January to June of 2022 and
23    we've got 121 total complaints but that comprises 229
24    allegations.
25    A.    Yes.
26
27    Q.    Are you able to say whether or not the person making
28    the complaint, whoever the person is, a police officer or
29    otherwise, or the victim of the domestic and family
30    violence has been investigated out of these - spoken to,
31    sorry, out of these?
32    A.    I can't say with certainty because it could have come
33    into us via a Policelink matter or some other form.  There
34    would have been contact presumably along the way with
35    police at some point.  But into our system, no, there's no
36    contact when the complaint first comes in by our unit.
37    What precedes it coming in would be various, I suspect.
38
39    Q.    And there is an online portal for a person making a
40    complaint that's open, isn't it, where they can just jump
41    on the internet and they can make a complaint online?
42    A.    That's the Policelink, yes.
43
44    Q.    If I can just use a hypothetical scenario.  A person
45    might be very upset about the way they have been treated.
46    There might be a lot of emotion in their response and
47    perhaps the nature of the real complaint needs to be
```

1   explored a little bit more. When they're the online
2   complaints is there a contact made with the person making
3   that issue about domestic and family violence?
4   A.   The reason for my pause is I'm just trying to work out
5   have they already made a complaint about this in the first
6   instance and now they're making a complaint that they are
7   not satisfied of what's happened, or are they making a
8   complaint of domestic violence occurring, this is the first
9   time it's become aware of. If that's the case mechanisms
10 will immediately be put in place for that to be dealt with
11 as a business as usual approach by the police who would
12 turn up to any domestic situation to deal with that in that
13 instance.
14
15   If, however, what you're saying is the example where
16 that's already occurred but they're now emotional, they're
17 upset and they're putting a complaint in about the response
18 that they have received, then that is a different
19 circumstance and in that case it would come through and
20 they probably wouldn't have that contact that you're
21 talking about. Does that answer your question?
22
23 Q.   I think so. You just said they would not have that
24 contact?
25 A.   Not by them going onto Policelink and putting in a
26 system where - unless there was a real issue, PPM who is
27 assessing this file would cause for inquiries necessarily
28 to be made. I don't have enough information of whether
29 they would do that or not. It would depend on the
30 circumstance.
31
32 Q.   Is it possible to find out out of, for example, that
33 120 complaints how many people were actually spoken to who
34 were the victims themselves?
35 A.   Whether they had been spoken to?
36
37 Q.   You could only do that by reviewing the individual
38 files; is that right?
39 A.   You would have to go through them individually and
40 whether it specifies down to that detail they had been
41 spoken to, but there could be some that there's no mention
42 of it but they might have received a phone call; it may or
43 may not provide that information.
44
45 Q.   And am I correct in understanding, and my maths might
46 be a little bit wrong, in the top column there that
47 I talked about, the 990 complaints or so, that's around

1   about 30 a week in that six-month period; is that right?
2   A.   Yes.
3
4   Q.   And you have around about I think you said 24 people
5   in the unit, a couple of detectives, so there's about 26,
6   30 people in the unit at a state level across the whole
7   state who can look at matters; is that right?
8   A.   No. The Complaint Management Unit is comprised of
9   myself, as the inspector in there. There's five admin
10   staff, four sergeants and four senior sergeants. That's
11   the Complaint Management Unit. Our IIG investigative
12   capacity is 26, 27 staff sitting in there. They're
13   investigators. They're all detectives. Amongst
14   investigations that they do they also act on behalf of the
15   state coroner for those types of matters.
16
17   Q.   Sorry to interrupt you. So the 26, 27 that you're
18   speaking about, they're the ones that are the actual
19   investigators?
20   A.   Yes.
21
22   Q.   In terms of that they're assigned individual districts
23   there's 15 districts across the whole state, aren't there?
24   A.   Now we're talking about PPMs. PPMs are separate
25   again. They're professional practice managers. They're
26   not necessarily detectives; many are. They'll be allocated
27   within the districts. There are 24 of those people.
28   They're allocated within the districts and in the commands
29   of QPS, and they'll have particular areas of responsibility
30   to manage.
31
32   Q.   So there's PPMs, 24; 26, 27 are detectives, so we're
33   up to around about --
34   A.   There's a change with the - it used to be 28.
35
36   Q.   Forty-plus people involved in the process at this
37   point in time who have the capacity to investigate; is that
38   right?
39   A.   Technically, yes; have the capacity. The PPMs I guess
40   have a capacity to investigate but they're not going to go
41   out and investigate. We're only talking about
42   investigators within the internal investigation group if
43   you mean people who would be assigned a discipline
44   complaint investigation. PPMs will have a role in that.
45   They will be able to make some assessment inquiries and do
46   a lot of some of the legwork. But typically you wouldn't
47   see them doing an investigation.

1
2 Q.   I see. Back to a couple of the questions that
3 Counsel Assisting asked you it really seems to be and is
4 perceived to be more of an occurrence log data entry paper
5 desktop review, if I could character it in that way?
6 A.   What is?
7
8 Q.   The investigations that are undertaken based on the
9 documentary evidence; isn't that right?
10 A.   No, not at all. An investigation is a full
11 investigation as it would be for anything else. The
12 assessment inquiries is a little bit different, but the
13 investigation would be to get versions of all the parties
14 involved, speak to witnesses, gather all the evidence that
15 you can. If at any stage during the - the extent and the
16 scope of that can change as time goes on. If information
17 comes in to make it more serious than it original was
18 thought then more effort will go into it, more resources
19 perhaps or more time or more areas to cover. If, however,
20 during the course of the investigation it was identified
21 that there was some footage available that had made it
22 pretty clear as to what the circumstances were then it
23 might get scaled down and be dealt with that way. But an
24 investigation is an investigation, at the conclusion of
25 which would be an investigation report which is quite
26 detailed and a whole range of evidence that comes with it.
27 It's not just a desktop review.
28
29 Q.   But if you're saying that it's an investigation, and
30 an investigation is an investigation, yet it doesn't appear
31 to commonly involve a version from the person actually
32 making the complaint; would you agree?
33 A.   No, I wouldn't. I would think as part of the
34 investigation - in many cases there may be quite a detailed
35 affidavit, and in that case there may not be a need.
36 I think that would be less common than not. I would think
37 it would be necessary to go to the concerned persons, the
38 witnesses, and get versions off those. It's just part of
39 the investigative process.
40
41 Q.   And in terms of advising the outcomes or whatever the
42 end decision is what's the process for telling the person
43 who's made the complaint or who the complaint relates to?
44 A.   On all occasions they will get advice of the outcome
45 of it, and that's typically if not already with the contact
46 by the police who are investigating or having contact with
47 them along the way, it will always be they'll receive an

1   outcome notice for those matters which come into our
2   discipline system. There's an obligation under the Crime
3   and Corruption Act to provide that information, unless it's
4   in the public interest not to. We have a governance
5   process, and I think I mentioned it in my statement there
6   somewhere, about a person who one of their task is to make
7   sure that before a file can be closed that there are
8   outcome notices attached to the file or where they're not
9   to be attached a good reason that meets that criteria.
10
11 Q.   And, appreciating that people in the inquiry here
12 haven't perhaps got those outcome letters, the outcome
13 letters refer to the fact that it's been closed or do they
14 inform about disciplinary retraining, closed, no further
15 action, the detail that's contained in those?
16 A.   So there's different levels of information that's
17 contained with them. Typically if it goes to our Complaint
18 Assessment Committee and we finalise something there and
19 then, the letter that goes to the parties involved is not
20 as detailed. It will say, "Thank you very much for your
21 complaint. We've reviewed the body-worn footage. It's not
22 in accordance with the version that you supplied," or
23 something like that because it's quite clear that the
24 complaint can't be sustained because there's body-worn
25 footage to show that there wasn't excessive use of force or
26 there was force but it was quite reasonable or something or
27 other like that. So in that instance the detail of advice
28 back to the person isn't lengthy.
29
30   Where there is quite a lot of allegations, where
31 there's a detailed investigation, the content in the letter
32 comes under either the PPM or the case manager, depending
33 on the arrangements they have in their area, and the extent
34 of the information in there is largely based on the
35 circumstances of the particular complaint. In those cases
36 the detail is more lengthy. Whether it's sufficient for
37 the person receiving it or not, I mean, I can't answer
38 that, if that's what you're getting at.
39
40 Q.   Right. So you can't say generally whether or not a
41 domestic and family violence victim who attends a police
42 station, a complaint is not taken, they're turned away,
43 they don't get told or they might be told what the outcome
44 was, depending on each case?
45 A.   They will be told. They will be told.
46
47 Q.   And will they be told if it is an internal managerial

1   outcome? If it's a managerial desktop resolution, are they
2   told that information?
3   A.   They will be told that a management response would
4   have been applied or words to that effect. It depends on
5   who the author of the letter is, of course, and how they
6   write the knowledge. But they would get some knowledge
7   that a management response was put in place or that they
8   received a sanction of, or they were dismissed. That type
9   of information would be contained in an outcome letter.
10
11 Q.   And there is no follow-up, for example, where there is
12 a management desktop resolution, say, six months after a
13 complaint might be closed to see if the behavioural change
14 or the management has actually resolved the problem?
15 A.   Well, the short answer to that is no. But equally
16 we've spoken in here about some of the auditing process
17 that goes on and some of the responsibilities of different
18 areas where the behaviour occurs. They do have an ongoing
19 responsibility to monitor the staff in their area. That's
20 the supervisory function.
21
22   So it goes a little bit to the question, I guess, of a
23 field training officer. There will be systems put in place
24 or strategies put in place to limit the ability for further
25 poor behaviour to occur, and there will be monitoring that
26 might go on for a period of time. For example, when a
27 complaint comes in we might go back and do an audit of all
28 their body-worn footage for the contact that they had with
29 motorists who they had been intercepting or something where
30 the complaint related to that. There's a whole range of
31 strategies that can be applied. In your question, does it
32 happen all the time, it depends on the circumstances. The
33 answer is, no, it won't happen all the time. But does it
34 happen? It can do, depending on the circumstances.
35
36 Q.   In respect of one of the answers that you provide
37 earlier on in your evidence you spoke about approaching
38 domestic and family violence and investigating matters as
39 though it's every other kind of crime, and you refer to
40 this at paragraph 25 of your statement. So if a person
41 hypothetically comes in, and we're talking about a failure
42 of duty, and they make a complaint of a robbery or a fraud
43 or something that's already happened, it's come and gone,
44 no ongoing contact, that is treated exactly the same as a
45 failure of duty of a domestic and family violence complaint
46 despite there being ongoing contact --
47 A.   What I'm saying in that paragraph there is the process

1   that we apply for a person who says there's a failure of
2   duty because police didn't arrest someone for a fraud
3   offence, the process that we apply, the structures that
4   we're talking about here today, the flowchart, occurs
5   exactly the same as whether the allegation is one under
6   unprofessional personal conduct which was of domestic
7   violence or whether it was for a failure of duty because
8   they didn't prosecute somebody for a fraud offence. What
9   I'm saying there is the process, the system, regardless of
10   what the allegation type is, is consistent of all
11   allegation types.
12
13   Q.   Is there any timeliness considerations to treat
14   domestic and family violence complaints with priority when
15   we're talking about this type of failure of duty that I've
16   been asking you about?
17   A.   There's definitely a priority in dealing with the - if
18   I take the first step. Definitely a priority in dealing
19   with the domestic violence incident when it occurs and
20   making sure that the people are safe, making sure it's been
21   acted on responsibly. We also have the executive briefing
22   note component that we've spoken about where we review each
23   file and consider whether or not the behaviours of the
24   person complained about are appropriate. So there's a real
25   timeliness around there, and that happens very quickly for
26   domestic and family violence specifically.
27
28   In terms of the investigation of the complaint itself
29   it's confined by legislation. We have very short
30   timeframes to deal with these - I mean, all investigations.
31   So these matters have a minimum of six months from when the
32   complaint is first made into a database or 12 months from
33   when the incident occurred. Depending on the complexity of
34   the investigation, priority is placed on these; all
35   complaints for that matter, because the timeframes are very
36   short. In fact if you've got a six month one the
37   expectation is it would be completed in three months so
38   there is sufficient time to process it for a sanction if
39   that was required through the system, if that makes sense.
40
41   Q.   Yes, I understand what you're saying. But I suppose
42   the shortest timeframe you're talking about is a
43   three-month period, and statistically we know that on
44   average police officers are calling out to multiple
45   domestic and family violence incidents every single shift,
46   in that three-month period they're continuing to
47   potentially apply improper practices?

1   A.   No, I don't agree with that proposition. The reason
2   I say that is because when the complaint first comes in one
3   of the things that must be considered is that professional
4   development strategy document. So as a matter of course
5   when a complaint is first received that gets undertaken and
6   there's monitoring. There are conditions imposed on that
7   to prevent exactly what you're talking about.
8
9   I think it's very difficult to prescribe a timeframe
10   for investigations because some are really quite quick;
11   others can be quite lengthy, the amount of information that
12   might be involved. So the concern around whether or not an
13   officer is able to continue their behaviour I don't think
14   comes into the timeframe of the actual investigation. It
15   comes into the initial response that's provided, whether
16   the person is stood down or they're removed from
17   responsibilities, they've got other conditions put in place
18   or whether they're in fact suspended. So those conditions
19   about the officer being able to continue their behaviours
20   I think are remedied very early on.
21
22   Q.   And once again we don't have any figures or statistics
23   about the 120 domestic violence complaints, for example, in
24   January to June of this year where that would happen?
25   A.   Whether there was a professional development strategy
26   imposed for every one of those complaints?
27
28   Q.   In the early stages.
29   A.   Well, it's considered at every stage. When the
30   assessment is done and when it's first referred to the case
31   manager it is considered on every occasion. That's the
32   legislative obligation.
33
34   Q.   If there is a subsequent complaint that whatever is
35   put in place sees no behavioural change in the officer
36   involved, what's done then?
37   A.   That becomes a management issue outside of the
38   discipline issue, unless there's more discipline occurring.
39   If there's more discipline occurring it stays within the
40   discipline space. It might be a continuation of their
41   behaviour and it can just be more allegations and stays
42   with - obviously that elevates the potential penalty that
43   might occur at the conclusion. But the bigger issue is
44   probably the management of that person at that time to
45   prevent further behaviours ongoing.
46
47   Q.   When you say it's a management issue it comes back to

1   the officer in charge of a particular station?
2   A.   There is responsibility on him. There's a whole level
3   of supervisory responsibilities. It would come back to the
4   case manager as well. So I don't think you can take each
5   one in isolation. I mean, there's also the management of
6   the officer. In saying that, sorry, where they are the
7   perpetrator in particular, there is the ability to have
8   briefings completed where they may well be suspended or
9   stood down. If they're stood down and they're continuing
10   to misbehave, then it might go to suspension. The level of
11   discipline system can elevate if required, if the behaviour
12   is left untreated.
13
14   Q.   And once again are you able to obtain statistics where
15   there is an allegation of failure to provide a duty where
16   that person has been suspended or stood down?
17   A.   Absolutely, yes, there will be a record of that.
18
19   Q.   And in respect of returning to your statement you
20   mentioned about the conflicts of interest at
21   paragraph 52 - sorry, 52 is where you talk about people
22   investigating and the appropriateness of them being
23   investigated. Then there was other talk that you provided
24   about conflicts of interest by reference to 5.1 of
25   the document 002 at page 28. So I can pull that up if you
26   want to, but that's what counsel took you to.
27   A.   Yes.
28
29   Q.   In respect of the conflicts of interest how is it
30   resolved, though, when there is an LMR - and please forgive
31   me if I'm using the incorrect terminology - when there is
32   an LMR that is sent back to an officer in charge of a
33   station or what should happen to manage, they can disagree
34   with that and choose not to implement it, how are
35   those - that person is in a conflict situation, are they
36   not, because they're an immediate supervisor yet they're
37   exercising a discretion to not implement the actions?
38   A.   I'm not aware of a situation where an LMR plan is
39   prepared between the PPM and the case manager, being the
40   superintendent, and refer back to an officer in charge to
41   impose and then the officer in charge saying, "I just
42   disagree with this." I'm not aware of a situation of that
43   occurring.
44
45   Q.   Was there not, though - and forgive me if I missed it
46   or I misunderstood or I didn't hear properly - was there
47   not evidence that you gave about a person being able to

1 decide not to implement or to follow through on those
2 matters, whether it's the officer in charge or someone else
3 in the process?
4 A.   No.   It's up to the complaint manager to decide
5 whether to pursue a complaint and say that there's no
6 further action.   But if the case manager decides the
7 outcome of the discipline process is to be an LMR in
8 conjunction with the PPM, who would draft the LMR plan,
9 that would get imposed.
10
11 Q.   If I could just ask you a couple of questions about
12 the flowchart table, [DJN.003.0001].   In respect of this
13 diagram you were asked a number of questions by
14 Counsel Assisting, and if we move down to the part on the
15 right-hand side under "Misconduct", under the second orange
16 square that starts with "no further action", the
17 determination of there being no further action depends on
18 information obtained by the Queensland Police Service
19 rather than what the CCC decides; isn't that right?
20 A.   Well, that's right.   Yes, if it's been referred to us
21 and we take a no further action then what we're saying is
22 no misconduct has occurred, and in those circumstances
23 where the CCC doesn't know about those because they haven't
24 provided it to us and we're saying that on the assessment
25 here there's no further action, then we're satisfied that
26 no misconduct has occurred.
27
28 Q.   So in order for it to go to the CCC it has to be
29 identified by the QPS or the Ethical Standards Command to
30 be misconduct or corrupt conduct; isn't that right?
31 A.   Misconduct.   Our definition is misconduct in the
32 Police Service Administration Act.
33
34 Q.   And the investigation process that you were taken to
35 in the document [DJN.002.0029] that applies, does it not,
36 when we reach this level, that square that I'm talking
37 about on the flowchart?
38 A.   What was the document I'm referring to?
39
40 Q.   002 at page 29.
41 A.   That's the complaint resolution guidelines?
42
43 Q.   That's 4.7 of the Ethical Standards Command complaint
44 resolution guidelines.
45 A.   Investigation, yes, sorry.
46
47 Q.   It's up on the screen there to assist you.

1   A.   It is now, yes.
2
3   Q.   This investigation that is described here is what
4   takes place when it reaches this second orange box, doesn't
5   it, for the misconduct?
6   A.   No, that's what leaves - where it talks about "for
7   investigation" in that orange box, that's when it goes out
8   for investigation.
9
10   Q.   Right. So it goes out for investigation at that point
11   in the flowchart but not before?
12   A.   Yes. That's right. That's the assessment. Once it's
13   been assessed, that's one of the determination
14   possibilities from the committee. One would be
15   investigation.
16
17   Q.   And once again we can see on the document on the
18   screen on the right-hand side we've got the dot points
19   there, the fourth last one under 4.7, "Obtain the version
20   from relevant witnesses," and the second last one, "Obtain
21   all relevant and necessary evidence," doesn't specifically
22   require, does it, statements from the complainant unless we
23   apply the fourth one from the top, "Contact the complainant
24   and obtain their full version of events if not already
25   obtained"?
26   A.   It is a difficult thing to be very prescriptive in
27   what an investigation should entail. Each one is
28   different, depending on what information you already hold
29   or where the investigation needs to go, what the scope is,
30   particularly if we're talking disciplinary investigations,
31   because some of these are also criminal investigations or
32   they should start out as criminal investigations until it's
33   satisfied that it's not. So it may be necessary to go and
34   speak to that person. It depends on what information comes
35   in. As I said, it's really quite difficult to be so
36   prescriptive that you've got to do this, this, this and
37   this because they could be already done or it's not within
38   the scope of what's necessary.
39
40   Q.   Am I correct, though, that in the standards command
41   resolution guidelines this appears to be the first point in
42   time where it expressly talks about contacting the
43   complainant and obtaining their full version of events?
44   A.   Yes, and that would be highly appropriate.
45
46   Q.   And again you can't say out of the figures how many
47   complainants were actually contacted to obtain --

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1     A.    No, and I don't know of any place where we would
2     record that.
3
4     Q.    Just in respect of some evidence to be heard this
5     afternoon from Ms Foulger connected with the CCC, they rank
6     things as low, medium and high risk, and you mentioned that
7     a little bit in your evidence before; in passing you
8     mentioned it.
9     A.    Yes.
10
11    Q.    That's nothing at all to do with the Queensland Police
12    Service rankings?
13    A.    No.
14
15    Q.    And when you're referring in your evidence to minor
16    complaints you're really talking about what her Honour is
17    speaking about, the dogs barking or you use the references
18    the helicopter's too noisy or the RBTs outside or something
19    like that?
20    A.    Speed camera, yes.  I don't know that you can equate
21    the two.  I don't know theirs.  But that's ours.
22
23    Q.    And when the CCC identify misconduct as being low
24    level and it might be that failure to perform a duty what
25    recourse is there when your unit doesn't agree with that?
26    A.    I'm not sure that - that's an assessment tool that I
27    understand that they use.  It doesn't come across as a low
28    level.  Their reference to us will come across in that MAR
29    that we spoke about, the matters assessed report, and they
30    will refer a complaint to us under section 36, because we
31    haven't seen it before because it's been made to them, and
32    it will come across to us either as police misconduct or it
33    will come across as corrupt conduct.
34
35        In amongst that that will also provide any advice as
36    to whether they want to hold some oversight capacity of it.
37    For those police misconduct ones you'd usually expect that
38    they would not have any oversight.  So it would be referred
39    to us for no further action on their part.
40
41    Q.    We talk about ones that come through them.  But what
42    about the ones that come from your unit, gets sent through
43    to the CCC and then get sent back?
44    A.    Yes.
45
46    Q.    The resolution process of that then rests with the
47    Police Service.  What happens in a practical sense if your
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1   unit disagrees with their sending it back?
2   A.    I'm not sure whether conflict can occur because they
3   will send it back without a clear instruction to say, "Do
4   nothing with it."  They're just sending it back to say
5   they're not putting oversight on it; they will agree.  It
6   will be up to the QPS then to decide what they would do.
7
8        So if it comes back to us we will have made our own
9   decision as to whether or not it's a no further action
10  based on some information that we might hold or whether
11  we're going to do a full investigation or whether it might
12  be an assessment inquiry to get more information.  It
13  really depends on the case.  But the referral back from the
14  CCC wouldn't negate us pursuing anything.  It might put
15  some oversight on it for us and we have obligations then to
16  provide updates and provide advice to them about what's
17  happening and some conditions on things.  That would be the
18  only thing the MAR would provide to us.
19
20  Q.    Just excuse me a moment.  I just want to check my
21  notes just to make sure that I covered what I wanted to.
22  A.    Sure.
23
24  Q.    Counsel Assisting asked you a few questions about
25  identifying pattern of behaviour as part of your
26  complaints.  Do you remember right at the end she was
27  asking you about that?  You were talking about being able
28  to be satisfied if the DV responses are adequate, and
29  I think that you also referred to the ability to check
30  their database entries and things like that.  In that
31  process can I just clarify it still relies very heavily
32  upon there being a DV occurrence entry actually made on the
33  database, doesn't there, for you to be able to check with
34  it whether there's been a pattern of behaviour; isn't that
35  right?
36  A.    That's true.  But if, for example, the situation was
37  that their failure of duty because they're just not
38  receiving a complaint therefore not getting on the system
39  then we can go back and conduct audits perhaps of their
40  interaction with their body worn, if in fact they're using
41  it; we can do some checks back in the workplace; are there
42  private DV applications coming out of some people that they
43  might be associated with.  There are some checks that can
44  be done.  But if they're not putting it on the system you
45  can't check what's not there, if you know what I mean.  But
46  you can do audits to some extent.
47
```

1   Q.   So if there is - a common complaint that's been
2   received by the Commission is people turning up to police
3   stations and being turned away. Even though you might be
4   able to look at CCTV footage, no-one is required to wear
5   body-worn camera footage every time they're at a front
6   counter, are they
7   A.   Not while they're at the front counter, but while
8   they're dealing with complaints of domestic and family
9   violence they're now required to.
10
11   Q.   And even if they're required, hypothetically, to wear
12   body-worn camera footage on the front counter depends on
13   them properly activating it as they're required to?
14   A.   That's right.
15
16   Q.   And it properly depends upon the capturing and the
17   keeping of that data. I know it gets downloaded and
18   docked to Evidence.com. Is that kept permanently, though?
19   A.   I would defer to an expert in the area. I think once
20   you tag it and you deal with it and you isolate it it will
21   be. But I think over time all the other material that was
22   just the day-to-day that has no consequence of anything,
23   I understand that will disappear over time. But I defer to
24   an expert in that.
25
26   Q.   And when it is tagged in order to be, if I can use the
27   word, connected to some sort of incident that's really what
28   you're talking about?
29   A.   Yes.
30
31   Q.   If it's not tagged and identified by the officer who
32   perhaps is not performing their own duty then there's no
33   way to check that, is there?
34   A.   I'm not sure what the auditing function is of the
35   Evidence.com. It's outside my experience.
36
37   MS HILLARD: Thank you. Commissioner, I think that that
38   is everything that I wanted to ask. Thank you.
39
40   MS MORRIS: Thank you, Commissioner. For the record, my
41   name is Morris, initial M, solicitor in the employ of
42   Gilshenan & Luton legal practice. I appear for the
43   Queensland Police Union of Employees, and I have no
44   questions.
45
46   COMMISSIONER: Thanks, Ms Morris.
47

1   MR HUNTER: Commissioner, I have a couple of fairly brief
2   questions that arise out of the evidence that this witness
3   has given in response to questions that he was asked.
4
5   **<EXAMINATION BY MR HUNTER:**
6
7   Q.   Can I ask you about the oversight of the work of the
8   Ethical Standards Command by the CCC. Can you explain how
9   the CCC maintains oversight over the way in which ESC goes
10   about its work?
11   A.   Sure. So whenever we receive a complaint if it
12   constitutes misconduct and we're satisfied it does every
13   one of those complaints is generated in a file and it's
14   sent to the CCC. For matters that are determined to be
15   what they refer as CAT B matters they have a schedule under
16   their section 40 arrangements that we have certain
17   criteria. They will go over once a week as a batch.
18   Matters that are much more serious and prescribed by them
19   as a category A matter will go over that same day and we
20   won't go anything with those matters until they have had an
21   opportunity to assess those files typically within 14 days.
22
23   COMMISSIONER: Category B matters almost always all come
24   back, don't they?
25   A.   Yes. We know that from discussions earlier there's
26   been about 1 per cent that they will have the capacity
27   to --
28
29   COMMISSIONER: I think it's less than 1 per cent,
30   actually.
31   A.   Possibly.
32
33   COMMISSIONER: But we'll find out about that soon enough.
34
35   MR HUNTER: You spoke about category A and category B
36   matters.
37   A.   Yes.
38
39   Q.   Does every complaint that comes into the QPS get
40   forwarded to the CCC?
41   A.   No. Only those ones that go to our Complaint
42   Assessment Committee that are satisfied to be misconduct.
43   Going back many years ago everything used to go across, but
44   obviously that was superfluous creating a lot of work and
45   wasn't timely for getting things done. So over time the
46   decision was made to send misconduct matters only. If a
47   matter comes into our Complaint Assessment Committee and we

1   deem it as no further action required, we're satisfied it's
2   not misconduct, that won't be referred back. We're still
3   subject to audits, though, that they might make of all
4   complaints that we receive.
5
6   Q.   You mentioned the Joint Assessment and Moderation
7   Committee, which is also referred to in your statement.
8   Can you just explain in a bit more detail how that
9   committee works?
10   A.   Yes. So every fortnight there's a meeting held
11   between our senior people in IIG and theirs. Once a month
12   it includes all of the people getting together, which would
13   often include the chair or other senior people from
14   the Commission. Our Assistant Commissioner might turn up,
15   our Chief Superintendent does turn up to it, the
16   superintendent, myself, our intel people, and we will
17   discuss as a matter of course all those they call it tier 1
18   matters, which are the ones that they place oversight on.
19   That's just to give an indication, "Yes, we've received it.
20   We sent that one to the Gold Coast for investigation or our
21   internal investigation group are holding that one." So
22   that's the tier 1 part of it.
23
24   The tier 2 part of it is where there might be an
25   investigation that has some particular sensitivities around
26   it. We might think there might be a dispute between the
27   two organisations. So we'll get together and we'll discuss
28   it, and then hopefully come to a resolution rather than
29   backwards and forwards trying to resolve an issue.
30
31   Equally it provides an opportunity to discuss any
32   other matter that might be of relevance. So if there's
33   something going on as an organisation or a process problem
34   or maybe not even a problem, a consideration, then we can
35   talk about that. So that happens once a month.
36
37   Every other fortnight, so the next fortnight, is a
38   contact between myself and a counterpart within the CCC and
39   we just do those tier 1 matters, and at any time if we
40   needed to we could elevate the timeframes of when we need
41   to meet.
42
43   Q.   And of course the CCC itself has the power to commence
44   a discipline proceeding at QCAT on its own initiative?
45   A.   Yes, it does.
46
47   Q.   And it also has the power to review decisions made

```
1    internally about discipline matter within the QPS?
2    A.    Yes, it does.
3
4    Q.    In your experience is the CCC shy about exercising its
5    jurisdiction to do that?
6    A.    Not at all, no.  And quite frequently we'll have
7    discussions where we agree to disagree on things.
8
9    Q.    You mentioned a basis upon which no further action
10   would be taken.  You mentioned a category of unjustifiable
11   use of resources.  Can you explain what the circumstances
12   would need to be for that to be a basis upon which a matter
13   was decided to be the subject of no further action?
14   A.    First of all, where we take no further action
15   particularly at our Complaint Assessment Committee it does
16   have to have a high standard of sufficient evidence to be
17   able to satisfy ourselves that whatever happened doesn't
18   meet misconduct.  So where it's an unjustified use of
19   resources typically that might be where someone has come
20   forward with some historical complaint of a low level type
21   of behaviour where - and I'm using this as an
22   example - where to go and try extract enough information to
23   either support or discredit the account would be a lot of
24   work for no result.  Effectively it's a low level matter
25   that you could put a lot of effort into to achieve little
26   to no real outcome.  So it's a small subset of the ways we
27   finalise things, as is exonerated, as is frivolous and
28   vexatious.  They're not a common - they get used, but not
29   commonly.
30
31   Q.    Lastly, did you arrange for someone else at Ethical
32   Standards Command to conduct a review of a selection of
33   discipline files that were considered by the service in the
34   six months to the end of July?
35   A.    Yes, I did.
36
37   Q.    And I won't ask you to go through the results of that
38   but there's been a document generated which sets out the
39   reasons for the various outcomes that occurred in respect
40   of those matters?
41   A.    Yes, we looked at a six-month period from 1 July 21 to
42   31 December 21, and out of that sample we did - or out of
43   that group we did about a 30 per cent sample of all the
44   complaint files in there for the NFAs, and we got the
45   results for that.
46
47   Q.    How were the files selected?
```

1   A.   Randomly through that process. It was just a random
2   selection. We just picked that because it was current and
3   we just went through those.
4
5   Q.   There's no difficulty in providing an unmarked copy of
6   that document to the Commission?
7   A.   No problem at all.
8
9   COMMISSIONER: Is that general complaints or --
10   A.   No, domestic and family violence related complaints.
11
12   COMMISSIONER: That would be good.
13
14   MR HUNTER: Thank you. Those are the questions.
15
16   MS CAPPELLANO: No further questions, thank you,
17   Commissioner. May Mr Nixon be excused?
18
19   COMMISSIONER: Do you have that document?
20   A.   With all my notes all over it I have. Otherwise it's
21   in my laptop. I could email you copy.
22
23   COMMISSIONER: Yes, if you could email it to the
24   Commissioner that would be great. Thank you. Thanks,
25   Inspector. You're free to leave. Thanks for coming in.
26   2.30.
27
28   **<THE WITNESS WITHDREW**
29
30   **LUNCHEON ADJOURNMENT**
31
32   MS CAPPELLANO: Commissioner, just prior to calling
33   Ms Foulger, I understand that Ms Juhasz has a submission to
34   make in relation to leave to appear.
35
36   MS JUHASZ: I do, Your Honour. The CCC made an
37   application on 19 July of this year for leave with respect
38   to the complaints on 1 and 2 August. On the 20th we
39   received a response in relation to appearing on today's
40   date only, and I was orally seeking leave to appear
41   tomorrow afternoon with respect to the expert evidence and
42   also now Friday considering Officer Scanlon will be giving
43   evidence on the Friday, which I think is 5 August.
44
45   COMMISSIONER: Yes. That seems fine, given the CCC's
46   contribution or lack thereof to police complaints.
47

1   MS JUHASZ: Yes, thank you.
2
3   COMMISSIONER: Did you want to ask - I didn't even ask you
4   if you had any questions for Inspector Nixon.
5
6   MS JUHASZ: No, no questions for Inspector Nixon.
7
8   COMMISSIONER: Good. Thank you.
9
10   MS CAPPELLANO: Thank you, Commissioner. I call
11   Elizabeth Foulger.
12
13   **<ELIZABETH FOULGER, sworn:**
14
15   **<EXAMINATION BY MS CAPPELLANO:**
16
17   Q.   Ms Foulger, you are the Executive Director of the
18   Integrity Services at the Crime and Corruption Commission;
19   is that correct?
20   A.   Yes.
21
22   Q.   And the Integrity Services Unit is a unit at the CCC
23   that's responsible for assessing complaints about corrupt
24   conduct to determine whether they are within the CCC's
25   jurisdiction and what action, if any, is appropriate?
26   A.   That's right.
27
28   Q.   And you've provided a quite detailed statement to
29   the Commission which outlines the CCC's role in the QPS
30   complaints handling process, and you have a copy of that
31   statement with you?
32   A.   I do.
33
34   Q.   And feel free to refer to that if needed throughout
35   your evidence. We can also put that up on the screen if
36   necessary. In relation to material other than the
37   statement you've also been provided with two pages which
38   include data from the statement which has been prepared by
39   staff from the Commission analysing that data or putting
40   that data into different forms in terms of percentages and
41   things like that, and you've had an opportunity to go
42   through that?
43   A.   I have.
44
45   Q.   Thank you. Now, Ms Foulger, would you agree that the
46   primary functions of the CCC are to combat and reduce the
47   incidence of major crime and to improve the integrity of

1   the public sector by reducing the incidence of corruption
2   in the public sector?
3   A.   Yes, that's right.
4
5   Q.   When it comes to the misconduct space more generally,
6   whether it be with the QPS or with other public bodies, the
7   focus of the CCC by virtue of the legislation is
8   corruption?
9   A.   In terms of investigating, yes, that's right.
10
11   Q.   And the CCC's role in any public administration bodies
12   complaints handling process, including the QPS's, stems
13   from this corruption function?
14   A.   That's right.
15
16   Q.   And part of the CCC's corruption function, if we're
17   looking more specifically at police complaints, the CCC can
18   receive complaints of both corrupt conduct and complaints
19   of police misconduct?
20   A.   Yes.
21
22   Q.   And this definition of whether something falls under
23   corrupt conduct or whether it's classified as police
24   misconduct is very important because it determines what
25   powers the CCC has in relation to those matters; is that
26   correct?
27   A.   That's correct.
28
29   Q.   Now, I'd like you to outline for the Commission what
30   the definition of "corrupt conduct" is and, Mr Operator,
31   could we please put paragraph 7 of Ms Foulger's statement
32   up on the screen. I understand it arises from section 15
33   of the Act, but it is a little bit of a complex definition.
34   So if you could talk the Commission through that?
35   A.   Certainly. So section 15(1) of the Act defines
36   "corrupt conduct". It has three limbs, (a), (b) and (c),
37   and for conduct to fall within the jurisdiction of the CCC
38   it must meet each of those limbs. So, firstly, it has to
39   adversely affect or impact either directly or indirectly on
40   the performance of the functions of an organisation. So
41   generally that rules out of jurisdiction conduct that
42   occurs in a person's private capacity.
43
44   If it satisfies (a), then you move on to (b) and it
45   must satisfy one of those criteria. It has to be either
46   not honest or impartial; involve a breach of the trust
47   placed in a person as a result of their appointment in a

1   public sector agency; or involve a misuse of information or
2   material that they acquire as a result of their function.
3   So once you meet both (a) and (b) you then must move on to
4   (c). So it either has to be conduct that, if proven, would
5   be a criminal offence or conduct where - or a disciplinary
6   breach where there would be reasonable grounds for
7   terminating a person's employment. So all three of (a) (b)
8   and (c) must be met for it to fall within the jurisdiction
9   of the CCC.
10
11 COMMISSIONER: So what is the definition of a person
12 holding an appointment?
13 A.   It is generally a person who is employed by a unit of
14 public administration. It can be an employee. It can be
15 contractor. It can also be an elected official.
16
17 COMMISSIONER: So is that a police officer?
18 A.   Yes, that's right.
19
20 COMMISSIONER: So a domestically violent police officer,
21 why isn't that covered under (a)?
22 A.   It's not. That would fall into - generally fall into
23 police misconduct rather than corrupt conduct.
24
25 COMMISSIONER: Can you tell me why it's not covered under
26 (a)?
27 A.   No, I can't tell you why it was designed in that
28 purpose.
29
30 COMMISSIONER: But is there some decision
31 that - "adversely affects indirectly the performance of
32 functions of a police officer". If they're assaulting and
33 beating their wife, surely that affects their functions?
34 A.   So part of the evidence in my statement is that in
35 June of this year we reviewed how we were categorising
36 allegations against police officers who were engaging in
37 acts of domestic and family violence. We previously had
38 taken a very narrow interpretation of (1)(a). We've now
39 broadened that interpretation. So that if the act of
40 violence in a domestic violence situation involves a
41 serious criminal offence then it will now be categorised as
42 corrupt conduct and within jurisdiction.
43
44 COMMISSIONER: And a serious criminal offence is?
45 A.   Rape, strangulation, grievous bodily harm, offences of
46 that nature.
47

```
 1    COMMISSIONER:   So why the distinction between that and
 2    assault occasioning bodily harm?
 3    A.   There's no reason why it couldn't be assault
 4    occasioning bodily harm.  We've only recently made that and
 5    we will deal with each matters that comes in on the
 6    particular facts of what the domestic violence act is
 7    alleged to have involved.
 8
 9    COMMISSIONER:   So serious criminal offence is not defined
10    other than just serious criminal offence?
11    A.   No.  This is an internal decision to broaden and these
12    are the criteria that we look at in determining whether or
13    not their conduct is so serious that it will impact on
14    their ability to do their job in an appropriate way.
15
16    COMMISSIONER:   Stalking, is that a serious criminal
17    offence?
18    A.   Yes.
19
20    COMMISSIONER:   And has that started now?
21    A.   That has started now, yes.
22
23    COMMISSIONER:   Since when?
24    A.   Since 1 June.
25
26    MS CAPPELLANO:   To give a little bit more of the
27    historical background to the issue that the Commissioner
28    has raised, do I understand your evidence correctly that
29    historically - and that is prior to 1 June, about two
30    months ago - all allegations involving police as
31    perpetrators of domestic violence have been classified as
32    being misconduct rather than corrupt conduct on the basis
33    that they would typically occur off duty and, unless they
34    were specifically - somebody was using a police issued
35    firearm to commit that offence or stalking somebody in
36    their patrol car, they would fall within the definition of
37    "misconduct", not "corrupt conduct"?
38    A.   That's correct.  Previously it would only be corrupt
39    conduct if some aspect of the alleged conduct occurred
40    while they were on duty.
41
42    Q.   Just before we move on further to this point perhaps
43    it would be useful if you just describe the definition of
44    "misconduct"for us?
45    A.   Yes.
46
47    Q.   And I think that's at paragraph 8.
```

1   A.   So it's actually in the dictionary to the Act and
2   there are three kinds of conduct that can be police
3   misconduct. So you're talking about conduct that is
4   disgraceful, improper or unbecoming of a police officer
5   that shows unfitness to continue as a police officer or
6   does not meet reasonable community expectations of a police
7   officer.
8
9   Q.   And so DV related complaints that don't - allegations
10   of police perpetrating domestic violence, where would they
11   normally fit?
12   A.   The majority of complaints made or allegations in
13   connection with the way police have dealt with an
14   allegation of or a complaint of domestic violence will be
15   police misconduct. This is because they generally are not
16   going to satisfy section 15(1)(c). So they don't generally
17   involve a criminal offence or conduct that gives rise to
18   reasonable grounds for dismissal.
19
20   Q.   And what about misuse of information, because that
21   would often occur perhaps on duty?
22   A.   Sure. So misuse of information could, yes, fall into
23   that space. It's likely to satisfy section 15(1)(c) where,
24   for example, the misuse of information included misuse of
25   access on a police system, and then you've got an offence
26   under section 408E of the Criminal Code, computer misuse
27   and hacking.
28
29   Q.   In terms of this change of policy you indicate at
30   paragraph 56 of your statement that about two months ago in
31   June 2022 the CCC have adapted a more expansive approach
32   when it comes to off duty conduct and the definitions in
33   section 15 acknowledging that off duty conduct such as
34   committing acts of domestic violence could and indirectly,
35   using the terms of the legislation, affect their
36   performance of police powers and police functions; is that
37   correct?
38   A.   That's correct.
39
40   COMMISSIONER: And what brought on that decision?
41   A.   We had in about September of the previous year had a
42   broader discussion about off duty conduct by police
43   officers generally and when that should in fact be more
44   correctly classified as corrupt conduct, and that's when we
45   started to look at police charged with serious offences.
46   I think it was an error not to then carry that into the
47   domestic violence space at that point in time. So

1   I clarified that with staff on 1 June to make it clear that
2   when you're looking at a criminal offence you should
3   consider whether or not that would fall within corrupt
4   conduct, whether that's impacting on their ability to
5   discharge their duties.
6
7   MS CAPPELLANO: And if we could place paragraph 61 to 63
8   on the screen, please, Mr Operator. Am I correct in my
9   understanding that the change in policy is an initiative of
10   your unit within the CCC?
11   A.   CCC, yes.
12
13   Q.   And in terms of the rationale behind the change of
14   policy is that what's outlined at paragraphs 61 to 63 of
15   your statement, recognising that police officers by virtue
16   of their position have a nuanced understanding of how the
17   systems work in relation to access to police systems, they
18   might know local police if they're called to investigate
19   DFV matters, prosecutors who would appear in court, the
20   lawyers and possibly the magistrate, and the fact that a
21   police officer exacerbates power imbalance already present
22   in a domestically violent relationship?
23   A.   That's correct.
24
25   Q.   And then at paragraph 62 you talk more specifically
26   about breaches of domestic and family violence orders where
27   that being an example of - you give further examples of how
28   it could affect an officer's ability to appropriately
29   perform their functions and powers, and you say, "An
30   officer who breaches it demonstrates disregard for the
31   public safety and the system of laws they are obliged to
32   uphold. It follows that the officer may be unable to
33   impartially investigate, prosecute and enforce laws when
34   confronted with DFV in the line of duty," and then that is
35   why that falls within sub-section (c) of 15.
36   A.   That's correct.
37
38   Q.   Then at paragraph 63 you talk more specifically about
39   the issues that you were discussing with the Commissioner
40   about serious criminal offences, including assault,
41   choking, suffocation, strangulation, GBH, rape and how that
42   as well would affect somebody's ability to appropriately
43   and impartially act as a police officer while on duty?
44   A.   Yes.
45
46   Q.   So is that the rationale - sort of in a summary form
47   the rationale behind that change of policy?

1   A.   Yes, that's the rationale.
2
3   Q.   Now, in terms of the practical effect of such change
4   in policy, firstly, it's apparent from the language that's
5   used in your statement that police officers who are alleged
6   to have perpetrated domestic and family violence now can be
7   or now might be able to be classified as that behaviour
8   being corrupt conduct. This means it's not an automatic
9   decision but it is open for the CCC to classify such
10   allegations as corrupt conduct; is that correct?
11   A.   If it meets the definition then it will be assessed as
12   corrupt conduct.
13
14   Q.   And any previous reports in the media that the CCC had
15   in fact changed its classification system so that domestic
16   and family violence complaints against police were no
17   longer misconduct but were always corrupt conduct is not
18   correct?
19   A.   That's right.
20
21   Q.   And at the time of drafting this statement, which
22   I understand was on 13 June, about two weeks after the
23   policy had come into place, you indicated that within that
24   two-week timeframe the CCC had received six complaints
25   regarding police officers linked to domestic and family
26   violence matters; is that correct?
27   A.   Correct.
28
29   Q.   And were they all police officer perpetrating
30   allegations or were they including perhaps failure to duty
31   or misuse of information as well?
32   A.   They were a combination of those allegations.
33
34   Q.   And at the time of drafting the statement you
35   indicated that each file was still under assessment. Has
36   there been any update on those files since the drafting of
37   the statement?
38   A.   I can confirm that we have now had two complaints
39   where allegations of corrupt conduct have been distilled.
40   The allegations involve police officers perpetrating
41   domestic violence. In one matter the allegations included
42   a police officer had access to child exploitation material.
43   In the second matter the allegations included strangulation
44   and rape.
45
46   Q.   And how have they been assessed?
47   A.   Both matters have been referred back to the QPS to

1   deal with, but subject to a public interest review. So
2   they're being monitored by the CCC.
3
4   Q.   And we'll go into a bit more detail about what public
5   interest review means in a moment. And the other four
6   matters are still yet to be assessed?
7   A.   They have been assessed at this stage, and I would
8   have to check on the specifics of those. They were I think
9   generally appropriate to refer back to the QPS to deal
10   with.
11
12   Q.   Can you indicate - they were assessed and referred
13   back to the QPS, which is the ultimate outcome. Was there
14   any classification? Were they classified as corrupt
15   conduct but referred back to the QPS?
16   A.   They were classified as police misconduct. Only the
17   two matters were identified for classification as corrupt
18   conduct.
19
20   Q.   I think you have answered this, but I want to make
21   sure that I do understand the situation: of those six
22   matters, four were classified as police misconduct?
23   A.   Yes.
24
25   Q.   And referred back to the QPS?
26   A.   Yes.
27
28   Q.   Two were classified as corrupt conduct, and they were
29   the ones involving allegations of perpetrating domestic and
30   family violence?
31   A.   Yes.
32
33   Q.   And they were also referred back to the QPS to resolve
34   but under the public interest review?
35   A.   That's right.
36
37   COMMISSIONER: And how often are they reviewed?
38   A.   If you have a public interest review then the QPS must
39   report to the CCC at six weeks, at three months and then at
40   six, nine and 12 months with a general expectation the
41   matters will be resolved within a 12-month period of time.
42
43   MS CAPPELLANO: In terms of - I think you may have already
44   answered this, but in terms of non-police perpetrator
45   allegations where - they generally fall within police
46   misconduct not corrupt conduct, or is it case by case,
47   there's no general trend?

1   A.   There's no general trend. It will really depend on
2   what the entire allegation is. So many of them will be
3   police misconduct. But, for example, if part of the
4   allegation is about access to confidential police
5   information then they're likely to fall into the corrupt
6   conduct space. But the majority will be assessed as police
7   misconduct.
8
9   Q.   Thank you. Mr Operator, can you please put the table
10   at the bottom of paragraph 26 on the screen? Now, if we
11   just put the DFV related complaints to one side and then
12   look at total complaints about police, just in terms of
13   interpreting this table, perhaps this shows about a
14   six-year period, but if we just have a look by way of
15   example of the last year, so 2021/2022, this table
16   demonstrates that the total complaints received by the CCC
17   was 3,586, and that's all public agencies --
18   A.   That's right.
19
20   Q.   Not just police?
21   A.   Yes, or UPAs.
22
23   Q.   It then demonstrates the police complaints are that
24   1,837 number?
25   A.   Yes.
26
27   Q.   And so police complaints do make up over half of
28   the overall complaints received?
29   A.   They did in that year, and they usually hover
30   somewhere between 40 and 60 per cent.
31
32   Q.   And in terms of the total, I think it's 51 per cent in
33   that year?
34   A.   That's right.
35
36   Q.   That's the next column. Now, the next column talks
37   about being referred by the public or referred by the QPS,
38   and that demonstrates that over half or about 51 per cent
39   were referred by the public directly to the CCC?
40   A.   Yes.
41
42   Q.   Then in terms of the total allegations I understand
43   the reason why the allegations number is different to the
44   complaints number is because one complaint could have a
45   series of allegations?
46   A.   That's right.
47

1 Q.   And it could be the allegations about different
2 officers or different acts or complaints about the same
3 officer. So if we look at that allegation number of 4,316
4 does that show that of those allegations 1,441 were
5 assessed by the CCC as corrupt conduct and 2,875 were
6 assessed by the CCC as police misconduct?
7 A.   That's correct.
8
9 Q.   And I guess that is a lot of numbers that I've just
10 rattled off, but in simple terms does that demonstrate that
11 of the total allegations involving police complaints about
12 a third were assessed as corrupt conduct and about
13 two-thirds were assessed as police misconduct?
14 A.   Yes, that's right.
15
16 Q.   And theoretically when we're just looking at
17 allegations involving domestic and family violence because
18 there's only just been that change all the domestic and
19 family violence allegations would have been in that
20 two-thirds category?
21 A.   Most of them would have been, the difference being if
22 that domestic violence involved some connection to duty.
23
24 Q.   If there was a misuse of information, for example?
25 A.   For example, yes.
26
27 Q.   Then the reason why I've been asking you about this
28 important classification of corrupt conduct or police
29 misconduct is because that classification is important
30 because that relates to what powers the CCC then has in
31 relation to the matter?
32 A.   That's correct.
33
34 Q.   And the powers of the CCC and how they can deal with
35 complaints by any public body, but including the police, is
36 very strictly regulated by legislation?
37 A.   Yes.
38
39 Q.   And the principle of devolution is central to this
40 process, and that's identified in the legislation as one of
41 the principles the CCC must apply when applying this
42 corruption?
43 A.   That's right.
44
45 Q.   And in non-legal speak does devolution really mean
46 complaints being sent back to be investigated by the
47 organisation that's been complained about?

1   A.   Yes. So the general principle is that primary
2   responsibility for investigating allegations of corrupt
3   conduct should rest with the public official of the
4   relevant agency. In relation to QPS, that means with the
5   Police Commissioner.
6
7   Q.   So in relation to the QPS, as you said, the devolution
8   principle means that complaints about police get sent to be
9   investigated by the police?
10   A.   I should distinguish if it's a complaint that's
11   assessed as police misconduct it must go back to the Police
12   Commissioner. The legislation provides that allegations of
13   police misconduct go back to the Police Commissioner to
14   deal with. The CCC has capacity to monitor how those are
15   dealt with. But the CCC would not usually in the first
16   instance investigate allegations of police misconduct,
17   unless they were connected with allegations of corrupt
18   conduct. If it's an allegation of corrupt conduct, then
19   the CCC must apply the principles under section 34,
20   including the devolution principle, and in most instances
21   that will result in matters being devolved back to the
22   Queensland Police Service to deal with.
23
24   Q.   What you state at paragraph 14 of your statement is
25   that the CCC recognises that the effectiveness of the
26   devolution principle hinges both on the capacity of the
27   relevant unit of public administration, that's the public
28   body such as the police?
29   A.   That's right.
30
31   Q.   To effectively deal with complaints and the public
32   confidence in that body to do impartially?
33   A.   That's right.
34
35   Q.   And, as you talked about in terms of that power to
36   investigate, when it comes to the two-thirds of all matters
37   that are police complaints which are assessed as police
38   misconduct the operation of section 41 and section 42 of
39   your Act mean that they must go back to the police; there's
40   absolutely no discretion for the CCC to investigate those
41   matters unless there was also a corrupt conduct allegation
42   in the mix?
43   A.   That's right.
44
45   Q.   As you talked about before when you're looking more
46   specifically at domestic and family violence matters, aside
47   from two months ago --

1   A.   Sure.
2
3   Q.   That would involve all domestic and family violence
4   complaints being sent back to the police --
5   A.   That's right.
6
7   Q.   Unless there was connection with corruption?
8   A.   That's correct.
9
10   Q.   Since the change of interpretation you've given
11   evidence about two of the six having been assessed as
12   corrupt conduct, but do I understand your evidence
13   correctly that in fact all six of those matters have also
14   due to the devolution principle been sent back to be dealt
15   with by the QPS?
16   A.   Yes, with two of course subject to monitoring.
17
18   Q.   And I will ask you to outline monitoring in just a
19   moment, but thank you for clarifying that. If we then put
20   aside police misconduct, which automatically goes back, and
21   talk about corrupt conduct, is it the case that while the
22   CCC does have a power or a discretion to investigate
23   corruption your evidence at paragraph 38 of your statement
24   is that the CCC investigates only the most serious or
25   systematic corruption allegations and devolves all other
26   allegations back to the body such as the police to
27   investigate, although we will talk about the monitoring
28   function in a moment; is that correct?
29   A.   Yes, most matters will go back. We will keep the most
30   serious and systemic matters, and we're also mindful again
31   of section 34. So we may also maintain and investigate
32   matters where public confidence or public interest dictate
33   they should be dealt with by the CCC.
34
35   Q.   Would that be a matter where there was a lot of media
36   attention?
37   A.   It might be or where, for example, the subject officer
38   was a particularly senior person and public confidence
39   required that an agency such as the CCC dealt with it.
40
41   Q.   In terms of that public confidence of a particularly
42   senior person is part of the reason why the CCC would need
43   to investigate in that case is because there's simply not
44   the capacity for the QPS to investigate somebody of a very
45   senior rank because there's no-one above that senior rank
46   to be able to investigate?
47   A.   I think that's definitely a part of it, and also it's

1   about independence and accountability. When a person is a
2   very senior officer there may be concerns about conflicts
3   of interest and independence of investigation.
4
5   Q.   And this decision, I probably shouldn't call it a
6   decision, but the power, the exercise of the power to
7   investigate only the most serious or systematic corruption,
8   that's not just a policy that's been made by the CCC in
9   isolation, is it? It's linked to your legislative --
10   A.   It's linked to legislation, and a decision to maintain
11   and investigate a matter is made at a very senior level by
12   the executive leadership team at the CCC.
13
14   Q.   And we will go through the more specific statistics
15   that you have outlined in the statement shortly, but if
16   we're talking from a general sense would you agree that
17   while the CCC does have that power to investigate it would
18   conduct an actual investigation in less than 1 per cent of
19   cases involving police complaints?
20   A.   That's right.
21
22   Q.   And if you just look at over the last two years do you
23   have any idea off the top of your head how many matters the
24   CCC have investigated involving complaints against police?
25   A.   Complaints against police generally, no, I couldn't
26   give you that. I am aware of how many matters we've
27   investigated involving complaints with a domestic violence
28   connection.
29
30   Q.   And how many of them?
31   A.   Two matters.
32
33   Q.   Now, that's the situation as you've outlined in
34   relation to the CCC's investigative functions. I'd like to
35   ask you now about the other functions of the CC and the
36   other actions I guess that can be taken when it comes to
37   complaints involving the police. One of the actions that
38   can be taken is to take no further action, or NFA, and that
39   would in effect mean that the complaint's discontinued at a
40   CCC level and not referred back to the police; is that
41   correct?
42   A.   That's correct.
43
44   Q.   In terms of the other action, another action is what's
45   referred to in your statement as RNFA, which is the
46   referral with no further advice?
47   A.   Yes.

1
2   Q.   And that involves the allegations being sent back but
3   no monitoring or oversight is involved in that process?
4   A.   That's right. They're referred back to QPS to deal
5   with as appropriate.
6
7   Q.   And the vast majority of matters involving police
8   complaints are resolved on an RNFA basis?
9   A.   That's right.
10
11   Q.   For example, your evidence at paragraph 39 was that in
12   2020 and 2021, 72 per cent of matters were devolved back on
13   a refer no further advice basis?
14   A.   Yes.
15
16   Q.   And 88 per cent of corruption matters were sent back
17   to the police on that basis?
18   A.   And that's consistent with the principles in
19   section 34 of the Act.
20
21   Q.   Yes, again, this isn't a policy decision made by the
22   QPS. It's what the Act says in terms of the matters going
23   back?
24   A.   That's correct.
25
26   Q.   And if it is on that NFA or RNFA basis there's really
27   no monitoring by the CCC?
28   A.   The CCC can monitor by virtue of the audit provisions.
29   So we can conduct an audit from time to time to see how
30   matters have been dealt with. But I don't think we've
31   conducted an audit in that space for several years now.
32
33   Q.   I'll ask you a little bit more about that audit
34   process after going through the other actions, but in terms
35   of - the only monitoring would be if there was an audit; is
36   that your evidence?
37   A.   That's correct, yes.
38
39   Q.   Now, in terms of the levels of monitoring there are
40   two different levels, as I understand your evidence, as to
41   how the CCC can monitor. The first is a merit and
42   compliance review, and the second is a public interest
43   review which you mentioned earlier?
44   A.   That's right.
45
46   Q.   In terms of the merit and compliance review, or as
47   seen as MCR, those matters are referred back to the police;

1   the police would report back to you as to what's happening
2   with them every three months; and at the end of an
3   investigation the CCC is to be advised of the outcome; is
4   that correct?
5   A.   That's correct.
6
7   Q.   But the CCC doesn't need to approve any outcome prior
8   to the police imposing it?
9   A.   No, we don't.
10
11 Q.   So if, for example, there was one report at a
12 three-month mark and then the matter resolved before the
13 next report was due in at the six-month mark that outcome
14 would be imposed without the CCC's insight?
15 A.   That's correct.
16
17 Q.   Sorry, being advised?
18 A.   That's right.
19
20 Q.   Thank you. Then in relation to public interest review
21 that involves further oversight throughout the
22 investigation and is that the basis you discussed with
23 the Commissioner before of being initially six weeks, three
24 months, six months, nine months, 12 months?
25 A.   That's right.
26
27 Q.   And that's the higher level of monitoring, public
28 interest review?
29 A.   Yes, it's a higher level of monitoring, regular
30 reporting and those are matters that we want to - an MCR is
31 more about making sure the QPS complies with its own
32 guidelines, and a public interest review is where we're
33 looking at the integrity of the investigation in some
34 detail.
35
36 Q.   And the regular reporting is the six weeks, three
37 months, six months basis?
38 A.   That's correct.
39
40 Q.   Now I understand the different outcomes, I want to
41 take you to some of the statistics that have been provided.
42 Mr Operator, if you could place the document called
43 "Complaints breakdown" onto the screen, and perhaps that
44 first sheet. There are a lot of tables there. I'm not
45 going to take you through all of those, but just so it's
46 clear what the process - what this particular sheet covers.
47 This talks about CCC outcomes in police complaints

1   involving domestic and family violence, and the time period
2   that is relevant is from July 2020 to May 2022. So it's
3   just under a two-year period but it's a different two-year
4   period than, for example, when you were talking about there
5   being two investigations over a two-year period. So a
6   slightly different period of time; is that correct?
7   A.   Yes.

9   Q.   And this document has been broken down or the
10   statistics you gave in your statement were broken down in
11   terms of allegations which are related to domestic and
12   family violence; so that would be a failure of duty type
13   investigation?
14   A.   Yes.

16   Q.   Would it also be misuse of information?
17   A.   It can be misuse of information, yes.

19   Q.   Are they the two major things that would be covered in
20   the DV related allegations as outlined here?
21   A.   Yes.

23   Q.   And then they have also been broken down into separate
24   statistics of allegations involving police having
25   perpetrated domestic and family violence, and that's what
26   you refer to as member involved; is that correct?
27   A.   That's correct.

29   Q.   Now, some of the tables talk about categories of being
30   low, medium and high, and we've heard evidence asked of
31   the previous witness about the categorisation of matters as
32   low, medium and high. I didn't intend to ask you in detail
33   about that process, and this is because - correct my
34   understanding if I'm wrong - that initial assessment of
35   something being low, medium or high just affects who in the
36   CCC then assesses the matter; is that correct?
37   A.   It basically determines who has the power to make a
38   decision about how a matter should be assessed, yes.

40   Q.   And so it doesn't have a particular effect on the
41   outcome? The outcome could be different, depending on a
42   low - a low matter could have the same outcome as a high
43   matter?
44   A.   It would be uncommon for a low matter to result, for
45   example, in a CCC investigation, but yes.

47   Q.   So if I could put to one side the categorisation of

1 into low, medium and high and we just then focus on the
2 figures in terms of the outcomes, and they're the tables on
3 the far right which can be brought up but then I'll - what
4 I propose to do, Ms Foulger, is to go through, put the pie
5 graphs up and then to get you to confirm the figures based
6 on the pie graphs. But you're aware of those statistics?
7 A.   Yes, I am.
8
9 COMMISSIONER: Just before you go onto those pie graphs,
10 this top table, "How complaints received between 1 July
11 2020 and 30 May 2022", so 23 months, is that telling me
12 that you received 98 complaints from the police with member
13 involved DV?
14 A.   It's saying that we received 98 matters. I can't say
15 whether they came directly from the police or from members
16 of the public.
17
18 COMMISSIONER: Okay, 98 complaints from somewhere?
19 A.   Yes, either from the QPS or from members of the
20 public.
21
22 COMMISSIONER: Okay. And then 925 other allegations
23 linked to DV, so complaints about something police officers
24 may have done?
25 A.   Yes. So those numbers look to be allegations, because
26 it's 925 allegations over 370 complaint files.
27
28 COMMISSIONER: Okay. All right. That's just basically
29 what I wanted to ask. So 370 complaint files, but
30 obviously more than one allegation in some of them?
31 A.   Yes.
32
33 COMMISSIONER: Okay. Thank you.
34
35 MS CAPPELLANO: Thank you, Commissioner. If we could put
36 the bottom left pie graph up. Now, Ms Foulger, am
37 I correct in terms of - if we go through the figures of
38 this pie graph, the blue is no further action taken, and
39 that has occurred - sorry, just to begin with, these are
40 allegations that are linked to domestic and family violence
41 and the outcomes from the CCC, not member involved?
42 A.   Yes.
43
44 Q.   So the blue is no further action, and that
45 demonstrates that in 28.5 per cent of cases there was no
46 further action taken and the complaints dismissed by the
47 CCC?

1   A.   And no further action can happen in a variety of
2   circumstances. So we might take no further action because
3   while the conduct that was alleged could meet the
4   definition of "corrupt conduct", the evidence available in
5   support of it didn't raise a reasonable suspicion. So
6   therefore the matter isn't progressed. It could be that
7   the matter has already been dealt with. So sometimes we
8   will get a notification from a member of the public and the
9   same notification by police. We will action it on one file
10 and say, "No further action" on the other file, the matter
11 has already been dealt with, or in some examples we may
12 take no further because there are court proceedings on foot
13 and the issues will be resolved in those court proceedings.
14
15 Q.   So that's the blue, the no further action. Then if we
16 move around to the orange, that is for refer no further
17 advice, and that occurs in 64.54 per cent of matters as
18 being no further, and that's the referral back with the CCC
19 having no further oversight?
20 A.   That's right.
21
22 Q.   The grey is the MCR, the merit and compliance review;
23 that's a review, the lesser oversight review that you've
24 explained?
25 A.   That's right.
26
27 Q.   And that's occurred in 2.81 per cent of matters. Then
28 the yellow is a public interest review, and that has been
29 in at 3.46 per cent of matters. There is a small
30 percentage of 0.1 of a per cent of unknown, and then the
31 CCC investigation has occurred in 0.5 per cent of matters.
32 Then, just to summarise, those figures in round figures
33 that demonstrates that 93 per cent of matters are resolved
34 without any further CCC oversight either on a no further
35 action or an RNFA basis?
36 A.   That's correct.
37
38 Q.   And in terms of any form of CCC monitoring that only
39 occurs in 6 per cent of cases, and it could be either MCR
40 or public interest review?
41 A.   Yes.
42
43 Q.   And CCC investigated mean half of further matters, and
44 in terms of raw figure that appears to be five matters out
45 of 925?
46 A.   So five allegations.
47

1   Q.   Five allegations?
2   A.   Two files, five allegations.
3
4   Q.   Thank you. Then if we could bring up the other pie
5   graph, please, Mr Operator. The trends are similar in
6   relation to this - this is police - allegations involving
7   police perpetration of domestic and family violence. If
8   I'm correct in my understanding, the figures here are a
9   little confusing because there are some - the figures that
10   you have had some where there were NFA or RNFA combined?
11   A.   So what will happen is a matter will have perhaps five
12   allegations and we may have decided to take no further
13   action on two allegations and referred three allegations,
14   no further advice.
15
16   Q.   So if I combine then the no further action and the
17   refer no further advice together that indicates that
18   approximately 94 per cent of cases were resolved by way of
19   no further action by the CCC or referring back to the
20   police without any further involvement of the CCC?
21   A.   That would be consistent with the position at that
22   stage that they would be police misconduct in most
23   circumstances and not corrupt conduct.
24
25   Q.   Yes. And in terms of any form of monitoring that's
26   either MCR or PIR that's only occurred in about 5 per cent
27   of cases, with about 4 being PIR and 1 being MCR, and none
28   of the 98 files in that period or 0 per cent were
29   investigated by the CCC?
30   A.   Correct.
31
32   Q.   And in terms of those other matters that you refer to
33   as being the two files where there had been domestic and
34   family violence related that were investigated by the CCC
35   did that occur in part because of some of the capacity
36   issues that you had discussed about somebody being of a
37   high rank and therefore either being the public interest in
38   the CCC taking on the investigation but also from a
39   capacity point of view in terms of --
40   A.   Arguably they each fell into a different category. So
41   one was as a result of the capacity issues and about rank.
42   The second was in relation to intense public interest in
43   relation to the matter.
44
45   Q.   So that's an example of - both those files are an
46   example of the two types of matters?
47   A.   Yes.

1
2 Q.   Thank you, Mr Operator. If we could move on to the
3 next sheet. Just in relation to this sheet again there's a
4 lot of numbers on that page and I'm not intending to take
5 you through all of them, but just to explain what this is.
6 Am I correct that these figures involve all matters, so not
7 just domestic and family violence related matters, and they
8 stem from the data that you put in at paragraph 120 of your
9 statement, and that data has then been given some totals
10 and has been put in percentage terms? So then it contains
11 outcomes over that five and a half year period involving
12 all complaints against police, and the domestic and family
13 violence related complaints that we looked at previously,
14 they would be included in this overall data; is that
15 correct?
16 A.   That's correct.
17
18 Q.   And the focus of the tables - I'm just going to focus
19 on the top two tables and they really show the same data
20 but some is in percentage form and some is in the other
21 form, and that has also been depicted in the graphs off to
22 the side. But, to summarise, the trends that occur for all
23 complaints are very similar to the trends in which we just
24 looked through in terms of the outcomes for domestic and
25 family violence related complaints, whether it be related
26 behaviour or allegations of police perpetrating behaviour.
27 In terms of overall complaints, about 26.5 per cent were no
28 further action; about - exactly 63.4 per cent of the total
29 complaints were referred with no further advice; 4.67
30 involved merit and compliance review; 5.17 involved public
31 interest review; and 0.44 per cent, so under half
32 a per cent, were CCC investigations?
33 A.   Yes.
34
35 Q.   And that's all complaints, whether it be excessive use
36 of force or domestic and family violence or perhaps
37 instability type complaint?
38 A.   Yes.
39
40 Q.   And really those trends are quite similar in that just
41 under 90 per cent of matters, on my calculations I think
42 it's 89.5 per cent, were dealt with by way of no further
43 action or referring back without any oversight, the RNFA;
44 there was just under 10 per cent monitoring, so that's
45 probably higher than the 5 or 6 per cent we saw with the DV
46 complaints; and the CCC investigation is still at that less
47 than half a per cent. To put in context the level of CCC

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 1    investigation, last year out of the 4,316 complaints made
 2    to the CCC about police 10 were investigated by the CCC?
 3    A.    Yes.
 4
 5    Q.    Thank you, Mr Operator.  That's all I had to ask about
 6    that material.  Ms Foulger, can I ask you now about the
 7    audit situation that you mentioned previously, and you
 8    indicated in your statement as well that the CCC can
 9    monitor via an audit process.  Am I correct in my
10    understanding that the audit process that you're talking
11    about is not a regular audit process that we hear about in
12    other policing context that perhaps every day 20 per cent
13    of occurrences, or 60 per cent of occurrences, or
14    100 per cent of occurrences are reviewed and audited on
15    that day-to-day basis?  The audit process that you're
16    talking about is a broader process in which audits are
17    conducted by the CCC not just of the QPS but of a variety
18    of public bodies in relation to a variety of issues?
19    A.    That's correct.
20
21    Q.    So your audit strategic plan might pick specific
22    issues that you're looking at and it's not just a
23    complaints based audit?
24    A.    No, it's not.
25
26    Q.    For example, over some of the last audit plans some of
27    the audits that have been conducted have been audits of
28    public universities in relation to allegations of research
29    fraud, for example?
30    A.    Yes.
31
32    Q.    Or audits of other public agencies such as
33    Queensland Health or Corrective Services in terms of staff
34    pay sheets and sick leave and things like that?
35    A.    As part of those audits we will examine any complaints
36    within those categories that we refer back to the agency as
37    requiring no further advice to make sure that they were
38    dealt with appropriately.
39
40    Q.    And was it your evidence that the last audit involving
41    police occurred in 2019?
42    A.    That's my understanding, yes.
43
44    Q.    There's also been some discussion in other evidence
45    and in your statement about the joint - JAMC, the Joint
46    Audit --
47    A.    Joint Assessment and Moderation Committee.
```

1
2   Q.   And that is - as I understand it and please correct me
3   if I'm wrong, that is a regular perhaps monthly meeting
4   between the CCC representatives and QPS representatives?
5   A.   That's correct.
6
7   Q.   And discussions within that community are in relation
8   to files in which there has been a disagreement about how a
9   matter should proceed?
10   A.   Or a point of tension. So if we are monitoring a
11   matter and we are not happy with the way QPS is dealing
12   with the matter or the QPS has a difference of opinion to
13   us, those matters will be tabled and discussed at that
14   meeting and the idea about that is to resolve issues
15   quickly and consistently rather than through a long,
16   drawn-out exchange of correspondence.
17
18   Q.   And so it certainly isn't a monthly discussion where
19   all the files that are being monitored under MCR or PIR are
20   discussed?
21   A.   No, only files where either party is not happy with
22   the way they're being progressed.
23
24   Q.   And just finally in relation to - sorry, it's not
25   finally; I don't want to overpromise and under deliver.
26   But the next topic that I wanted to ask you about is in
27   terms of the transparency of the CCC as an organisation,
28   perhaps more generally but also in relation to complaints.
29   Is it the case or would you agree with the proposition that
30   the CCC as an entire organisation, and we're not just
31   looking at the complaint role, have certain functions that
32   are conducted in highly secretive conditions?
33   A.   Yes, that's true.
34
35   Q.   For example, within your own legislation there's
36   secrecy provisions such as 213, which makes it a criminal
37   offence punishable up to a year's imprisonment by people
38   recording information or disclosing information arising out
39   of the CCC, and that's an example of - sometimes it's
40   referred to secret squirrel business in the colloquial
41   sense of that capacity of the CCC as a general organisation
42   to be - to not have high levels of transparency?
43   A.   That's correct.
44
45   Q.   And in terms of public reporting and accessibility
46   when it comes to complaints generally but also complaints
47   involving the police I understand that on the CCC website

1   in a publicly accessible fashion there is data outlining
2   the number of complaints that the CCC receives in relation
3   to police?
4   A.   They're allegations. So it's the number of
5   allegations that we receive, yes.
6
7   Q.   Thank you for that.
8   A.   Broken down into the particular allegation subtypes.
9
10   Q.   So it might say this many allegations are failure of
11   duty allegations, this many are allegations of police
12   perpetrating domestic and family violence?
13   A.   No, but it will say allegations of
14   police - professional misconduct, which is where
15   allegations of domestic violence will fall. But it is a
16   high level of allegation such as failure of duty, excessive
17   use of force, misuse of information.
18
19   Q.   So a member of the public looking at that portion of
20   your website wouldn't actually be able to identify how many
21   of those matters involved police perpetrating domestic and
22   family violence?
23   A.   No, they would just be able to see the number of
24   allegations that related to professional misconduct, of
25   which a subtype would be police perpetrating.
26
27   Q.   And that allegation data on the public website doesn't
28   give any indication of how many matters are dealt with?
29   A.   No, it's just the allegation numbers --
30
31   Q.   Or what the outcomes - sorry.
32   A.   That's right.
33
34   Q.   The allegations received but not the CCC outcomes in
35   relation to those investigations. And there's no publicly
36   accessible reporting indicating that, for example,
37   0.5 per cent of complaints are investigated by the CCC?
38   A.   There would be some reporting I would imagine in the
39   annual report, but I don't know about the specific nature
40   of that.
41
42   Q.   In relation to the annual report would you agree, and
43   perhaps you are just not aware of those figures, that any
44   reporting of specific outcomes in relation to the annual
45   report don't focus solely on police but instead look at the
46   entire all public agencies?
47   A.   That's right. It would be high level reporting.

1
2   Q.   And by high level reporting you mean?
3   A.   High level outcomes. So it might be the matters that
4   went to criminal trial, for example, so how many charges
5   were made. But it would not refer to every matters that
6   was referred back or disciplinary proceedings.
7
8   Q.   In terms of the oversight of the CCC itself
9   I understand that there's a parliamentary committee which
10   provides oversight to the CCC, and as part of that
11   reporting again some of it is in a public setting but also
12   there is private hearings in relation to that oversight?
13   A.   That's right. We have the Parliamentary Crime and
14   Corruption Committee meets I would say every three months.
15   There is a public sitting where they ask questions and
16   where people can watch, just like any parliamentary
17   committee meeting, and then there are closed sessions and
18   in the closed sessions a high level of information is
19   discussed. But that information can't discussed publicly
20   due to secrecy provisions and confidentiality requirements.
21
22   Q.   And some of the factors we talked about, some of the
23   other functions of the CCC not just police complaints?
24   A.   That's right.
25
26   Q.   In terms of gathering of any stakeholder or members of
27   the public satisfaction data, does the CCC do any of that
28   and, if they do, do they publicly report on it?
29   A.   I'll take that in a couple of parts. An area of the
30   CCC last year did a corruption prevention strategy and as a
31   part of that they engaged with a large number of
32   stakeholders which would be other units of public
33   administration and asked them a range of questions about
34   their engagement with the CCC and what could improve that
35   engagement. They also conducted an integrity survey with
36   members of those agencies, and aspects of those have been
37   published, but not a lot of the detail. In terms of
38   members of the public making complaints, no, we haven't.
39   I will mention Integrity Services is currently undergoing a
40   review and one of the aspects of that review is looking at
41   how we can engage with complainants to get a better
42   understanding of what their experience in making a
43   complaint to the CCC is like.
44
45   Q.   And in terms of talking about the public and matters
46   that are referred from the public, in your statement you
47   outlined the number of ways in which matters can come into

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 1    the CCC and one of the main avenues as we saw on that table
 2    on paragraph 27 was that the public, members of the public,
 3    could choose to specifically bypass the QPS and come and
 4    take their complaint to the CCC.  That table demonstrated
 5    that if we looked just at last year of the 1,800 complaints
 6    that came into the CCC by the police over half, that is
 7    984, were made directly to the CCC by members of the
 8    public.
 9    A.    There's the potential for there to be double
10    reporting, however, because a person can make a complaint
11    to the QPS and the QPS can refer it to us and they can make
12    the same complaint to us.  So we're receiving essentially
13    the same complaint from the complainant and from the QPS,
14    and we can't extract that or differentiate that in the data
15    that I provided.
16
17    Q.    So, while some of those complaints of the 984 may not
18    have specifically bypassed the police to get to the CCC
19    with their complaint, it would be I guess fair to assume
20    that those people have also complained to the CCC but may
21    have also to the police?
22    A.    That's correct, yes.
23
24    Q.    And the manner in which a complaint is made to the CCC
25    doesn't affect your powers or the rules surrounding
26    devolution, does it?
27    A.    No, it doesn't.
28
29    Q.    So just because a member of the public has wanted to
30    avoid the police and make a complaint to the CCC it doesn't
31    mean that the CCC can then choose to keep that matter and
32    investigate it internally?
33    A.    That's right.
34
35    Q.    And, as you've given evidence, it's in less than
36    1 per cent of matters where the CCC do take carriage and
37    investigate.  So for almost all of those 948 people who
38    made a specific complaint, this is last year, to the CCC
39    when do they find out that the matter is going back to the
40    police?
41    A.    So we tend or we have a key performance indicator that
42    we will assess a matter within 30 days of receiving it.  If
43    a complaint is made directly to us then when we've made
44    that assessment decision we write to the person who made
45    the complaint, and in that letter we explain the decision
46    and we also explain the reason we made the decision that we
47    did.  So if we are taking no further action we explain to
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1   them why. If we're referring it to the police we explain
2   to them why, including outlining the principles of
3   devolution and the legislation; and the same with
4   monitoring.
5
6   Q.   And do you and your staff find that people who have
7   made those complaints directly to the police when they're
8   advised - directly to the CCC and they're advised it's
9   going back to the police, are they surprised by that?
10 A.   I think so. I think there is generally a lack of
11 awareness that the CCC's ability to investigate under the
12 legislation is quite restricted. We also of course advise
13 complainants that if they're not happy with an assessment
14 decision they can seek a review of that decision.
15
16 Q.   And how often do those reviews take place?
17 A.   I think we had around 70 requests across the board for
18 a complaints service review last year.
19
20 Q.   But, given the limitations within the Act inherent
21 within the system, those reviews wouldn't be able to change
22 the outcome?
23 A.   They rarely change the outcome, yes. The outcome may
24 change if there was a change in the facts or the
25 information that was provided to us.
26
27 Q.   And you've also indicated in your statement that if a
28 complainant's indicated that they don't want their
29 complaint to go back to the police and don't give that
30 consent for it to be referred back the usual course for the
31 CCC in that situation is that then no further action is
32 taken?
33 A.   Yes, we will write to the complainant and advise them
34 that we've assessed the matter as appropriate to refer to
35 the QPS. We'll request their consent to do so and advise
36 them that if they don't consent that we will take no
37 further action. The only exception to that is if the
38 allegations are sufficiently serious to suggest there's a
39 significant risk of harm to an individual then, regardless
40 of consent, we will refer the matter.
41
42 Q.   So you will still refer it back to the - you won't
43 investigate independently?
44 A.   Yes, that's right. We'll refer it to the QPS. For
45 example, if there was an allegation involving someone was
46 engaging in criminal offending --
47

1   Q.   Like a police perpetrator allegation with criminal
2   offending attached?
3   A.   Yes, then we would have to take action on it. We
4   couldn't ignore it.
5
6   Q.   And by taking action that's referring it back to the
7   police?
8   A.   Generally, unless it was so serious that we maintained
9   it, and that would be rare.
10
11   Q.   Has that happened?
12   A.   Not that I can think of. But we have certainly sent
13   complaints over in the absence of consent where we
14   considered that the risk was appropriate.
15
16   Q.   And does the CCC keep any statistics on how often that
17   situation occurs, and by that situation I mean a member of
18   the public makes a complaint directly to the CCC, doesn't
19   consent for their complaint to be referred to the police,
20   and then CCC takes no further action?
21   A.   No, I don't think we could easily pull that out.
22   I think it would be quite rare and it would not generally
23   be in the domestic and family violence area.
24
25   MS CAPPELLANO: Thank you. I have no further questions.
26
27   COMMISSIONER: Can I just ask you about the monitoring of
28   the police misconduct complaints, which I understand come
29   up weekly to the CCC; is that right?
30   A.   No.
31
32   COMMISSIONER: Isn't that what Inspector Nixon said? Did
33   I get that wrong.
34
35   MS CAPPELLANO: Weekly monitoring of the --
36
37   COMMISSIONER: From the Ethical Standards and those
38   complaints up to the CCC?
39   A.   Yes, so they have what we call a section 40 agreement.
40   So under the Act you have to or any public official has to
41   report corrupt conduct to us immediately or as soon as it
42   is reasonable. A section 40 agreement basically sets out
43   the timeframes for reporting different levels of conduct.
44   So what we call or what QPS calls category A or very
45   serious conduct that meets particular criteria, that has to
46   be notified to us without unreasonable delay. Category B
47   matters will be reported to us on a weekly basis. So

1   they'll send us a schedule of those every week. We go
2   through those matters and enter them onto the system and
3   ensure that they're appropriate category B matters.
4
5   COMMISSIONER: Okay. So that's what I was going to ask
6   you. So what form does that take? Do you actually look at
7   the files or do you just get a list of names?
8   A.   No, we get details. So it's a full schedule. It
9   comes over with attached information with the details of
10   the complaint and what's involved. An assistant complaints
11   officer goes through all of those matters, checks them to
12   make sure they're appropriate category B matters, and if
13   they're not, they're category A matters, then they're
14   elevated and assessed.
15
16   COMMISSIONER: All right. So it's a synopsis of what the
17   investigation was or are there statements attached?
18   A.   It's a summary. So this is just a complaint at this
19   stage. So these are allegations. So it will be a synopsis
20   or a summary of the information contained in the complaint.
21   It will give us a preliminary idea of how the QPS has
22   assessed it, what kind of conduct they think is involved,
23   and it will name the subject officers and what we call the
24   concerned parties, who may be victims or complainants or
25   informers.
26
27   COMMISSIONER: All right. And when the CCC looks at it do
28   you look to see if the officer has got other complaints?
29   A.   Yes. Once a matter becomes what we call a category A
30   matter it has to be briefed to a director level to make a
31   decision about how to deal with it, and part of that
32   process is to identify any relevant history or complaints
33   history by the officer involved. So that will be included
34   in the briefing.
35
36   COMMISSIONER: And if it's category B?
37   A.   If it's category B it won't come to that level, but
38   the same thing applies because one of the things that can
39   pull it out of category B is if they have a serious
40   complaint history.
41
42   COMMISSIONER: All right. And is that serious proven
43   complaints history?
44   A.   No, it's actually a serious complaint history because
45   our system doesn't in a quick search differentiate between
46   substantiated or unsubstantiated, and the fact that a
47   matter is not substantiated does not mean that it shouldn't

1   be considered if someone's got a pattern of complaints.
2
3   COMMISSIONER: Yes, exactly. All right. Ms Hillard?
4
5   **<EXAMINATION BY MS HILLARD:**
6
7   Q.   Can I just ask you in relation to your statement, at
8   paragraph 66, this is at page number 13, paragraph 66, you
9   provide here some examples of failure to recognise and
10   respond to domestic and family violence matters
11   appropriately. Are these indicative of some examples of
12   the kinds of complaints that the CCC has received?
13   A.   They are indicators that we have seen in complaints,
14   yes.
15
16   Q.   And would it be correct then to say that the fact that
17   they're included here in your statement is that they are a
18   common theme that you have seen in the complaints come
19   through to the CCC?
20   A.   I wouldn't say they are a common theme but they are
21   examples of conduct that has been complained about.
22
23   Q.   These are the more prevalent ones?
24   A.   No, I don't think so.
25
26   Q.   What are the prevalent ones?
27   A.   So these are allegations or, I guess, the more serious
28   allegations. But most of the complaints in relation to the
29   way police have dealt with domestic violence will be simply
30   in relation to a failure to act on a complaint but it will
31   be a low level kind of matter; so not a matter that we're
32   particularly concerned based on the facts that are
33   available to us. It might be - it's often a
34   misunderstanding. So we'll often get a complaint that an
35   officer failed to take a complaint of domestic violence,
36   and then we'll have a look on the computer system and we'll
37   see a complaint of domestic violence has in fact been
38   taken.
39
40   Q.   When you say you look on the computer system you have
41   access to the police QPRIME system?
42   A.   We have access to QPRIME, yes.
43
44   Q.   And so when someone makes a complaint about turning up
45   at a police station, being turned away without a complaint
46   having been taken or any action being taken by the police
47   officer and that comes to the CCC, is every single one of

1   those looked at?
2   A.   I would be reluctant to say every single one of those,
3   but it is a routine check to have a look. If the prime
4   allegation is a failure to take action in relation to a
5   complaint, then I would expect a complaints officer to do a
6   check on QPRIME to ascertain if a complaint was in fact
7   taken on that date.
8
9   Q.   When we say "complaint", a DV occurrence or any other
10   kind of action?
11   A.   I'd be looking for a DV occurrence, specifically in
12   relation to the making of a complaint.
13
14   Q.   And if we look at paragraph 71 you provide some
15   examples of what might amount to a threshold of what would
16   be corrupt conduct. As I understand it, you're referring
17   to this new perhaps expanded definition from 1 June of this
18   year?
19   A.   No, this is a little different. The expanded
20   definition relates to police perpetrators of
21   domestic violence in their private capacity. This relates
22   to the way in which police officers have dealt with
23   complaints of domestic and family violence.
24
25   Q.   So once again if we deal with point A, a police
26   officers who ignores repeated calls for assistance, how is
27   it assessed whether or not a person has ignored repeated
28   calls?
29   A.   It will depend on the information that's been provided
30   to us by the complainant, so what the complainant says has
31   occurred; the information on QPRIME; and also we will look
32   at the relevant complaints history of the officer. So does
33   an officer have a series of complaints against them in
34   relation to the way in which they have dealt with
35   allegations of domestic and family violence, or in fact
36   allegations more generally in terms of failure to
37   investigate.
38
39   Q.   And does that process involve speaking to the person
40   who has made the complaint?
41   A.   No. It's very important to understand that this is an
42   assessment process and not an investigation process.
43
44   Q.   And at paragraph (b), a police officer who fails to
45   obtain a domestic violence order against a perpetrator,
46   it's particularly identified here as imminent risk of
47   serious harm.

1   A.   Yes.
2
3   Q.   How is that assessment of imminent risk of serious
4   harm made if it's a complaint to the CCC just on paperwork,
5   basically?
6   A.   If the complainant has made allegations that they have
7   been strangled or there is a serious criminal offence and
8   there is evidence that nothing has been done in response to
9   that, then I think you can assume that the failure to take
10   domestic violence leaves the person at risk of imminent
11   harm.
12
13   Q.   So it's based on the complainant identifying to the
14   CCC either they're at risk of harm or those key factors
15   that CCC is trained to identify are risk - is that right?
16   Sorry, you nodded. You mean "yes". In respect of
17   paragraph (c), the police officer who fails to take timely
18   and appropriate action in respect of a domestic and family
19   violence complaint. You reference here specifically if it
20   involves risk to life. Again it's connected to risk for
21   life. It relies upon what the complaint actually involves;
22   there's no inquiry of the complainant; is that right?
23   A.   No, that's right. The only instance where we would
24   make an inquiry with the complainant might be if there's
25   not enough information there and we think it's appropriate
26   to contact them to get further information. So we can on
27   occasion request further information from a person.
28
29   Q.   And these examples that we've just been through on
30   paragraph 71 there, (a) through to (c), they're really just
31   hypothetical scenarios that you provide as the breach of
32   trust type example; is that right?
33   A.   Yes.
34
35   Q.   And are you able to say whether or not there has been
36   recognised or any inquiry into repeated calls for
37   assistance that have gone unanswered?
38   A.   We have not done any work in that space.
39
40   Q.   And likewise at paragraph (b) the imminent risk of
41   serious harm and injury, whether that sort of inquiry has
42   been undertaken?
43   A.   No.
44
45   Q.   And point (c) as well, failing to take timely or
46   appropriate action, has that sort of inquiry been
47   undertaken?

1   A.   I would expect those inquiries to be undertaken when
2   the matter was referred to the Queensland Police Service to
3   deal with it. We're simply assessing the matter and then
4   referring it for action.
5
6   Q.   In respect of paragraph 74, just further down on the
7   same page, you list another few more examples and this time
8   you're referring to what would constitute misconduct;
9   failure to check more subtle or insidious forms of domestic
10   and family violence, and you specifically refer to coercive
11   control or emotional abuse. Is that a common complaint
12   that is received by the CCC or is this just an example that
13   you've provided?
14   A.   This is just an example of circumstances where it's
15   going to be police misconduct as opposed to corrupt conduct
16   because it's not going to satisfy section 15(1)(c) of the
17   Act.
18
19   Q.   And in paragraph (b) here you specifically use an
20   example of a police officer turns away a first-time
21   complainant. Can I ask why is there is a distinction
22   between a first-time and a repeat complainant?
23   A.   I think that if a police officer has repeatedly
24   received the same complaint from a person and failed to act
25   then that is moving into the territory where it would be a
26   course of conduct where dismissal would be available as
27   opposed to a one-time event.
28
29   Q.   It of course relies on, based on what you've said, the
30   complainant making the information available to the CCC to
31   know whether they have made complaints previously, or the
32   CCC looking at QPRIME and relying on someone making an
33   entry when they're meant to.
34   A.   We can only assess matters on the information that is
35   provided to us, yes.
36
37   Q.   And in paragraph (c), failing to respond to changing
38   circumstances, that I paraphrase to mean perhaps patterns
39   or escalation of behaviour, things like that?
40   A.   Yes.
41
42   Q.   In respect of these three examples here again they're
43   just examples that are provided; they're not indicative or
44   are they indicative of the nature of complaints that the
45   CCC receives?
46   A.   They're just examples provided to assist you in
47   understanding the differentiation between police misconduct

1 and corrupt conduct allegations.
2
3 Q.   I believe that you were present in the back of the
4 court while Officer Nixon was giving his evidence, and you
5 will have heard me ask him some questions about some of the
6 failure of duty matters. If I could just run through some
7 of those. The Commission has heard a great deal of
8 evidence from people attending police stations or
9 complaints about people attending police stations being
10 turned away without any complaint actually being made, and
11 Officer Nixon describes that as a failure of duty. You
12 would perhaps in the face of that agree that that would
13 come under misconduct, go back to the QPS for assessment;
14 is that right?
15 A.   Yes.
16
17 Q.   If there is a repeat pattern of that within the
18 Queensland Police Service what would it take for the CCC
19 for it to be considered systemic to then monitor and be
20 involved in?
21 A.   If we got a series of the same kinds of complaint
22 involving consistently the same station then that would
23 become a systemic issue and we would be more inclined to
24 monitor to see how that matter was actually dealt with, if
25 we didn't have confidence that the QPS could deal with
26 the matter themselves.
27
28 Q.   And again it relies on someone having made an entry
29 and, if they're not making the entry, then that would never
30 come to the CCC's attention?
31 A.   It relies more on us receiving or people making
32 complaints to us when they don't get an appropriate
33 response when they complain to the police station.
34
35 Q.   One of the common complaints that the Commission has
36 heard about is people or police officers rather not laying
37 charges where there will be a criminal complaint that is
38 made. Again that would be a failure of duty, you would
39 agree, misconduct and it would go back to Queensland Police
40 Service; is that right?
41 A.   Yes.
42
43 Q.   What would it take for the CCC to undertake any kind
44 of systemic review of that?
45 A.   I think where you had strong information that there
46 had been an active decision by a police officer not to
47 investigate a matter in circumstances when clearly a

1   criminal matter should have been investigated. As you know
2   in domestic violence situations often the victim does not
3   want to make a criminal complaint. They simply want to
4   make a complaint of domestic violence. But if we saw
5   evidence of active discouragement we might be more inclined
6   to monitor it, especially if we had more than one complaint
7   against an officer of the same nature.
8
9   Q.   And in respect of police officers not activating
10 body-worn camera, presumably one would think for whatever
11 reason, avoid accountability, whatever their reason,
12 Officer Nixon said that that would a failure of duty. In
13 respect of that again the CCC's involvement would be on a
14 case by case assessment based on your last couple of
15 answer, I'm assuming?
16 A.   Failure to activate body-worn video is an area of
17 concern for the CCC. So generally allegations where one
18 facet is that a person failed to activate their body-worn
19 camera will result in us imposing a level of monitoring on
20 the matter.
21
22 Q.   And say hypothetically the CCC did decide that
23 something was systemic that was going to be investigated
24 and looked at it would only then trigger powers of
25 compulsion, witnesses coming to court and an investigation;
26 is that right?
27 A.   That is if we decided to investigate it. But we can
28 monitor a serious matter and in monitoring a serious matter
29 at the PIR we can request that the QPS undertake additional
30 investigations. We can have conversations about the
31 appropriateness of investigation findings, about the
32 appropriateness of the decision maker, and about the
33 disciplinary sanction imposed.
34
35 Q.   Speaking about the disciplinary sanctions, I'll return
36 to the systemic investigations in a moment, I see from your
37 statement there's reference to QCAT reviews?
38 A.   Yes.
39
40 Q.   I'm not aware of any figures that have been provided
41 of any QCAT reviews related to domestic and family violence
42 matters?
43 A.   My understanding is in the last 12 months we have
44 taken eight matters to QCAT on review. Two of those
45 matters have elements of domestic violence.
46
47 Q.   And the review process is only available, is it not,

1 for the sanctions that have been imposed by the Queensland
2 Police Service?
3 A. My understanding is we can also review on
4 substantiation.
5
6 Q. And do you happen to have any recollection of the
7 outcome of those QCAT matters?
8 A. Those two matters are on going.
9
10 Q. And are they the same two matters that you were
11 referring --
12 A. No, they're different matters.
13
14 Q. Now, just finally if we come back to the systemic
15 matters that I've mentioned and the powers of the CCC, and
16 specifically you talk about this at paragraph 38 where the
17 CCC - and this is on page number 8, you specifically talk
18 about how the CCC only investigates the most serious or
19 systemic corruption allegations. Can I just clarify I was
20 talking to you about systemic matters in the context of
21 misconduct as opposed to corrupt conduct. When we're
22 talking about paragraph 38 and you use the words "systemic
23 corruption", they're different things perhaps in the way
24 that they're framed?
25 A. So systemic corruption allegations are allegations of
26 corrupt conduct and, as I explained in my initial evidence,
27 police misconduct is not something that we can investigate;
28 it is something we can only monitor.
29
30 Q. And it seems as though because of that division
31 between misconduct and corrupt conduct it would be quite
32 rare for systemic misconduct matters to be investigated?
33 A. Sometimes systemic misconduct can by its very nature
34 elevate it to being corrupt conduct. I'm not saying that
35 that's occurred, but that is something that you could take
36 into consideration because if it's a systemic issue it's
37 going to satisfy section 15(1)(c), which it would not
38 otherwise. So systemic misconduct is going to probably
39 move from police misconduct to corrupt conduct.
40
41 MS HILLARD: Thank you, Commissioner, those are my
42 questions.
43
44 COMMISSIONER: What is UPA?
45 A. Unit of public administration.
46
47 COMMISSIONER: Ms Morris?

MS MORRIS: I have no questions.

COMMISSIONER: Mr Hunter?

MR HUNTER: No questions.

COMMISSIONER: Ms Juhasz?

MS JUHASZ: I have no questions, Commissioner.

COMMISSIONER: Ms Cappellano?

MS CAPPELLANO: No further questions, thank you,
Commissioner.

COMMISSIONER: All right. Thanks. You're excused. Thank
you very much for coming in.

<THE WITNESS WITHDREW

MS CAPPELLANO: They are the witnesses for today. The
other witnesses are available tomorrow afternoon.
Mr Maguire is giving evidence from the UK, and so he
wouldn't be available until before 4 o'clock.

COMMISSIONER: Four o'clock, okay. So it will probably be
a late afternoon tomorrow.

MS CAPPELLANO: Yes. If it is suitable to the Commission
if we could start at two that would allow Mr Prenzler's
evidence and then to roll into Mr Maguire.

COMMISSIONER: All right. Okay. Thank you.

**AT 3.50PM THE COMMISSION WAS ADJOURNED UNTIL TUESDAY,
2 AUGUST 2022**

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