

**TASMANIAN INDUSTRIAL COMMISSION**

Industrial Relations Act 1984

T No. 2587 of 1991 and  
T No. 2473 of 1990

**IN THE MATTER OF** an application by  
the Tasmanian Prison Officers  
Association and the Tasmanian  
Public Service Association (now  
the State Public Services  
Federation Tasmania) to vary the  
Prison Officers Award

re structural efficiency  
principle

COMMISSIONER IMLACH

HOBART, 4 May 1994  
continued from 22/4/94

TRANSCRIPT OF PROCEEDINGS

Unedited

COMMISSIONER IMLACH: Appearances? No? Now, who? Mr Nielsen.

MR NIELSEN: Mr Commissioner -

COMMISSIONER IMLACH: Are you going to be able to keep up that light approach, are you, Mr Nielsen?

MR NIELSEN: Hopefully, Mr Commissioner, it is such a beautiful day and the sunshine there, I think this would blend into all our people present here today.

Mr Commissioner, I wish to report that since our last hearing on Thursday, 22nd April - and, Mr Commissioner, you got talking to me, I have to apologise, I am on the wrong page.

COMMISSIONER IMLACH: Well you distracted me before I even came in the door, Mr Nielsen. However, let's get on with it.

MR NIELSEN: Forgive me for that.

Following on from our previous hearing on Friday the 22nd of April the employee organisation - that is the TPOA and the SPSFT advocates - have held a meeting and it is our intention today to call a witness, Superintendent Hawley, and present a further exhibit titled, 'Superintendent Skills Listing'.

Further, I understand, Mr Commissioner, that the 6th of May hearing date has now been adjourned to the 31st of May and the 1st of June for the minister's advocate to present and finalise their response and summary to the special case.

I would hope, having received all the transcript, that is for the 17th of the 3rd, the 22nd of April, and for today, the 4th of the 5th, then some 2 weeks from that receipt of those documents that the employee organisations will then make their rebuttals and then, hopefully, we'll finalise this special case.

As you are aware, Mr Commissioner, this special case commenced on 14 October '92 and it may be by the time you have handed down your decision that close to 2 years have elapsed since the commencement of the special case.

One may point the finger and argue at the time and the delays between the hearings on this case, and we readily admit and accept some of the - some of the responsibilities - for those delays. Especially the delay, the 6-month delay in 1993, where the parties attempted to negotiate an agreement, or an understanding, to be established before the commission.

And whilst you earlier advised that not one whit of agreement had been reached by the parties, I am confident that a document will be presented to you advising of some agreement

on some of these issues which were previously referred to you on the last hearing, the 22nd of April, and they were the TPOA 88 loaded rate, the TPOA 91 which has been amended to the TPOA 98, the classification structure, and the TPOA 84 which was the back-to-back overtime, clause 3 of clause 19 and the TPOA 84 of notice of change of roster, which was clause 19, subclause (ii).

Also, Mr Commissioner, you commented early in the proceedings of the TPOA coverage as per the Anomalies Conference to senior prison officer classification, and then the TPSA - now the SPSFT - coverage chief prison officer to superintendent.

This has now been overcome by Exhibit SPSFT.3 presented on 22nd of April.

So, what I am saying, Mr Commissioner, there has been some progress made before the commission.

The transcript, when completed, and the exhibits and witnesses speak for themselves, when you realise that this has been an exhausting exercise for our associations.

We have witnessed our other brother and sister public servants receiving their 1.5% from 1 August '93, and now the second 1.5% from 1 April '93 increases in their salaries, whilst we have continued on with our special case with a strong belief that at least since '83-84 a 10 year period, in our submission, a work value change has taken place with the employees of the Corrective Services.

Now, Mr Commissioner, it is my intention to proceed to call Superintendent Hawley, have him sworn in and present, if I may.

**SUPERINTENDENT STANLEY HAWLEY, sworn:**

MR NIELSEN: Mr Commissioner, if I may, I wish to present a document that is a list of questions and answers - an exhibit, shall we say.

COMMISSIONER IMLACH: Call that TPOA.99.

MR NIELSEN: Now, Mr Commissioner, if I may, this is a document which was - and we do apologise, it has been sent to the minister's advocate and to the manager, and it was our intention to send one to you, but I've been on the road and there was a little bit of a mishap, and that was no disrespect to you, sir, but it was just where we failed to - and this is the one now dated 4.4.'94 just slightly amended from that one the other day.

And, coming to what this document is, it's a document that states, 'Questions and Answers', and we will attempt to do, with respect, is to walk through the document and, ultimately, to put these questions which Superintendent Hawley has already been about and has already participated in. In fact, it could be said quite clearly it's Superintendent Hawley's document and, as such, he is only quite prepared to sign it as such and even quite prepared to do a statutory declaration.

And the point of presenting the document is to authenticate that what's on here is Superintendent Hawley's comments.

If I might proceed then, Mr Commissioner. The first question is there.

Superintendent Hawley, you may respond, I'm asking what is your name rank and experience with the prison?... Stan Hawley, Superintendent of the Ron Barwick Medium Security Prison. I've 29 years' experience in, as I stated here, virtually all aspects of prison operations.

Now, with question 2, when did the Ron Barwick Medium Security period come into operation, and can you give us a brief outline, a background of this position?... Yes. It was opened in April of 1991 as a result of going back into 1990, a fairly large committee that was set up at the time to formulate for the first time ever in the prison service a set of goals and objectives to outline what we were all about. And, as a result of that it was identified that we were not entirely able to meet those goals and objectives without certain things happening, and one of those things was the opening of another prison. The building was already in existence; it had been an annexe of the maximum security prison previously but it was closed in the early '70s for economic reasons. But we saw it as a desirable means of achieving the outcomes that we wanted to achieve.

Thanks. Question 3, what are your functions as superintendent?... To manage the human, physical and financial resources of the prison.

Have you any further comment there at all?... Well, the other questions, as I have dictated the paper, do walk through what those particular things are - human resources, physical resources and financial resources.

Right. That takes us on to question 4 and question 5. Question 6, then. What is involved in managing the financial resources?... Well each superintendent in each of the prisons is responsible totally and completely for the budget as allocated, or the funds as allocated, within the prison system. Each superintendent has a budget and is totally responsible and accountable for the use of those funds. Some parts of it are, as I have said here, non-discretionary, and

that's about of course by staffing levels and salaries that are set for those staff. But, generally the rest of it has to be managed. That's for clothing, food, maintaining the integrity of your buildings, etc. And, of course, if you are getting out of kilter with your non-discretionary you have got to try and match that up with the items that are discretionary and save funds in one area to cover the other areas.

And if I may go back to question 4. What do you mean by human resources?... Well that relates to both staff and inmates, of course, and in my prison the inmates go out to work in various areas - Botanical Gardens, Government House, all those sorts of things. I need to send the right people to the right places, commensurate with their skills and physical ability, and so on, and of course the management of staff guidance, development of staff, and discipline of staff, where necessary.

Thank you. If I may take you over the page then to question 7. What are the similarities and differences in Superintendent Class I functions as outlined in TPOA 98, and you are familiar with TPOA 98. In fact, I think you were part and parcel of basically the - ?... The revamping of it, yes.

Yes. You may respond to that question 7?... Well, speaking of what we are calling Class I Prisons, that of course is Class I as proposed in TPOA 98, and all prisons other than the maximum security - the larger main prison, as we might call it - are fairly similar in signs and operations. However, the real functional differences in them is Hayes of course is a farm, it is a working prison where they work on the prison to produce vegetables and one thing and another. They are taught skills in those areas. The medium security, the one that I'm responsible for is slightly different. We work out in the community - the Fire Services and all those types of operations - Botanical Gardens, Government House. The women's prison of course is somewhat different again. It has considerably less inmates as a rule, but it is still a reasonably complex operation in that it covers the whole spectrum of classifications from remand prisoners, minimum, medium and maximum. And Launceston, once again, is more a remand prison. They deal with courts and people coming and going; presentation at courts, and so on.

Thanks, superintendent. Now, question 8, are you familiar with the document titled, 'Superintendents Skills Listing'?... I am.

And before I ask you to respond to that document, Mr Commissioner, may I present an exhibit on 'Superintendents Skills Listing', please?

COMMISSIONER IMLACH: Excuse me, Mr Nielsen. Is this the old superintendent or the new superintendent?

MR NIELSEN: Well with respect, Mr Commissioner, I think it's the old, but - like, as a non operational prison officer. I'd suggest that the superintendent answer that question - but you may - he will respond - as you realise question 8 is asking him to - how did this document originate so \_

COMMISSIONER IMLACH: Yes. Just a minute. Could we go off the record, please, Coral.

OFF THE RECORD

COMMISSIONER IMLACH: Now, Mr Nielsen.

MR NIELSEN: Mr Commissioner, in regards to the latest document I've just forwarded up, I'd like the exhibit to be marked TPOA.100 and also that to be written at the top of the page: These are the skills currently required by Superintendent Hawley. These are the skills currently required by Superintendent Hawley.

COMMISSIONER IMLACH: Is that it?

MR NIELSEN: Yes.

COMMISSIONER IMLACH: Yes.

MR NIELSEN: Superintendent, have you got a copy of this document before you?... I do.

COMMISSIONER IMLACH: Yes. Could I just interrupt?

MR NIELSEN: Yes.

COMMISSIONER IMLACH: I apologise for the confusion, superintendent. I would have preferred that you went straight through without such a technical hitch?... Fine. That's okay, yes.

Right?... We thought that may have been an appropriate time to introduce it. Obviously we've been advised otherwise and that's what we intend to do, yes.

COMMISSIONER IMLACH: Good.

MR NIELSEN: Now, superintendent, you've got the document there before you?... Yes.

And if I just may, for the purposes of the commission, just identify those headings at the inmates and the various definitions - the various - the information itemised there under inmates you've recognised as such and the following item

there, on the same page is the support staff and personnel - you identify that - liaison with those various authorities. If I may take you to page 2, again the heading there; transport and the purchase of vehicles - maintain vehicles and oversee escorts. The building/equipment and those details there; the clothe prisoners and the comments made in regards to the various issues of clothing, footwear, laundry and the repair and misuse. The food and the comments then made under the ordering, preparation of food and the menu and the - down to the maintaining adequate stocks. If we go to page 3 and that still goes on slightly there; then the heading of manage financial resources and the - those issues that are itemised there. The next heading there is organise staff meetings and those - that information provided there. Heading: public relations and I just take note there - the bottom - I don't suppose that's priority where you've got union officials. That may have been that that had - that ought to be have been at the top of those comments there.

MR WILLINGHAM: It ... a lot of work on the public relations then, Peter.

MR NIELSEN: And if you go to the next heading there, staff and the requirements there, commissioner, and that staff quite - does have quite a lot of detail all that way through and then those miscellaneous training needs.

Now if I may go onto question 8 then, Mr Commissioner, or that document TPOA.99 and the question there is: Are you familiar with the document - we've just referred to and how did it originate, well you've certainly confirmed before the commission that you are familiar with it and aware of it and if you just may respond as to how did this document originate, Mr Superintendent Hawley?... Yes. As written into the document. Of course if you want me to expand on that, I will if I am able, but it's really contained in there, but as I say, it was - it was originally brought about when it was identified that there staff training needs within the prison particularly for training prison officers to the upper levels of the prison service or the uniform service in particular.

If I may interrupt you; is that about 1993 that you're talking - of the period then, are you, as was stated here, or are you - ?... Thereabouts. This document was produced in 1993. It may go back towards the end of 1992. I'm - I can't exactly say.

Thank you?... But because a curriculum committee was set up to identify the needs for a training course - or courses actually - two different levels, one being at the Associate Diploma level and the other at Certificate Level for officers aspiring to various levels within the service, and in conjunction with Paula Steinholdt, Director of Curriculum Services for the then Department of Department of Employment, Industrial Relations

and Training, we had two half day brainstorming sessions one might call it to identify what superintendents did to enable the appropriate courses to be set up under the auspices of TAFE for training of prison officers and out of that this document was produced.

All right. Thank you, superintendent. If I may take you over to the next page to question 9 and you may or may not have covered in regards to what aspects of the superintendent skills listing are now more important than others regarding inmates, and you've got some comments - ?... Well as I've said here, it's extremely difficult to prioritise in order of importance because prisons being fairly volatile places, things happen on the moment and depending on the matter you're dealing with, that will take priority over other things, of course, but you must be able to plan, you must be ready to be reactive as well as proactive because situations arise with no warning whatsoever and the way those situations are handled will have - can have a long-term effect on the prison.

When you say sub - the 'use of subculture jargon' have you got any examples of that?... Yes, sure. Many of the - particularly the younger people - I won't go into the subculture jargon - the use of the jargon actually is probably inappropriate in this place and might be embarrassing too, but many of the young people that are coming through the prisons these days have grown up as what's commonly known as street kids, they do have a subculture of their own. We've got to be able to readily understand that, we've got to be able to pick up on just what they're saying, what they're reaching out for, what their needs are and if that's addressed in an unsuitable or unsatisfactory way it's going to have quite profound results ultimately in addressing the needs of those inmates and preparing them for their - for their ultimate release from prison.

And your other comment here - the second last paragraph on that question 9 is: another example is the item of authorised transfer of inmate money. What actually is involved or concerned with the authorised transfer of inmates money - what do you mean by saying that?... Well we - yes we do have policies about what money can be used for, but we've got to also make judgments - informed judgments on that - that we might need from time to time to step outside of the guidelines, and in fact I had an example this morning where I authorised some money to be used in an area where it wouldn't normally be. The inmate's de facto wife and his two children were in desperate straits - their pension had been stopped and they were moving residence and they didn't have two cents. I've authorised some money to be expended from that inmate's earnings which is something that one is not supposed to do under normal circumstances, but you've got to weigh up each case on its merits.



And they - and they get earnings like, for what, particular work that they do out of the prison do they, or in the prison or laundering?... They are paid a daily rate for - for their labours. They're also paid an allowance which is called their living allowance which can be spent on their toiletry items and tobacco, underwear, socks, that type of thing and also they do - some of them have private money that they bring into the place - they can't just do what they want with it, it's got to be for good and valid reasons only.

Thank you. Question 10: do you have any other comment - do you have any comments regarding support staff - personnel?... Yes, the - what we regard as support staff in personnel are people in the programs area - manager, programs and welfare and her staff, education personnel and also tutors that come into the place. We've got to be able to attempt to identify the needs of various prisoners and ensure that the proper programs are put in place to support and assist those prisoners in accordance with their needs.

Okay then - if I may take you over the page to question 11: are there any - are there any aspects of those listed under 'transport' which may need elaboration?... Well really the area that concerns me - and that's all I can give evidence on of course - is relating to the escorts and it doesn't actually mean personally overseeing it, but I do have to ensure that the appropriate levels of escorts in terms of the security of the classification of prisoners and so on, and in fact make sure that they get to the places they're meant to be at the right time.

And would this be only by way of going to the courts? Do they have other escorts?... No, they certainly have other escorts - as courts, hospitals, their places of employment -

Oh, yes?... - because most of the prisoners under my control work off the prison property or - for significant portions of their time anyway. They also go out on leave permits under section 26 of the Prison Act, which allows permit - allows an absence for prison for prescribed reasons and we have to determine the proper levels of supervision of those inmates.

Thank you. I go onto question 12, if I may: what are the most significant factors in fulfilling the functions listed under building/equipment?... Well that of course is the - is the management of the physical resources as we called it earlier in the document, maintaining the integrity of the buildings and prioritising risk management to make sure you've got the most important work done first and what can wait has to wait, particularly in tight fiscal times, and making sure that the security is kept right - locks, bolts, bars - all the

things that go with prisons must be maintained in a proper working order.

Thank you. Question 13: does the broad term of 'manage financial resources' take into account the responsibilities involved under the heading of buildings-equipment, clothes, prisoners and food?... It takes all those things into account and as I said earlier, it's to some degree broken into discretionary and non-discretionary budget management, but certainly food, clothes, buildings, all those types of things - just about everything other than salaries is discretionary and has to be managed.

Right. Have you got any examples of non-discretionary expenditure?... Non-discretionary, as I said earlier, is salaries where we have levels of staff that are set and their salary payments of course are award matters - they're not discretionary matters, but overtime, which is a part of salaries of course, we've got to endeavour where we can to properly redeploy staff to reduce overtime expenditure to the lowest possible amount.

Thank you. Question 14: how much extra responsibility is there with current financial management compared to, when you first became superintendent of the medium security prison?... Well each financial year since then there's been a greater level of responsibility and accountability. When I was first appointed as superintendent of this prison, something over 3 years ago, we didn't have total responsibility or accountability for our budgets. There was a general pool of funds administered by the exec. officer and since then in the second year of it, in '92, we introduced, or we had introduced what was termed then as cost centre management where each centre or prison was made accountable for its own running to a slightly lesser degree - it was a phasing-in process and now we are absolutely and totally responsible for the funds allocated to us within our budget.

And if I may just repeat some of your comments there at the bottom of the page: now superintendent for instance is totally accountable and responsible for all monies spent?... Yes.

And over onto the next page - the last of the sentence is that you say - I understand: it is my submission that superintendents have played a major role in containing expenditure blowouts and meeting significantly reduced allocations in both a specific and global sense - that's of the prison?... Yes, and what I mean by that is not - not in a specific sense is of course relative to our own areas of budget responsibility, but we must have regard for the global sense being the whole of custodial corrections, because it doesn't mean if I've got a

few bob left over I can just go off and spend it, I've got to look at the whole picture because somebody else might be in a difficult situation, and we have a responsibility one to the other to ensure that we don't have budget blowout.

Thank you. Question 15: what is your opinion of the level 7 Superintendent Class I structure as proposed by the TPOA.98?... As I say in the document, I believe it properly and accurately reflects the role, responsibilities and functions of the superintendents of those prisons that are identified in the subheading on TPOA.98. It's in fact what's happening now, but we just don't have these positions in the award.

Thank you. Question 16: why should there be a difference between levels 7 and 8 as proposed?... Well level 7's are the ones that are outlined in there. They are the smaller less complex prisons -

Such as?... Such as medium security - the prison that I'm responsible for, the women's prison, Hayes Farm and Launceston Prison. Level 8 is only one position, and that's the maximum security prison at Risdon, which is a much bigger and far more complex operation, the differences being, as I've stated in my document here, that includes industries within the prison, the prison hospital, education programs and welfare are located there. It contains both sentenced and remand prisoners, it also contains the reception centre where all new prisoners are admitted, classification procedures and allocation to other prisons occur here and all necessary assessments of prisoners and in that - in that maximum security prison and in particular the remand part of it, we get a lot of prisoners - prisoners that have never been in prison before, they're very much unknown quantities, we don't know how they're going to react to the environment they find themselves in, and that's where they've got to have the very important early management before they move on to other areas - in fact they may not move on to other areas, but they certainly have to spend some time there and be assessed before they do go on.

For my own education, the - it - you quote here - or say: it contains both sentenced and remand prisoners; what actually is the difference and how are they treated?... A remand prisoner - well they are segregated largely - there is an ability for them to sign over and actually go into the - the sentenced part of the prison; they then only enjoy the privileges and rights that sentenced prisoners get. The remand section is - is separate from the rest and as I say, these are still people - some of them - many of them ultimately are found not guilty. They are not convicted by and large, or they may be convicted but not yet sentenced or they may be there having lodged appeals against either conviction or sentence and of course they are a somewhat different status

of prisoner to people that are convicted and sentenced by the courts.

And are they in the maximum complex - a prisoner on remand or a person on remand?... They're in the maximum security prison

Yes?... - but the part in which they're housed is set somewhat aside from the rest of the main prison. I understand you did do a tour of the prison, Mr Commissioner, and that's the area that's - after you go through the main gate there are two more dividing cross gates before you get into the prison proper and the remand section is housed within that area separated away from the rest.

Thank you?... And as I say, also that that's often a time where there are potential suicidal people - they're quite often very depressed - haven't been locked - perhaps for the first time in their life - they're under a certain amount of pressure from their peers too of course, and also we have people incarcerated under the Mental Health Act that are in fact not actually prisoners in the true sense of the word, they're certainly in prison but they're there under the Mental Health Act and this can well often be indeterminate periods of time and they of course present their own management risks and differences.

And do sentence and remand prisoners - do they exercise together or eat together or -?... No.

They're all entirely separate or - ?... Except for those ones, as I said, that - that choose to -

Go in?... - present themselves and sign over into the main prison - they go to work, they then have different visiting rights and they dress in prison clothing. Remand prisoners have the option to wear civilian clothing or they may ask to wear prison clothing if they wish and there's just a few other little and minor differences, but they don't mix under normal circumstances.

Thank you. If I may take you over the page - question 17 - and that is: what is your assessment of level 6A and 6B in the proposed structure - are you familiar with that are you?... Yes.

Or do you desire the structure - ?... Yes - yes, that refers to the proposed levels of Deputy Superintendents I and II.

Yes?... And as I say here, the proposal is formalising the positions which already exist, but under different designations, and I've outlined here how those deputies either titled or paid at

in the various prisons. And of course they do - the reason why we're saying they should be deputies, it's just a use of a term, I guess where somebody deputises for someone else - they're generally referred to as a deputy - there may be other outcomes in - as a result of it that - that may well be arguable, I suppose, but when one deputises pragmatically speaking, that person is a deputy and in fact they do fulfil the functions of the superintendent in the superintendent's absence other than having the ability to alter policies or guidelines that are already established in those prisons.

Thank you. If I take you on to question 18, which is basically - no disrespect to the superintendent - chief superintendent - that's self-explanatory; you say here that he - level 9 is appropriate and you say yes, and it's basically self-explanatory - is the head - is the top of the - ?... Yes, certainly, and the reason we see - why we're seeking to have it inserted into the award of course is that - that part of the purpose of this exercise is to address career structures and we see the chief superintendent as the ultimate step in the uniformed prison service career structure.

Yes. Alright - if I may proceed then to question 19: Do you believe the proposed structure and salary level is consistent with the operations of the present service? And I think this most important because the commissioner has led to this once or twice in earlier discussions?... Yes, I certainly do believe that the structure and salary levels is consistent with the prison as it operates now, and I've just highlighted one or two of the areas, in particular the superintendents and deputy superintendents, where they're - they're called other things -

Yes?... however their function is to be a superintendent or to be a deputy superintendent and this does of course follow on down through and I might perhaps refer to the - the proposed first class officer. We've got a large number of people in receipt of an allowance for doing a job which is really a non recognised job in terms of the award and that's a tidying up of the structure as it currently operates.

Turning over the page to question 20 - which is the last question: what do you believe are the most significant changes over the past 10 years?... Really, just as I've stated in my document, I guess that the level of accountability and responsibility has changed significantly and I've outlined how mine has changed quite significantly in the last three to 3.1/2 years and I feel that that's operated largely right across the scale. We're - up until a short while ago it was an offence for a prison officer to speak to a prisoner other than in the course of his duties. Well really that's - you know - that's not on. How do we carry out and achieve our goals and objectives if we can't speak to a prisoner. I mean the - the reaction between officers and inmates and the - is

far different now - the encouragement that's given to them rather than just purely the old military style of you do it and I'm the boss you're the prisoner and that's the end of it. It's been a gradual evolution, I guess, over a few years and in my opinion very much for the better and as I say here, that - that management of the prison deserve credit for the way it's been allowed to evolve, because I believe it would be my submission that we are now a prison service, not just a place where we lock people up and we're achieving things in terms of preparing people much better for their return to society to become responsible members of society.

Alright then, thank you, superintendent. That's exhausted our position, Mr Commissioner.

COMMISSIONER IMLACH: Thanks, Mr Nielsen. Mr Willingham?

MR WILLINGHAM: Thanks, Mr Commissioner. Mr Hawley, if I could refer you to the exhibit TPOA.99, which is your statement - ?... Superintendent skill listing.

You did mention in your earlier evidence that the medium security prison didn't as such come into being for the first time in 1991; can you tell the commission when it - the medium security prison was closed?... I think I did say; I'm not exactly sure, but it was during the - oh, early seventies, I think - '75 - four - something like that - I can't be more precise than that, I'm sorry.

If I put it to you that it was 1981 would you disagree with that?... I'm not able to, because I can't recall exactly. I would have thought sometime in the seventies.

If I tell you that it was 1981 would you accept that?... No, I - I'd have to, I can't dispute it - and I've no reason to need to.

Yet?... Yet.

Now if we could then go to what I would summarise as questions 3, 4, 5 and 6 - that's the - ?... Yes.

- first page of that exhibit, it's encapsulated by the statement that you managed the human, physical and financial resources of the prison?... Yes.

If we then go, commissioner, to exhibit TPOA.100, I think on page 3 you'll find - if - what I might call an elaboration of some of those dot point headings - would you agree, Mr Hawley that that's roughly how we should view it?... That the ones under management - manage financial resources -

Are you talking about - no - question 4 - what do you mean by human resources, and if we go to page 3 - ?... Yes.

- of TPOA.100, you mention for instance things like organise staff meetings, public relations and the duties - ?... Yes.

- associated with your position and staff and miscellaneous training needs - are they all to be seen as part of question 4's response?... I would say so. I'm not saying that it's limited to what's listed in there, but certainly there are - that's relevant to question 4.

Well it's just that I was thinking of the commission and yourself, Mr Hawley, that I didn't want to examine you on question 4 and then have to do the same thing on - on exhibit 100; I'm just seeing if we could simplify it, that was all?... Yes.

What training have you had in the management of human resources?... Training I've had?

Yes?... I've undertaken a number of courses since my time in the prison. I've also attended Hobart Technical College in my own time to do - where I obtained a supervision certificate which was - largely dealt with - with this type of thing - management of human resources - I can't think of the terminology that we used then in relation to the actual courses, but supervision principles and personnel practices, I think it was called - something like that.

Is that a requirement of your job?... No, I took that on of my own accord to assist me to better do my job and to enhance my chances of promotion, I guess, at an earlier stage in my career.

It's not a requirement of the job?... No.

Is it proposed to be a requirement of the job according to TPOA.98?... I'm not aware of that. However, as I say, we have addressed the matter of training people to higher levels in the formation of the curriculum committee for that purpose, to identify training needs and I'm not sure of the ultimate outcome and the use to which this is being put - I'm not a part of that curriculum committee.

Well can I just - ?... - but I - it certainly -

- interrupt you, superintendent?... Yes.

You've answered three specific questions on an assessment at TPOA.98, so I assume you're in a position to answer mine equally adequately; does TPOA.8 relate in any way to any sort of supervisory post-secondary qualifications?... If I could you to level 5, then in 98, it makes reference to satisfactory service, et cetera, completion of a chief prison officer course and examination or qualifications, et cetera.

Yes, I'm familiar with that, superintendent, but there's no reference, specific or otherwise to any kind of ex prison complex course of the nature that you'd undertaken?... No, that's quite right, although in - when - when the position was advertised, it did contain in - in the qualifications that were listed, tertiary qualifications suitable to the position or words to that effect. I don't remember it. It certainly mentions tertiary qualifications when I applied successfully for the position that I now hold.

Did it stipulate the - the nature of the suitable or appropriate tertiary qualifications?... No, it didn't. I believe that -

No. So we're unable to - ?... - the qualification that I had was appropriate and I submitted that to be the case and it was obviously taken into account; I was the successful applicant out of a number of applicants.

You're not in a position to inform the commission precisely what was in the management's mind when they used the term appropriate tertiary qualifications?... Unfortunately the crystal ball was in repairs at the time; I really didn't have any idea what was in management's mind, but I felt that the qualifications that I'd undertaken - there are numerous other courses that were run by - within the public service and the old Public Service Training Centre as it was in Weld Street those days - I've undertaken quite a lot of them - a list of them I don't have with me, but I was quite confident that they were the types of qualifications that were relevant to the job particularly when you're talking about managing people.

I just take you back to the question; you weren't at that time and you're not now able to indicate to the commission what the management had in mind when it referred to appropriate tertiary qualifications?... Oh, of course not.

No. Thank you?... I was a chief prison officer then, I wasn't part of management and wasn't privy to those sorts of discussions.

Oh, that's interesting comment. We've had evidence from one witness that suggested chief prison officers were part of management - do you disagree with that?... Part of the management people that were making the decisions as to what are relevant qualifications for the rank of superintendent.

I see. If we can go to question 5, first let me ask you, just does what the expression 'maintain the integrity of the infrastructure' mean?... Well it includes everything to do with the building; building, cells, locks, bolts, bars, everything that's a permanent part of the structure in which we house prisoners and we call a prison.



Does that mean keeping it in good order does it?... It means ensuring that it's kept in good order, not personally maintaining the good order of it, of course.

No, I'll just come to that in a moment, but the expression 'maintain the integrity of the infrastructure' means keeping the buildings in good repair - good order - is that what it means?... It means ensuring that they're kept in good order, yes - within - within your budgetary ability .... with it and the risk management involved in that to prioritise what must be done first in terms of what you can afford to do.

Can I just stay with one thing at a time - you're flooding me with information that I haven't - ?... I thought we was, I'm sorry.

- that I haven't asked for yet and may indeed not need to; I just want to be absolutely sure that I understand what the expression 'maintaining the integrity of the infrastructure' means and I'm just writing on my notes here and I hope the commissioner may be following me also, that it essentially means to ensure that the buildings and equipment are kept in good order?... Yes.

And as you've said now twice, I think, you don't personally do that, I - so perhaps you could explain to the commission what your role is in ensuring that the buildings and equipment are kept in good order?... My role is to either recognise that something needs doing or receive the feedback from other personnel involved to - to tell me that certain things need doing and take the appropriate action which may well be just a phone call to the engineer, it may involve getting quotes or prices to do things - it depends of course on what it is that I've identified that I need to do.

Thank you. Question 6 - if we can go to that which is the managing of financial resources. I won't detain you long with this, superintendent, but you say that you have total management and responsibility and in elaboration of that a little later you used the words in evidence talking with Mr Nielsen of total and absolute responsibility. Now is that correct that you have total and absolute responsibility for the budget of the prison?... A total and absolute responsibility as I said with certain exceptions which are non-discretionary, that being the level set for salaries and the staffing levels. Obviously that's not discretionary. I don't - I don't determine how much people are paid and one thing and another, but largely -

.... - ?... yes - well I'm - that's what I'm here to try to determine what some of us are paid, but that's another matter, I guess, but within terms of the funds that I've already got

and the award as it currently exist, that is the area that I've referred to as non-discretionary. I do have to man the place to certain levels which have been agreed upon and to that degree I don't have any discretion other than by attempting to redeploy or alter people around, but the general running of the prison is my - the budget for the prison is sole responsibility and of course when you're talking about terms of food, I've got to satisfy the state dietitian that I'm feeding the people proper wholesome nutritious meals within what I can afford to give them but still meeting those needs and levels and that sort of thing. I'm not sure if that answers what you're asking me - I'm sure you're tell me if it doesn't.

You're correct. What is your budget for 1993/94?... I didn't come actually prepared to answer that question but I think it would be, or something to the order of six to \$700,000.

Can you be a bit more precise?... No, I can't I don't have the documents with me.

I just thought that having as you assert, total and absolute responsibility, you might have had a more accurate figure in mind. What percentage of the total budget is allocated to salaries - in other words non-discretionary items?... Once again, I haven't come prepared for that; I didn't expect to be - to be splitting it - identifying all the areas of my budget, but salaries of course is a - quite a significant part of it - there's no doubt about that.

Do you care to hazard a guess - I don't you want to tie you with a figure if you're not -?... No, I don't want to guess.

Okay, fine?... I don't want to guess. I don't think that helps anybody.

Would you agree with me if I put to you that the words total and absolute responsibility for the budget whether its discretionary or non discretionary is in fact the responsibility of the secretary of the department?... No, I wouldn't agree with that. I would agree that the secretary of the department has responsibility for allocation of the budget in general. Once that - once my section of the budget has been allocated to me, I have to manage that and that's done at the beginning of the financial year and I've got 12 months to run on what's given to me and I've got no chance of getting any more.

There's a difference between managing with a certain allocation, Mr Hawley, than having the responsibility for the allocation that's appropriated.

Commissioner, I'll take this up, I think, by way of submission at a later stage and introduce the various statutes which

govern the fiscal responsibility and accountability for funds allocated to anywhere in the public service which will probably get to the point quicker than maybe extending this line further. But I just flag that for you now because it's not a matter that we will let rest at this stage.

If we could turn to - turn to - just as a matter of interest, Mr Hawley, I'm sorry, before we go to the next party, in - in question 6, are you aware of what would happen if you overspent?... I'm well aware of what would happen if I overspent. I'd have - my bills wouldn't be paid towards the end of the year and I would have an overhang into the following year and I would have much less funds to manage with - those - those figures that I'd overspent by, I would be in difficulty in the following financial year - and I would -

Where do you get that information from?... I beg your pardon?

Where do you get that information from?... Well we have regular superintendent management meetings where we discuss budgetary matters and - and it's certainly brought home to us, that if we don't spend to the limits of our budget - in other words if we over expend - and certainly it will happen in this system this year - that in June some bills will not get paid until July - that's going to be an impost on the next year's budget.

Well it would be interesting if you could tell me what the discretionary expenditure was, because given that some of it's nondiscretionary, I'm just interested to know what would happen if that sort of cumulative effect went from one financial year to the other?... A disaster.

Well, yes, it's one thing to say that, superintendent, it's quite another to explain it in terms that have some meaning. I need more than sort of animated and lively descriptions; I need to know - and so I hope would the commission, what the consequences of you not exercising financial prudence would be. I not only need to know what the consequences would be, I want to know upon whose responsibility the shouldering of the blame would fall. That's one of the reasons of asking who has the total responsibility. Now if a bill doesn't get paid and a supplier doesn't provide a service or refuses to continue to provide a service, one of the reasons for asking about total responsibility is who the minister and the government would hold accountable for such a situation. Would it be Superintendent Stan Hawley, would it be - or might it have been manager O'Halloran, would it be divisional director Marris or would it be the secretary or would it be the minister? I find it hard to accept that the ... of that would fall upon Superintendent Hawley and indeed the Financial Management Act says something quite different and that's the reason for asking you this, this line of questions. Now I want you again to think of the question: in terms of you

personally, if you overspent your discretionary budget, what would be the repercussions - first to you personally - and it's - for an instance would you lose your job - would you get demoted - would it come out of your pay and what in an authentic sense do you believe would be the consequences of the overspending outside of you personally - could you just address your mind to that for me please?... Well, I'm fairly confident it wouldn't come out of my pay. Unless I am fairly successful at this forum I wouldn't be able to afford to pay it. But, I suppose the responsibility - the ultimate responsibility - may well be apportioned down through the Secretary of the department. However, we do have a process as we proceed through the year where we review. It has been on a monthly basis. I understand now we are moving to a 6-weekly process, whereby we review our progress. Sometimes funds are transferred from one area to another where there is difficulty, of course, and that's what I have referred to as the 'global responsibility'. Having never -

Can I just stop you there, please? If you're talking about transferring of funds from one allocation to another, that decision is made by Mr Maris, is it?... Not necessarily. It may be.

If you're changing your budget appropriation, are you telling me that would be done without reference to the general manager?... It would usually be done in consultation between the superintendents and the exec. officer, in my experience. It may well be that the general manager may see fit to impose some change and say, 'This will happen'. Of course he has the authority to do that.

I'm sorry, I am not making myself clear. If a budget is allocated to each of the specific prisons, as you have said and as is a fact, if those allocations are varied at any particular time are you saying to me that that variation can be carried out by the superintendents without any reference to a level of higher responsibility?... Of course not. That change doesn't occur until quite later in the financial year when we know what the global position is.

That answers my question?... Let us say, having never been in the position where I have drastically exceeded my budget, I've no way really of knowing what action or sanctions are likely to occur to me. But I don't think I would be in for a pleasant time.

You said you have never drastically exceeded your budget. Have you ever exceeded it?... In the first year that we were in operation our overall budget, not my personal budget, our overall budget within the positions was in quite considerable trouble, and through the efforts of the superintendents - as I am sure Mr Maris has probably advised you - we pulled that

budget expenditure way in and really assisted in getting it back on target.

Superintendent, I know you are attempting to be helpful in the information you provide, but it is going to assist me greatly if you could sort of dwell a little bit more on the questions I am asking. In that comment then you said that you had never been in the position of drastically exceeding your budget. I asked you if you had ever exceeded your budget. Now I am not sure if you have actually given me an answer to that. I wonder if you could, please. Have you ever exceeded your budget allocation?... No, not to date I haven't personally. I have been very close to the wire.

Right. A simple 'Yes' or 'No' is fine. Obviously if you had I would have asked you what consequences arose, but you haven't, so it is not a question I am going to ask?... I've exceeded in some areas of it that have been made up for in other areas. In the discretionary areas that's compensated for the areas that I have had no real control of.

I'm fully familiar with the budgeting processes of the government, and the bottom line is the one that counts. I am aware of the way you are able to mix and match. But you haven't exceeded your budget?... In the bottom line terms, my budgets have come in on line.

Good. Are you aware of those of your fellow superintendents whose budgets have not come in on target?... I'm aware that, as I said, in the first year there was a dramatic blowout over the expenditure allowances that we had.

You're referring to the first year, which year is that?... 1992. The first full year that we were responsible for our budgets completely.

Who is the superintendent whose budget was blown? Not the superintendent, which was the prison?... Well I am talking about the budget in general, and mainly it referred to the maximum security prison, and as a result of that the superintendents and the general manager, Mr Maris, and others met and as a result of that it was identified before the end of the year, and another of positions in the prison were reduced. We closed down some posts. We had to make a savings of some 180,000 I think it was, and that largely was achieved.

So when we have a clear case that can be identified of a superintendent exceeding his or her budget - you have given us a graphic explanation of what happens - a superintendent doesn't get into a lot of trouble, by the sound of it, everyone has a whip around and a bit of prudent housekeeping - ?... Largely because it was in the area of non-discretion in his case.

Could you let me finish my - ?... Sorry?

Could you let me finish my question, please? When we have an identified situation of a superintendent exceeding a budget, what we have is a group effort at trying to find appropriate additional funds from other areas so as to make up a shortfall, is that in a nutshell what you - ?... Only because it was in the non-discretionary area of salaries. Something that he personally could not address.

Well, did you not say that you cut some positions?... Yes.

Well, so that would have gone to non-discretionary expenditure as well then, would it not?... That was the area that we had to address, yes, and there was a pooling of knowledge and experience to identify where we could cut.

Yes, and nothing happened to the superintendent apart from the fact that everyone's budget wasn't - ?... Certainly, it is not his fault. He wasn't given enough money to start with in that area. That was not his fault.

And other people given too much, by the sound of it?... No, none of us were under in our non-discretionary salaries area. It wasn't saved or transferred out of our budgets. We cut staff positions.

I need you to come and work in the DEIRT, I think, if you can perform that fishes and loaves trick?... Make me an offer I can't refuse.

I'll talk to the secretary. Right, now we might go to the back page, if we may, Mr Hawley, of Exhibit TPOA.99 because - ?... Question 20?

Yes, I thought so, just for something different. Now the reason I do this is because of a potentially - ?... You confuse me, you miss some of them and then go back to them.

I have missed nothing. And what I will do from here is known to me only at this stage, superintendent?... How wonderful.

You'll have to just be patient. In Question 20 you say in the first paragraph -

I'm sorry, those pages are not numbered, commissioner. You have got Question 20 there.

COMMISSIONER IMLACH: I have.

MR WILLINGHAM: Yes.

The level of accountability and responsibility for a whole range of functions of prison officers has changed

significantly and this has been greater at some levels and in some areas than others'?... Yes, I have said that.

Oh, yes, indeed you have?... Oh, I thought you were waiting for an answer.

I'm not quite sure how to break this up. You say an awful lot in those two lines, superintendent. Let's start by saying, what are the whole range of functions, what are those whole range of functions to which you refer that have changed significantly?... At the various levels of prison officer and the ranks, is what I am saying, yes.

Well, you see, what I am saying is if I don't do something about this statement the commissioner here is going to give you 20%, because he says - ?... Is that all?

Well, that's just the - and that's on the basis you haven't specified it. I mean, if you specify it he may give you something more?... I'll try when you ask me the questions. I'll do my best.

You see, the commissioner is going to say, 'Look, what sort of an advocate is the government's representative when he just lets go back a statement like 'a whole range of functions has changed significantly, including the level of accountability and responsibility''?... I knew you wouldn't let it go in like that.

You're right, and I thought in response - ?... Did you want me to enlarge, and I will do my best?

I thought in response, because you have been very adventurous and very fulsome in your responses to all of the other questions, you might have detained us awhile by explaining what the whole range of functions are that have changed significantly. So, I wonder if I could ask you to enumerate those for me?... Yes. I guess I touched on it to a small degree earlier in the way that prison officers interact and are responsible for outcomes to a greater degree. But I guess I'm probably looking at, say, from senior prison officers, chief officers and so on.

Well, again can I stop you there?... Yes.

Your evidence, according to TPOA.100 - and indeed my understanding of Mr Nielsen's introduction is that you are here to give evidence on behalf of the position of superintendent. Now, are you - ?... Well, I can confine it to that for you.

Well, I'm interested to have perhaps a discussion with the commissioner, but I wouldn't, and certainly haven't, advanced

on the basis that you are giving evidence for all prison officers. If that were to be the case - ?... I hope I am not.

If that were to be the case, then we would have to start over. So I am assuming that your evidence is confined to that of superintendent. So, am I to understand, superintendent, that when you say 'the whole range of functions of prison officers' you are referring to that of superintendent, or do you mean what you say there?... I suppose what I am saying, and because of the original way the case started out in that two employee organisations were representing two levels of - two separate and identifiable levels of prison officers - I started out by really addressing from the chief prison officer upwards, I guess. However, if it is not proper that I speak about other areas I'll confine myself certainly to superintendent.

It is absolutely proper that you speak in whatever way you wish to. I just need to be clear in my own mind just on whose behalf you are speaking, and when we have identified that I can go accordingly. But if you actually mean a whole range of functions of prison officers, that is I assume from Year I Prison Officer right up to the - ?... No, I don't wish to address that.

No?... Certainly not.

So, what do you wish to address?... Well, I am quite happy to contain myself to the superintendent, and I would have to include the deputy of course, because there is no evidence presented for the deputy, and it was felt that I ought to be able to cover that in my evidence.

Well, we'll have something to say about that?... And I understand evidence has been given already for the chief prison officer rank and below, anyway. So, really I don't need to be looking at that, and I'm sure you don't want me to, unless you invite me to.

Well, let's just assume for the purpose of the next few questions that we are referring to your first-hand knowledge of the position of superintendent?... Right. Yes.

Now, how long have you occupied that position, Mr Hawley, incidentally - just since 1991?... Just a little over 3 years, yes, when that prison was first opened as a prison, not as an annexe of the prison. I was the original appointee to that prison.

So, the whole range of functions as they relate to superintendent have changed significantly since 1991? Is that what you are saying?... No, I am not, because we are now approaching it purely from the superintendent's viewpoint, but I will say certainly that a considerable range of functions have changed. Not the whole range, of course. I've always



been responsible for certain things to happen in that prison, and I still am. But the way that it was done has changed.

Can I just ask you, if we talked about the whole range of functions required of a superintendent, would we get through this quicker if we then went to TPOA.100 where all of the skills and functions and whatnot are identified? Would that be a fair comment?... If you like, but that -

No, if you like?... Alright. That document you are holding in your right hand which is, what, 99, is it, well, used to be in your right hand. Do you do party tricks of an evening? I have got a job for you.

Just watch. I noticed the commissioner is getting a little bit bored, or I think he is getting bored, I try to lighten it up, yes?... You do a little party trick.

Alright, well we might approach it that way.

COMMISSIONER IMLACH: It's TPOA.100.

MR WILLINGHAM: TPOA.100, commissioner, yes?... You are now going to that?

No, but before we go to that we'll just deal with a couple of the other comments on Question 20. You say at the third paragraph, 'The emphasis has really changed from incarceration'?... Don't stop there. You can't take that out of context. It doesn't mean quite the same.

It's not out of context. You say, 'the emphasis has really changed from incarceration' to something else. It doesn't matter what it is?... Yes. Yes. We still incarcerate people, yes.

What's the primary function of the custodial services - prison services?... What is the primary function?

Yes, what is the primary function? Go to your mission statement. Do you know what the mission statement says?... I wish I had a copy of that. That's got some lovely words in it, but it is -

Well, more than lovely. I would hope very meaningful?... Very meaningful.

Yes. What does that say?... As I said, I wish I had that document with me. I don't carry that sort of terminology around in my head. But, basically it is that we don't just incarcerate people, that we will do things with them whilst they are incarcerated to turn them out as more useful citizens in the wider community and with the family. I think that's something like the wording. It's not quite the wording, but

we do have an mission statement. We called it goals and objectives statement when we formulated it, and we determined that's what we were going to do with people. Of course we have a responsibility to keep people imprisoned for the period determined by courts, and from time to time reduced by other people - remissions and parole, and all those sorts of things. We must, of course, keep them there for the period we're required to, but we don't just lock them up and that's the end of it. We have a responsibility to meet the needs of those individuals -

I understand that?... - to turn them out of prison in a different way from which they came in, hopefully.

What's the return rate?... Well I'm glad you asked me that, actually, because my return rate for the Ron Barwick Medium Security Prison compares very, very favourably with any prison in Australia. The first year of operation it was 4.11 per cent; the second year was about 5.0 per cent; this year is not yet concluded so I can't give you a percentage on that. The average across Australia is between 40 and 60 per cent.

What's the average across Tasmanian corrective services return customers?... I don't know. I've never had the need to know but I certainly know that in the overall context of prisons, the medium security prison, which was set up very much to deal with the mission statement and to carry out the functions that we saw as important is achieving those goals by having an extremely low recidivism rate.

You've lost none of your skills in being able to sidetrack me, superintendent, and I congratulate you on your earnest efforts to do it. But we'll just come back to the mission statement. Would you agree that, paraphrased, your mission statement could be summarised as saying that you're about the safe, humane and secure incarceration of people sentenced by the courts?... That's a part of it, and thank you for your assistance. But that's not the whole of it, certainly.

I just wanted to get a reasonably simply answer from you, like, yes. Would you agree with me that - ?... I can't, it's not the whole.

Would you agree with me that, paraphrased, your mission statement includes that objective?... Includes, absolutely.

Okay. You don't recall what the mission statement is? You haven't got it with you; you can't bring it to mind?... I haven't got it with me. I've recalled it to the best of my ability and that's what I've said to you, my best recollection of it.

Right, okay. Let's get back to the recidivism rate. Just a simply question, and bear in mind the medium prison has only been open since 1991. What's the average length of sentence?... In the medium - people in the medium security prison?

Yes?... Anything from 2 weeks to lifers.

Two weeks to life. How many people have you got in the prison at the moment?... Thirty one.

Thirty one. Is that the average population over the last 3 years?... Thereabouts. It drops. I think the average may be more like about 28 probably. That takes into account seasonal factors and all those sorts of things.

What's the average length of sentence?... I don't know, but I've released an awful lot of prisoners in that time to freedom.

Well give me a guess, what the average length of sentence?... No, I don't think it will help by guessing. I really don't -

Oh, it might help me; it may not help you?... No, because I could be inaccurate and I will be inaccurate just guessing and I really don't want to make wild guesses.

It would be useful to make an assessment of the recidivism rate based on the fact that the prison has only been open for 3 years and why that figure - if the average sentence was a certain figure it may account for a lower than average recidivism rate?... No, I don't think so because -

Well it might. Well you can't give me the figures?... - we've been releasing prisoners all the time since 1991 and, if you like, I could give you a couple of examples of prisoners that were returning to prison within a fortnight of getting out, and they've been out for a long time.

No, you can give me everything, superintendent, except the questions I ask?... I can't give you that answer.

Okay. So I'll pass if you can't give me the answers, and I'll have a look at it in the ensuing period between now and the next day of hearing and if I think there's anything in it I'll bring it to the commissioner's attention. I don't expect you to carry masses of statistics with you but I would have thought, as superintendent, you might have a touch or a feel for the average length of sentence and the sorts of figures that go to recidivism because - ?... I'd have those figures available but not here.

Please listen to me. I would have thought that you might have had some feel for those sorts of figures since, according to

your own statements, programs which are designed to reduce return customers are an important part of your duties. I just wondered, out loud, as an extension of that, whether in fact we could find some way of proving whether the skills that you're required to exercise are materialising into something tangible. But we can get that information?... Well I did start to try to give you some examples but you wouldn't let me.

No, because I'm interested in you - ?... Length of sentence isn't relevant.

Commissioner, I may even have to seek your protection here.

COMMISSIONER IMLACH: Superintendent Hawley, you do have to answer the questions and if Mr Willingham wants to cut you in midstream, that's his prerogative, I'm afraid?... Thank you.

MR WILLINGHAM: Thank you, commissioner. Now if we could just go to the final paragraph of question 20: Strategies have been developed which are reflected in changes to various Regulations and Standing Orders. Could you tell me which strategies, which regulations, which standing orders? And could I just preface that question to you by saying that a previous witness gave quite detailed evidence on changes to the standing orders, not regulations, that were alleged to have occurred over the last 10 years. And I'm not able to recall - not having those documents with me, I'm not able to recall anything which would fall into that category. So could you please tell me what strategies and which regulations and standing orders they're reflected in, please?... Well, of course, strategies don't come into standing orders or regulations. Strategies are just what they say, what they are and those are -

I'm sorry, could you repeat that for me?... I say, strategies are not contained, of course, within regulations or orders. Strategies are those things that we develop as we go along when we identify needs. The sorts of things that we put in place and, of course, that would involve the fairly recent, or in the last few months, the appointment of a manager of programs to assist in that area, the greater development of programs aimed at assisting prisoners to be better prepared for their release into the wild world.

Superintendent, can I just pause you there for a moment. I may have misunderstood what the intent of this statement is. I mean, I'm not going to hold anyone responsible or be critical for - if the wording doesn't quite convey what you meant. I took it to mean that strategies have been developed and that you would now see them reflected, those changes, by amendments to regulations, by amendments to standing orders. But from what I understand you're saying, that's not quite what you meant?... I'm not necessarily saying that.

Well you're not saying that?... Yes.

In fact you didn't say that?... I didn't say that. But it will be contained - there may well be a reflection in some of them, and a recent example, as I said earlier, is the fact that it was an offence for a prison officer to speak to a prisoner. That's been removed from the statutes.

I understand that. But that's from the statute. I was going to come to that particular one, actually, because I have a volume here which I've been - commissioner, that's 'Rules and Regulations for the Penal Settlement at Port Arthur' 18 - ?... That's no longer current.

Well I'm not so sure. It's interesting you should raise that. Isn't wonderful how I get prompts if I just wait long enough, commissioner. Isn't it wonderful, it just falls there. See, when the witnesses won't confine themselves to simple answers, if you're patient you'll always get the lead. And now you've reminded me we will bring this to the attention of the commissioner at the relevant parts. But when you said that it was at one stage - you've successfully sidetracked me again - it was an offence to speak with inmates - ?... Other than in the course of your laid down duties, yes.

Yes. When was that decriminalised, is a fancy word for it nowadays?... Just a few months ago.

Right. But when in practise did it stop being a matter which - I'd better tell you, I don't want you being ambushed on this. In 1985 - 1984-85, when then Commissioner King conducted the work-value case, superintendent, a matter of which I am aware that you would be very familiar with?... I remember that, yes.

.... recall the evidence of how many people were saying that they spoke in such understanding and sensitive ways to the inmates. Now are you saying that at that time, 10 years ago, they were committing an offence?... Yes.

Did you take any action? You were then, I think, a senior officer. Did you put anyone on report?... 1985, I would have been a senior prison officer then, yes.

You certainly were?... You've done your -

Did you put anyone on report?... I don't recall observing anybody doing it, actually, at the time.

Has anyone ever been put on report in the last 10 years for speaking to a prisoner?... In the last 10 years, I don't believe so.

That's good enough for me, superintendent?... I can't deny it's happened, of course, but I've no knowledge of it happening.

Well, that's fine, that's fine.

Commissioner, I don't know whether at the commissioner's convenience might break, or would you care for me to continue through.

COMMISSIONER IMLACH: I think you should keep going, Mr Willingham.

MR WILLINGHAM: Thank you. You're enjoying it, commissioner?

COMMISSIONER IMLACH: I don't know about that. I don't know whether that's appropriate, Mr Willingham. Although my eyebrows did raise when you produced the Port Arthur booklet, I must say that.

MR WILLINGHAM: I'll arrange - if you have an interest in things historical, commissioner, I'll arrange for a copy to be made available to you -

COMMISSIONER IMLACH: No, no.

MR WILLINGHAM: - and you'll see why we will ultimately claim that the more things are alleged to change the less they do.

I was just interested in your comments regarding clothing, superintendent, and that's when we get back to - I'm sorry, it's on question - at some stage - I can't locate it at the moment - you say that it would create a bad public image.

MR GREY: Question 13.

MR WILLINGHAM: Question 13, is it? Thank you very much. Yes, question 13, you talk about your responsibility in a fiscal management sense to ensure that prison officers are - ?... No, prisoners.

Prison - ?... Prison officer you're saying.

Oh, sorry, to ensure that prison officers discharged their responsibility of ensuring that prisoners are properly clothed?... Yes.

You see, you can always change it?... Yes.

Don't step in, let me - ?... Pardon?

Don't step in, just listen. Now you say it would be not good management and that it would reflect poorly on the prison

service if prisoners in regular daily contact with the public do not have proper clothing, and in that context you were talking about the work gangs?... Yes.

That's the work gangs, I assume, at the Botanical Gardens - ?... Yes.

- Government House - ?... Yes.

Do they go anywhere else?... They go out - we have a rural fire brigade. They go out into the public and from time to time we've had a number of other gangs, some quite short term ones, other longer term gangs with the gang working at Cornelian Bay Cemetery; we've had gangs working with Landcare Australia, and other minor jobs.

Isn't it always the case that the prison management has an absolute responsibility to ensure the proper clothing of inmates?... Of course, and that's why I solicited it as one of the responsibilities.

Is it a new responsibility?... Well it is in terms of my prison, that I'm giving evidence on. It's been open for 3 years only.

Where I come from that's called sophistry?... It's called what?

Sophistry?... I've never heard that one.

Now can we just say, in your previous life, when you were not in the medium security prison and you were an officer elsewhere in the prison complex, is it a fact in that previous life that the prison officials, the management of the prison, the Corrective Services Division, have always been responsibility for the proper clothing of prison inmates?... Of course, but it's certainly a very major factor when prisoners are out in the public that their clothing is presentable, clean, tidy and all the other things - perhaps a little more so than when they are not.

I understand that and I understand what you're saying. What I'm trying to establish is that in that particular matter, there's nothing new is there, nothing has changed about the requirement to have prison inmates attired suitably?... Yes and no. The clothing some time back used to be of a very inadequate standard.

Are you talking about its composition or its appearance or what?... Well the short-sleeved shirts that they used to wear in winter time and things like that. They were most inappropriate.

That was a decision of the prison management, was it not?...  
Yes.

I assume - is it correct for me to assume that prison management must have made a decision that they were appropriate clothes?... At that time?

Yes?... Yes.

And that would be consistent with their responsibility to ensure - ?... Yes.

Yes, I think we're getting there. Right. It's interesting, commissioner, that that responsibility for ensuring that prison officers are properly clothed and appropriate hygiene standards are maintained -

COMMISSIONER IMLACH: Prisoners.

MR WILLINGHAM: Prisoners, I beg your pardon - goes back as far - if not earlier than 1868, and we'll submit and we'll show you later why we say that not only hasn't anything changed in 10 years hasn't changed in 133.

COMMISSIONER IMLACH: Yes. Mr Willingham, I'm sorry to go back on that point, but you did refer to a break. How long do you expect to be going for?

MR WILLINGHAM: Well, I'm not altogether master of my own destiny on this, so I would have expected to have been finished by about quarter past four, commissioner, but it's been a little harder to get crisp responses than I'd anticipated.

COMMISSIONER IMLACH: So, we'll go -

MR WILLINGHAM: I think it's likely we'll see the close of business.

COMMISSIONER IMLACH: Well we will have a break for about 5 minutes.

MR WILLINGHAM: Thank you, commissioner.

SHORT ADJOURNMENT

MR WILLINGHAM: Thank you, commissioner. Superintendent, if I could take you to question 12 of your statement, question 12 of TPOA.99 - second paragraph - or the answer to the question - ?... The answer.



- in the second sentence, you talk - or you describe your role there as essentially meeting budget targets by risk management. What do you understand by the accounting term 'risk management'?... Risk management is assessing the needs of the things that need to be done, prioritising them, deciding what can be put off if you can't afford to do it, what the longer term implications of that failing to carry out things might be, and ensuring that the things that must be done which will have the worse longer term implications get done.

And that's what you mean when you make reference to risk management?... That's - yes, that's it in a nutshell, I guess.

Thank you. Thank you. Now if we can go up the page just a little bit to question 11 and your answer in the second sentence where you have stated: oversee escorts, means allocate appropriate security to an inmate depending on the circumstances?... Yes.

That particular function, is it new?... No.

Thank you?... It's certainly varied by the fact that we now have more and varied institutions, but certainly there has always been a responsibility to some degree to do that.

And - well just to simplify it, if you had a known particularly volatile inmate - ?... Yes.

- who was required to be transported from one place to another, would not it have always been the case that you would exercise a degree of judgment as to who you allocated to escort that particular inmate?... Yes.

Now, perhaps I could just give you a general question. As superintendent of the medium security prison, you are in effect the manager of that prison?... Yes.

And as such, given your reporting lines to the next level of responsibility, your job - as you quite properly have said - is to manage the operation on its wider sense of that establishment - ?... Yes.

- and it was that that I'm linking particularly to TPOA.100. Is it correct for me to say, in the context of the statement I just paraphrased and with which you agreed, that your role as the manager, the superintendent of your prison, is elaborated upon and detailed in TPOA.100?... Yes, and I must say, in all fairness because I'm representing myself not so much the other superintendents, is skills listing may well contain one or two things that are not pertinent to me personally in my prison. It's a skills list for all superintendents.

Just as a matter of fact, this skills listing which was clearly produced in July of 1993, if we look at the date at the bottom - ?... Yes.

- has that got any sort of official status from the Corrective Services Division?... Well it has - it's been recognised and accepted as the basis on which the training courses are to be set and in fact, in that - in the forum in which it was produced, the then manager of corrective services or custodial corrections was in attendance and a part of this. I can't say, of course, what's happened to it since, but it was certainly produced as a bona fide document arising out of those two meetings.

Don't have any doubt that that's the product of your meetings, the two half day meetings I think you referred to them as - ?... Yes.

- what I was trying to discover was whether subsequent to that, having produced by the officers which are included in TPOA - or their names are included in TPOA.99, has that been given formal recognition - formal status by your department?... For what purpose?

Well for any purpose at all?... I believe it has a - my understanding - I can't testify to the fact - my understanding it has a formal status within the staff development area for the purposes for which it was developed in the first place.

Why do you suppose then that Mr Marris has never seen the document before today?... I'm surprised to hear that he hasn't actually.

Well he hasn't, so why do you suppose that he hasn't?... I've no idea. I can't answer that. I'm - but I am quite surprised to find that out.

Well maybe you would like to take that up with him, you and your colleagues at a later date. We won't detain the commission on \_ ?... The person's responsible is no longer with us, that - I would have understood would have forwarded that document to him or let him know that we'd produced that document.

Perhaps that's an indication of its status, the document status?... I have no idea. I can't answer that for you.

Okay. Let's just go to TPOA.100. Now, in the context of this work value case, the commission and myself are particularly interested to discover what changes have occurred and then when we can identify what changes have occurred, the commission and your advocates and myself will give submissions and make submissions in relation to what we think those

changes mean in terms of work value, if anything, so if we can just go to that group on the first page of TPOA.100 which the heading is 'inmates', is there anything in that couple of dozen dot points which you would say, superintendent, is something new?... I can, but I have to say that the very fact that it's been developed is partly as a result of the fact that we never had superintendents any way in these areas. They don't exist in the award and that of course if the major change. We do have these people now, even though not designated as such, and this is an attempt to identify what they do in those positions.

Well this is a - this is dangerous ground you're treading on because the commission had some difficulties with this early on, so we better not develop that too far or we both might incur his - his scrutiny. What I'm trying to establish is that in terms of your job, the duties that you are required to carry out and the skills that you are required to exercise, in that listing of inmates, how many of these things are new - not necessarily new to your colleagues, new to you. It's very difficult for me to get a handle on what the value of TPOA.100 is. If you put that forward, superintendent, to the commission in support a claim for greater money, I - let alone the commission - want to know what is there in there that justifies a work value increase. So that's what I'm trying to identify and it seemed to me that the simplest way to do that was to go through each of the dot points or have you identify which of those matters reflect change and in your view, justify increase work value. Does that help you understand what I am trying to get?... Yes, I fully understand what you are saying, however -

So, could you do that for me, please?... - but what I'm saying is the superintendents didn't exist and of course all of it really is new to superintendents in that period of time because they didn't before exist, however you say we ought not to go down that track, -

Well - ?... - but I'll try to identify areas that certainly have changed within my period of time as a superintendent.

Well - ?... That may well be helpful.

Well it certainly would be, but before you do that, commissioner, if I might just pause with the cross-examination. I think at this stage under that basis, I'd be inclined to take Exhibit TPOA.100 and unless I'm advised differently by my colleagues from the associations, I'd regard it as an elaboration of the classification structure proposed by the Exhibit TPOA.98 and if you like, have this sit as an adjunct to the classification level number that goes to superintendents.

COMMISSIONER IMLACH: Yes.

MR WILLINGHAM: Would that give you any difficulties?

COMMISSIONER IMLACH: Well none at all, except, going back, I've written here on top of this - and this is for you as much as anyone else, superintendent - these are the skills currently required of Superintendent Hawley. That's what we all agreed before we started.

MR NIELSEN: That's correct.

MR WILLINGHAM: Yes, indeed.

COMMISSIONER IMLACH: Now you're not saying that now, superintendent?... No, Mr Willingham just asked what has changed in this list now as to what we use to do and I'm saying that some of those things are now different to what we use to do. Further to the fact, of course, that we never had superintendents anyway going back to when - to '85.

MR WILLINGHAM: Maybe commissioner, it would be - perhaps the best way to handle it would be to adopt the superintendent's words and say: well we'll have to take this in the narrow context of between 1991 and now, when superintendents have been in existence.

COMMISSIONER IMLACH: Yes. Well I don't mind that. I mean, I think Mr Nielsen is the one who is trying to show us what's changed, but -

MR WILLINGHAM: Yes, I -

COMMISSIONER IMLACH: - you're trying to get that from the witness which I am most anxious to obtain too, so do you think -

MR WILLINGHAM: Yes, Commissioner.

COMMISSIONER IMLACH: - whichever way you think best to get some sort of information of that order out, Mr Willingham, I'll cooperate with.

MR WILLINGHAM: Well thank you, I appreciate that. I'm just not sure which other way I can do it.

If we could work from here on the basis that we'll assume changes that have occurred to your current position as superintendent - ?... Right.

- since you took the position over and until now?... Right.

And then if you could then - rather than me go through these things dot by dot and send everyone to sleep, if you could

just pick them out at your leisure - ?... Count the ones for you, yes, I'll try to do that.

- and identify which - if any of those items under 'inmates' you believe have changed in the last 3 years?...

COMMISSIONER IMLACH: Just before - I'm sorry -

MR WILLINGHAM: I'm sorry, commissioner.

COMMISSIONER IMLACH: - if I could interrupt - if I put in here 'since 1992'?... Since 1991 it's been my position, yes, yes.

Since 1991?... Yes.

So that's correct, since 1991 these are your duties?... Yes, yes, yes.

In general. I accept what you said earlier, that maybe one or two others are doing, but generally you know about them?... Generally they're mine. There are some things that don't - that aren't mine.

Yes?... It's peculiar to the prison operations that are different from prison operation.

But you're nevertheless aware of them?... Yes.

Is that fair enough, Mr Willingham?

MR WILLINGHAM: Well we'll just see what the changes are, commissioner, -

COMMISSIONER IMLACH: Whatever you -

MR WILLINGHAM: - and maybe if we need to elaborate on it, we can do.

COMMISSIONER IMLACH: Yes. All right?... 1, 2, 3, 4 - dot point 4 -

MR WILLINGHAM: That's provide counselling - ?... - under inmates: provide counselling to inmates and families and that. That's certainly developed to a much greater degree where we have that sort of involvement now - ever had before.

If you could just identify where you think the changes are and perhaps we might come back to them might be the quickest way to go?... Yes. Supervise case management which is the next dot point. Sentence planning which is two dot points further down.

Is that the one that says: plan sentences with support staff?... Plan sentences with support staff, yes.

Yes?... Oversee educational programs - certainly in my area that's changed to quite a degree. 1, 2, 3, 4, 5 further down: provide advice on parole procedures and provision of reports to the parole board. Maintain contact with supervisors in community venues. And the bottom one, of course, administer Freedom of the Information Act was non-existent until fairly recently. So that's the inmate's point of view. Do you want to stop at that?... No, no, that's fine. We'll just continue on I think. It might be useful if we do that. So then if we then go to support staff and personnel and you could take the four dot points there and tell me what your views - just whether you believe changes have occurred - that's all at this stage?... Well liaising with - do you want me to identify the individual ones because it's - certainly some have changed and some haven't?

Well if there's change - only where you believe a change has occurred?... Yes. Right. Well educationalists has certainly changed; programs; welfare; community corrections; they would be the main ones I would identify in that area.

What about the other three dot points under support staff/personnel?... Sorry?

What about the other three dot points, that's the last one on page 1 and the first two on page 2?... Yes, yes, if we could go to page 2 -

Yes?... - and those last two dot points or those first two dot points there: assess programs; approve programs.

Right. They're changes - you're saying that changes have occurred there too?... Yes.

Okay. We go to transport?... Nothing really that I can address there I don't think in terms of actual changes, not from my personal point of view anyway.

Okay. Buildings/equipment?... No real changes although there's been a - probably an evolution of the degree to which you're more accountable than previously, but no real changes; certainly that responsibility's been there.

Okay. If we can go to Clothe Prisoners?... Dot point 1 to a degree.

That's the oversee and - ?... No, the supply of appropriate clothing for work situations.

Oh, I'm sorry, yes. Thank you?... And I suppose included with that is the style and colour - you can look at that one too; that's a part of it. The rest of it really would have existed all the time.

Okay. If we could then perhaps go to food, please?... Well once again, from my point of view, things have developed in those areas - in the overseeing, the menus, the provision of balanced diets - it really takes in most of that, other than of course the little basic things like check deliveries and provide storage that -

Well if you could just guide me through the dot points - ?... Right, go from the top, yes.

So, the first three are you saying - ?... 1, 2, 3, - well the first four -

the first four - and that's it, the first four on that page - first four dot points?... Yes.

Okay. And if we go to page 3 - ?... page 3; the third dot point -

Right?... - which refers to the State Dietician report.

Yes. Thank you. And if we can then go to manage financial resources?... They've all changed.

Organise staff meetings?... Yes, -

All of that?... - all of that.

Public relations?... Probably all of them to a - I mean, that's always happened, but it happens now to a much greater degree. It's a matter of degree, yes.

So the basic functions haven't altered. Are you suggesting there's more of it?... I'm suggesting there's more of it and to a degree a greater intensity of it, yes.

Yes, but not essentially a change. Is that what - I don't want to use my words. I want to use yours. I want to be absolutely sure. If I let this one go, that the commissioner and I both understand you're saying that there may be more of it, but nothing essentially has changed?... Well, support staff and union officials would have changed for individual superintendents.

Looking forward to the cross-examination on that. Right. Thank you. Can we go to staff, please. Could you just do the same with those dot points?... Well on that page they would have all existed but as I say, like some of the other things would certainly have changed to the degree and the importance

placed there on - bearing in mind the budget responsibilities, overtime, that sort of thing. Certainly there's always been a responsibility there, but not to the intensity that it is now, but I can't put it any higher than that.

No, that's fine, thank you. And then of course, that continues in relation - that particular grouping of staff continues on page 4, could you - that's very nearly the end of it, so if you could just run those - incidentally, before you go too much further on that, can you tell me what the seventh dot point from the bottom: process the 701 and the fourth dot point from the bottom: Provide OTT - I'm not familiar with either of those, so could - what's '701'? Is that like an aeroplane, is it?... I'm not quite sure. We discussed this a little earlier on today. I don't know really whether this is a typographical error or something. I really don't know - or it may be one of the other superintendents has identified that. I don't personally know and they're the only two things in there that I don't know about -

What, the OTT and the 701?... - the 701 and the OTT, I -

I hit the jackpot, did I?... Yes, you've got -

I wish I could have done that last Saturday, let me tell you?... - a fifth columnist in there somewhere.

All right. We'll just - for the sake of - and you've got plenty of other dot points under that grouping - ?... I do have to - certainly -

- haven't you, so we could afford to delete a couple and it wouldn't do too much damage?... Thank you.

Okay. Perhaps if you could just then go through the other dot points on page 4?... Well, the EO principle for one thing is certainly not an old thing. You'd be as well aware of that as I in the timing on it and I don't probably need to enlarge on it.

Never assume what I know, superintendent, or what I choose not to?... Basically they have always been in existence, all of those responsibilities. However, as I say, once again it is a matter of degree.

No, that's fine. Alright, well let's work from that back.

And, commissioner, I think with a good wind we won't detain you or your staff too much longer. This will conclude my cross-examination when we have done these points.

Let's just work back. On page 4, then the application of equal employment opportunity principles. What do you understand by 'equal employment opportunity'?... I understand



that equal employment opportunity means that persons will be employed by merit, and not taking into account the gender, race, disabilities, and all those sorts of things, and that everybody shall be given equal opportunity for both employment and for promotion.

Would you summarise that as the merit principle?... The merit principle, certainly.

How long has the merit principle been in operation in the State Service?... I believe in a formal sense, certainly since '85.

You're quite correct. Can we go to page 3, and we'll go up the page because I am dying to get to this bit on public relations?... On what?

You identified the bottom two dot points, that is support staff and union officials and public relations. I suppose you had better explain to us what your public relations function is in relation to union officials and how that has changed over the last 3 years?... Public relations in relation to union officials, I am not sure that they - well, they have been linked, I suppose, they are under that heading. But -

It's your statement, not mine?... But union officials since I started in the system 29 years ago up until recently did not deal directly with each individual superintendent, and fortunately, and it is a great leap forward in my book, we are able to deal with matters before having to escalate and go on further; whereas in the past, and in my time as a union official which you will remember a few years ago, we always dealt with the boss.

And very unkindly sometimes, I recall?... No, we were always gentle with the boss.

Well we are only talking about the last 3 years. What's changed in the last 3 years?... Well, superintendents are now dealing much more with union officials directly than what we ever did previously.

On what sort of issues?... On a whole wide range of issues. Certainly not this sort of an issue in terms of awards, but we'll be dealing with them if we are doing something which breaches the award or the conditions of service.

What could you be doing that would breach an award?... What could I be doing?

Mm?... I could be doing things like changing a person's shift without the required amount of notice.

No, surely not?... All manner of things. I could be. I wouldn't do it, of course, but I could be.

However, the commissioner is not interested in breaches of awards, but - ?... That's why I don't have to deal personally with union officials a great lot of the time.

Is there a set procedure on dealing with union related business in existence in the prison?... In relation to individual superintendents we have recently formalised a situation I have with Mr Craig Hughes, the secretary of the TPOA where he wrote to me and I've replied in writing to him to set up a formal regular monthly meeting to address any matters, and that's never happened before.

Yes, I understand that. But you have got a grievance dispute procedure in the award, haven't you, clause 10?... Oh, yes.

Yes. So, if a dispute or a grievance should arise -

I'm quoting, commissioner -

- the following procedure should be adopted: that the matter should be referred by the employee organisations to divisional management?... Yes, but these days, like lots of things, we now try to resolve issues without going into dispute procedures. There are far better ways off, and it may be that something has been done quite inadvertently.

Look, I don't have any difficulty, but one of the things we ought to address our mind to now then is perhaps amending our disputes procedure to incorporate modern day practice?... It may be a useful thing to do, but certainly we try to address things well before going into disputes, if we possibly can. It benefits everybody.

Do you deal with all of the unions that have got members on the prison complex at Risdon?... I'm in a position where I do from time to time. However, generally it is with the TCOA of course who represent the bulk of the staff in the prison.

The TPOA?... What was the TPOA.

I understand they still are, is that correct?... Tasmanian Correction Officers' Association.

MR NIELSEN: Commissioner, we will address this. That is correct. There is a little bit of confusion on it. At the moment we are not registered before the commission as the TCOA, or we are not recognised in those areas. It is an internal decision we have made, but it hasn't been formalised, and towards this commission we are the TPOA?... Thank you. What I am saying then is the TPOA as recognised by the commission, yes.

MR WILLINGHAM: Now, 'the public relations with support staff', what does that mean?... Well we have a greater level of support staff these days in terms of programs people and the welfare area has been expanded considerably. Education. Those are the people we talk of as support staff. And I suppose that extended to the forensic staff, too, to some degree. And we need to liaise with them quite often and identify issues and approve of issues that they might - or programs that they might generate - either by our request or for other reasons.

Yes, I think I comprehend the need for you to liaise with these people, not just someone at superintendent level but perhaps at levels below that. I'm unsure of what the public relations component is. If that could be read as meaning, let's shall we say, dealing with people in a correct manner, then I understand it. If it is public relations it suggests something more?... Probably I have to apologise for the layout of the document in some way. I did produce that document myself and to some degree I am stuck with the layout -

You give them a good talking to afterwards, superintendent?... And I may have produced it slightly differently. But what I am saying is, in terms of support staff it is not just liaise, it goes a little deeper than that. We work with them in the development of programs, and we need to approve anything before it can happen in our prison.

Yes, superintendent, I don't want to labour this point because it is not huge, but public relations is a quite specific function generally understood, and that is the dealing with public presentation, the public image, which government determines is to be conveyed to the public at large of any particular department - in this case the prison service. Now my thought would be that you don't have a role in that?... As I said, the document perhaps is not presented in the way I might have done. It didn't emanate from me. I was a party to the putting together of the skills in it. But it does have some public image involvement in it in that together with us and -

Well, what instances do you represent the public relations role of the department? Give me a specific example?... Well in cooperation with the support staff we produce documentation, guides and advice for visitors to the prison to assist them. The families of people who I certainly consider -

Suitable brochures telling you what to do when visiting?...  
Yes.

Yes. Okay, look I understand that, but that particular document is not your responsibility, is it?... It's my responsibility to have input into it to make sure that my section is produced correctly.

Yes, but if we categorise that then as, let's say that that function should be called production of prison documents for publication to visitors and others, that would be a more accurate thing than saying you have a public relations function in relation to support staff?... I'm happy with that.

That's fine. Thank you. Can we go up the page to 'Organise Staff Meetings'. Now you say that all four of those dot points, and that is, 'Prepare Staff Meetings Agenda', 'Conduct Staff Meetings', 'Ensure Meeting Minutes Are Kept; and 'Obtain Feedback from Staff' are all new functions?... In recent years, yes. In very recent years. They never existed before. Staff meetings weren't held, and the only staff meetings that were ever held was union meetings. Management never called staff together and sought feedback from them and were guided by that feedback.

Let me just get back to a question I asked you some time ago. In your role as superintendent of a discrete prison - one 'e', discrete prison, you are boss, you're the manager, and you have responsibility for the staff, amongst other things?... Yes.

Is it not, in your view, a very natural and unremarkable thing for you to organise meetings with your staff from time to time?... That's quite proper, but what I am saying is it never used to happen. This is a change.

I understand that it is a change because superintendents have only been in place since 1991 and you now do that, but is it a change from your previous life, pre 1991?... Yes.

Yes, because you weren't in the superintendent's position?... And I wasn't invited to attend staff meetings by any previous person in authority.

No question of whether you were being invited, it is now a question that you are claiming that one of your new responsibilities is that you actually conduct these things?... Yes.

My question to you is, as the manager of that complex, that specific complex, what is remarkable about organising periodic discussions with your staff?... I'm not claiming it is remarkable, I am saying it is something that never used to occur, and it is proper that it should occur and it does occur.

That's fine. The only other aspect of that, that the obtaining feedback from staff, I mean that is something that you claim is new, that you have never in the past - ?... Quite new, yes.

In supervisory positions that you have held from senior upward over the years, and your experience goes back a long way, you have never thought it necessary to obtain feedback from staff under your control?... No, I didn't say that at all.

Well, let's just stay with what I am asking?... What I am saying here, that feedback from staff is now considered important and valuable and quite often acted on if it is proved to be important. A short few years ago and beyond, and as far as I can remember, staff mind their own business. They got on and did their job, and 'I am the boss, you're the prison officer, get on and do it. I'm not interested in what you think about it.' That was the old style of thinking. And that has certainly changed and progressed, and very much for the good.

So, in your position of senior prison officer, when you had a direct responsibility for the serving officers, did you or did you not from time to time elicit feedback from subordinate officers?... Maybe in an informal way, but those days a senior officer's duties were somewhat different from what a senior officer's duties are now.

Well, we are starting to stray - ?... But I am not giving evidence on that.

No, I really don't think we ought to get into that one, but I am happy to do so if the commission has got the patience and the time. And you say that - let me ask you just a single question about your former life. Did you think that as a senior or other ranked officer that the welfare of your staff and what matters were important to them or of concern to them was no part of your business as a supervising officer?... I don't think that that claims to say that in those four dot points we are addressing.

No, no, we are not talking about that. I am asking - ?... Oh, right, you have gone away from that.

I'm directly relating my question to your comments which were - ?... My personal views are -

You as a serving senior officer, did you believe or did you not believe that the concerns, the everyday concerns of your subordinate staff were a matter that you should properly take account of in your role as a senior officer?... My personal view is that certainly it should have been. That was not a management view at the time, though.

We'll have a look at that later, but .... interested in your personal views. If we can go to, 'Manage Financial Resources', still on page 3?... Yes.

All of that's new?... Yes, we walked through that in my earlier evidence.

In the context that it is new to the position of superintendent of medium security prison?... Of all the prisons.

Well, new to the superintendents?... But from my evidence, my prison, certainly.

And it is new as a result of the superintendent position being created?... Partly as a result of that, partly -

Well, who did it before?... The accountant, or something like that.

He must have been a valuable officer if he has done the work it takes six of you to do now?... There was an overall, a general pool of funds, and people were able to go willy-nilly about their business requisitioning things from the stores regardless of whether we had the money to pay for it, certainly.

We had better bring Mr Harvey back, I think. If we can go to pages -

MR: ....? Mr Reece.

MR WILLINGHAM: A Mr Reece. The bottom of page 2, the subheading, 'Food' and the first part of page 3. Just going backwards again, on page 3, the last dot point, 'Receive a Biennial - 'Biannual', I am sorry, these glasses are getting worse, commissioner?... Twice a year.

Oh, twice a year?... Biannual.

I'm sorry, so every 6 months you receive a report from the state dietician and make adjustments as needed?... Yes. He visits the prison and he looks at the menus, he looks at the food we have been providing, and he takes us to task if we are not providing proper nutritious properly balanced meals. But we have to be able to do that within the budgetary context.

Okay. Can I just ask you, and it is only a matter of interest. We heard evidence some many years ago, or it seems like many years ago, perhaps it was many months ago, from the senior officer who acts as the cook catering officer, so styled?... That's in one prison only, of course.

I understand that. Is there any linkage between the people who are responsible for catering in its general sense with that particular person?... No.

So it's all self-contained?... Yes.

So who does the cooking, for instance, in your prison?... Prisoners.

Under the supervision of any qualified cook?... No.

At all?... No, under the advice given to us both by the state dietician and occasionally from the medical officer, that also does inspections to do with hygiene, cleanliness and so on, and he will make comment on food and diets and menus and so on. But my deputy, the senior prison officer, is two in charge of my prison. I've delegated a responsibility to him to ensure that the proper dietary guidelines are met.

Yes, sure, thank you for that?... And he's answerable to me for that, of course. He's no qualifications.

No, I was more concerned with the people who are actually doing the cooking?... The people doing the cooking are prisoners.

They could be motor mechanics - ?... Well they could well be.

- in civilian life?... We select the people that are best able to carry that out and we're somewhat at the mercy of the courts in that respect.

Do you think you could get them to sentence more grill chefs or something?... Their recruiting campaign isn't very good.

We could then go to page 2, the first four items under the caption of 'Food'. Can I take it that those four items are essentially part of the same thing, that of assuming a catering role within the medium security prison, when it was opened?... Yes, although, as I say, it's evolved a little because we now have the intervention of the state dietician which we didn't have in the early days. We were flying by the seat of our pants largely.

Okay. And I think we'll just make this in time with a bit of luck. Clothe prisoners, you had identified the first two dot points: Supply appropriate clothing for work situations, and determine style and colour of clothing. Let me ask you a different question. Are these arduous tasks?... No, and I don't claim them to be arduous. I claim them to be a part of my function there and it's something that's evolved since. We now dress prisoners in the medium security prison that go out in the public somewhat differently in terms of colour et

cetera, to try to make them blend in and look like ordinary people so as not to embarrass them when they're out working.

Not to blend into the shrubbery so - ?... Oh, no, the clothing is not green or brown.

COMMISSIONER IMLACH: You couldn't resist that, could you, Mr Willingham?

MR WILLINGHAM: I couldn't, commissioner. You know me too well.

I want to deal with the support staff/personnel as the last item because there are a number of more complicated matters. Could we just go now to page - ?... Sorry, where are we?

We're going to turn to inmates on page 1?... Right.

And the eight items. We can quickly deal with the administer of Freedom of Information Act. I'm not quite sure which year that came in, about 1992, I think. How many requests of freedom of information, under the Freedom of Information Act, have you dealt with?... Have I had?

Yes?... Only a couple, certainly not significant.

They're not directed to you though, are they?... They go through me.

They're passed to you by an appropriate higher officer?... Well the request may well be generated from an inmate or from a person of a lower rank through me onto the general manager.

Yes, the point that I'm making is that you - ?... I don't make the decision on it.

- haven't got the statutory responsibility for it?... No, not at all. I don't claim that.

No, fine. If we could go to the top item there which is: Provide counselling to inmates and families, I think you'd better explain what you mean by that and how it's changed in the last 3 years?... In terms of myself?

Yes?... Of course, the prison wasn't there prior to that and this has developed over the period of time that we've been open. I find I'm having a greater involvement with families and their problems and trying to give some assistance and guidance and pointing them in the direction of maybe when you can't help them to agencies that can help and contact with agencies and so on.

Yes, that's consistent with evidence that's been put before the commission previously. And the same - is much the same is



true of the case management because that's a new feature to the medium security and women's prison isn't - ?... It's absolutely new - in the prison system altogether it's new and it started in the medium security prison and we've since devised different and better, more effective documentation to carry it out.

Pity you didn't identify 'use sub-culture jargon' as one of the changes since - ?... The jargon has changed a little but -

I just really would like to have given that a run but you didn't and I can't. The next dot point was: Plan sentences with support staff?... Yes.

Just take me through that?... Well it's still developing but has been going for some little time now, whereby -

What does it actually mean, plan sentences?... Well it means sitting down - the support staff and perhaps myself or a case manager, depending on where they are and in which prison, and actually planning and setting out what their goals might be and us identifying what their needs are, to address those goals and it might look at their progress through the prison system from maximum, ultimately down to minimum security levels and what they might be able to do at those various levels.

I understand that, thank you. The next dot point was to: Oversee educational programs?... Yes.

And the changes have occurred where in that context?... Well the expansion of the programs that are available and what's being done for people now in terms of education that never was done before and could not be done.

More of the same?... Oh, no, a greater degree and variation of programs.

The overseeing aspect of it. Does that require you to exercise more skills or is it just that you've got more of it to do?... I'm doing a lot more of it than what I ever did, yes. I'm not sure whether the skill level would be any different, although you're called on to assist an awful lot. When many of these people are semi-illiterate you've got to be able to give assistance to them, of course. But that's not changed, they've always been that way or a percentage of them have.

Thank you for that answer. I had the same sort of debate with one of the previous witnesses who wasn't - ?... Did you get the same answer?

No, yours was far more in agreement with my views that I was attempting to put to the commission, thank you. I'll build that into my concluding remarks.

If we go to the next dot point: Providing advice on parole procedures?... Yes.

Where is the change there?... Parole reports, as done by superintendents, used to be a one-off document very close to the time the inmate was going to be seen by the Parole Board. We are now, particularly on the longer term inmates, say from 12 months and upwards, we're doing 6-monthly interim parole reports which, in fact, go through the various levels. They're done by the education officer, the programs officer, the work supervisor, onto the superintendent and then the inmate is actually shown that report, something which never happened before, and he's asked and invited to make his comments after reading it. And we're also, and I certainly have been called on to give verbal evidence to parole boards on a number of occasions, sometimes at quite considerable length.

Can I just ask you then two questions. The providing of reports to the Parole Board has always been a function of some prison officers?... At the higher level, yes.

Are you saying that - well you are saying that the frequency of those reports has changed?... And to some degree the nature of the content of the report and how many people have input into those reports.

Yes, right. And then in the provision of advice to the parole boards, that's also been the function - ?... No, that doesn't say to the Parole Board - provide advice on parole procedures.

No, no, no, hang on. No .... You just said that you had been in a position where you had spoken with parole boards, you've been asked to give advice to them. Is that what you said?... Yes, you're talking to the second dot point about parole then. I thought you were going back to -

I'm just talking directly to what you just said?... Yes.

So I assume that means you in person fronting to the Parole Board - ?... Appear before the board.

- and giving them advice - ?... Give evidence.

- and giving your - ?... Answer questions.

- well whatever, yes?... Tell them what you know.

That has been done in the past by prison officers, senior - with a capital 'S' - prison officers?... Oh, very rarely, I would think.

But it has been done though, has it not?... Not to my knowledge.

Okay?... I've only been doing it in reasonably recent times, in the last 2 or 3 years, actually being called up before the board.

Right, so in terms of your appearances before the board, what you're basically doing, as I would understand it, is giving your views in answer to questions from the board about a particular inmate?... It may be an answer to questions or it may be just: Tell us what you know about so-and-so. That's a question, I guess, yes.

Yes, providing your first-hand personal information?... My knowledge of an individual that's being considered or maybe considered for parole.

Rather like you're giving information to the commission today?... Oh, a little more comfortable it is, actually. You're dealing with somebody else, not yourself.

So no great skill obviously, because you haven't shown any sign of distress today?... No great skill involved in going to the Parole Board?

In parting information in an honest and forthright manner?... There's no difficulty with that, depending on your personal character, I suppose. But the thing is with giving first-hand verbal reports to parole boards they go very much more in-depth than the written reports and you have to bear in mind that you may well have some individual person's life and future in your hands. And that's quite an onerous -

It doesn't sound much different from these proceedings?... Quite an onerous task as time, I can assure you.

I'm sure you discharge it very well indeed, superintendent, as you have done your duties this afternoon. Can we just come to the: Maintaining of contact with (non-staff) supervisors in community venues. I think you have actually covered that in earlier remarks. This is your liaison role?... Not with support staff. With non-staff -

No, but you mentioned with other groups, community groups?... Yes, going out to - we're currently organising meetings with people at the Botanical Gardens and Government House for setting up some credentials for prisoners doing short courses there, things like that. With the Landcare people, the cemetery at Huonville that we did, maintaining contacts with

those people and ensuring that the work is being done to the standard that they and us require it to be done.

What were you doing at Huonville Cemetery?... We restored the memorial cemetery that was vandalised there, and we had two prisoners working there. You obviously don't read the 'Huon News', they got a lot of praise.

I don't read the 'Mercury', superintendent, let alone the 'Huon News'. Okay, in your own words, summarise for me please, superintendent, in total the four dot points going to the support staff/personnel, the areas you claim have altered. How has that changed, the assessing of programs, the approving of programs, the working cooperatively with the above, and the four dot - the four sub-dot points you claim had changed under the heading 'Liaise'?... Yes. Well, as I say, there's been a considerable increase in the activity in these areas and the need for us to be able to identify and relay to these people the needs, such as educationalists. And a lot of this arises out of case management. And the same with programs, that area has expanded considerably. We had no program officers; we now have a manager and a couple of programs personnel that we work with quite closely, both by identifying to them and discussing with them the programs that they are going to design and put into place. And the same with welfare, in fact, in the welfare area myself and staff that work in my prison, because they are case officers, tend to do some welfare work that would not be done. But once again, we're talking about another area of the claim, of course, and I won't enlarge too much on that, except to say that they do it under my guidance, of course.

So you told us. Thank you for that?... And there's a better cooperation and understanding between custodial corrections and community corrections these days, which is very helpful to both sides. The community corrections people often get in touch to obtain advice from superintendents when they're preparing reports for the Parole Board themselves and so on, what we know about people. We're able to help community corrections people quite a lot in the preparation of their reports.

So one last question to you. If you had to encapsulate one single major change - and I don't for one moment ask you to concede that there has only been one single major change. Tell us one single major change that you would identify as more significant than any other. What would it be, superintendent?... Perhaps if I could refer you to question 20 and the answer contained therein.

Please do?... The level of - and the first paragraph is: The level of accountability and responsibility, and for the sake of the exercise I will delete the whole range of function of prison officers. But certainly the level of accountability

and responsibility and, of course, included in that is our move towards attaining our goals and objectives within those responsibility and accountability functions or areas.

Superintendent, you've been very patient. I've appreciated your candour, as always. It was very, very nice to do business with you again. Thank you very much.

Commissioner, no further questions.

COMMISSIONER IMLACH: Thanks, Mr Willingham.

MR NIELSEN: No further questions, commissioner.

COMMISSIONER IMLACH: No further questions. Thank you, Superintendent Hawley. You are relieved?... Thank you.

Now gentlemen, where are we?

MR NIELSEN: I understand adjourned to 10.30 on 31 May.

COMMISSIONER IMLACH: That's what I thought.

MR WILLINGHAM: Before you do, commissioner, just so that we can be clear, through you, have my colleagues now concluded their substantive submissions?

COMMISSIONER IMLACH: Good point, Mr Willingham.

MR NIELSEN: That's, as I understand, my instructions, Mr Commissioner.

COMMISSIONER IMLACH: So there's no more as far as primary submissions are concerned from the prison officers.

MR NIELSEN: No, Mr Commissioner, and we thank you for your patience, and to my colleague at the other end of the table, and in regards to .... exhibits and submissions, Mr Commissioner.

COMMISSIONER IMLACH: Thank you, Mr Nielsen.

MR WILLINGHAM: I just advise the commission and the parties, we certainly will be in a position to proceed, and I would hope, commissioner, to just about conclude on the next day of sitting, although it will be wise to leave that extra day there in case we run over.

COMMISSIONER IMLACH: Thanks Willingham. This matter is adjourned.

HEARING ADJOURNED