



**TRANSCRIPT OF PROCEEDINGS**  
*Fair Work Act 2009*

**COMMISSIONER PERICA**

**C2023/3617**

**s.739 - Application to deal with a dispute**

**Mr Larry Goldsworthy**  
**and**  
**Victoria Police T/A Victoria Police**  
**(C2023/3617)**

**Victoria Police (Police Officers, Protective Services Officers, Police Reservists and Police Recruits) Enterprise Agreement 2019**

**Melbourne**

**10.00 AM, TUESDAY, 28 NOVEMBER 2023**

**Continued from 27/11/2023**

PN2502

THE COMMISSIONER: Okay, Sergeant and Superintendent.

PN2503

MR L GOLDSWORTHY: Commissioner, is it possible to make a request, please, that I have permission to remove my jacket during the hearing? I'm finding it's really very hot.

PN2504

THE COMMISSIONER: Of course not. Yes. Yes, please.

PN2505

MR GOLDSWORTHY: Thank you.

PN2506

THE COMMISSIONER: If anyone else is feeling discomfort, please, and thank you for asking. You didn't have to. I once did a matter in the Supreme Court of the Northern Territory and the air conditioning in the courtroom broke down. You can imagine what horse hair wig smells like in 40-degree heat. Not very pleasant. Please, Superintendent. Thank you.

PN2507

MR GOLDSWORTHY: So are you right for me to continue questioning?

PN2508

THE COMMISSIONER: Yes, please. Yes, please.

**<JOY ARBUTHNOT, RECALLED**

**[10.02 AM]**

**CROSS-EXAMINATION BY MR GOLDSWORTHY**

**[10.02 AM]**

PN2509

MR GOLDSWORTHY: If you turn to paragraph 41, please, of your statement. The last line on there it says:

PN2510

*Currently there are 10 uniform sergeants in ED4 working flexible work arrangements.*

PN2511

Ten times four shifts which equates to 20 shifts lost. It equates to 20 lost shifts per roster or equivalent of two sergeants?---Yes.

PN2512

Do you agree those members are still working the same number of hours per week?---Yes.

PN2513

Do you agree that they're still performing the same workload?---Yes.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2514

Do you agree that, in general, those members are no longer being allocated portfolio shifts as they are able to undertake these duties at the beginning and end of their shifts?---I'm not sure about that. That could be the case, but I'm not sure of that.

PN2515

Do you agree that most of the sergeants on 10-hour shifts still perform eight-hour shifts when they do a week of night shift?---That could be the case. It depends on their particular individual work arrangement. Yes.

PN2516

So, effectively, it's not necessarily 20 shifts lost across ED4 if you take those things into consideration?---No, I don't agree with that because our shift patterns are, in the main, eight-hour shifts, and so we are unable - they have two additional rest days because they work the additional hours per day which means that we're unable to use those members on those days where they're absent on an additional rest day.

PN2517

Would you agree that most sergeants perform a night shift every four to six weeks?---Well, that could be the case. Yes.

PN2518

Yes. So, effectively, for two of those weeks they're working 10 shifts in that fortnight and the following week they might work eight shifts?---And you're referring to the ones that are on flexible work arrangements?

PN2519

That's correct?---Yes. Depending on their particular arrangement - they are working what is known as the old compressed hours - that could be the case.

PN2520

THE COMMISSIONER: Yes.

PN2521

MR GOLDSWORTHY: If we go to paragraph 56 of the respondent's submissions, so not your statements that have been tendered. At paragraph 56 of the respondent's submission, and you and - - -

PN2522

THE COMMISSIONER: Which paragraph are we talking about?

PN2523

MR GOLDSWORTHY: Of the respondent's submissions, so it's paragraph 56.

PN2524

THE COMMISSIONER: That's page 322?---Yes.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2525

MR GOLDSWORTHY: In there, halfway down:

PN2526

*Due to unplanned leave taken during the year the Wodonga PSA is frequently in breach of BMSL, averaging 15 breaches of BMSL per month in 2023. When a breach of BMSL occurs that is not able to be resolved the only available option is to run a station at a reduced service.*

PN2527

How would you roster to prevent a breach or a noncompliance with a BMSL across a year if I was available for 20 extra shifts?---Could you repeat those questions?

PN2528

THE COMMISSIONER: Yes.

PN2529

MR GOLDSWORTHY: Yes. So you have indicated that there are, on average, 15 breaches of BMSL per year?---Per month.

PN2530

I'm sorry, per month, and so what I'm saying is that there are three core shifts, a day shift, an afternoon shift and a night shift, that run at the majority 24-hour stations. If I was available for 20 extra shifts, so the four weeks of purchased leave, how would you roster to impact on those noncompliant breaches? What difference would it make if I was around?---So the first thing that I would say is that - is that the rostering is done and normally posted. So we have not posted a roster that is in breach of the BMSL policy. It's always been compliant, and the breaches occur as a result, generally, of unavailability of staff, mainly caused by unplanned leave.

PN2531

THE COMMISSIONER: Yes?---And in terms of rostering, if we had additional people or additional shifts, which is the same thing, then not only would we look at ensuring that we had extra people on the roster, on particular shifts, but we would also then look at what our priorities are around whether it's road or family violence and all of those other things, and have people who were potentially working tasked to those types of activities, and at the moment we don't have them. So, in answer probably to how it might work on the ground, if we had people, more people available on a shift, if there was an unplanned leave situation, then we would be able to take the extra person that's on the shift and fill that baseline service response, and so that's how that would work.

PN2532

MR GOLDSWORTHY: So what I'm specifically asking is how would you utilise me? It would be 20 extra shifts if I didn't take purchase leave. There's 1095 shifts in a year which is one in 55. How would I make a difference to noncompliance of BMSL in a year?---So I think I have just answered that.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2533

Yes?---The other thing that I would just like to point out in terms of the questions, that the core shifts generally are three shifts a day - morning, afternoon shift and night - but at Wodonga there are two additional units running on the afternoon shift and the night shift. They have a staggered approach. So there are additional people committed to that. So instead of two people per shift, it's four people per shift on those response vehicles.

PN2534

When was the last time any minimum station profile challenges at Wodonga were raised at the RLG?---Well, there's a process for the breaches to be recorded as they occur, and that's done through the supervision and management lines, and there's an intranet portal that the supervisors actually record the breaches.

PN2535

THE COMMISSIONER: As soon as it happens it gets logged?---That's right, and our divisional planning office also is looking at where we have had breaches and they record them as well I believe. So these matters are oversights by the region, and at most of my meetings with the region we frequently talk around our resourcing situation and the breaches of the BMSL because obviously that's the first line of response and then there's all of these other things that we're required to do. So we talk about our resourcing environment and where we are failing - - -

PN2536

Well, you have said repeatedly in your evidence, or not implied it, it's a dynamic process which you're constantly involved in and allocating resources according to the needs - - -?---Correct.

PN2537

- - - on a particular day?---And also talking about the fact that some - that we're not needing something else.

PN2538

MR GOLDSWORTHY: So has there been any practical outcomes from those discussions?---Well, there have been some practical outcomes from some of my requests for additional resources. So that has involved - we have had surge resources applied to the Highway Patrol a couple of times. So we have asked for regional support and we have been sent from the other divisions.

PN2539

THE COMMISSIONER: Is that during holiday period or what was the cause of that?---Well, we have got a high unavailability in our Highway Patrol and so - - -

PN2540

All right. It was an absenteeism issue, rather than a reason there?---Correct. So I would say the first thing that we did was we asked for 13 additional resources the year before and got those, and then I'm constantly asking for additional - well, not constantly - but I frequently ask for additional resources and we have received some, and we have just recently asked for more additional resources for that summer period and I have already talked about that.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2541

MR GOLDSWORTHY: Moving on to the protracted emergency response management model. What can you tell the Commissioner in relation to resource commitments as relevant to ED4 as a result of the PERMM?---So another acronym. The PERMM stands for Protracted Emergency Response Management Model. It's a fancy name for basically it's a commitment between all of the assistant commissioners. So it's a state commitment that, depending on the scale of an event, and that the scale ranges from where we have to commit 250 personnel and upwards of almost 2000, I think it is from memory, that we have a commitment to supply resources no matter where the incident is occurring in the state. So in Eastern Region Division 4 we have a very high frequency of emergency management events and, in fact, Eastern Region Division 4 has the highest risk of fire danger in the state, and we have a number of other events - COVID, floods, fires and all sorts of things - and so we are frequently seeking additional resources.

PN2542

THE COMMISSIONER: Yes?---But that also applies the other way. So there are - currently there's protests in the city and there is already indications that Eastern Region are going to have to supply resources to the Israeli-Palestinian protest. So we apply that, if you like, in that sense for our service command. We're quite - we have to be mobile.

PN2543

And the relative frequency of emergency response as far as fires and floods is one of the resourcing issues you have in ED4?---Yes, and there are, if you like, probably less resource intensive. So things like high-risk missing persons we have a really high frequency of - and that's in my appendices as well - which means that we still supply baseline, but we need to pretty much strip out all of the division's resources and see who we can apply to those high-risk type events.

PN2544

MR GOLDSWORTHY: If you go to paragraph 64 of page 14 of your statement, please. It's the second sentence. It says:

PN2545

*Part of the PERMM is an acceptance that local areas and regions will stand alone for the first 72 hours whilst extra resources are coordinated and deployed centrally. This means that all available resources, including staff who are not on duty, will be recalled for duty for deployment.*

PN2546

Do you stand by that statement?---Well, I have written it. I'm not quite sure what the question is, but yes, that's my statement.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2547

All right. Is it correct that ED4 would have to manage a large-scale event for the first 72 hours without assistance from outside the division or region?---We may. We may ask our neighbouring division, depending on the scale of the event

and what we were attending to. So recently we had an armed offender and our neighbouring division and other resources came from the city very quickly and that ended up in a fatality. So we do try to bring people together and we will work cooperatively with our neighbouring divisions for those types of high-risk or high scale type events, but there are times - so things like missing persons - we will just stand alone and do it ourselves.

PN2548

You would get assistance from a search and rescue squad?---Yes, we can.

PN2549

So it's not necessarily correct that on every emergency that the first 72 hours would be obligated to staff that are solely out of ED4?---No. If your question is do we use other people; absolutely.

PN2550

Yes?---In addition to our own staff.

PN2551

Of the reasons that were given for refusing my application for purchase leave do you believe that it was reasonably foreseeable that with two members leaving Corryong at the start of July that there was a possibility that the vacancies created by them would be filled?---Is the question would the vacancies be filled?

PN2552

Do you think it was reasonably foreseeable that the vacancies would be filled within a timely manner?---No, and the reason why I say that is they're very hard to fill.

PN2553

THE COMMISSIONER: Past history it's been from there and sort of what I have heard it seems to be, you know, problems with getting them there.

PN2554

MR GOLDSWORTHY: Correct, but in this particular case, Commissioner - or I will ask the question directly.

PN2555

You're aware that two people that were previously stationed at Corryong wanted to return to that station?---Yes. I did become aware of that and those positions were filled.

PN2556

Yes, so it was reasonably foreseeable that in July that was going to occur?---No, it wasn't. So it has - Corryong is one of the hardest places to fill in Eastern Region and it, routinely, those positions are not filled and then go through a special category process which means that we have to keep advertising them.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2557

When did you first learn that those two persons were interested in returning to Corryong?---I couldn't say, but it was around about the time I think that the vacancies were advertised, but I couldn't be completely accurate around that.

PN2558

Is it correct that there is no workload benchmarking that's available to compare family violence investigation units?---Is it fair to say that there's not a benchmarking for workload?

PN2559

Yes?---Well, no, that's not accurate. There has been some state intelligence work done by Family Violence Command that does analyse workload and it has been clear that our Family Violence and Sexual Offence Child Investigation Team have far too much work.

PN2560

Now, I will just show you an email that you sent out. It's on the second page. It's halfway down the page and it's titled EWT FVIU. I'm not sure if that was meant to be Wangaratta or Wodonga, but it says:

PN2561

*Operating at full capacity, therefore, relying on workload as the business grounds. No comparisons have been established for benchmarking of workloads so when compared to other FVIU's with a higher FG and workload where purchase leave are approved this may cause issues.*

PN2562

?---Yes.

PN2563

Could you explain that, please?---I can. So within our own division we hadn't done any comparisons of workload. We have two FVI units, so Family Violence Investigation Units, and I haven't done any workload analysis of our own units at that point in time, but I did receive, well before this, an intelligence product that had been done by the state that clearly shows that our FVIUs and our SOCIT's have a very high workload.

PN2564

THE COMMISSIONER: All right.

PN2565

MR GOLDSWORTHY: Further up that page where you have got the short answer is:

PN2566

*No. There has been a rocky process with the approval review, non-approval.*

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2567



could you explain that, please?---Well, I think that's talking about the purchase leave overall in our division over the last two years. It has been rocky, I think, for everybody.

PN2568

THE COMMISSIONER: Yes. Can I just ask a question on that. As I say, I'm really trying to come to grips with it. So it's beyond reefing evidence. It's more like me trying to come to grips with it. It's been the process - and you have been trying to keep control of events - but it's been like herding cats, trying to - it's been suboptimal, hasn't it?---The interesting thing is, compared to other divisions, I think we have actually had a bit of a better approach, but I wouldn't say it's perfect by any means.

PN2569

No?---We have grappled because we already know that we're so resource poor. We're going to have to deal with applications where, given what we know on one side it's highly likely we're not going to be able to approve the majority of leave, and it's not perfect.

PN2570

No?---We got advice from HR around how to run it, which was the sort of panel, but make sure we're consulting. Is it perfect? No.

PN2571

No, and sort of, you know, Assistant Commissioner Langdon's - I mean it characterised as a misunderstanding, but if you read the text of that letter, the messages - or that email - the message is loud and clear, and that seems to me - and I will ask Inspector Henry about this - but, you know, he took the message and he said, 'Well, we're not going to approve any', and that led to an expectation, management thinking a problem. The TPAV had to get involved and all of that. So when I say it's suboptimal, it's not - and really you're groping in the dark to try to get some - you were groping in the dark to try to get some principles around the way you assess it because of the opaque nature of what 'reasonable business grounds' meant?---Correct.

PN2572

And the personal circumstances, how that interacts with that, is a black box in the provision itself?---Yes.

PN2573

So you're just trying to put some objectivity around it?---Well, we're trying to do the best we can in that black box.

PN2574

Yes?---And the other thing that I would say is I think you're also referencing the email by Tony Langdon.

PN2575

Yes?---I wasn't around at that time.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2576

No, you were on leave or something?---I was.

PN2577

Yes, but you know, it was sort of like, that was like a nuclear explosion as far as, you know, the union?---Yes.

PN2578

And the individual members and all of that?---I agree.

PN2579

And that had to be managed afterwards?---Yes. I agree.

PN2580

Okay. Thank you.

PN2581

MR GOLDSWORTHY: Just a little bit further up that page you will see - - -

PN2582

THE COMMISSIONER: Hang on. I'm sorry I interrupted everybody. Did you want to tender that?

PN2583

MR GOLDSWORTHY: Yes. Certainly.

PN2584

THE COMMISSIONER: Where are we up to?

PN2585

MR GOLDSWORTHY: I think we did A11 last.

PN2586

THE COMMISSIONER: No, well, this is R. This is an R.

PN2587

MR GOLDSWORTHY: If you want to do an R.

PN2588

THE COMMISSIONER: R9. Yes. Perhaps we will ignore the above, the Henry thing and just put R9. To identify it, it's the 20 July email from the superintendent to various people.

**EXHIBIT #R9 EMAIL DATED 20/07/2023**

PN2589

MR GOLDSWORTHY: So my next question - - -

PN2590

THE COMMISSIONER: I'm sorry, what was that R?

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2591

THE ASSOCIATE: R9.

PN2592

THE COMMISSIONER: I don't know what's wrong with me. Okay. Thank you.

PN2593

MR GOLDSWORTHY: My next question was just that second paragraph from the top on that second page. It says:

PN2594

*Below info relates to I&R T&C applications. Some applications have been approved out of divisional framework and with (indistinct) awareness. On review, no applications have been supported.*

PN2595

Can you explain that, please?---Yes. So before I - and I have given this in evidence. I had given Inspector Henry the coordination role and sent him the material from the previous year and we have had discussions - and obviously we're very aware of our resourcing environment and our ability to deliver - and there were some applications that were approved locally that I was unaware of.

PN2596

THE COMMISSIONER: Yes.

PN2597

MR GOLDSWORTHY: It actually says, 'On review, no applications have been supported'?---That's right. At that time I was still not aware that there was a couple of applications that had been supported.

PN2598

THE COMMISSIONER: Yes. Well, we had Allerdice. What's his name?

PN2599

MR GOLDSWORTHY: Glen Allerdice.

PN2600

THE COMMISSIONER: Yes. He, you know, he had the true hokey-pokey. He had it was in and then it was out and that is - - -?---Correct, and it's not ideal.

PN2601

No. No, it's not?---So perhaps by way of explanation, my inspectors are at - they're working every day with their team and, you know, there's everybody - - -

PN2602

This is on top of everything else?---Everybody likes to get on well with each other.

PN2603

Yes?---And we do work fairly collegiately together.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2604

Of course?---And so there were some decisions made by them that I wouldn't have endorsed.

PN2605

Yes. Well, as I say, you were trying to take control of it, you know?---And I went on leave and - - -

PN2606

Yes. That's right. No, I appreciate the issue.

PN2607

MR GOLDSWORTHY: Now, Commissioner, like you raised the email TR9 which is from Assistant Commissioner Langdon.

PN2608

THE COMMISSIONER: Yes.

PN2609

MR GOLDSWORTHY: It's in large script for everybody's benefit.

PN2610

THE COMMISSIONER: No, I like that.

PN2611

MR GOLDSWORTHY: So whilst you weren't officially working, you were aware of that email?---Yes. Yes, I am aware of it.

PN2612

What's your takeaway from reading that email?---Well, it's an email from Tony to the RL team members, so the superintendents.

PN2613

Okay. I will be more specific.

PN2614

THE COMMISSIONER: Well, I don't know. The superintendent's interpretation, I'm not sure what it adds.

PN2615

MR GOLDSWORTHY: Okay.

PN2616

THE COMMISSIONER: You know, she wasn't there.

PN2617

MR GOLDSWORTHY: Yes. Well, do you believe that, at the very least, that email indicated that purchase leave should be minimised?---I think it needed to be scrutinised. I think that would be the right word given the discussions around resourcing that we have had ongoing.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2618

THE COMMISSIONER: Well, I will give you my assessment to that for nothing, and of course, this is in the process of trying to consider this thing. The pivotal thing is I have already asked ED6 to contact HR to work through the methods of cancelling their approvals and then to apply a risk assessment approach going forward. Now, that is, to me - and I will ask Henry about that - that is, I mean what the Assistant Commissioner said about that is that, you know, there was a context, like all text without context, and there was emails and conversations going past so you can't take that on its face, but on its face the message from that is loud and clear, to me as I say, and as I say, I haven't reached a concluded view. I'm just trying to think about that, and so, yes?---Well, I think - - -

PN2619

Anyway, that's what I'm wrestling with at the moment?---And I think that's, you know, that's obviously a matter for you.

PN2620

Yes?---But for me, your note that there's - well, I think it's in the evidence - but what I will say about this is that we had already been, for some time - well over a year or close to two years - been looking at the situation. So I can appreciate that Tony Langdon is writing to the RLT, but I think our approach within that division was already well in train, and I think the data shows that it was we applied our own approach.

PN2621

Yes, and so, yes, as I say, everything in context.

PN2622

MR GOLDSWORTHY: So the next thing is we will go to the data?---This one.

PN2623

I will provide you with the documents. Now, you may have seen those documents most likely in that format, but you may have seen some of the data itself.

PN2624

THE COMMISSIONER: So are we looking at the blue thing in that?

PN2625

MR GOLDSWORTHY: Yes, sir, the blue thing.

PN2626

THE COMMISSIONER: The blue. The blue headed in that?

PN2627

MR GOLDSWORTHY: Yes.

PN2628

THE COMMISSIONER: All right. Yes, it's 336 and 335 again.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2629

MR GOLDSWORTHY: Yes. First of all, if we could go to the one 336, which hasn't got the blue thing - all right - and if you, on the left-hand side, look at - and the top left-hand corner - Eastern Region. Go down to Division 4. The number of sworn members, 327?---Yes.

PN2630

Go across to the number of applications?---Yes.

PN2631

The first - and hopefully on yours it's in red - the number of applications last year at 113. Does that ring true to you?---No.

PN2632

All right, and the number this year of 46, does that ring true to you?---No.

PN2633

Over on the very right of that page or of that row I have put in a figure there. Is that close to the facts? I believe you may have said there were 30 applications. My understanding it was 29?---I say 30, but - - -

PN2634

Yes, and from your understanding was there four approved in the end?---I would agree that it's probably four. I know three, but I think it's - Glen Allerdice's was approved and then rescinded and it's been counted as an approval.

PN2635

All right. I believe there were three from the Crimes Scene office and one from the Divisional Intelligence Unit.

PN2636

THE COMMISSIONER: Three from the what? I was going to ask you that.

PN2637

MR GOLDSWORTHY: The Crimes Scene office.

PN2638

THE COMMISSIONER: Yes, and who was the other one?

PN2639

MR GOLDSWORTHY: One from the Divisional Intelligence Unit.

PN2640

THE COMMISSIONER: I think you have made the point in cross-examination a few times, general duties officers didn't - - -

PN2641

MR GOLDSWORTHY: Not a cracker.

PN2642

THE COMMISSIONER: No.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2643

MR GOLDSWORTHY: All right. So the percentage figure that's beside that table on the very right is 13.8. That's the number of applications which, from what I'm led to believe, is 29, but I accept it may have been 30, and a number of approved. So 13.8 per cent of applications were approved. If you go to the very bottom of that table, two-thirds of the way along there's a column that says, Percentage of Applications Approved, and the very bottom figure, it's an average across all areas and it's 71 per cent. So across North, West Metro, Southern Metro, Western Region, Family Violence Command, Road Policing Command Transit or PORT.

PN2644

THE COMMISSIONER: So that's the 23, the 324 figure?

PN2645

MR GOLDSWORTHY: That's correct.

PN2646

THE COMMISSIONER: All right.

PN2647

MR GOLDSWORTHY: So across 11,000 people the average was 71 per cent. ED4 stands out at 13.8 per cent. Have you got any comments to make around that?---Well, what I can say is that the HRA data is not totally reliable.

PN2648

THE COMMISSIONER: All right?---If the proposition is that ours was lower, that is correct. I accept that, than other parts of the state, but I don't - - -

PN2649

Well, would you go so high to say significantly lower?---Yes, I would.

PN2650

MR GOLDSWORTHY: On this page - I'm sorry?---And I was asked to contextualise it.

PN2651

Yes?---So the reason for that is obviously our balancing, what we needed to do, and applying our reasonable business grounds, so we would add business and cost et cetera, but also in regards to the other divisions, I think it's fair to say that they weren't as material in their approach around purchase leave because they hadn't been struggling with our issues, and the irony is now that those divisions are now asking for additional resources because they are resource poor.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2652

THE COMMISSIONER: Yes. It's, as I say - and I'm just thinking out aloud - it seems if the law of unintended consequences in putting reasonable business grounds without any, like it seems to me more in the nature of a flexible work arrangement without the other side of the ledger; that is, the personal circumstances of the employees and the things you can take into account not

included. Now, when that's there, when the provision is there in certain, as it is, in the most resource poor division, obviously that's where it's more likely to arise as a problem?---Well, it's not helpful to us - and I'm going to sound critical here and I don't mean to, but I'm just going to state something factual. It's not helpful to my division if I'm asking for additional resources to assist us if processes haven't been applied in other parts of the state, which now means there are ramifications around the availability of other resources.

PN2653

Yes?---That's not helpful to any of us.

PN2654

Well, it's like the whole thing. I don't envy you because the whole thing is a demonstration of the law of opportunity cost. All the time you're calibrating one thing against another and that's sort of a matrix of circumstances. It's a difficult thing to manage I'm sure?---Well, I suppose if I had some influence over the resourcing allocation, then that would make things easier for me.

PN2655

Yes?---But I don't have any influence over that as well. So I have to make do with what I have and apply them to what I need to apply them to, and I can understand, when you look at that document, both our staff and yourself, that that's pretty glaring that we look different to other divisions.

PN2656

Okay. Thank you.

PN2657

MR GOLDSWORTHY: So just on the sake of clarity, if you can have a look at the sworn numbers for ED6 in comparison to ED4 for this current year. There's 327 sworn members in ED4 and 271 in ED6, so ED6 actually has less staff by more than 50. Would that be correct?---Yes. They do have slightly less than us. Yes.

PN2658

Now, if you go to the blue table, please. If you have a look at the second table down, and it's titled Purchase Leave, leave for this financial year in weeks, and if you go across to the very right-hand side where it's got a grand total you will see that the grand total of purchase leave in June of this year - and this was the figures that the Assistant Commissioner put out originally - for ED4 it was 25.37 weeks, and if you go down to ED6, it was 130 weeks. As a percentage of the grand total on the right, to the right of those figures, you can see that it was only 3.1 per cent of all weeks of leave that was attributed to ED4 and it was 16 per cent to ED6. After that email certain actions were undertaken and the divisions were asked to reassess their stance, and if you go down to the bottom table you can see the result as of October. So in ED4, the total number of weeks was 9.37 that were approved, and ED6 it was 113.32.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2659



THE COMMISSIONER: Hang on. Where are you getting these figures from?

PN2660

MR GOLDSWORTHY: The very bottom table on the right-hand side; grand total.

PN2661

THE COMMISSIONER: Yes. Nine point. Yes. All right.

PN2662

MR GOLDSWORTHY: So 9.37 weeks were approved in ED4. That's the final figure.

PN2663

THE COMMISSIONER: And 113. All right.

PN2664

MR GOLDSWORTHY: And 113 weeks were approved for ED6.

PN2665

THE COMMISSIONER: Yes. I see that. Thank you.

PN2666

MR GOLDSWORTHY: The percentage decrease from the June figures down to the October figures are on the right-hand side. So you can see that ED4 decreased, there were a number of weeks, by 63 per cent and ED6 decreased their commitment by just 13 per cent, and that's a pretty standard figure across all of there; in fact, ED2 actually increased. Superintendent, have you got any observations to make in relation to that where significantly less leave was approved initially in ED4 and even less comparatively in – once the revision took place by October? Any comment to make on that given those figures?---I wondered that myself around the decision-making in ED4. What I would say, my observations are that all of the other divisions have their own divisional commanders and they all have their own priorities, and they are - they are different to ours. Some are the same and some are different, and depending on what those priorities are, it also means it can factor - it factors into your decision about how many staff or how many people you need available. So I would say that there's a different level, or there's different thinking from each divisional commander about what their priorities are.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2667

THE COMMISSIONER: Of course. Well, that's their, not their right, but that's their responsibility, isn't it?---Well, under our VPMs, our manuals, our delegations are that we have to actually run the business of the division, and so from that, logically, is that decision-making applied to what your requirements are and how many staff you have to do that. So I haven't spoken to each of these commanders, and I couldn't tell you what their thinking is. No doubt they did it. The other thing that I would say here is - is that ED6 have subsequently applied for resourcing support from Eastern Region because they don't have enough staff over

the next few months, and I have already talked about that in my previous response.

PN2668

MR GOLDSWORTHY: Just for the sake of clarity, hasn't ED4 also sought that in relation to holiday policing for Bright and I think Cobram?---Well, it's actually for ED4, and yes we have, and I have mentioned that previously.

PN2669

Yes. I will move on to Corryong. What have you done to make it a more attractive proposition for members to transfer to Corryong?---There's been ongoing work on Corryong and so some time back, and it's years, we engaged with the HR director and asked them to drive to Corryong. We did that very deliberately so they can actually get a sense of what it's like to work in Corryong, and we also provided a written submission around the complexities of working in Corryong. So it is remote. They are by themselves there, and for us it's really the member welfare, the safety and welfare. The demand for service is not necessarily high, but they're working an availability roster. So they live within the town. They are working and then going on to availability constantly so they can't get away from the pressure pot.

PN2670

THE COMMISSIONER: No?---It's been an area that has been really savaged by the Black Saturday fires and so the community is still in (indistinct) building and they have heavily relied on the local police. So we had - we were very concerned about harm to our members and the safety of our members so we lobbied for additional staff, not necessarily because of the demand, but because of that welfare aspect.

PN2671

The safety and welfare?---And we have subsequently, albeit a long time later, actually received some additional resources for Corryong.

PN2672

Yes?---I have been actively engaged with our business manager around, and I have tasked the sergeant and spoken to Paul around trying to create some accommodation to attract staff to the area because it's very hard to get any sort of rental in the location. So that, in itself, is tricky. We might have someone who wants to come to the area, but then they can't find anywhere to live. So I have been actively working around those things to try and get an option, whether it's portables or build or whatever and those things will take time, and we're actively engaged, obviously, with the staff around through the supervision lines. I have a monthly meeting with all of the staff up there to discuss just generally, 'How are you going? Is there something I can help you with?' and just respond to those things. So I'm just trying to keep in contact so they don't feel as remote as they are.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2673

MR GOLDSWORTHY: Very good. The Wodonga Highway Patrol, as an intelligence led organisation, was it foreseeable in June that Sergeant Roberts was going to retire from the Highway Patrol, that Leading Senior Constable Young would transfer to uniform, freeing up the position, and that Leading Senior Constable Tinsley would be returned to full duties?---In terms of Sergeant Roberts, well, it was up to him to choose what he was going to do. He was off work and we don't expect them and try and force people to make a decision. So it could - it was - I suppose it was known he was absent and there was a possibility that he may not return to work, but we don't have the ability to take that vacancy from him whilst he still sits in it.

PN2674

THE COMMISSIONER: No?---Senior Constable Young, the first I became aware that he was transferring under a special category provision was when it happened. So I wasn't aware that that was going to happen.

PN2675

A total surprise. Yes?---And the other person was?

PN2676

MR GOLDSWORTHY: Senior Constable Tinsley returning to work?---It was foreseeable that he would return to work because he had made that quite clear through the steps that he was taking around his restrictions. When that was going to happen, I wasn't able to - I wouldn't have been able to see that because it relies on the police medical officer and some of the things that he had put in place to get back to work.

PN2677

You have been the divisional superintendent for more than three years now in ED4. What have you been able to achieve in relation to staffing at Wodonga Highway Patrol?---Well, our staffing profiles at all of our highway patrols remain exactly the same. In 2015 there was change in organisational policy that - so members couldn't work one-up anymore in the Highway Patrol and that was due to a workplace death, a shooting of a police member, and subsequently all Highway Patrol had to work two-up, which effectively means if you have got 10 staff where you had 10 units out on the road at any given time, you now had five.

PN2678

THE COMMISSIONER: Yes?---I have asked and flagged numerous times, as has every divisional superintendent across the state, that if you make those changes then you need to obviously look at how we - we need to increase the staff. Nothing has happened - and that's done centrally - and my understanding is there's an indication that there will be some - that they're looking at that next year, the specialists. The other thing that I can say is that, in terms of our Highway Patrol, we have just tried to supplement around that by using general duties in it to cover vacancies where we can or absences where we can, but of course, they have got core functions and that's not as - it's a bit piecemeal.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2679

MR GOLDSWORTHY: In your statement you talk to vacancy management and you state that it takes up to three months from any time a position is advertised to the time when it is filled; is that correct?---Well, it's about - and nothing is exact in this space.

PN2680

Is it correct that if you don't release the position then it can't be filled?---That's true.

PN2681

If there was such an issue with Wodonga Highway Patrol why did it take so long for the sergeant's position to be advertised from the time of the end of service being submitted until the position was advertised?---I'm not aware that it took so long.

PN2682

So the end of service was effective as of 28 July. Are you aware of that?---You could be right. Yes.

PN2683

Are you aware that the position was advertised on 11 September?---That could be right. Yes.

PN2684

So you have got no explanation as to why it took so long?---Well, I had a look at our vacancy rate the other day and I think we have got around about 30 vacancies on the run at the moment in various stages of recruitment, and what I can say is that the majority of vacancies, some are advertised prior to people leaving and that's - that's in circumstances where HR allows us to. So if people have given clear indications and submitted their end of service documents and formalised their retirement, we can then advertise the position just before the end of service date. So we do do that actively because we're very mindful of how resource poor we are.

PN2685

THE COMMISSIONER: Yes?---The other thing is the majority of our vacancies are activated, the recruitment process, as soon as we possibly can for the same reason, and we have a number of vacancies, I think it's 12 at the moment that are going through - that are in an SCAT process. So they have been advertised numerous times, but not filled. So, in conclusion, my observations around our vacancy management is that we are very tight about it because we realise the time frames it takes to get someone.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2686

Yes?---The other thing that is implicated across the organisation in this last 12 to 18 months is the ability to get our vacancies into the actual gazette and start the recruitment process because there's been the - the release of all of the new positions, and so they're prioritising those over the ones that are already vacant in the division. I have no control over that. I do lobby hard to make sure that my

vacancies get in, and I point out we are resource poor, we have got risks, and I do that frequently and I get what I get.

PN2687

MR GOLDSWORTHY: Have you attended the scene where the quadruple fatal occurred at the Hume Highway and Wenkes Road in Chiltern?---I'm sorry, did I  
- - -

PN2688

Have you attended the scene. Are you aware of where the crash occurred?---Which one; I'm sorry?

PN2689

There was a quadruple fatal at Wenkes Road and the Hume Highway in Chiltern?---Yes. I have been past it, but I didn't stop at it.

PN2690

Is it correct that this one collision effectively doubled the fatalities for the last 12 months in the Wodonga area, taking the number from three to seven deaths?---Off the top of my head - and I would be guessing - but obviously with the number of fatalities, that would certainly increase our numbers.

PN2691

Of the four fatal collisions that contributed to deaths in the last 12 months do you believe any of them could have been prevented by increased enforcement?---Well, I don't think I can answer that. If we had people in the right place at the right time doing the right things, then maybe there's a chance, but I don't have that crystal ball. That's our intent, to have a visible police presence to actually impact on the thinking of people and hopefully that impact continues forward with their driving. So that is the intent of our road policing strategy.

PN2692

All right. Would it surprise you to learn that both Senior Constable Allerdice and Senior Sergeant Parr, who actually attended the collision, have given evidence at the hearing to the effect that no amount of enforcement would have prevented the Chiltern fatality?---Well, that may be their opinion. It's not mine in the sense of I don't have the crystal ball. I think I have answered that.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2693

At paragraph 38 of your statement you mentioned the halo effect. What basis do you make that statement on?---So the halo effect and the cognitive bias are - all also part of our state strategy for road policing, which is why we not only task to an intelligence lens of where trauma has occurred - so we will place our resources into those locations - but we also understand from the research that we need to have a high visible presence prior to those high trauma areas from a preventative perspective, and I think I have explained in my statement in a brief way around the bias that people have and their simple, 'I'm only doing 10 over the limit so I'm not really speeding. It's not going to happen to me', and these types of things. So we know - and I have recently been to a road policing forum where we had a

change management expert talk about those cognitive bias and how those small - those small little infractions, if you like, of 5 kilometres over, that they're the people that are - we are seeing the fatalities, and that is reflected in our statistics. Ten kilometres over and those sorts of things. They're local people. Small type of, you know, things, and they're dead.

PN2694

Can you talk to the anecdotal effectiveness of the halo effect regarding the collision at Strathmerton where police spent 40 minutes with a driver doing a roadside drug test, issuing him with a ticket for speeding, and just 3 minutes after he left police he went through a give-way sign and killed five people?---Well, no, I think it's just really poor behaviour on his behalf that had catastrophic consequences.

PN2695

Are you aware of a study on the halo effect by the Queensland University of Technology that showed that most motorists did slow down for a speed camera on average of 7 kilometres per hour, but within 1.5 kilometres that impact had disappeared completely?---I'm not aware of that particular piece of research, but what I do know from our road policing experts is that we need to have people doing the high-visibility component and not fixed speed cameras. They're not particularly effective in terms of the halo effect.

PN2696

THE COMMISSIONER: I had a kid at ANU for three years so I am totally aware of the halo effect on Hume, that's for sure?---I might have copped a few tickets too.

PN2697

MR GOLDSWORTHY: You won't see too many police out on the Hume. All right. Can we go to document R6, please. It was a document that was produced yesterday by the respondents and it's on police unplanned WorkCover on leave, taking the Eastern Region Division 4 of workplace unit ranking class.

PN2698

THE COMMISSIONER: So R6 we're looking for?

PN2699

MR GOLDSWORTHY: Yes, sir.

PN2700

THE COMMISSIONER: Just give me a second. I had them in order this morning.

PN2701

MS LEONCIO: Commissioner, if it assists, we do have a folder of the - - -

PN2702

THE COMMISSIONER: I have got it.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2703

MS LEONCIO: You have got it. We have got a folder of the exhibits as of this morning, so if it assists to provide you with a folder. I don't want to provide you with any more paperwork, but it is just - - -

PN2704

THE COMMISSIONER: No. No, it would assist me greatly.

PN2705

MS LEONCIO: Okay. Well, we will just hand it up. We have got one - - -

PN2706

THE COMMISSIONER: It's accommodated in the A3. I mean it's good for my eyes, but bad for the - - -

PN2707

MR GOLDSWORTHY: If you turn to the second page, please. So we have already heard that the 18-19 year it went from 6917 and it kept going up in the 20,21, 22. So you arrived as superintendent in June of 2020 and it kept on going up to 10,000 and down to 9000. Could I take you to - it's probably about 10 off the bottom - Eastern Region Division 4 Uniform Wodonga. If you go across to the Sergeant Rank. For the 18-19 year there's approximately 411 days or 411.53 days that were taken in WorkCover and unplanned leave. If you go right across to the last financial year, it's down to 162.13 days. It's a decrease of approximately 250 days or about 60 per cent reduction. Would you agree with that down figure, superintendent?---Yes, I would. I would agree that there's been a decrease. Yes, at the sergeant level.

PN2708

And that's a positive thing?---It's always positive when people aren't on WorkCover or on unplanned leave. Yes.

PN2709

Excellent. Just in comparison to Wangaratta, so if you go up six rows. A uniform Wangaratta sergeant, they start out in 18-19 at 233. They're pretty consistent across the line. In the last financial year there are 224 days so they're still travelling in excess of 60 days, taking more WorkCover and unplanned leave than the Wodonga sergeants; is that correct?---Well, this relates to the 22-23 period.

PN2710

Yes?---So we're not actually talking about actuals here, like as in right here and now. Yes.

PN2711

No, but certainly there's a - - -?---But I would agree with those figures. Yes.

PN2712

Last year their numbers were higher than Wodonga and Wodonga has definitely seen a dramatic decrease?---There's been a decrease, yes.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2713

And so of the four, what we term 16-hour stations within the Wodonga PSA, very briefly, further up. If you go uniform Tallangatta, sergeant and the current, as of last year, was one day. So there's no real issue there. The uniform and two up from that, uniform, Robert Lang, the sergeant, there's 145 days. So that member has now retired and been replaced?---Who is this, please?

PN2714

Uniform Robert Lang?---That's correct. Yes.

PN2715

Yes, if you go over to the front page, Uniform Beechworth, a sergeant. If you go right across to tracking for last year it was 3.29 days, so no issue there, and - - - ?---I can't. Just hang on a minute. You're going too fast.

PN2716

THE COMMISSIONER: Yes.

PN2717

MR GOLDSWORTHY: So Uniform Beechworth, a sergeant?---Yes.

PN2718

3.29 days. You don't see any issues there?---No.

PN2719

And further down that, Uniform Corryong, sergeant. Go across. Six days for the last financial year. Again, no real issues there for you?---I don't think I have got three, but yes, there's no issues in terms of the current sergeant there.

PN2720

So of the sergeants, the uniformed sergeants in the Wodonga PSA, there doesn't appear to be any issues with workplace absenteeism. Would that be correct or not?---Well, in terms of unplanned leave and WorkCover, there are some current issues in some of the places, but when you use this document alone it says that things have improved over time. I think you mentioned the word, that it's dynamic and nothing is static and that is true. So there are some current vacancies and absenteeism at Wodonga, but the cost disbursements at the moment seem quite stable, and this references one component of unavailability.

PN2721

Yes. At the time of assessing the application for purchase leave there are no real issues with absenteeism within the Wodonga PSA for sergeants. Would that be correct?---I couldn't say at this point in time. I know that - I think that's a question best put to Sergeant Henry.

PN2722

Inspector Henry?---I'm sorry, Inspector Henry. He won't forgive me for that.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2723



Moving on from that document. Do you believe that sergeants are interchangeable? Provided you have a sergeant doing the job, as a 251 or custody sergeant, does it matter who it is?---Can they perform both functions? Is that your question?

PN2724

No. What I'm asking, does it matter whether I'm in a position or one of my colleagues? Does it make any difference?---I'm not quite sure what you're asking me.

PN2725

Okay. Do you believe that the sergeants at Wodonga or generally are equally capable of performing the role of supervisor, that is a 251, or of custody?---Yes, they all appear to be able to do those jobs.

PN2726

Yes. So, effectively, it's interchangeable? It doesn't matter which particular sergeant is doing the role, it will get done?---Yes. That's the way the rosters normally work.

PN2727

Excellent. Do you view the Investigations & Response Unit as more important than the general duties police?---They're not more important, but they play a very important role in the work that we do.

PN2728

Would you please explain why you keep approving for Wodonga uniform members to be used in backfilling in I&R positions?---Because the I&R positions are specialist responders who deal with different types of crime. Generally it's more serious crime and a lot of that crime, particularly in sexual offence and child investigation teams and in family violence investigation units, and also in the general CIU is very victim-centric. So the harm is significant to the victims. They are trained to be specialists and it doesn't seem - I don't think it's unreasonable to say that we need to make sure that we're providing this service to the community, particularly around those types of offences.

PN2729

So you're prepared to take resources away from uniform to backfill those positions when they have required?---What I would say about that is that it's very much a juggling act and over the last - since back at the VPM for baseline minimum services was introduced, or the agreement was introduced, it started as a memorandum of understanding with TPAV, and it was predominantly put around member safety. We have had to adjust how many people are going into the specialist units and that has impacted their ability to do their work, particularly around workload, but the focus in our division has been on achieving baseline minimum service.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2730

THE COMMISSIONER: All right?---So, of course, it's a juggle then around the cut of your cloth. Which is - which is more important. So there is times - there are times where those people in the specialist units just simply go without and - because we need to meet baseline.

PN2731

MR GOLDSWORTHY: So if you're concerned with baseline being breached, as you term it, for 15, on average 15 times per month, why, in the last financial year, did you have a sergeant performing SOCIT duties for eight months, a sergeant at Wodonga performing the T&C senior sergeant's role for a year and a sergeant at Wodonga doing much the same at the traffic adviser's job for about a year?---So they are all critical risk positions and they do, underneath all of those positions, the work that people do is quite risky. So I will give an example of this. In the CIU and the SOCIT they manage things like obviously harm against children and people who have been perpetrated against in the most terrible ways. There is a lot of risk that sits in that work around, you know, effective management of those things, meeting time frames and forensic elements. We also manage registered sex offenders and so there is a high level of compliance required around those things. It's not feasible to me to say that we won't have a supervisor or a manager in those teams when we need to manage that risk, and it's not to say the general duties aren't facing risk as well, but it is about trying to cover a lot with a little.

PN2732

Yes. Are you able to explain how the Public Order Response Team have been able to be deployed during the snow season at Bright and Mt Beauty this year and last year, but they are unable to assist if there are resource requirements outside those time frames?---So that decision has been made at the state level and we have a divisional pool of alpine trained members. So they're sitting in the normal core functions, but we do additional training for them to deploy into the snow. So we use those members, but I think I have said enough about resource poor for you to know that can be a real tension in itself, and at the - at the state level a decision was made many years ago, or a couple of years ago, in the last five maybe or a little bit longer, that they would commit PORT, so the Public Order Response Team members. They do training and they come and help us for the snow season, for a period of eight to nine weeks, and whilst it would be lovely if I could say, 'Could you please come and backfill my positions?' that is not the way the Public Order Response Team works. They are, in simple terms, they come and help with priority areas such as if there's an OMCG present or there's a significant crime spike or there's significant traffic issues. So we have asked for their assistance in our traffic space, our road space, because we are second in the state for road trauma. It doesn't necessarily mean we get them because they're - they have to prioritise where they are going to go across the state and the decisions are made at the state level.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2733

Is it correct to say that in the last two years there have been PORT members that have worked out of the Wodonga Police Station when you were short on resources?---That's right. So during the, I call it the resourcing crisis, when we were trying to get the additional staff, we were so depleted at that time that I made

an application and we got some resources for very short periods of time, but there are - and as much as I like having them, and I would like to have more of them of course - there are also implications around the financial aspects for that to occur.

PN2734

THE COMMISSIONER: Yes, the cost to do that?---Well, for the snow season I think it was around about 500 and something thousand for the eight weeks. I think that's in my statement.

PN2735

Yes. I think it is.

PN2736

MR GOLDSWORTHY: For the sake of clarity, could you expand on how long the snow season is, please?---Well, it starts on the Queen's Birthday weekend - and I think you actually know the end of it, Larry - and it generally finishes in September. I think it's - is it the second week in September?

PN2737

The first Monday in October it is generally?---Okay. So Larry knows it better than I do.

PN2738

It's 16 to 17 weeks?---So it's a longer period. My apologies.

PN2739

You won't be privy to this email, but it would lead to apparently a discussion with you. So on 25 May Commander Nyholm sent an email to Assistant Commissioner Langdon. If the Commissioner wants to reference that, it's page 237 of the emails, the 343.

PN2740

THE COMMISSIONER: Yes.

PN2741

MR GOLDSWORTHY: Superintendent Arbuthnot will not have that email in the documents in front of you.

PN2742

THE COMMISSIONER: You're contextualising a question, are you?

PN2743

MR GOLDSWORTHY: Yes. Commander Nyholm states:

PN2744

*Can we discuss purchase leave at RLT? I'm concerned, Joy, ED4 DLT considering approving some in areas where we can't meet MSP and have shortages. Think this can be addressed directly with the superintendent ED4, Joy, but would be good to share the expectations with all div supers.*

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2745

What was the discussion, if any, that took place between yourself, the AC and the commander at that meeting, if it did, in fact, take place?---Could you give me the date of that email?

PN2746

It was 25 May. So it was the following day and they had concerns about approving some of the purchase leave?---Well, I'm obviously not privy to that email and I understand - - -

PN2747

I appreciate that. That's a discussion that you may have had.

PN2748

THE COMMISSIONER: So what's the text that led you to suggest there was a meeting?

PN2749

MR GOLDSWORTHY: Because the commander suggested that there should be a meeting between the AC.

PN2750

MS LEONCIO: Objection, Commissioner. If he wants to ask if there was a discussion, he can simply ask if there was a discussion. In reference to the email, in my submission, she can't respond to what was in an email that wasn't submitted.

PN2751

THE COMMISSIONER: Well, it is contextualising in the sense that, well, it's sort of sets an approximate date to whenever it happened, but I take the point.

PN2752

MR GOLDSWORTHY: I'm actually not asking her to make a response to the email.

PN2753

THE COMMISSIONER: No, I know. That's right. No, she's asking about the discussion, like you're saying we should - the email says, 'We should have a discussion.' So your question is - - -

PN2754

MR GOLDSWORTHY: Did it take place?

PN2755

THE COMMISSIONER: - - - if it took place, what was said? You would have a million discussions I think?---I didn't read the email and my observation of the email, there was - there could have been discussions, absolutely, about purchase leave. I am actually a bit surprised by the tone of the email because I have been flagging how tricky this all was for our division.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2756

Yes?---So the tone of the email actually surprises me, but I was going to - - -

PN2757

In what way?---Well, because I was really concerned about what we had to service and the fact that I knew that we - we had people who wanted purchase leave. So that's been a concern for two years. So it's surprising that Commander Nyholm says, 'I think Joy is going to approve purchase leave', when I was the one flagging I have got real resourcing concerns.

PN2758

You're the one saying, 'No, we have got problems'?---Yes. So the time of the email surprises me, but I could very well have had a conversation with either of those parties about purchase leave and about resourcing.

PN2759

MR GOLDSWORTHY: All right. I will move on from that. JA3. I have organised the date. The Eastern Region Action Plan.

PN2760

THE COMMISSIONER: Yes, I have got it.

PN2761

MR GOLDSWORTHY: Top left corner, People:

PN2762

*We will focus on enhancing the health, safety and wellbeing of our people in order to reduce exposure to trauma, physical injury and inequity in the workplace.*

PN2763

Do you agree with that statement?---Yes. I agree with the statement. Yes.

PN2764

MR GOLDSWORTHY: (reads)

PN2765

*Best practice looks like effective leadership in governance that ensures the early identification of workplace risk in order to quickly implement proactive mitigation strategies.*

PN2766

Would you agree with that statement?---Yes. That's there.

PN2767

In relation to purchase leave and mental health concerns do you believe that there should be a proactive mitigation strategy around that to assist members?---I think we need to do better in terms of our approach to purchase leave and - - -

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2768

THE COMMISSIONER: It would help me if you could elaborate on that?---So if I answer what that best practice looks like that might be helpful for you.

PN2769

Yes?---So in our - - -

PN2770

Well, you have learnt by doing the previous experience and you're experience this year in trying to put some parameters around it, so it would be helpful to me if you would elaborate?---So from, if I look at the focus area –

PN2771

*enhancing health, safety and wellbeing of our people in order to reduce exposure to trauma, physical injury and inequity in the workplace –*

PN2772

we have to create our own action plan divisionally around those particular focus areas, which we did, and we have a number of systems and processes and governance in place in our division to focus on those areas.

PN2773

Yes?---So there's an absolute raft, a plethora I would say, of support services and meetings and committees and getting held to account about people and harm - and we have implemented harm reduction strategies, harm minimisation et cetera - and I think that's a topic in itself and I don't think that's what you really want to know.

PN2774

No?---So in terms of had we worded purchase leave in that focus in our division, I mentioned this earlier yesterday that we did start talking about, through our divisional leadership team discussions, about purchase leave for this year early on in the year, and we talked about the things that I have already mentioned here, and resourcing et cetera. We did put out an expression of interest process to try and engage what it might look like and give people an opportunity to start talking to their managers around their purchase leave applications, and we did receive some expressions of interest back. That was messages out to staff in a way that this is not an application for purchase leave.

PN2775

Yes. This is, yes, an expression of interest. That's right?---And to encourage people to talk about that.

PN2776

You made it clear this isn't an application. This is just for management purposes so that you can determine - - -?---Correct, and the inspectors could then use that to talk to their staff around what is their purchase leave application, what does it look like, and start stepping through those consultative pieces.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2777

Yes?---And it would also give us, as a division if you like, the ability to understand how much was going to be asked for and see if we could start to plan that in an early way. Was it effective? Well, in some ways, yes, but not all people put - participated in those processes, and sometimes purchase leave is a here and now thing, and you know, to put that in context, some people have said to us, 'I have got an application, but I don't care that I didn't get purchase leave.'

PN2778

Get it or not?---'I was just seeing how I was going to go.'

PN2779

Seeing, yes?---So is there something that's - I think there's been a process around looking at it and trying to plan for it. Could we do better? Yes, I think we could, but I do say from doing better, I think our region understands that we need to have a far better coordination of this, and in my division we have opted into a pilot clause called Enterprise Rostering - and that will commence in the next week or so at Wangaratta - and that is part of that SAM allocation model. We have agreed to be part of the pilot because it is about counting the demands that I have mentioned in my statement that have been on baseline minimum service and for us to have - they're going to build a system that allows us to clearly understand what we have and what we have to do, and I think that will give us better clarity rather than perhaps this, let's call it a less sophisticated approach.

PN2780

MR GOLDSWORTHY: Victoria Police continues to promote policing as a job where you can achieve a work/life balance. Do you agree with that characterisation?---Yes. It does at recruitment. Yes.

PN2781

Do you believe you have a role in ensuring compliance with the Victoria Police Enterprise Agreement?---We all do. Yes.

PN2782

Do you agree with the preamble to the Victoria Police Enterprise Agreement where it states:

PN2783

*The employer is committed to providing flexible work options to assist employees in achieving an appropriate balance between organisational requirements and personal lives?*

PN2784

?---Yes, I do.

PN2785

Are you aware that as a direct result of the decision to not purchase leave, two members from Wodonga have already taken sick leave for long periods and it's likely more will follow?---I'm not aware of that. No.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY

PN2786

Are you aware that several members who initially went to the TPAV for assistance, in the hope of getting purchase leave, have pulled out of the process over the stressors it has caused them and concern for their policing career?---Well, I am aware that there is not as many, what we would call the collective dispute, and I haven't spoken to any of them, but I'm aware that Inspector Henry has and he had some conversations that would probably contradict that statement, but it's not for me to say that.

PN2787

THE COMMISSIONER: All right.

PN2788

MR GOLDSWORTHY: Are you aware that other members were promised last year that if they withdraw their applications back then they would be approved this year?---I am not aware of that and I would say that people would be told that their applications would be looked at this coming year.

PN2789

Has it occurred to you that the decision to deny purchase leave applications has done irreparable damage to the wellbeing of members across ED4 and you will lose more shifts, lose more goodwill, and cost significant public funds in denying the purchase leave applications than had they been approved?---Is that your submission though?

PN2790

I have asked you.

PN2791

THE COMMISSIONER: It's very multi-propositional.

PN2792

MR GOLDSWORTHY: I have asked.

PN2793

THE COMMISSIONER: Perhaps you could break it down a bit.

PN2794

MR GOLDSWORTHY: All right.

PN2795

Has it occurred to you that in the decision to deny purchase leave you has done damage to the wellbeing of members in ED4?---I'm conscious of that people may not like it, and I'm also conscious that people will activate other levers when they don't get something that they want. personally, do I like the fact that we have not been able to approve it? I said it yesterday, I would like to be able to do that.

PN2796

Are you aware that people will take other leave, that they will go sick because of this decision?---Well, that's a matter for the individual.

\*\*\* JOY ARBUTHNOT

XXN MR GOLDSWORTHY



PN2797

All right. That's the end of my cross-examination for this witness.

PN2798

THE COMMISSIONER: Okay. I have got one for you. I hate to prolong your torture, but I have got one question for you and it derives out of A4?---Out of?

PN2799

Has anyone got a copy of that you can give the witness?

PN2800

MS LEONCIO: Yes, we should have a copy. I will just grab that and give it to the party.

PN2801

THE COMMISSIONER: Hang on. I'm sorry. No, I will withdraw that. It's not to you. It's to Mr Langdon. No worries. I'm sorry, I will withdraw that. Thank you. You will be re-examined?---Actually may I just say one thing in answer to that question by Larry?

PN2802

Yes?---Some of our unavailability is - not all of it - but it is actually driven by those actions of members who may not get one thing and will take another thing, and there's lots of circumstances in that, but I suppose, for me, the one thing I need to also consider is whilst our members may have a view about approval or non-approval of purchase leave, I also have the responsibility of thinking about what the community will think when we don't turn up, or we can't achieve things that are important to them. So it is a balancing act for me.

PN2803

And it goes, the absenteeism goes from planned to unplanned - - -?---Correct.

PN2804

- - - which makes it harder to manage?---It is that static dynamic thing that we talked about.

PN2805

Yes. If there's one message that I have got from your evidence so far it's that.

PN2806

So, Ms Leoncio, please.

PN2807

MS LEONCIO: Yes, Commissioner.

**RE-EXAMINATION BY MS LEONCIO**

**[11.20 AM]**

\*\*\* JOY ARBUTHNOT

RXN MS LEONCIO

PN2808

MS LEONCIO: Superintendent Arbuthnot, you were asked some questions about selling leave and I just wanted to clarify what is your understanding of that

entitlement?---So members under the enterprise agreement are able to sell their accrued time off and I believe it's up to five days that they're able to sell. I may not be exactly accurate on that.

PN2809

THE COMMISSIONER: Well, actually EB standards across industry, so yes?---And so, at the moment, we're attempting to fulfil that request for additional resourcing by asking people to sell their leave, which is perhaps not an ideal situation.

PN2810

No.

PN2811

MS LEONCIO: And I just wanted to be sure that we're talking about the same provisions. So if you just turn to tab 2 of the folder. It should be in the volume 1. I'm not sure if you have got it in there. So if you find volume 1 first and then turn to tab 2, and the relevant page is 249.

PN2812

THE COMMISSIONER: Cashing out recreational leave?

PN2813

MS LEONCIO: Yes. I just wanted to double-check. Is that what you were talking about there, recreational leave being able to be cashed out?---Yes. I'm sorry, no, it's not.

PN2814

No. Okay?---No, it's not. My apologies. So in particular circumstances we can cash out annual leave, and those circumstances are reasonably strict; that is, where someone has been off work for a long period of time. Generally, in a practical sense, they have been on WorkCover for a long period of time and they have accumulated a large amount of leave in that period they have been absent, but they may have also been carrying some annual leave prior to going on to WorkCover leave. So they complete a return to work and they may be carrying 10 weeks or more of annual leave, so in those circumstances people can apply to cash that leave out and be paid for the leave. Not many people do that.

PN2815

THE COMMISSIONER: No?---Accrued time off, cashing out, is as we just discussed, that we can - members can apply to cash out their ATOs and there are some criteria around that which is when they cash them out they're then tasked to specific operations of work, so priority pieces of work, and that's what we're trying to achieve in my division at this point in time, and for the ED6 contingent.

PN2816

MS LEONCIO: I'm sorry. Just one moment. Yes. That's where I was headed. So if you can just turn to clause 13.1.

\*\*\* JOY ARBUTHNOT

RXN MS LEONCIO

PN2817

THE COMMISSIONER: 13.1?

PN2818

MS LEONCIO: Yes. So it's page 183 of the Commission book and you will see there, at 13.1 subparagraph (a), there's a reference to cashing out part of or all of the accrued time off entitlement provided for in clause 27 which is, if you turn to 27, that's the accrued time off?---I'm sorry, Francesca.

PN2819

No, that's okay?---Are you in the enterprise agreement?

PN2820

Yes.

PN2821

THE COMMISSIONER: Yes. It's page 12, 183 of the court book.

PN2822

MS LEONCIO: Yes?---I have got that. Yes.

PN2823

THE COMMISSIONER: 13.1.

PN2824

MS LEONCIO: So at 13.1 you will see there it's talking about a flexibility arrangement which can be entered into to vary the effect of clause 27 which allows an employee to cash out part or all of the accrued time off entitlement. So is that what you were referring to?---Yes.

PN2825

Yes, and if you turn to clause 27, just so you have got the full picture. That's page 196. That's where the entitlement to accrued time off comes from?---Page 106?

PN2826

196. If you look at the top, I'm sorry, the top of the page?---Yes.

PN2827

There are, unhelpfully, two sets of numbers on this document, but it's clause 27. So just confirming that that is the accrued time off that you were referring to?---Yes.

PN2828

Yes. I wanted to take you then to Annexure JA8, which should be in the second volume. It's page 567?---Yes.

\*\*\* JOY ARBUTHNOT

RXN MS LEONCIO

PN2829

So this is the minimum station profile document and you were asked some questions about the sentence at the top, and there was a reference there to crime prevention. What's your understanding of what crime prevention in this document is referring to?---So in this document it's actually referring to the neighbourhood

policing shifts which are standalone shifts separate to the response shifts, and they're - the aim of those shifts is to provide visible crime prevention patrols in high-risk locations which have been prioritised through our intel, or maybe the community telling us we have got a significant problem.

PN2830

And what's that based on? What's the basis of your understand that that's what crime prevention is referring to?---So it's actually in the - in the VPM about - or the material around minimum station profiles that the neighbourhood policing shifts references crime prevention.

PN2831

So that's to be compared with other kinds of crime prevention. What are the other types of crime prevention?---Well, we have specific crime of our proactive staff and we have two of them at Wodonga who sit within what is called a proactive role and part of that role is also crime prevention. So they may do things like crime prevention by design type activities with people who have been victims of crime, such as business owners et cetera. They may help victims of crime with their security and do an assessment of their home to help them fix some of the things, like overgrown branches or insecure windows and doors. Perhaps deadlocks. Perhaps alarms. So they work in that type of service, but that's just one arm of the work that they do. They also do community engagement and around a range of our partners and our priority areas and they might work with you. Crime prevention from the perspective of explaining, by way of example, we might have an increase of sexting type offences that lead to young people getting convictions or being found guilty of things like child pornography.

PN2832

THE COMMISSIONER: Yes?---Which we would like to try and prevent, obviously, for the impact, and so they may go into schools and give presentations around those sorts of things. The ADF at Wodonga, we're seeing an increase in things like drink driving, and so we're doing presentations for the ADF, for cadets there, around, you know, what are the rules and regulations? What are the consequences et cetera, and working in partnership with the ADF around trying to increase awareness around what not to do and what the consequences are. So they're the different types of things that we're doing. There's a raft of those types of activities that sit with two people at Wodonga.

PN2833

Okay?---Our general duties responders, when they can, of course, when they respond to a reported crime like a burglary, they are expected to give advice around crime prevention, and that will depend often on how much time they have got and how much they will commit to that space, and our Crime Scene Services also in their day-to-day activity, if they're going to a crime that's been committed, they will also try and give that type of advice as well.

\*\*\* JOY ARBUTHNOT

RXN MS LEONCIO

PN2834

MS LEONCIO: Now, there were some references to how the neighbourhood, those NHP shifts are actually rostered, and in your evidence you made reference

to NHP needing to be a standalone vehicle I think, a standalone unit, or it needs to operate as a standalone shift. What does that mean, standalone?---So if you - perhaps if I refer you to the document at 567. You will see on the far right-hand side of the second table, the second column in to your right, it talks about neighbourhood policing shifts, and you will see up above that it's titled, 'Minimum number of shifts to be rostered each fortnight, all performed two-up.' Underneath, 'Neighbourhood policing unit shifts', and that designates how many shifts we should be delivering across the division. If you go to over the page, and you go down to Eastern Region Division 4 you will see that Yarrawonga, Cobram there should be providing six and they provide none. Cobram and Yarrawonga six, Wangaratta six - I'm sorry, five - and uniform Wodonga is five. So they're in terms of standalone. They're in addition to the general duty response unit shifts, and you will see the column next to that that designates how many of those shifts we have to run fortnight two-up.

PN2835

And there was some evidence given about that second van. So there's a second van that's on the road that does also patrolling as well, and I understand that you can change the signal so that can become the NHP?---Yes.

PN2836

I'm just trying to understand how does that work, in terms of is it a NHP van or is it a response van?---So our divisional planning office are looking at this in this P document and they're trying to do the best that they can with what we have. So the first priority that they're going to look to is what our general duty response unit shifts are, and I have explained already in my evidence that whilst Wodonga is designated under this document, which was created some time back, to have one response van two-up over the three shifts a day, last year and the year before there was significant lobbying due to workload and members' safety, and these came from the workforce through me and into TPAV, which we rightly supported. We needed an additional response van and the - my delegation in the rostering tells me that I need to respond to those things where I can and subsequently we got 13 supplementary resources, and that divisional van, additional, those resources went into providing the additional response van. They predominantly respond to calls for assistance and they are the bare minimum that we are required to supply.

\*\*\* JOY ARBUTHNOT

RXN MS LEONCIO

PN2837

The neighbourhood policing shifts are separate to those shifts, so a separate police unit - and as you can see the numbers in there and I have explained that - that we should be supplying as well to support our neighbourhood policing and around those high-risk community locations. Our divisional planning office advised me that we rarely run standalone, so separate and adequate policing shifts because we don't have enough staff for a variety of reasons - and we have talked about that - and so what they have been doing, in order to look like they're compliant on the rosters, because, of course, if people are looking from outside our division to see what it looks like in, you can have a roster that shows you something but it may not necessarily be the facts. So they have told me - and this has been the case for

a long time - that the second response unit that is predominantly for response is labelled or has a call sign Neighbourhood Policing on the roster.

PN2838

THE COMMISSIONER: I will have a look at that. All right. Yes?---But they're not necessarily performing that function. They're the second response team.

PN2839

MS LEONCIO: You made reference to those additional resources. These are the 13 resources. Can I just confirm when were they actually deployed into the ED4?---I think it's - - -

PN2840

Well, roughly. Roughly. It doesn't need to have a specific date?---I think it's August 21. I think, and I could be wrong. I would have to actually look at my statement.

PN2841

Well, perhaps if we turn then to your statement?---I'm sorry, it's in - it's in 2022.

PN2842

So there's paragraph 74. There's a reference there. That's page 507. Now, that does talk about August 2021, but I wanted to confirm whether that was correct, basically whether were they in last year or the year before that. So last year, 2022, or the one before that?---The year before.

PN2843

In 2021?---I think. Yes, in August 21.

PN2844

So what happened in August 2021, just to be clear?---So prior to that there had been a very long period of really low capacity and, you know, there's a number of impacts around our staff on that, and it's fair to say they were very happy, as were the managers. We had been asking for support and piecemeal getting some, but there was - they engaged with TPAV and the staff certainly engaged with TPAV to try and get additional resources and we were given an out of sessions, if you like, supplementary injection of staff. They were considered supplementary because they don't, for whatever reason, they don't say that they're permanent, but in the staff allocation model those staff will now become permanent to our area. So it's an increase. In simple terms, it's an increase in staff of 13 to our allocation.

PN2845

So I then want to turn to, so if we go back to Annexure J8 and if you go to the next page, so 568. Now, there is there, at the Wodonga PSA at the bottom, you were taken to the numbers, the 62, which is the total FTE core position and also the other ranks which was at 45, the sergeant level at 15, and then also the MSPs, which was the 55, 40, 13 and two. In terms of the additional eight - I'm sorry, the additional resources that we were just referring to, how many, again, was it to Wodonga PSA?---Eight.

\*\*\* JOY ARBUTHNOT

RXN MS LEONCIO

PN2846

It was eight. So there were eight to Wodonga Station, Police Station; is that correct?---Yes.

PN2847

So to what extent are they factored into the numbers here, either in respect of the total FTE or the - I'm sorry, in respect to the total FTE?---My understanding is that they are not included in the OR count there.

PN2848

And in terms of the MSP, so the numbers there, to what extent does that take into account the second van that we were just discussing?---Well, it doesn't. As you can see it's - on the right-hand side of the page it talks about one response unit, three times a day, two-up, so it doesn't take that into account.

PN2849

So in terms of the difference, so even if you add the additional 13 to the core - I'm sorry, the additional eight to the core other ranks position, those resources, in terms of the MSP rostering, the minimum, the baseline minimum service level is the one van. That's what it's based on?---So we have got additional resources to assist us with our baseline service and - however, we are still continuing to breach our baseline, which is the absolute bare bones service, and there's obviously a number of other things that we have to do at the same time, and that is caused by probably the demand factor and also the unavailability of staff.

PN2850

So in terms of this figure, the 40.063, which is the MSP, so the number of staff that this document says you need to meet the baseline minimum service level, what's your view about how that reflects the minimum service levels in Wodonga Police Station?---Well, it's not sufficient because we're breaching, so the number needs to increase, and we have had an increase, as I have just said, but we're still not achieving what we need to achieve.

PN2851

I want to then take you to your statement paragraph 41 which is page 499 of the Commission book, and you were asked some questions about the flexible work arrangements which can sometimes mean members change from five by eight to four by 10, and in your statement you make reference to 20 lost shifts. What do you mean by lost shifts in that paragraph?---What I mean is that because staff work longer shifts, then if they're working an eight-hour roster then they would be available. They would work generally five 8-hour shifts. When they work a 10-hour roster they work four shifts rather than five, and because they're on a rest day on that day we're unable to roster them to that extra day. Of course they're still doing the work, the 40 hours, but it's just in a compressed way.

PN2852

THE COMMISSIONER: Compressed. Yes.

\*\*\* JOY ARBUTHNOT

RXN MS LEONCIO

PN2853

MS LEONCIO: And what impact does that have just in terms of the services that are delivered?---Well, it means that we have to use another employee to fill those shifts, and I think - and I have mentioned this already - it has meant that there is less flexibility in a roster. It means that, in particular, it has impacts upon other staff members so they have to cover the shift. That may mean that there's less shift flexibility for other members. They may find themselves working more weekends. They find themselves working sort of rest days, and so there are a number of impacts on other employees when, ironically, we give flexibility to some people we can have a consequence of less flexibility to others.

PN2854

And I'm sorry to be jumping around again, but we're going to go back to JA8. I'm sorry. So that's page 567. Now, you have already given evidence about the reference to - so if we go to the second dot point about member availability on the first page, yes, and there's a reference there to the data that's taken into account and a reference there to lost part-time. In terms of the figure that's here, the MSP which I understand was in place in June 2023 - is that correct?---I'm sorry?

PN2855

This figure, the MSP figure here was as at June 2023; is that correct?---Yes.

PN2856

So at that point in time what's your understanding about how flexible work was taken into account?---So my understanding is that they weren't taken - it wasn't taken into account in the MSPs, and just recently, because we have been starting to capture the flexible work arrangements more formally and that allows then the - what's called the intelligence people or the data people because I won't have the right name for them - the ability to start looking at a bulk amount of flexible work arrangements in our own work locations - and I have mentioned this before. They like to look at three years' worth of data because it then flattens out the average and provides less instability and they can create the profiles from it. I'm not a data (indistinct), but that's what's explained to me.

PN2857

Yes?---We have only just recently been counting our flexible work arrangements and so it's still unstable, and the number that's been applied to Eastern Division 4 for the sergeant rank is below two shifts per position per annum, which is very low. Now, I would expect that when - they have either redone or redoing the data at the moment - that that calculation will change because we have had a number. There's 20 sergeants on flexible work arrangements now so we should see that that calculation changes and hopefully that then makes for adjustments in my allocation of staff that I will get in the future. I'm sorry if that was - - -

\*\*\* JOY ARBUTHNOT

RXN MS LEONCIO

PN2858

Now, in terms of this document - though I understand that they're recent changes - do you know to what extent those changes have influenced this table, and you may not know?---I don't know, but I do know from a working perspective of what's happening within my local area that things have changed significantly. Twenty. Twenty. So a number of sergeants on flexible work



arrangements hasn't been picked up given the very tiny amount of calculation in the previous MSP.

PN2859

You were also asked some questions about the big A3 spreadsheet which you may still have there. It was the table of the applications. So there were two documents. Yes, so the one that has the number of applications in there as well. Is that the document you have there? Yes. Now, you gave some evidence about the HRA data, and I understand that's HR Assist. Is that what you meant by HRA? Yes?---That's right.

PN2860

The HRA data was not totally reliable. Do you know why it might not be reliable?---I don't know exactly. I just look at the count. So I was taken to the red area where, for Eastern Division 4, that said there were 113 applications the previous year and that is not right, and I can make an assumption that the system is counting twice. So if an application is put in and then it's stopped and when it's restarted again, which we did do, in order - so it's an automated system so with time frames attached to it. So when the application goes in, if I don't get to it in a particular time it goes to the next level. So because we had to consult with the staff and the union last year we stopped the application process from moving, and I think what the problem is, that the system automatically counts each time it stops and starts and it's not reliable. So that does not reflect the number of applications that we got last year and it doesn't reflect the number of applications that we got this year either.

PN2861

I then wanted to take you to the other spreadsheet, so the other A3 spreadsheet. It's the big blue one. This is the June versus October. So you have got the two tables at the top, which is the position as at June, and then the two tables at the bottom, which is the position as at October, and you were asked questions about the October numbers, and those numbers are after they were the subject of a review; is that correct? Do you recall that evidence?---That's my understanding. Yes.

PN2862

That review that Sergeant Goldsworthy referred to, do you know what applications were the subject of that review?---I'm sorry, do I know?

PN2863

Do you know which purchase leave applications were the subject of that review?---Well, are you asking in my division or across the organisation?

PN2864

In the Eastern region?---Well, I don't know what's happened in the other divisions. I only know what has happened in mine.

\*\*\* JOY ARBUTHNOT

RXN MS LEONCIO

PN2865

You were also asked some questions about the resourcing in Wodonga Highway Patrol and I didn't catch the rank of the Officer Young?---He's a Leading Senior Constable.

PN2866

Leading Senior Constable. Leading Senior Constable Young. You made some references to that member's position and that there was – I'm sorry, I just wanted to understand the timing of Leading Senior Constable Young's changes in the Wodonga Highway Patrol. When did that occur?---I can't give you an exact. I can't give you an exact time. I don't know. I would have to make references back to a HR report and perhaps Inspector Henry may be able to answer that, but I do know that he had been off work for an extended period of time, not far under two years when he returned to work. He was on a graduated return to work, so unavailable for response duties in his own core role, and whilst he was on his return to work he put an expression of interest in to go to Wodonga uniform, and that process doesn't require management oversight for the application itself. It just - it's an expression of interest. There are some checks and balances that can occur once the application has gone through, but I became aware that he had transferred under a special category to Wodonga and it was some time in the last couple of months.

PN2867

Is it safe to say it was before - I'm sorry, after June 2023?---I think it was, but I can't be exact about that so I don't want to mislead or - - -

PN2868

All right. I won't take you to the document, but you were taken to the spreadsheet with the unplanned leave absences and WorkCover absences, and you were shown the numbers for the sergeant level. What is your understanding of how Sergeant Goldsworthy's role would be backfilled if he were to take a period of purchase leave?---Well, I think I have sort of covered this, but someone else would perform the duties of - in the shift roster. So it would mean that either someone else from the OR level, so the constable or senior constable level, would be upgraded, and that might be great for development, but not necessarily for baseline minimum service, and/or someone else. If we didn't backfill into it, then someone else, some other sergeant would perform the shifts that he was absent for. So it would just mean a higher shift frequency around particular duties for those members. So they may get more of those supervisory duties where they're out in the patrol car supervising, or they may get more custody shifts where they're oversighting the people in custody, and they would have less - less shifts where they're actually doing portfolios or other activities within the station.

\*\*\* JOY ARBUTHNOT

RXN MS LEONCIO

PN2869

In terms of the process that you adopted or that you had, yes, adopted in 2022, so last year, and what you had expected would occur this year, what was that informed by? I'm sorry, this is about the process of considering purchase leave applications. What was that process informed by?---It was informed by HR advice and I suppose industrial relations advice around knowing the critical problem that we had that we needed to step through and make sure that we

consulted our staff. So the advice was provided by our HR business partner that we should run a panel and at least - so that's the consultation component - so at least we could run a panel or we could have individual means, but we had to consult around the applications to understand them and to listen to the staff around what their needs were, and also there was opportunity in that for people to talk with their managers, to negotiate whether - and there was quite a bit of that done in that particular year around moving leave and changing things to try and, at least try and meet middle ground for some people. Now, some people in that year just withdrew their applications. So they said they didn't want it and so the - - -

PN2870

THE COMMISSIONER: Do you mean 2022 or 2023?---2022, and that was because it was very evident to the division how bad the resourcing situation was and they all knew that we had just received or were receiving the 13. So we were receiving the staff. So whilst it was August 21 when the staff were announced, by the time you do all of the recruiting it takes a while to get them. So people were very aware that we were just getting staff to try and alleviate some of the pressures. So I would have to say the working together was, it was very cooperative because people understood it, and we had also talked to the union about what our concerns were and we talked about, you know, making sure that there was opportunity just to talk about what people needed et cetera. As you know, in my evidence I have said that I tasked Paul to follow a similar approach this year and I sent him the documents et cetera with the information in it for him to use as a template, and I provided him with the advice around HR people et cetera, and consulting with TPAV et cetera. Those sorts of things. So I just shared what I had done last year or what we had done last year with them.

PN2871

MS LEONCIO: And in terms of the HR advice, do you know what that was based on in terms of - you said that there were certain things that needed to happen. What was that?---Well, we had a HR business partner who, whenever I need advice about something, whether it's the people elements or whether it's industrial relation elements, she will, whilst she's co-located in the Eastern Region, but she's attached to HR and all of the departments in HR, which include industrial relations, and in practice, generally, what happens when it's around these types of things that are around EB compliance there will be advice from our industrial relations teams about the approach. So I'm making an assumption here, but I think I'm probably on safe ground to say that that advice was provided and in some context. Well, she may have already known that based on her experience, and then that was provided to me and subsequently to the team.

\*\*\* JOY ARBUTHNOT

RXN MS LEONCIO

PN2872

And you were talking about the EB compliance. What were the obligations that you understood you had to be compliant, this process had to comply with?---Well, my understanding was that we needed to assess the applications and we do need to consult with staff, and what I find, the consultation component was important, and it is important about many of the things in our EB, and on the other side, looking at reasonable business grounds around, you know, what's - it's the balance in between. So they were the things that I was particularly looking for and making

sure that we had the steps and the systems and the processes in place for that to happen.

PN2873

Are there any other Victoria Police procedures that would have applied to the consideration of the applications?---Well, there's the Victoria Police manual that everybody has access to via the intranet and we're all obliged to - to have an awareness of those things, and they're there not only to guide us, but also in many situations to teach us. There is - Eastern Region has a intranet or it has a regional instruction around purchase leave, so that's available, and of course, staff can talk to their line control. So we're obviously a hierarchical organisation so talk to the next one up or - and get some advice around those sorts of things, and most of the time people are trying to talk to people to work out, whether it's a flexible work arrangement or purchase leave, or whether it's changes to rosters, that they are using that mechanism to get information, and we also have the Divisional Planning office, whilst it's not necessarily their role, people will automatically go into the Divisional Planning office and say, 'How would that look?' you know, so they will ask could it be achieved. So they go direct to the people that create the rosters.

PN2874

You were asked some questions about the threshold, what is the threshold for the approval. I'm sorry, the rejection I should say. Now, you obviously have formed the view that the application should be rejected. What is the threshold, from your perspective, as to why it was appropriate to reject the application? What was the threshold that was met in this application?---Well, the conversations were had with other people and I was provided with a summary or written advice around those sorts of things and we had conversations around them, and so the - the one on one, or the panel type conversations were had between other parties. In terms of the threshold, I suppose it's the people that are making the decision. It's myself and also the inspectors. Having those conversations with people and trying to work out is this a pressing situation? Is there something?

PN2875

Yes?---So I will give some examples. Some people may want to have some purchase leave because they want to go to a sporting event, or they may want to go on a holiday. Some people don't give us any - any reason at all, so that makes it pretty hard to try and gauge, you know, is there - is there - if you can't - if you don't have the resourcing to allow it, where you could just push a button and say everybody could have purchase leave and we don't really have to worry about what the reasons are, that's the perfect world and that would be great - but when you have got the other side of it, which is the balance of having to provide to the community, you do have to look through the lens of is this, you know, a priority? Is this - is there a risk here? Is this pressing?

\*\*\* JOY ARBUTHNOT

RXN MS LEONCIO

PN2876

Yes?---Now, I don't think I have got the words to describe the perfect, has it met the threshold, but we have had people who have, in the previous year - so there was a person who has a number of children, a very ill wife with some mental

health problems, and the children have a number of disabilities and they asked for purchase leave and had stepped through that panel approach and talked to their line managers around the difficulties that they were having in trying to support their family and support their children and manage themselves, and that was certainly seen as a pressing situation and that was approved.

PN2877

In terms of the balance, so that's on the one hand, what is it on the other hand that you're balancing it with I suppose? What are the risks that you were referring to?---Well, I think I have outlined numerous examples of this.

PN2878

THE COMMISSIONER: I think she's been at it for about two and a half or three and a half hours and she's added ad infinitum you would think.

PN2879

MS LEONCIO: Yes. I withdraw the question. I think we have done that?---I suppose if there's one, if I can summarise it.

PN2880

THE COMMISSIONER: Yes. You can give us a kernel?---If we don't have members available to work the shifts, and we're continuing breaching those shifts, we're either going to have to put members' safety at risk, that they work one-up, and to me that is - I have an obligation as we all do under that.

PN2881

Yes. That's the deal-breaker?---So member safety is number one, and the other, as equal important, is providing the service to the community, and whilst we may be achieving elements of our baseline, I think there is many examples of what we're not achieving in terms of what we need to. So we're not actually achieving community safety.

PN2882

All right. Thank you?---And that is our job.

PN2883

MS LEONCIO: All right. Thank you, Commissioner. They're all of my questions.

PN2884

THE COMMISSIONER: Superintendent, thank you for your patience. You're now relieved. I have learnt, irrespective of whether or not, you know, what happens in this case, I have learnt a lot about the responsibilities you have got in balancing things which is not something I admire, so thank you?---Thank you. I'm sure you have learnt some acronyms too. My apologies.

PN2885

I worked in the CPSU for 25 years so I have learnt a few there too. So I know that the BPS side, but not much. Thank you?---Thank you.

\*\*\* JOY ARBUTHNOT

RXN MS LEONCIO

<THE WITNESS WITHDREW

[12.05 PM]

PN2886

THE COMMISSIONER: Now, before we call Henry - - -

PN2887

MR GOLDSWORTHY: Inspector Henry.

PN2888

MS LEONCIO: The inspector.

PN2889

THE COMMISSIONER: - - - there are a couple of things. It's the neighbourhood thing, this shift thing.

PN2890

MR GOLDSWORTHY: Yes. I plan on putting that to Inspector Henry. He will be aware of what it is.

PN2891

THE COMMISSIONER: Well, who produced it?

PN2892

MR GOLDSWORTHY: I did. I drew it from our roster system.

PN2893

THE COMMISSIONER: All right, but he won't be able to identify it, will he?

PN2894

MR GOLDSWORTHY: He will know what it is.

PN2895

THE COMMISSIONER: Hang on a minute. Yes, I'm sorry, not yet. We have just got some housekeeping. Your time will come. Don't worry. Yes. Okay. So if he can't identify it we will have the same problem we had before, won't we?

PN2896

MS LEONCIO: Well, he might be able to identify what the - - -

PN2897

THE COMMISSIONER: The figures and that in it he might be able to.

PN2898

MS LEONCIO: Where it came from and - - -

PN2899

THE COMMISSIONER: The composition and all of that?

PN2900

MS LEONCIO: Yes.

\*\*\* JOY ARBUTHNOT

RXN MS LEONCIO

PN2901

THE COMMISSIONER: All right. Well, there's - - -

PN2902

MS LEONCIO: I think the problem - yes. I'm sorry.

PN2903

THE COMMISSIONER: There's that issue and tell me if anything arises from this. There's just, before Henry gets in here, Sergeant, I just want to ask you. Now, you know, Henry says a couple of times - - -

PN2904

MR GOLDSWORTHY: Paul. I'm sorry, Paul Henry.

PN2905

THE COMMISSIONER: I'm sorry?

PN2906

MR GOLDSWORTHY: I'm sorry. His first name is Paul.

PN2907

THE COMMISSIONER: Paul. Well, I should call him Paul. What's his rank? Inspector?

PN2908

MR GOLDSWORTHY: Inspector.

PN2909

MS LEONCIO: Inspector.

PN2910

THE COMMISSIONER: Yes. Inspector Henry. He was on all of those conciliations. I should know. Inspector Henry, throughout his statement, says you didn't elaborate on your mental health issues. Why is that?

PN2911

MR GOLDSWORTHY: I think he missed it when I did discuss it briefly with him in the car.

PN2912

THE COMMISSIONER: All right.

PN2913

MR GOLDSWORTHY: But from my perspective I - there is nothing in the EB that says that I have to go down that track, that it should be judged on reasonable business grounds and not on my personal circumstances, but I appreciate that there is case law in the Ambulance Officer v Fyfe around there should be consultation. Yes.

PN2914

THE COMMISSIONER: All right. So you didn't think it wasn't necessary because the thing is the personal circumstances are not a business ground - - -

PN2915

MR GOLDSWORTHY: No, they're not.

PN2916

THE COMMISSIONER: - - - for approving or otherwise?

PN2917

MR GOLDSWORTHY: And I have certainly had discussions with the inspector about that, and we can go into it further with him, but he is not inclined to sit down with every person that he has to judge their application on and speak to them for half an hour. Like I said, we can go through it with him, but every female that sat down with him ended up in tears, and so it's not a pleasant job for him.

PN2918

THE COMMISSIONER: All right. Do you want to cross-examine him on that?

PN2919

MS LEONCIO: I have to review the evidence, but I didn't think there was - I'm sorry, cross-examine?

PN2920

THE COMMISSIONER: Yes.

PN2921

MS LEONCIO: I might have to because - - -

PN2922

THE COMMISSIONER: Yes. No, I wondered. I mean he's at the bar table. I mean it's a bit of a - - -

PN2923

MS LEONCIO: But I might need to just consider. If it's possible if we could do that at the - - -

PN2924

THE COMMISSIONER: After Henry comes out?

PN2925

MS LEONCIO: Yes.

PN2926

THE COMMISSIONER: Or would you rather do it before? I just needed to ask him. I just thought I hadn't asked the sergeant before. I need to ask him. Well, you will need to get instructions, won't you?

PN2927

MS LEONCIO: Yes. Could we have just a five-minute break for me to consider this point?

PN2928

THE COMMISSIONER: All right. I will adjourn for five minutes.



**SHORT ADJOURNMENT**

**[12.09 PM]**

**RESUMED**

**[12.23 PM]**

PN2929

MS LEONCIO: Yes, Commissioner. I'll just have a couple of questions in cross-examination. I should be fairly quick.

PN2930

THE COMMISSIONER: Okay. Sergeant Goldsworthy, will you go in the witness box, please?

PN2931

MR GOLDSWORTHY: Yes. Yes. If I just get - - -

PN2932

THE COMMISSIONER: No, come up. If you want to make a submission? Sergeant, do you need some time? That's fine if you do.

PN2933

MR GOLDSWORTHY: I sent an email to Ruben. If you could read that please?

PN2934

THE COMMISSIONER: Okay. All right. You seem distressed. We'll go away and read it and see what remedial action we need to take. Okay? I think I'll adjourn.

**SHORT ADJOURNMENT**

**[12.24 PM]**

**RESUMED**

**[1.36 PM]**

PN2935

THE COMMISSIONER: Just before we get to Inspector Henry I want to read a statement into transcript.

PN2936

It is trite that I control procedure in this matter and I must conduct it in a manner that is consistent with equity and good conscience. Just before lunch I asked the applicant a question which he answered from the Bar table. After a discussion between the parties I will order by consent that the question I asked and the answer the applicant gave will be treated as struck from the transcript. It will form no part of my deliberations or decision making in this matter. Thank you.

PN2937

All right. Ms Leoncio please?

PN2938

MS LEONCIO: Thank you, Commissioner. I call Inspector Paul Henry.

PN2939

THE ASSOCIATE: Please state your full name and address for the record, please.

PN2940

MR HENRY: Paul Matthew Henry, Wodonga Police Station, 100 Hovell Street, Wodonga.

**<PAUL MATTHEW HENRY, SWORN [1.37 PM]**

**EXAMINATION-IN-CHIEF BY MS LEONCIO [1.37 PM]**

PN2941

THE COMMISSIONER: Please be seated Inspector Henry. We got here eventually.

PN2942

MS LEONCIO: Thank you, Inspector Henry. For the purposes of the transcript could you just repeat your name please?---Paul Henry.

PN2943

And what is your occupation?---Inspector of Police, Wodonga Local Area Commander.

PN2944

What is your professional address?---Wodonga Police Complex, 100 Hovell Street, Wodonga.

PN2945

And have you made a statement in this proceeding?---Yes, I have.

PN2946

I'll just ask you to open up tab – sorry, volume two of the folder in front of you – and if you could turn to tab 10 you will see it's page 668 in the top right-hand corner?---TL10 – yes.

PN2947

Sorry. No, tab 10. It's page 600 - - -?

PN2948

THE COMMISSIONER: Page 668. Top right corner is the pagination?---Yes, I see it.

PN2949

MS LEONCIO: Yes. Is that the statement that you made in the proceedings?---Yes, it is.

PN2950

And it's dated the 12 October 2023?---Yes, it is.

PN2951

And it runs to 16 pages and 71 paragraphs?---Yes.

\*\*\* PAUL MATTHEW HENRY

XN MS LEONCIO

PN2952

And you've got annexures PH1 to PH18 behind it?---Yes, it does.

PN2953

I understand you want to make a correction to one of the annexures. Is that correct?---Yes. In relation to VPM leave – Victoria Police Manual leave.

PN2954

Yes, so that was annexure PH1 is it?---Yes, that's right.

PN2955

And what amendment would you like to make there?---I attached an outdated copy of the Victoria Police Manual leave. There's an updated version from February 2023. I have reviewed the differences and there are three differences which I am happy to highlight now.

PN2956

I might just provide this to you. That might actually be - - -?---Sure.

PN2957

- - - the easiest way to go about it. So just confirming if you have a look through that is that the updated version?---Yes, it is.

PN2958

And you want to replace this document – the updated version. You want to replace the PH1 that is currently behind PH1 with this document. Is that correct?---Yes, please.

PN2959

Yes. Then at pages 685, 686, 687 and 688 needs to be replaced with the document that I just handed up to you?---Yes.

PN2960

Yes?---Hang on.

PN2961

Now, with that amendment are the contents of your statement true and correct?---Yes.

PN2962

I tender that statement and the annexures marked PH1 to PH18 but with the replaced PH1?---Okay.

PN2963

That was handed up to the witness?---Yes. Okay.

PN2964

THE COMMISSIONER: Okay. So where are we up to? R10?

\*\*\* PAUL MATTHEW HENRY

XN MS LEONCIO

PN2965

MS LEONCIO: R10.

**EXHIBIT #R10 WITNESS STATEMENT OF PAUL HENRY DATED  
12/10/2023 WITH ATTACHMENTS PH1 - PH18**

PN2966

Commissioner, I'll just seek leave to ask a couple of additional questions.

PN2967

THE COMMISSIONER: Sure.

PN2968

MS LEONCIO: In the evidence-in-chief. If you just turn to your statement and there's a reference in paragraph 36. So if you turn to page 674? There's paragraph 36 at the bottom of the page?---Yes.

PN2969

There's a reference there to an email dated 13 June 2023. Now that email is not annexed to this statement but could I just show you a document and I'll ask if that is the document that you're referring to. So if you turn to – it should be in the same folder. Page 458 which is behind tab TL19?---Yes.

PN2970

So 458?---I'm with you.

PN2971

Yes. Now, I appreciate this is a chain but from the start of that page 458 you will see there's an email from you dated 13 June 2023 at 4.35 pm. Is that the email that you referred to in the paragraph I just took you to earlier?---Yes.

PN2972

Okay. All right. Now there has been some evidence that's been given in this proceeding about the family violence command. Are you able to explain to the Commission what that command does?---Family violence command was formed as a result of the Royal Commission into family violence. There were a number of recommendations that were made out of that Royal Commission.

PN2973

THE COMMISSIONER: Yes?---And so they have reviewed, is my understanding, they've reviewed the strategy of how family violence is reported and investigated through the Victoria Police. It also has some dedicated family violence investigation units at the extreme end. Very serious end.

PN2974

Yes?---And they also support law reform as required in the family violence phase.

PN2975

Okay.

\*\*\* PAUL MATTHEW HENRY

XN MS LEONCIO

PN2976

MS LEONCIO: And what ability does it have, if any, to provide assistance to ED4 and, in particular, the FVIU – the Family Violence Investigation Unit – in

ED4?---I'm not aware of any assistance that's been provided by Family Violence Command to ED4 Family Violence Investigation Units. The only matter which I can imagine that that might come would be very serious family violence offending where the matter was taken off a local unit and provided to family violence command. Otherwise I haven't heard that happen.

PN2977

THE COMMISSIONER: Okay.

PN2978

MS LEONCIO: Are you able to comment on why that hasn't happened?---Only that they would take on a very small case load State wide based on very serious offending.

PN2979

And in terms of the road policing command, are you able to describe what they do?---Road policing command is a specialist road policing command. Obviously with the ambition of road to zero they have an enforcement perspective road policing State highway task force, special solos and also the drug and alcohol testing area. And they basically support local operations across the State.

PN2980

And what ability, if any, does the Road Policing command have to provide assistance to ED4 and, in particular, the Wodonga Highway Patrol?---Their task is to complement local road policing operations rather than to provide staffing for an efficient workforce. I'm not aware on a State-wide basis, I'm not aware of road policing command backfilling any highway patrol.

PN2981

And do you know the reasons for that?---Their task is to target areas that are based on intelligence that are suffering road trauma risks and they then target those areas so supply personnel, I think, would be outside of their charter. It simply does not occur.

PN2982

And in terms of the public order response team what does that team do?---Public order response team supports local police in demonstrations, sporting events and task operations. Certainly, I've had quite a bit to do with the report and they will not supply staff unless local resources have been expended and they will match those resources. So it's that specialist public order response team.

\*\*\* PAUL MATTHEW HENRY

XN MS LEONCIO

PN2983

Right. Now there has been some evidence about the differences between or the comparisons to be drawn between ED4 and ED6. Are you able to comment on what, if any, differences there are between those two divisions?---I'm not sure of the nature that that was referred to earlier but I can see that there are some similarities between ED4 and ED6. They're both rural, regional divisions. They both are relatively small sized and they both have a very high emergency management impact as far as flooding and bush fires goes. The only other

developments would be that they are both adjoining the State borders so there's some cross-border issues.

PN2984

THE COMMISSIONER: Right.

PN2985

MS LEONCIO: Just one moment. There has also been some evidence given about the Corryong Police Station vacancies. Now, as at June 2023 what knowledge did you have, if any, about the ability for the two vacant – likely vacant positions to be recruited?---So around about June there were two vacancies at Corryong. So Corryong at that particular time was operating on one sergeant and 2.8 members. I anticipated there would be a difficulty in recruiting to Corryong. It's a remote environment and historically it's been difficult to recruit to. And so I anticipated that would take three to six months minimum in order to fill that particular vacancy.

PN2986

And what knowledge did you have, if any, of persons that had expressed interest in moving to Corryong Police Station in June 2023?---At that stage I had no information of any person who was going to the local vacancy.

PN2987

There's also been some evidence given about Wodonga Highway Patrol. The absenteeism or the capacity. What understanding do you have of any – so, as you had assisted – sorry, I'll just withdraw that. As you have assessed it in June 2023 what was your understanding of the capacity of the Wodonga Highway Patrol at that time?---Wodonga Highway Patrol does not report to me in terms of reporting lines but this was located within the same complex. I am aware that Wodonga Highway Patrol is one sergeant and nine other ranks. At June, that period due to WorkCover, due to repeated exposure to road trauma. That was operating at zero sergeant and five ORs. And Wodonga had backfilled with that sergeant's location. So we provided the sergeant with our roster, into the highway patrol to provide leadership in that area.

PN2988

THE COMMISSIONER: Right.

PN2989

MS LEONCIO: And as at June 2023 what foreseeable changes were there to that capacity? So I think at that point it was one and four?---Yes. I knew that the sergeant vacancy was becoming available. I didn't know the timeframes but I knew it was in the next three to six months and that has come to fruition. I also was aware that most of the WorkCover matters were not – did not have a resolution date in the foreseeable future.

PN2990

THE COMMISSIONER: Right. Okay.

\*\*\* PAUL MATTHEW HENRY

XN MS LEONCIO

PN2991

MS LEONCIO: Thank you, Commissioner. They are all my questions.

PN2992

THE COMMISSIONER: Okay. Sergeant?

**CROSS-EXAMINATION BY MR GOLDSWORTHY**

**[1.52 PM]**

PN2993

MR GOLDSWORTHY: Inspector Henry, does Wodonga PSA have a service delivery point?---It has a very basic service delivery plan that I asked the eastern region Div 4 planning office to put together. Sergeant Larkin put that together for me but I was dissatisfied with its content and level of data driven issues with it.

PN2994

Right. Though it wasn't granular enough. It was a bit too with the parenthood statement is that what you're getting at?---Yes. Sergeant Larkin is quite good at rostering - - -

PN2995

THE COMMISSIONER: Yes. Well, he gave evidence. As I say you don't need to be a rocket surgeon to do rostering these days. So, yes, I can understand?---Yes.

PN2996

Okay.

PN2997

MR GOLDSWORTHY: And does Wodonga PSA have a workforce plan?---No. It does not.

PN2998

Right. On the 1 June did you participate in the ED4 purchase leave panel?---Yes. I did.

PN2999

Can you tell the Commissioner about that process?---At the time I had that particular meeting with Acting Inspector Chris Parr who was representing the Wangaratta Local Area command. Also present was leading Senior Constable Daniel Brains who is in the Divisional Planning Office.

PN3000

Right?---I had a clear understanding in my view that we had some capacity issues, particularly at sergeant rank as we went into that particular meeting. That meeting was all geared towards what were the personal circumstances to justify some service delivery impact by providing people some purchase leave. Rather than a discussion about the actual constraints of productivity and so forth.

PN3001

THE COMMISSIONER: Right. Okay.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3002

MR GOLDSWORTHY: Were you given any explanation or information on the purchase leave panel process?---I'm not aware of any advice that I have received in relation to how to conduct a purchase leave panel.

PN3003

Were you provided with any terms of reference?---No. I was not.

PN3004

Were any formal minutes of the meeting kept?---The only notes that were kept were the ones that I have provided and I think you have a copy of it.

PN3005

Yes. Yes. You met in person, is that correct?---Yes.

PN3006

You have already stated who was there. Was Inspector Brad Sprague invited to attend?---I don't recall if he was invited. But I knew at that particular stage he had already approved purchase leave for people within his particular stream of management.

PN3007

Did you go through each application individually?---Only for Wangaratta Police Service area and Wodonga Police Service area.

PN3008

How were they assessed?---Based on personal circumstances solely around personal circumstances that we thought were developments to providing them with purchase leave in order to address some sort of – you know – personal need in their personal lives.

PN3009

Right. So how is the actual decision made?---It was an assessment based on personal circumstances between Acting Inspector Chris Parr and myself. Daniel Brains was more of an observer.

PN3010

Right. Was there a vote or anything like that or it's just a consensus?---Consensus.

PN3011

What were the possible outcomes of any decisions made by the purchase leave panel?---It was not final.

PN3012

Yes?---I had to then take that too Eastern Region Divisional Leadership team for discussion.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3013



Were the applications for purchase leave assessed against regional business grounds?---It was clear in my head before that panel, particularly at sergeant rank that we had some capacity constraints. And so it was more a case of extreme personal needs that supported the service delivery impact.

PN3014

Right. You've raised that twice now. Could you explain are you concerned about the sergeant ranking and with capacity?---Sure. There's 16 sergeants at Wodonga Police Station. At any particular time about 20 per cent will be on leave. We'll try and spread the leave throughout the year and we were supporting a number of external areas outside of the police station. So Wodonga Crime Investigation Unit.

PN3015

Yes?---Wodonga Senior Sergeant's office and there was – I can't recall particular numbers – but I think there was one person on WorkCover at the time of sergeant ranking.

PN3016

Was it reasonably foreseeable that these numbers would diminish throughout the year in relation to your concerns about capacity?---I don't think so.

PN3017

And why was that?---Well, we knew that we had a long-term upgrade of inspector rank which then removed the person from senior sergeant's office which needed to be back-filled. I was also aware that a sergeant from the Crime Unit was being upgraded regularly and someone did the backfilling for that. And also I had to support Wodonga Highway Patrol and just asked because they had none. So that was my thinking in relation to the sergeant ranking.

PN3018

Was it reasonably foreseeable at that stage that at some point in the near future those positions that were being filled by the sergeants would be gazetted and occupied by somebody in the substantive position?---I certainly was aware that the end date for a WorkCover issue that related to Wodonga Highway Patrol sergeant issue was being resolved and therefore that would be advertised. I probably anticipated that would be within the three to six month block.

PN3019

THE COMMISSIONER: Resolving which way? It doesn't sound like you're resolved by the person coming back to work?---Sorry. But that person would separate from the organisation.

PN3020

Yes. Okay?---Thereby freeing up the vacancy.

PN3021

All right. I follow.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3022

MR GOLDSWORTHY: And in relation to – you stated around the Criminal Investigations Unit I believe was reasonable foreseeable, that the sergeant – the detective sergeant there who was being upgraded into the crime advisor's position would return to his normal position because the crime advisor's position would be filled?---It was foreseeable in terms of there's always movement in and out of positions as the person takes leave.

PN3023

Yes?---That backfill and so forth. So in that sense. Yes.

PN3024

Is it reasonably foreseeable that a vacant inspector's position in the ED4 would be filled at some point in the relatively near future? If it's vacant surely it's going to be advertised at some stage?---Well, it still hasn't been advertised. There's some HR issues that relate to matters outside of ED4.

PN3025

THE COMMISSIONER: Yes?---And so that still remains vacant.

PN3026

Okay.

PN3027

MR GOLDSWORTHY: All right. How were members applying for purchase leave? Do you know if their applications would be decided on their discussions with yourself and Acting Inspector Parr and the brief notes that were made on the application form?---Sorry. Can you repeat that, please?

PN3028

Yes. So how would members who were applying for leave to know that their applications would be decided on their discussions with you and the brief notes that they may have put in their application form?---They wouldn't know.

PN3029

Do you believe that this is the best method to assess applications for purchase leave?---I believe there is very limited guidance to local area commanders as to how to assess purchase leave applications against service and the productivity aspect.

PN3030

THE COMMISSIONER: Well, there's little guidance in the EBA if I may say so. You're not alone there.

PN3031

MR GOLDSWORTHY: Do you believe that this process could be arbitrary?---Arbitrary in terms of – yes, I guess so. Yes, because one person ultimately has the administrative functions so it could be arbitrary. And there could be different standards applied across different divisions. I agree with that.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3032

Do you believe that personality conflicts could influence decisions?---No. Well, sorry. I'd go back and say if it's arbitrary then, of course, it could be but in my particular case it's not.

PN3033

How many times did the panel meet this year?---Just the once.

PN3034

What results were you expected to provide when the purchase leave came off? Were they recommendations or approvals?---Recommendations.

PN3035

How many applications for purchase leave were made within Wodonga and ED4 by sworn police members?---That's a matter that's difficult to answer. I can say what I consider them to be at the time when I made the decision. There were 10 applications in total for 32 weeks cumulative.

PN3036

Are you aware of the number of applications in the rest of ED4?---Not off the top of my head now, no.

PN3037

How did you come to be on the purchase leave panel?---On the – just prior to the 24 May, it may in fact have been the 24 May I enquired of our divisional leadership team what we were doing about the purchase leave applications and Superintendent Arbuthnot indicated that I would be responsible for the entire division's assessment of those.

PN3038

THE COMMISSIONER: Sorry to interrupt you but what caused you to make that enquiry?---Because I knew that there was certain end dates to those purchase leave applications.

PN3039

Right. Okay?---It was approaching and there had been no guidance upon that so I asked the question.

PN3040

Okay?---And they bank up in your HR Assist so you can see.

PN3041

Right. Yes. You can see them coming and with a deadline looming?---Yes.

PN3042

MR GOLDSWORTHY: How many weeks of purchase leave were ultimately approved with ED4 for sworn police members under your direct line of control?---I don't actually know the number, sergeant, Commissioner but I can say that Wodonga Police Service area there were no applications approved.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3043

Are you aware of any members that work within ED4 that have been permitted to take purchase leave this financial year?---I think there may have been one from a police service area. That's at Wangaratta and that person came with purchase leave pre-approved for other condition on transfer. But there were a number that were approved at the investigations and response string of management.

PN3044

THE COMMISSIONER: So the first person carried their purchase leave into ED4 is that right?---Yes.

PN3045

Okay?---Yes.

PN3046

MR GOLDSWORTHY: Are you able to provide an example of exceptional circumstances that allowed these members to have their purchase leave applications approved? Those that were in the I&R?---I don't have a good understanding of the personal circumstances of members that are attached to the investigations and response teams. However, there were five recommendations that I made initially for that purchase leave to be approved – the divisional leadership team. I'd give an example of those circumstances.

PN3047

THE COMMISSIONER: That'd be great?---One such example, was a senior constable attached to the Goulburn Police Station. He has two children with some learning difficulties.

PN3048

Yes?---And some marital challenges.

PN3049

Yes?---And I made a recommendation that that particular purchase leave application should be approved.

PN3050

MR GOLDSWORTHY: And ultimately was it approved?---No.

PN3051

Could you give me another example?---There is a senior constable – female senior constable attached to Wodonga whose husband left her and she had two young children and I recommended that she receive some purchase leave.

PN3052

And was she approved for purchase leave in the end?---No. She wasn't.

PN3053

Okay. How did you feel about that?---I didn't feel that – I felt like that my superintendent has a role of delivering service delivery and I am closer to the front line.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3054

Yes?---And if I may be blunt and suggest that I am always trying to balance keeping people motivated, trusted in faith in me in order to do that service delivery and so therefore it did not sit well with me. I felt - - -

PN3055

THE COMMISSIONER: Well, you're making a decision you don't want to make?---Yes.

PN3056

MR GOLDSWORTHY: Do you believe that mental health grounds should be considered as exceptional circumstances?---It's not for me to decide what is exceptional circumstances but certainly in one of the particular matters I did consider mental health as a reason why purchase leave should be given. That was yours sergeant.

PN3057

Thank you. If you turn to TL15, please?---Yes.

PN3058

THE COMMISSIONER: Yes. That's 447. Have you got it?---Yes.

PN3059

Okay.

PN3060

MR GOLDSWORTHY: Have you seen this email previously?---I probably have. I don't recall seeing it but it looks familiar. Yes.

PN3061

Okay. So as you read through it just go down, 'Below should assist in the process which I have' – and this is an email from Assistant Commissioner Langdon – 'should assist in the process which I have consulted with the TPAB over.' It was dated 15 June, so well after you had conducted your assessment. The second dot point is to consider the needs of the employee, child care, travel booked, time in purchase leave. Do you feel as though that was a process that you applied?---Yes. Because I did consider the needs of the employee in the panel leave discussion.

PN3062

Yes.

PN3063

THE COMMISSIONER: The examples you gave that were knocked back is indicative of that you'd say?---Yes.

PN3064

MR GOLDSWORTHY: An email and let's see – from acting superintendent Ash Mason - - -

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3065

THE COMMISSIONER: Is that the thing with 'Well done Ash' or something at the top of it?

PN3066

MR GOLDSWORTHY: No. There's potentially a different one. As to the page number in the overall email stem. I think that was 180. I'll just have a quick look. It was an email that was provided. I just wanted you to look at the first dot point on that email. It was one that you were cc'd in on and says, 'Individual circumstances of the individual applicant to determine special exceptional circumstances is why the application should be supported.' So that's one threshold to be met. Would that be correct?---Yes.

PN3067

Okay.

PN3068

THE COMMISSIONER: Do you remember receiving this?---I don't particularly recall it.

PN3069

Right?---But I get – receive many emails, Commissioner.

PN3070

Yes. I can imagine.

PN3071

MR GOLDSWORTHY: Once again – page 180 of (indistinct) of emails – that's 143 pages.

PN3072

THE COMMISSIONER: I thought 180 was the last one?

PN3073

MR GOLDSWORTHY: Sorry?

PN3074

THE COMMISSIONER: You said that page 180 of the emails was the last one of 21 June?

PN3075

MR GOLDSWORTHY: Yes. I know I made a mistake on that. So I can't go to it straight away as to where it was.

PN3076

THE COMMISSIONER: Okay.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3077

MR GOLDSWORTHY: Page 93. There you go. So down the bottom and I actually highlighted this. This is an email from you to Superintendent Arbuthnot

and it says, 'I will not be putting forward any potential personal circumstances that are exceptionally compelling.' So that's another threshold potentially. Is that right?---The reason I put that as 'exceptionally' was because I thought that the five that I recommended following the purchase leave at all were compelling. That did not meet the threshold that was explained to me to the divisional leadership team. So anything above that I classed as exceptional.

PN3078

Yes. Okay.

PN3079

THE COMMISSIONER: Well, the first one with the partner with the mental health and the two kids with learning difficulties if that doesn't reach the threshold what would?---Yes.

PN3080

Look, can we just – these are business records. In order for me to control them now I've got to mark them. So are you happy for me to mark them? Okay. Well, we'll mark the one from Ashleigh Mason to Brad Sprague and cc'd to others as R11.

**EXHIBIT #R11 BUSINESS RECORDS FROM ASHLEIGH MASON  
TO BRAD SPRAGUE AND CC'D TO OTHERS**

PN3081

And the next one which is an email from – which one? Do you want the second one or both?---The bottom one.

PN3082

Yes. Yes, the email – 4 July email - - -

PN3083

MS LEONCIO: Commissioner, I might just mention, Commissioner. That is actually already in the court book.

PN3084

THE COMMISSIONER: Is it?

PN3085

MS LEONCIO: It's PH – is this the 4 July email?

PN3086

THE COMMISSIONER: Yes.

PN3087

MS LEONCIO: Yes. So it's annexure PH16. Page 739.

PN3088

THE COMMISSIONER: Okay. Well, we don't need to mark that one.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3089

MS LEONCIO: No.

PN3090

THE COMMISSIONER: Okay. Great, thank you.

PN3091

MR GOLDSWORTHY: Now, I have another one. And I know we've already discussed this one so it's probably marked somewhere.

PN3092

THE COMMISSIONER: All right. Your opponent is very good at these sort of things and maybe she can help me.

PN3093

MR GOLDSWORTHY: And that's the one that leads off with, 'Thanks Ash. Really appreciated, Tony.'

PN3094

THE COMMISSIONER: Yes. That one sticks in my mind for some reason.

PN3095

MR GOLDSWORTHY: Sorry?

PN3096

THE COMMISSIONER: 'Thanks Ash. Really appreciated, Tony.'

PN3097

MS LEONCIO: A4?

PN3098

THE COMMISSIONER: Yes. That's A4.

PN3099

MS LEONCIO: A4.

PN3100

THE COMMISSIONER: So A4 that's in A3.

PN3101

MR GOLDSWORTHY: And that talks about and that's extenuating circumstances or critical circumstances?---I can see that part. It's highlighted. Yes.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3102

Yes. All right. So there's the criteria that's been set by the AC, then Acting Superintendent Mason has listed exceptional circumstances – critical circumstances – and you have also put in there around exceptionally compelling circumstances. Would you agree that the threshold is not clear in relation to how



you assess an application for purchase leave to make the recommendation, given those four different thresholds?

PN3103

THE COMMISSIONER: Okay. What was the first one? The first one. I've got the three – there's different – three emails. All right. What's the first one?

PN3104

MR GOLDSWORTHY: The first one was from the Assistant Commissioner.

PN3105

THE COMMISSIONER: Right. Right. Okay. Yes. Yes, all right. Sorry. Yes, I'm familiar with that.

PN3106

MR GOLDSWORTHY: Do you understand where I'm coming from there? There seems to be four different thresholds that somebody has to climb over to get a recommendation?---That's to clarify. Are you talking about the word 'exceptionally, extenuating and the like'?

PN3107

Absolutely. The definition of those and then you've got the AC's email that basically says he wants you to consider the needs of the employees which you've done?---Putting those words aside I agree that the threshold for what can constitute the circumstances that would justify the purchase leave is unclear.

PN3108

Okay.

PN3109

THE COMMISSIONER: Well, it arrives from the black box in the agreement. The reasons for exclusion is covered but the reasons for inclusion does not?---Yes.

PN3110

Well, the reason for refusing is covered but the reasons for approving is not. There's a balance between the needs of the employee and the assessment of reasonable business needs?---I agree with that.

PN3111

Yes.

PN3112

MR GOLDSWORTHY: What is your understanding as to who had the authority to approve purchase leave applications in ED4?---It was a decision at superintendent level.

PN3113

Yes?---At the Eastern Region Div 4 leadership team.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3114

Yes. Specifically who would approve it?---Superintendent Joy Arbuthnot.

PN3115

Yes. I understand. At paragraph 43 which I am guessing is your statement how you state Acting Superintendent Ash Mason confirmed that you had authority to approve or reject the application?---Hang on.

PN3116

I'll just go to that.

PN3117

THE COMMISSIONER: Where are we? What 43?

PN3118

MR GOLDSWORTHY: Yes, sir. I believe so?---What page is that?

PN3119

THE COMMISSIONER: Yes. It's for 676. Paragraph 43.

PN3120

MR GOLDSWORTHY: Yes. It's down the bottom. It says, Acting Superintendent Mason recommended I engage with members to ascertain the personal circumstances for the purchase - - -?---Yes. Just a moment. I'll just get there.

PN3121

Yes?---Which paragraph was it, sorry?

PN3122

Forty-three?---I'm with you.

PN3123

Right. So on the 20 June you had a discussion with Acting Superintendent Mason regarding purchase leave applications. 'I asked him to confirm my role in approving or rejecting the applications. My intent in asking this question was to clarify whether I did or did not have the autonomy to approve the five purchase leave applications which I proposed following the panel of Acting Inspector Chris Parr. Acting Superintendent Mason confirmed that I had the authority to approve or reject applications.' Did that muddy the waters at all, given that you'd previously received an email from the Superintendent Arbuthnot to say that applications had to go through her for approval?---It didn't muddy the waters. I was clear in my head that the superintendent had the decision making.

PN3124

THE COMMISSIONER: Had the decision making. Yes?---On approving purchase leave applications.

PN3125

Yes. Yes?---That particular discussion was around me pushing the point about inaccurate information provided to me.

PN3126

Right?---He was stating that I had administrative authority to approve the applications which is true.

PN3127

Right?---I actually go into the HR system and approve or reject. But the reality is that's based on - - -

PN3128

Well, senior sergeant – isn't it – am I wrong that senior sergeants get it as well? Is that true? In previous iteration?

PN3129

MR GOLDSWORTHY: So they had the first level of approval and then it goes through the inspector.

PN3130

THE COMMISSIONER: Okay. Right. Okay. Yes.

PN3131

MR GOLDSWORTHY: For final.

PN3132

THE COMMISSIONER: Okay?---Yes.

PN3133

I get it. Thank you.

PN3134

MR GOLDSWORTHY: You made an entry into your day book – of the emails – 266 of 343. So you just discussed in part around this. So it says 'Discussion with Acting Superintendent Ash Mason re purchase leave application list. I have administration function under policy. Superintendent has directed the response.' What does that mean?---That was what I'm referring to in paragraph 43. Acting Superintendent Mason was indicating that I had administrative function. We were talking around in circles.

PN3135

THE COMMISSIONER: Yes?---I really wanted to push him into – push him into a corner.

PN3136

Yes?---And provide me with clarity about what his interpretation of who had their function.

PN3137

Yes. And I eventually got him to agree because Superintendent Arbuthnot had made that decision.

PN3138

Well, you – that's conducive with what you've just said?---Yes.

PN3139

Before – your previous answer?---Yes.

PN3140

All right. Shall I mark that?

PN3141

MS LEONCIO: That's in the Commission's book as well. Sorry.

PN3142

THE COMMISSIONER: Is it?

PN3143

MS LEONCIO: So PH13 page 727.

PN3144

THE COMMISSIONER: I didn't read this one on Sunday – read it from cover to cover. Where is it?

PN3145

MR GOLDSWORTHY: There's a lot of information to read it all.

PN3146

MS LEONCIO: 727. It's behind PH13.

PN3147

THE COMMISSIONER: PH – what's the number?

PN3148

MS LEONCIO: Thirteen.

PN3149

MR GOLDSWORTHY: Thirteen.

PN3150

THE COMMISSIONER: Okay. All right. Sorry. We'll get there. We'll get there.

PN3151

MR GOLDSWORTHY: Do you believe that the Wodonga uniformed section has sufficient staff to undertake their policing role?---I believe it's satisfactorily staffed.

PN3152

Do you believe that a unit or an area that is at 100 per cent capacity should be entitled to take purchase leave?---If there are service delivery needs that can be met. I agree.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3153

If not when there is 100 per cent of staff available then when will I ever be able to take purchase leave again?---I'm not sure that I can answer that. I'd have to consider it at the next application round.

PN3154

THE COMMISSIONER: Well, you're climbing mountain at ED4 aren't you?---Yes.

PN3155

Because of the alpine and the geographical distance and the Hume Highway issues and the relative lack of HR?---Yes.

PN3156

It's more difficult there than anyone else?---I find it extremely difficult to meet all their needs.

PN3157

And that's why at 71 per cent outside and 13 inside as far as approvals are concerned?---Mm-hm.

PN3158

Okay.

PN3159

MR GOLDSWORTHY: Do you believe that members should be able to take purchase leave?---I would love to give everyone purchase leave.

PN3160

I'm sure?---I would like every applicant purchase leave but I don't see how I could have and met the services delivery implications that I am required to provide.

PN3161

Go to TL9 please?---CL?

PN3162

TL?---TL. Thank you. Yes, thank you.

PN3163

I'm not sure if you can read those (indistinct) or not?

PN3164

THE COMMISSIONER: No. If it's in here. I don't want to have it. All right. Here. It's at 425. You'll need a microscope but it's okay.

PN3165

MR GOLDSWORTHY: Did you ever see this email?---Yes. It's familiar.

PN3166

Okay. As a result of that email what did you do?---Nothing.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3167

Sorry. Did you say 'something' or 'nothing'?---I said 'nothing'.

PN3168

Okay?---I did nothing.

PN3169

Did you, later, on the 13 June – send out an email to those applicants for purchase leave that you're aware of stating that purchase leave applications shall not be approved?---If that's the one that I sent out in relation to the email from Assistant Commissioner Langdon, yes.

PN3170

Yes?---Yes.

PN3171

THE COMMISSIONER: That is the Langdon email. The body of that is in the inspector's statement?

PN3172

MR GOLDSWORTHY: Yes.

PN3173

THE COMMISSIONER: Okay. Can I ask him a question about that? You say you misinterpreted the Assistant's section to the Commissioner but I don't think you did misinterpret it. I mean if I read something that said, 'I've already asked the ED assistant comms out of HR to work through the mechanism of cancelling their approvals.' I mean fair to say on that test it's a message loud and clear to me?---That's how I read it.

PN3174

Yes. And in fairness to assist the Commissioner Langdon he said there were conversations and that going around it. But as far as the test of that email that's, I understand, why you read it the way you did?---That's how I read it. I read it as a statement that purchase leave applications would not be approved.

PN3175

And I simply do not understand how we can sustain this et cetera. I mean to me that is Dep Comm's five sort of statement there. And I understand why you would interpret it that way. Is that an accurate – you don't – is to say I'm wrestling with these issues. And the way I read that I don't think you did misinterpret it. I think you interpret it in the way that anyone reading English would interpret it?

PN3176

MR GOLDSWORTHY: I would concur with you.

PN3177

THE COMMISSIONER: I'm just thinking out loud. I haven't made a concluded decision about anything.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3178

MR GOLDSWORTHY: So is that an accurate description that you interpreted from that email that no purchase leave applications would have been approved for this financial year. Is that correct?---Yes. That's how I interpreted that.

PN3179

Yes. Okay. Are you aware of anybody else within ED4 that had a similar interpretation of that email or the circumstances around purchase leave?---No. No, I'm not.

PN3180

When did you become aware that the two members that were previously stationed at Corryong were interested in returning there?---I couldn't give you an exact date but it was July/August around that time.

PN3181

THE COMMISSIONER: Well, where did they go? Were they on compo? Or what was the story with them?---They were a married couple.

PN3182

Right?---Who had a child. He'd got a sergeant's position in Melbourne.

PN3183

Yes?---She had family support at Corryong where she resided with her family.

PN3184

Right?---And they basically found the separation too difficult and he wanted to revert the rank and come back to Corryong which she, in fact, did.

PN3185

Okay?---It was unusual circumstances that rarely occurs.

PN3186

Well, a blessing you'd say, in the circumstances, of trying to staff Corryong you'd say?---I was very appreciative.

PN3187

Yes.

PN3188

MR GOLDSWORTHY: Do you agree that the Criminal Investigations Unit, the Family Violence Investigations Unit and the Sexual Offences and Child Investigation team all investigate crime who contribute to crime prevention, disrupting crime and community safety in addition to the general duties police?---I don't agree that they had a strong role in crime prevention. They're very responsive. But I agree with the latter two points that you made.

PN3189

When you remand a criminal are they capable of committing crimes outside of the police station?---No, they're not.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3190

So that would assist in crime prevention?---Yes. I guess so.

PN3191

Do you agree that the Priority Policing Unit, the Crimes Scene Unit, the Divisional Intelligence Unit all contribute to crime prevention, disrupting crime and community safety in addition to the general duties police?---Indirectly, yes.

PN3192

Do you agree that the general duties police contribute to reducing road trauma, crime prevention, and disrupting crime and assisting in community safety while out on patrol?---Yes.

PN3193

Are you aware of what a duty summary report is when it comes to the rack system and determining how many people are rostered on a particular shift? So it's something that the divisional planning office view in order to determine they've got all bases covered. Are you familiar with that?---Yes.

PN3194

And if I show you a duty summary report are you able to interpret it?---I think so.

PN3195

May I have permission to give him that?

PN3196

THE COMMISSIONER: Yes, please.

PN3197

MR GOLDSWORTHY: That document has previously been provided to others. Is this something that your vaguely familiar with?---Yes.

PN3198

Okay?---I don't view it on a daily basis but I have seen it before.

PN3199

Right. Okay. Are you able to turn overleaf on the first page and on the back of that page? And there should be a highlighted section and it goes down to neighbourhood police patrol?---Yes. I see it.

PN3200

Yes. And across under the respective dates there are numbers – the majority being zero. There's a 3, 2, 2, 1 and a 2?---Yes.

PN3201

What is your understanding of what these figures are?---These are numbers that are not core function responses. So not a divisional van and not a watchhouse keeper. Some additional unit.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3202



And the numbers themselves do they represent the number of people rostered on that shift for that date?---Yes. That's my understanding.

PN3203

Okay. There are approximately 13 of these daily reports. You will see there at the top of the heading of the first one that lists the 4 June 2023. And if you were to go to the very back page you will see that the duty summary report of the 19/11/2023. So that incorporates the current period. Would that be your understanding of it?---Yes. They're broken up into fortnightly basis as the roster is.

PN3204

Okay. Without asking you to go through the entire document if at the rear of each page there is a highlighted section on neighbourhood policing patrol they would represent the number of those patrols throughout the period from June until the current day. Would that be correct?---I haven't had the time to go through the entire document.

PN3205

Yes?---But I can see what you're referring to about the various highlighted areas of the neighbourhood police patrol.

PN3206

Right. If I said that if there are three people rostered on a neighbourhood policing patrol I have counted that as two shifts and if there is one person on the neighbourhood policing patrol I have counted that as one. The numbers that are on the front of each of the duty summary reports indicates the number of shifts. Are you able to say whether that's a rough guide to the number of neighbourhood policing shifts that were rostered from June until the current day?---Could I just clarify something?

PN3207

Absolutely?---Because I'm not sure. So are you asking me in terms of the neighbourhood police patrol if we take the 6 June as an example.

PN3208

Yes?---So that three means three individual people?

PN3209

Yes?---Yes. Yes.

PN3210

And so ordinarily you wouldn't have three members in a police vehicle. At max you would have two. So that would constitute two neighbourhood policing patrols on that day. Would that be close to it? Or - - -?---For the odd numbers.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3211

THE COMMISSIONER: Yes?---I would suggest that most of those would actually be out on patrol. They would probably be afforded some other roles, such as performing correspondence or something of that nature.

PN3212

Yes?---So I agree with you you wouldn't have three people on patrol.

PN3213

Yes?---You'd have two or four.

PN3214

MR GOLDSWORTHY: So roughly speaking for the last five months there have been a number of neighbourhood policing patrols, stand alone that have been rostered. Would that be correct?---From what you have shown me - - -

PN3215

Yes?--- - - -I'd agree with you. Yes.

PN3216

Are you able to have a quick look through the majority of the times that are listed are nine o'clock starts. Would that be correct?---What page is that on?

PN3217

At the rear?---At the rear is it?

PN3218

There's four. There's four times listed for each neighbourhood police patrol at the rear?---I'm with you.

PN3219

One starts at 9:00. One starts at 10:00. One starts at 13:00. And one at 19:00?---I'm with you. Yes.

PN3220

Okay. So there are some that start at 13:00, but the majority at nine o'clock?---Yes.

PN3221

Would that be correct?---Yes.

PN3222

Okay. Can you say whether these stand alone neighbourhood policing units that have not been given another name are from an operational patrol unit? I'll give the example that a one o'clock, 301 for Wodonga could have their call sign changed to neighbourhood policing. But the ones at nine o'clock that is highly unlikely. Would that be correct? I know that's a couple of - - -?---Yes. I don't understand that sorry.

PN3223

The ones starting at nine o'clock they're definitely neighbourhood policing. They haven't been rebatched from anything else?---I really don't know. I'd be expecting that, for example, if you had on the 7 June there's an example. There's two people there. That call sign would probably be Wodonga 309 or something of that nature.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3224

Yes?---Yes.

PN3225

But they're performing at go to go neighbourhood policing functions?---Yes.

PN3226

Okay?---It's basically an extra unit.

PN3227

Yes?---And a way of getting extra unit out and support the staff.

PN3228

All right. Are you aware that sometimes at one o'clock there is a 301 unit which means two members started at 1.00. And, in addition to that a neighbourhood policing patrol that will also start at 1.00. So you have two units starting at 1.00 with two members in each unit?---I would think that's rare. And I'm just looking through. So that does occur on the 14 June as an – sorry, is it 301 on the 14 June if there's no 309?

PN3229

Yes. That does actually happen?---Well, to look at this it rarely happens. I haven't seen it happen yet.

PN3230

Yes?---And I'm at July. It doesn't happen throughout the June or July.

PN3231

So September there's a couple. Then – but, basically they're standalone units. They're not rebadged units from the 301. They're on the – yes, in July. There's - - -

PN3232

As I go through July there's only official unit on the road and that to me is the rostering team trying to put an extra divisional van on the road to support the one van which is required in a BMSL.

PN3233

If I said to you that there is approximately 84 neighbourhood policing units in the time period that I have shown you would that roughly be correct?

PN3234

THE COMMISSIONER: How can he say that?

PN3235

MR GOLDSWORTHY: Because he has been able to – or looked at the 6, 7, 7, 7 – multiply that by 13 and we might get there.

PN3236

THE COMMISSIONER: That's beyond me. But perhaps - - -

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3237

MR GOLDSWORTHY: Okay.

PN3238

THE COMMISSIONER: - - -Inspector Henry might be - - -

PN3239

MR GOLDSWORTHY: All right. If I said there was 84 neighbourhood police units are you in a position to (indistinct) back?---What time period is this?

PN3240

From the 4 June until present date?---What's it talk about the five months? Five months. Twenty-five. My strong view is that those neighbourhood policing shifts that we're referring to are extradivisional vans which we put on in order to support the core BMSL. I think that's required from a safety point of view.

PN3241

Yes?---Due to the isolation at Wodonga.

PN3242

Yes?---Okay.

PN3243

Right. I think we've established that there are additional neighbourhood policing units.

PN3244

THE COMMISSIONER: Yes.

PN3245

MR GOLDSWORTHY: It will be my submission at the end that we meet the requirement.

PN3246

THE COMMISSIONER: All right. Now - - -

PN3247

MR GOLDSWORTHY: Would you like to enter that - - -

PN3248

THE COMMISSIONER: Ms Leoncio, have we got the threshold, do you think? It is – he had notified this document. He said this, 'I'm familiar with these sorts of documents.'

PN3249

MS LEONCIO: Yes. It's difficult to - - -

PN3250

THE COMMISSIONER: Test the veracity of what's given.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3251

MS LEONCIO: To test the veracity of what's in here. But yes, you know, I understand it's been produced from the system. So to the extent that it's a business record it can be marked. But - - -

PN3252

THE COMMISSIONER: We're not bound to the rules of evidence here, Ms Leoncio, I know. Sometimes we're able to get confused but I think the inspector has been fairly circumspect in the matters he can agree – either agree or not to but I suppose that's not the matter to assessments either his evidence or not.

PN3253

MS LEONCIO: My preference would be to deal with it perhaps by consent or not to deal with it through Inspector Henry. And my only – my reservation is that he really isn't able to submit to the provenance of this document.

PN3254

THE COMMISSIONER: Okay. So how do you – I know I'm putting you on the spot I mean. But how do you want to deal with it then? Have a conference between yourself and work out how it can be put in? On what basis?

PN3255

MS LEONCIO: Yes. That's how I would suggest to deal with it.

PN3256

THE COMMISSIONER: All right. Okay. Let's not waste any more time on it.

PN3257

MR GOLDSWORTHY: Evidence has been presented that the difference between the number of staff allocated to each station in ED4 compared to BMSL requirements is minimal. Do you agree with that statement?---Could you state it again please?

PN3258

The difference between the number of staff allocated to each station in ED4 compared to the BMSL requirements is minimal. I'm asking if you agree with that?---I don't understand how the staffing allocation model established how many police you need to meet BMSL.

PN3259

Yes?---I don't understand that. But I certainly do make the statement that whatever our current resourcing requirements are we are constantly challenged to meet BMSL.

PN3260

THE COMMISSIONER: Yes. So if meeting the BMSL is the bare minimum then it would seem – that the acronym seems to suggest, if I have that, moving that - - -?---Yes.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3261

Right.

PN3262

MR GOLDSWORTHY: Are you aware of what the minimum station profile is for Wodonga uniform section?---I know that I have 110 FTEs attached to Wodonga PSA. I know that I have 55 ORs attached to Wodonga Police Station.

PN3263

And what FTE would that be, do you know?---Sorry 110 FTEs and 119 individuals.

PN3264

Right. And, sorry, for Wodonga?---For Wodonga ORs it's 55.

PN3265

Fifty-five. Right?---And for sergeants it's 16.

PN3266

Right?---At Wodonga.

PN3267

Okay. So have got 55 FTEs at Wodonga. If I said that the MSP – minimum social profile – for Wodonga as of a year ago was 40 for the other ranks and 13 and a half for sergeants. Would that sound roughly correct? I don't have that document - - -

PN3268

MS LEONCIO: It's JA8.

PN3269

MR GOLDSWORTHY: J8. If you could look at J8, please? That might give you some idea.

PN3270

THE COMMISSIONER: JA8 which is in - - -

PN3271

MR GOLDSWORTHY: JA8.

PN3272

MS LEONCIO: 568.

PN3273

THE COMMISSIONER: It's in the five - - -

PN3274

MS LEONCIO: 568.

PN3275

THE COMMISSIONER: Okay, thanks.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3276

THE WITNESS: Yes, I did.

PN3277

MR GOLDSWORTHY: Have you been able to peruse that document?---Yes, I see it. Yes.

PN3278

So on the second page, down the bottom Eastern Region Division 4 – Wodonga. And it's got core position FTE as of the 30/11/2022, 45 ORs and 15.6 sergeants?---Yes.

PN3279

And if you go across a couple of lines you see the minimum FTE required to rostered shifts to meet MSP, and the requirement is 40.063 ORs and 13.59 sergeants. Is that correct?---I can read that. Yes. It's what it says.

PN3280

So on your evidence there's 55 FTEs at Wodonga?---ORs, yes.

PN3281

Yes. And 16 – sorry was it – sergeants?---Sixteen sergeants.

PN3282

FTE?---I'm not exactly sure. I think that's individuals. I wouldn't have been able to say with the FTEs, but it's approximately the same. I think there's only – we're only point two off in the sergeant I think.

PN3283

So, probably 15.5 would that – all right?---I won't take issue with that.

PN3284

Okay. So there is a significant variance between what is required and what is actually stationed at Wodonga. Would that be correct?---Those numbers of MSP as calculated by the staffing allocation model and the core position is above that. I agree with that.

PN3285

Okay. There's a combined statement in the respondent's submission that is attributed to yourself with Superintendent Arbuthnot and it speaks to breaches of BMSL occurring approximately 15 times per month. Do you recall that?---Yes. That was current as of when I compiled a report in relation to this application which was back in June.

PN3286

Yes?---I revitalised those figures before the hearing and it's now reduced to 11. So 11 breaches per month on average throughout the last – from last financial year to the current time. That's the average.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY

PN3287

Supposing that I continue to work with Victoria Police and I do get 20 shifts of purchase leave approved. Well, sorry, I don't get 20 shifts of purchase leave approved how would you roster my shifts so that they would have any impact on the unplanned leave and the breaches of BMSL. How could you possibly do that?---It creates a larger pool for which the rostering people can roster to. You are one of the senior sergeants at the police station and therefore you are experienced in the way that you conduct your duties and you can be relied upon. So there's that element to providing guidance to those outside of the experienced group. BMSL is bare minimum service delivery and if I had other options I would conduct licensing operations, road policing operations, Operation Cato which is an operation we conduct in order to conduct extraditions to people utilising the State border to avoid the justice system. I would provide more secondments across the out stations. They have different inputs of information. I would provide more professional development for people because I had more people to send off to other locations to build that skill.

PN3288

THE COMMISSIONER: Yes?---There's a limitless amount of things I would do if I had more people.

PN3289

MR GOLDSWORTHY: But, in particular, was preventing breaches of BMSL how could you roster 20 shifts across a year to make a difference?---My only answer to that, sergeant, is that we currently have 11 breaches of BMSL per month. I currently have 30 per cent of my sergeants unavailable due to external secondment through necessity, through WorkCover or other reasons. And Sergeant Larkin constantly struggles to fill that. That's effectively the challenge.

PN3290

Okay. Do you view that the investigations of response units are more important than the general duties police?---The roles are different. They're both important.

PN3291

Do you think it's fair for Wodonga Uniform members to be used in backfilling or in OR positions when as you say there is consistent breaches of BMSL?---It's a necessity. As far as role goes both roles are critical. It's unfair on the people who have an increased workload because you have to support those areas. That's probably the unfairness element to it.

PN3292

Right. Are you aware of the shift duties for the majority of sergeants on a day to day basis? What are their options? Are they either a 251 supervising sergeant, the custody sergeant on portfolio? Would that be the majority of shifts that each sergeant would perform?---Yes. I agree with that. Section sergeant, custody, and patrol sergeant are the three critical roles.

PN3293

THE COMMISSIONER: Right.

\*\*\* PAUL MATTHEW HENRY

XXN MR GOLDSWORTHY



PN3294

MR GOLDSWORTHY: Yes. So there's not much variation in that either way?---There's very little variation.

PN3295

Yes. So you're either out on patrol as 251 or you're in custody?---Yes.

PN3296

Victoria Police continue to promote policing as a job where you can achieve a work/life balance. Do you agree with that characterisation?---Yes.

PN3297

Do you believe that you have a role in ensuring compliance with the enterprise agreement?---Yes.

PN3298

Do you agree with the preamble from the enterprise agreement where it states, "The employer is committed to providing flexible work options to assist employees in achieving an appropriate balance between organisational requirements and personal lives."?---Yes.

PN3299

That's it from me.

PN3300

THE COMMISSIONER: Okay. Thank you, sergeant.

PN3301

MR GOLDSWORTHY: No worries, thank you.

PN3302

THE COMMISSIONER: Ms Leoncio? Re-examination?

PN3303

MS LEONCIO: Yes.

**RE-EXAMINATION BY MS LEONCIO**

**[2.47 PM]**

PN3304

MS LEONCIO: You were asked some questions, Inspector Henry, about the purchase leave panel process and you were asked some questions about any advice that you might have received in respect of that process. And your answer was no that you didn't receive any advice on the purchase leave process. What information did you have to guide the process in terms of the consideration of purchase leave application?---I read the EB in order to familiarise myself with what constituted reasonable business grounds. I reviewed some emails from the previous year that was conducted by the Wodonga that predated my arrival and I searched the intranet for any particular information, including the VPM on leave.

\*\*\* PAUL MATTHEW HENRY

RXN MS LEONCIO

PN3305

And you made reference in your evidence to an email that you'd sent around – sorry, an email that you'd received in around May 2023. I will just take you to page 696 which is annexure PHI?---696?

PN3306

Yes. And you just also mentioned just now some emails that related to previous years?---Yes.

PN3307

Was this the email that you were referring to? This 24 May email from Superintendent Arbuthnot to yourself?---Yes.

PN3308

So that was – and that you will see the process there and that was for various items that were listed in terms of the process. Was that what you were referring to?---Yes.

PN3309

Okay. Now you were also asked some questions about some of the circumstances of the purchase leave applications or the members who had made purchase leave applications and those that were in your mind considered initially to meet that exceptional circumstances threshold. Now, you said in your evidence that the ones that you have recommended were ultimately not approved. Why were they ultimately not approved?---Because Superintendent Arbuthnot and the divisional leadership team had a very clinical approach in terms of reasonable business grounds and productivity.

PN3310

And what does that mean?---So, Superintendent Arbuthnot replied to me that if I could not guarantee that I would meet BMSL then purchase leave should not be approved.

PN3311

And what was your view about what Superintendent Arbuthnot communicated to you?---In terms of that reply?

PN3312

In terms of what you've just said that she said to you. What was your view about that?---That it was a – she was supplying a very high threshold to personal circumstances that would justify purchase leave being granted.

PN3313

But in terms of the BMSL in order to satisfy the BMSL, what was your view about that? Did you agree with it? Did you disagree with it?---Yes. I agreed that we would have challenges in meeting the BMSL even without the purchase leave being applied. So, therefore, I knew that she was correct in terms of our inability to meet all the service delivery needs that we were required.

\*\*\* PAUL MATTHEW HENRY

RXN MS LEONCIO

PN3314

And in terms of that being a basis for a rejection of purchase leave application what was your view about whether that was the correct position or not?---I knew that we had so many challenges in relation to meeting the service delivery needs that – and we were unlikely to BMSL as this come to fruition that the supply of purchase leave to those five was justifiable. But Superintendent Joy Arbuthnot differed.

PN3315

Now you were taken to an email that you sent on the 13 June 2023 and that that was, as I understand from your evidence following the misinterpretation, you say, of the email from AC Langdon – Assistant Commissioner Langdon. Now, at that point in time – the 13 June what stage were you at in terms of considering Sergeant Goldsworthy's application?---It had already been considered by that stage that the purchase leave had on the 1 June and put to Superintendent Arbuthnot around about the 10 June.

PN3316

And in terms of your assessment as at 13 June, prior to receiving Assistant Commissioner Langdon's email, what did you think – what had you considered was going to happen to Sergeant Goldsworthy's application?---That it would not be approved.

PN3317

Okay.

PN3318

THE COMMISSIONER: For that. Yes, okay. So when was the decision made in relation to Sergeant Goldsworthy? It was before the Langdon email?---Yes.

PN3319

The infamous Langdon email?---Yes.

PN3320

Right.

PN3321

MS LEONCIO: Now, in terms of your consideration of the applications for purchase leave you made some references in your evidence to capacity constraints. Now, in terms of the purchase leave applications what impact, if any, were those applications going to have on productivity? What was the assessment that you made in June 2023 was the impact on productivity?---If I put BMSL aside I – if I approved the purchase leave applications I would not be able to provide support to Wodonga Highway Patrol. And therefore the road policing reduction initiatives that would be undertaken would not be able to be undertaken. That was one aspect. The other aspect is that members at Corryong would have to perform more availability than any other 16-hour station, including availability on weekends which would impact fatigue.

\*\*\* PAUL MATTHEW HENRY

RXN MS LEONCIO

PN3322

THE COMMISSIONER: Right?---They were the two particular challenges and therefore with fatigue comes a lack of good policing to the community.

PN3323

Of course.

PN3324

MS LEONCIO: So just - - -

PN3325

THE COMMISSIONER: Can I just ask a question there?

PN3326

MS LEONCIO: Of course.

PN3327

THE COMMISSIONER: What did you – I've read the material. What was your assessment of productivity? What were the things – the pros and cons – that you measured up in relation to productivity?---I thought about that in terms of how do I define productivity and efficiency.

PN3328

Yes?---The customer service.

PN3329

Yes?---I took productivity to be based on the word 'product'. Our product is crime prevention, road trauma production and so forth.

PN3330

Yes?---And so that's how I actually - - -

PN3331

Yes. But every leave, every bit of leave impacts on productivity because the number of inputs is reduced and therefore the output is reduced?---Yes, that's true. And that's why I have really focused upon Wodonga Highway Patrol because it's such an important part of the policing and yet it was so under resourced and that was the actual product that I wanted to support.

PN3332

Right.

PN3333

MS LEONCIO: And in terms of the – you mentioned 'customer' – or customer service is the terminology in the agreement.

PN3334

THE COMMISSIONER: As repulsive as that is.

\*\*\* PAUL MATTHEW HENRY

RXN MS LEONCIO

PN3335

MS LEONCIO: Unfortunate terminology. But in terms of the assessment that you made in June 2023 what did you have in your mind as to the relevant customer service in the Victoria Police context?---I was most focused on productivity in relation to highway patrol. In terms of customer service my definition of that is that's really around what the community thinks about service. And in terms of that that was probably more geared towards Corryong. So the ability to have police present - - -

PN3336

THE COMMISSIONER: Yes?---- - - and actually have them visible and present in the community.

PN3337

Okay. Right.

PN3338

MS LEONCIO: Now you had put aside BMSL and I asked you the question about productivity. In terms of the baseline minimum service level what was your understanding of the impacts of the purchase leave application to the BMSL through that framework of productivity or customer service on this?---It would adversely impact. In relation to Sergeant Goldsworthy's application it would adversely impact our ability to roster sergeants and meet BMSL.

PN3339

THE COMMISSIONER: Well, it seems to me from the evidence I've heard so far is that the reasonableness thing issue was across the border where the ED4 is compounded with sergeants?---Yes.

PN3340

Yes?---As I say I have 16 sergeants. I can't say the exact time what the ratio is, whether I have 30 per cent sergeants unavailable without considering recreational leave. I find that a real challenge.

PN3341

MS LEONCIO: And so what is the impact then? So I understand that what you have said about the reduction of availability of sergeants. But what does that actually mean in terms of productivity or the community?---It's a vicious cycle because if Sergeant Goldsworthy was provided his leave I would then – the rostering team would have to agree to an upgrade into his possession thereby removing one of the 55 FTEs. So that then affects their ability to meet BMSL.

PN3342

THE COMMISSIONER: So the acting up of the OR has the compounding effect?---Yes. Yes, which thereby removes your inability to conduct the cross-border operations, liquor licensing shifts and other tasks and opportunities.

PN3343

MS LEONCIO: May I just take you to one email? Sorry, it's PH14 and starts page 729 of the Commission book?---Page 729?

\*\*\* PAUL MATTHEW HENRY

RXN MS LEONCIO

PN3344

Yes?---Yes.

PN3345

And you'll see there this is the email that you sent to Larry on the 23 June 2023. Now, from what you have just said to me now in terms of your assessment is this where to find the reasons for the rejection?---Yes. Yes, it was.

PN3346

And in terms of that third bullet point. So you've got one, two, three, four for the reasonable grounds. That says, 'It is acknowledged that most support will be at Constable – Senior Constable level however granting of purchase leave at sergeant level for positions requiring that will diminish constable, senior constable resources required to support as per above.' What you're referencing there is that what you were talking about just now in terms of the effects?---Yes. That's that third dot point. It refers to the Sergeant Goldsworthy wants to be granted purchase leave, that an OR would then be uploaded to his spot, thereby removing a person from '4' which you could then use for BMSL or if you're meeting BMSL or are they special operations to reduce crime or road trauma?

PN3347

And in terms of Wodonga Highway Patrol and Corryong Police Station. That third bullet point, to what extent was that third bullet point also relate to Corryong and Wodonga Highway Patrol?---Because if I knew that I had support, Corryong with the supply of staff until those vacancies were filled and therefore it would reduce my ability to be able to provide those people the period that I anticipated would occur.

PN3348

And sorry for the Wodonga Highway Patrol? Or was - - -?---The same. The same answer.

PN3349

Okay?---Yes. Thank you, Commissioner. They are my questions.

PN3350

THE COMMISSIONER: I've got a question. Given the resourcings as you've got that are unlikely to solved in a medium to - medium to long term – if you were a general duties police officer in ED4 you'd be pessimistic about your chances of getting purchase leave. Would that be an accurate thing to say?---Yes. I think that most of the people who I have anecdotally spoken to a result are pessimistic about their opportunities for purchase leave.

PN3351

Right. And would you have preferred to have – no, I withdraw that. No. I'll leave that. I'll put that to our learned friends at the Bar table. Thank you, inspector. That's been very enlightening. As I say I am learning things every day which is good and you have helped me as far as my deliberations. So, thank you?---Thank you, sir. Thank you, Commissioner.

\*\*\* PAUL MATTHEW HENRY

RXN MS LEONCIO

PN3352

MS LEONCIO: Commissioner, that is the respondent's case.

PN3353

THE COMMISSIONER: Yes.

PN3354

MS LEONCIO: We have the matter of that document which I will – I just need to seek instructions on.

PN3355

THE COMMISSIONER: Yes.

PN3356

MS LEONCIO: But I am otherwise in your hands. It's now three o'clock.

PN3357

THE COMMISSIONER: Well, I was going to – now, sergeant, do you want this thing done and dusted today? Or would you prefer – yes, you do. Well, there are two. Okay, that's one alternative. We'll keep going as I said till – he's put his vote – putting his vote I suppose is the wrong thing – until stumps. Or we could have a half day to do closing submissions and I would rather do that orally than in writing because it would save you all some time and that could happen before or after transcript. So there's three options. Sergeant, what's your preference is to consistently bat on today is it?

PN3358

MR GOLDSWORTHY: I'm just curious as to what time frames you would be looking at? Because - - -

PN3359

THE COMMISSIONER: Well, quickly. Quickly. Well, it takes – it costs thousands of dollars to have a 24-hour turn around on a transcript. So the thing – and the Vice Presidents would both ring me and say, 'I'm going to burn you at the stake if you did that.' Okay? So it's only for things like protected action orders and things like that. But it would take five days to get that. Okay? So five days to get that. And then quickly – I mean early December. Not long.

PN3360

MR GOLDSWORTHY: Yes. It's my intention to travel north, not this week but next week.

PN3361

THE COMMISSIONER: Yes.

PN3362

MR GOLDSWORTHY: For at least three weeks.

\*\*\* PAUL MATTHEW HENRY

RXN MS LEONCIO

PN3363

THE COMMISSIONER: All right. Now – well, so that's after Christmas is it?

PN3364

MR GOLDSWORTHY: It's passed Christmas. Yes.

PN3365

THE COMMISSIONER: Yes. I don't know where I am. Yes. Okay. All right. Well, that's a problem. So when do you leave there?

PN3366

MR GOLDSWORTHY: Is it the 8 December.

PN3367

THE COMMISSIONER: Well, Ruben, have we got time for the 8th to have a sort of half day morning or afternoon? When's the earliest? We're free Wednesday the 6th are we? What's that red thing? Okay, well I've got an open day on Wednesday 6th. You're not available?

PN3368

MS LEONCIO: I'm sorry, Commissioner. I'm in another hearing on the 6th.

PN3369

THE COMMISSIONER: Yes. That's the thing with barristers they tend to be in other hearings.

PN3370

MS LEONCIO: I mean I think it would be – it's an extension of time and I suspect it will be for the half day. But it could - - -

PN3371

THE COMMISSIONER: You poor thing.

PN3372

MS LEONCIO: I've got it booked out for the day.

PN3373

THE COMMISSIONER: Extension of time taking a full day?

PN3374

MS LEONCIO: Well, I suspect it won't take a full day.

PN3375

THE COMMISSIONER: All right. What else have we got, Ruben? What about the afternoon of Thursday 7th?

PN3376

MS LEONCIO: That's fine for me.

PN3377

THE COMMISSIONER: Now, I know you want to deal with it today but I am telling you a fresh mind will probably be good for your closing submissions.



PN3378

MR GOLDSWORTHY: I have been working on it so a bit more time would be ample.

PN3379

THE COMMISSIONER: Well, we might – would you be able to get transcript before then? Yes. I mean irrespective of you giving me the PN numbers or whatever, I will make an order today and if I do get it before then I will give it to you but let's not wait for that. So, when are we able to? I've got one in the morning. But, yes – 11.00 and that should be over by when? Okay. Well, we'll make sure that is over by 2.00. So we will do from 2.00 on the afternoon of what date is it?

PN3380

THE ASSOCIATE: 7 December.

PN3381

THE COMMISSIONER: 7 December.

PN3382

MR GOLDSWORTHY: Thank you.

PN3383

THE COMMISSIONER: All right. Okay, now is that everyone's preference? Sergeant, I don't want to be pushing you into anything but - - -

PN3384

MR GOLDSWORTHY: That's fine.

PN3385

THE COMMISSIONER: - - -it's better that we all reflect and think about it and get our heads right and what – because it's very dense – this proceeding. So the more time we have got to prepare and the more you can probably can help me with your closing submissions.

PN3386

MS LEONCIO: Yes, Commissioner. We're content with that.

PN3387

THE COMMISSIONER: Okay. Look, can we make it 2.30 because I want to come from one – out of one and into the other? So work out whether or not the reason for the delay, the merits of the application et cetera, et cetera, which is super exciting. But nonetheless I'd rather be doing this.

PN3388

All right. So, 2.30 on Thursday 7th and I'll see you all then. But thank you. If I don't get this opportunity before I just want to thank you all for the way that you have conducted yourselves. I have told you on the Teams that what people think is permitted through virtual court rooms you would not believe. So it is so nice to have people that are not only good respectful to the Commission but also with

each other. So that is deeply appreciated by both of you. Thank you. With that we'll adjourn.

**ADJOURNED UNTIL THURSDAY, 07 DECEMBER 2023 [3.08 PM]**

**LIST OF WITNESSES, EXHIBITS AND MFIs**

<b>JOY ARBUTHNOT, RECALLED .....</b>	<b>PN2508</b>
<b>CROSS-EXAMINATION BY MR GOLDSWORTHY .....</b>	<b>PN2508</b>
<b>EXHIBIT #R9 EMAIL DATED 20/07/2023.....</b>	<b>PN2588</b>
<b>RE-EXAMINATION BY MS LEONCIO .....</b>	<b>PN2807</b>
<b>THE WITNESS WITHDREW .....</b>	<b>PN2885</b>
<b>PAUL MATTHEW HENRY, SWORN .....</b>	<b>PN2940</b>
<b>EXAMINATION-IN-CHIEF BY MS LEONCIO .....</b>	<b>PN2940</b>
<b>EXHIBIT #R10 WITNESS STATEMENT OF PAUL HENRY DATED 12/10/2023 WITH ATTACHMENTS PH1 - PH18 .....</b>	<b>PN2965</b>
<b>CROSS-EXAMINATION BY MR GOLDSWORTHY .....</b>	<b>PN2992</b>
<b>EXHIBIT #R11 BUSINESS RECORDS FROM ASHLEIGH MASON TO BRAD SPRAGUE AND CC'D TO OTHERS .....</b>	<b>PN3080</b>
<b>RE-EXAMINATION BY MS LEONCIO .....</b>	<b>PN3303</b>
<b>THE WITNESS WITHDREW .....</b>	<b>PN3351</b>