

REPORT ON PROCEEDINGS BEFORE

**COMMITTEE ON THE OMBUDSMAN, THE LAW
ENFORCEMENT CONDUCT COMMISSION AND THE
CRIME COMMISSION**

**2020 REVIEW OF THE ANNUAL AND OTHER REPORTS OF
OVERSIGHTED BODIES**

At Macquarie Room, Parliament House, Sydney, on Tuesday 18 February 2020

The Committee met at 10:35

PRESENT

Mr Dugald Saunders (Chair)

Legislative Council

The Hon. Lou Amato
The Hon. Trevor Khan (Deputy Chair)
The Hon. Adam Searle

Legislative Assembly

Mr Mark Coure
Mr Paul Lynch
Dr Hugh McDermott

MICHAEL BARNES, NSW Ombudsman, affirmed and examined

DANNY LESTER, Deputy Ombudsman, Engagement and Aboriginal Programs, sworn and examined

NICOLE LAWLESS, Acting Deputy Ombudsman, Reviews Investigations and Community Services Division, affirmed and examined

The CHAIR: Good morning and thank you for coming along. I inform witnesses before we proceed that we will swear you in publicly and then we will be moving in camera to discuss some other issues, so we will have to clear the room at that point. We will go back to a public hearing after we have asked you those questions.

The Hon. TREVOR KHAN: Chair, I ask that we resolve that any persons who might be in the gallery who are associated with the Ombudsman are entitled to stay.

The CHAIR: Yes. Before we proceed, have you got any questions about the proceedings today?

Mr BARNES: No, thank you.

The CHAIR: Do you have a short statement you would like to make to open proceedings before we go in camera?

Mr BARNES: No, not before we go in camera. Thank you.

The CHAIR: Given the Committee has previously resolved to hear a portion of your evidence in camera, I ask that the gallery now be cleared.

(Public hearing resumed.)

The CHAIR: We are talking to the Ombudsman this morning and essentially going through the annual review. We have 2018-19 and 2017-18. Ombudsman, the Annual Report for 2018-19 outlines a bit of a strategic review undertaken looking into the new organisational structure.

Mr BARNES: Yes.

The CHAIR: Are you happy with how things are and in which direction they are heading?

Mr BARNES: Most certainly. It was a difficult 8 to 10 months last year. We have had a complete restructure. The number of business units has been reduced from 33 to 20. The number of senior executives reduced from nine to six. That inevitably causes some heat and pain and we are no different in that regard. I think there is buy-in now into the new structure. The new executive is certainly working really well as a team. There is much more collegiality than when I first came to the organisation. There is no doubt that the people who left took with them a huge amount of corporate knowledge and I pay due regard to the decades that they put in. Three of the four people who left started in the office in the 1980s and clearly it was time for refreshing.

We have a united, reinvigorated executive team. We have a new structure. We are in the process now of creating a documented strategic plan. Strangely, there was not one. But, there are still lots of systems issues to be addressed, particularly in the area of corporate services. We are using handwritten paper-based time sheets and the like. Dragging the organisation into the twenty-first century still has a way to go.

The Hon. LOU AMATO: My question is in regard to community housing. You know there is concern that tenants in properties managed by community housing providers do not have access to your office to make complaints in the way that tenants in properties managed by family and community services do. Do you know if any work has been done in this area since the report was first published?

Mr BARNES: We will need to take that on notice. It was a concern that we have raised previously and we have had communication with Mr Coutts-Trotter about that. His staff have a different view about the effectiveness of the Inspector that they have that looks at those private providers, but I would like to give you a more full response in writing if I could, Mr Amato.

The Hon. LOU AMATO: Mr Barnes, an issue was also identified regarding the difficulty of accessing the Juvenile Justice database. As related to your complaints about the use of force in Juvenile Justice centres, has this issue been rectified?

Ms LAWLESS: I can say that we have had some constructive dialogue recently with Youth Justice, as it now is. There was some correspondence backwards and forwards and we now have access to the Client Information Management System [CIMS], which is its database. We can now monitor particularly the Juvenile Justice notifications as well as the segregation, separation and confinement issues.

The Hon. LOU AMATO: You are happy with the way the system is working?

Ms LAWLESS: At this point, yes.

The Hon. TREVOR KHAN: Can you actually expand on what constructive dialogue means?

Ms LAWLESS: There was a change in personnel, so there was a previous Executive Director of Juvenile Justice. There were some discussions then, but with her leaving we had to pick up again with the new Executive Director of Youth Justice. I think there was some communication lost when there was a handover. We have picked it up with him and now we do have access.

Mr PAUL LYNCH: Mr Ombudsman, one of the crying shames of this State is the complexity of the public interest disclosure legislation. I think this Committee moved some recommendations to move amendments to the Act, which I thought were picking at the edges, and a number of us have talked about a complete rewriting of the Act. I am just wondering whether you have any update on that? Do you know whether those amendments that this Committee recommended are actually going to happen? Where is the progress on rewriting the Act?

Mr BARNES: The people in this room will make it happen if it is going to happen rather than—

Mr PAUL LYNCH: Don't hold your breath.

Mr BARNES: I am aware, Mr Lynch, that you know that in 2016 the previous iteration of this Committee commenced a review of the Act. Your report was published in October 2017. It made a number of far-reaching recommendations. The Government's response was published or tabled in April 2018 and it stated that the Government was to prepare a bill that was going to respond to the public interest disclosure [PID] system in accordance with the parliamentary joint committee's recommendations. I am aware that there was contention around whether they were committed to a rewrite or not. You know that we convene the steering committee. There are Department of Premier and Cabinet [DPC] representatives on that. They tell us that there is a complete re-draft being prepared, that it will be a rewrite in its entirety.

We have been, and the rest of the steering committee has been, consulting with the DPC reps and the Parliamentary Counsel's Office in relation to that. Just before Christmas we received draft number 11 of the bill. That was distributed to the steering committee and it will be discussed at our meeting on Thursday.

Mr PAUL LYNCH: Draft number 11, that was a complete rewrite or just the amendments recommended by the committee?

Mr BARNES: It is more than just those recommended. It is a fairly significant rewrite.

The Hon. LOU AMATO: I have a question for Mr Lester. How can improvements be made to strategic engagement with Aboriginal leaders and communities in planning and decision-making processes?

Mr LESTER: That is a good question. I think in some respects it is about the relevant agency engaging with Aboriginal leaders generally as a whole. One of the things that we echoed in our *OCHRE Review Report* is the greater way by which accountability is best served and what does that mean in terms of the right authorising environment. One of the aspects in that authorising environment is what we call genuine co-design, whereby the partnership between the Aboriginal community and/or Aboriginal leaders is in concert with the representatives of government on the day from the relevant agency. In our opinion there is still a lot of work in progress to be made in that regard.

Certainly there have been some small steps made from the Government over the past five years in terms of our observation to the broader remit of OCHRE and the Aboriginal affairs plan, but in our opinion the authorising environment and the way by which the operating framework needs to work in partnership with Aboriginal community and Aboriginal leaders is still a work in progress. That is still yet to take place, in our opinion, in terms of the collective, integrated way within an urban, regional and remote community.

The CHAIR: Mr Lester, just on that, how do you think the strategic engagement could improve? We have a lot of community organisations that do not necessarily understand some of the complexities. How are you working to try to improve that?

Mr LESTER: I think the first thing is about what is the intent of improvement? Certainly what we have observed over the past five years looking through our part 3B function is areas around the way by which data collection and the integration of data actually takes place, because that can certainly tell a picture as to whether or not progress has been made. And, more importantly, the effectiveness and the efficiency of that progress being made as well. One of the things that we highlighted in our review report is still the need for a policy advice

framework that the Government needs to co-design with the Aboriginal community to bring in community organisations as part of decision-making.

If we are working towards the intent of what OCHRE was about, which is about innovation, service reform and co-design, that is the progress by which in time community organisations should be part of a discussion and be part of that right authorising environment. Our view is still, Mr Chair, that the authorising environment and the operating framework is still a significant work in progress. In our view we are saying that the Government needs to simplify the process, but create greater accountability in terms of delivering on the needs of Aboriginal people in this State. As we highlighted in our *OCHRE Review Report* there has been some progress, but there is still a significant amount of framework development in partnership with the Aboriginal community to ensure that the intent of OCHRE is realised.

The CHAIR: Do you think community groups understand that process or do you think there needs to be more work done? I mean, you are talking about government responsibility as well, but what about community input?

Mr LESTER: Certainly. I think the purpose is what is the intent of engagement? If it is about co-design, service re-engineering or service delivery then, yes, there needs to be a process by which the relevant government agency reaches out to Aboriginal community organisations and other community organisations as a general observation. The key thing in that regard, though, is what is the intent of their discussion and/or the service improvement? I can say from our observation one of the areas of immediate focus is greater data integrity in relation to the way by which information is captured to evaluate and report on the effectiveness of service delivery and the way by which that service delivery is making an effective and efficient change.

I do think, though, in terms of the way by which procurement takes place from government agencies, in terms of the way Government procures third parties, in our opinion that is certainly still a work in progress whereby government agencies need to reach out to potential suppliers of service for the greater good of information transparency, but also the information by which they could partake in that level of dialogue.

The Hon. ADAM SEARLE: Mr Ombudsman, I think last year at budget estimates I asked you a question about an investigation I think you had ongoing connected to Blue Mountains City Council? I think it has been ongoing now for nearly two years. Where is that up to in a procedural sense?

Mr BARNES: I was unduly optimistic in my estimation when I answered your question at estimates.

The Hon. ADAM SEARLE: I thought you might have been.

Mr BARNES: I am only slowly learning how long some of these things can take. I understand we wrote to your Committee recently. Was it at estimates?

Ms LAWLESS: It was to the estimates committee.

Mr BARNES: Advising that all of the evidence has been completed, that the drafts have been completed, that they are with the interested parties for procedural fairness to enable them to make responses. We anticipate the report will be tabled in April 2020.

The Hon. ADAM SEARLE: Is that still your current working estimate?

Mr BARNES: It is.

The Hon. TREVOR KHAN: I suspect you would not have been watching yesterday, but yesterday we had the opportunity of hearing from the Acting Chief Commissioner of LECC and others. One of the issues arose with regards to what we would describe as the oversight function of police investigations. I notice, Ms Lawless, you are almost smiling. I wonder if—

Mr PAUL LYNCH: Probably in fear and trepidation.

The Hon. TREVOR KHAN: No.

Mr BARNES: No.

The Hon. TREVOR KHAN: Not at all?

Mr LESTER: No.

The Hon. TREVOR KHAN: Have you any insight as to what the problem was? Either through gossip or the like? Because I have to say I was not any clearer yesterday as to what has actually happened.

Mr BARNES: It was a new organisation. Very few of our staff went into it, some PIC staff went into it. They recruited largely new people. They are very different functions—investigation, oversight and the other integrity functions they have. In retrospect, you would query whether doing hard criminal corruption investigations is ever going to sit well with a body doing service oversight. The oversight stuff is always going to be much like what the Ombudsman does and will always do. The corruption stuff is much more like what ICAC does and if you were going through that rationalisation of function, you would say organised crime from the Crime Commission and police corruption from LECC should be put together with the corruption investigation that ICAC does in one body. You do not have organised crime without corrupt officials - why are they done in three different organisations?

The Hon. TREVOR KHAN: Obviously we do these things sometimes with the best will in the world, whether they work out is really what I am interested in now. As to whether there are lessons to be learned that we can honestly assess as—

Mr BARNES: And I made submissions to Andrew Tink saying they should combine the function. I would now, if I was writing that submission again, make it quite different.

The Hon. TREVOR KHAN: Thank you, that has filled me with joy.

The CHAIR: Can I ask about the complaints? Obviously your office receives lots of complaints about lots of different things. In the 2017-18 annual report, you stated that a formal review of the implementation of the six complaint handling commitments showed very positive developments. Can you outline where things are up to?

Mr BARNES: Absolutely. The commitments, as you know, are principles of complaint handling that the secretary's board all signed up to. It was recognition that complaints are not something that agencies should be frightened of, they are things that give agencies an opportunity to learn what their customers think about them and to make the appropriate improvement. The commitments are ways in which that can be done. We were part of the steering committee that set up that agency. We produced the commitment report. We have made the further submission that that should be an ongoing function, keep under scrutiny the way that agencies respond to complaints. That has now been brought to Cabinet, I understand, through the Department of Customer Service. We suggest it as an ongoing function. It is working well now, when everyone was focused on because of the Complaint Handling Improvement Program [CHIP], everything was going great, but our concern now is if you take your eye off that it will go back to that complaints is where you send your staff who you do not really like and let them be tortured.

The CHAIR: You also note the ongoing work you have done with agencies to help them in that. Do you think that is a process that is working well?

Mr BARNES: Yes. We do a lot of training in complaint handling. We also do a lot of training in managing what everyone acknowledges is unreasonable complainant behaviour. There are complainants who just want information and if you give them information, they are satisfied, they go away. There are complainants who have legitimate concerns about the way their matter was dealt with and those need to be reviewed and, if appropriate, investigated. And there are unreasonable people who will never be satisfied. Agencies need to be able to deal with all of those different approaches from their customers.

Ms LAWLESS: I might just add to that. One of the challenges that we identified after we did the review was our inability to access all public sector staff across the State with face-to-face training. Consequently we ended up developing an e-learning package that also went to the secretary's board in October and has been adopted by many of those agencies so that staff can access that model where they are, through their learning module systems.

The CHAIR: And do you get figures on how many are actually doing it?

Ms LAWLESS: I do believe we do. I do not have those figures to hand though.

Mr BARNES: Glenn King did a great piece to camera and then left and went private and took all the extra money.

The Hon. LOU AMATO: The child safety standing committee, do you know if it has finalised the development of the interactive IT tool to be used in the faith setting? Can you also tell me a bit more about the guidelines for the faith bodies regarding engaging with survivors?

Mr BARNES: I cannot. The faith-based bodies are not yet in the scheme. They will come into the scheme when it transfers to the Office of Children's Guardian. That was as a result of the amendments to our legislation and the Office of the Children's Guardian—

The Hon. LOU AMATO: You do not know when that is coming in?

Mr BARNES: Yes, 1 March is the start date. I am not sure of it because that is also the day the function transfers from our office. That is something that the Children's Guardian, Ms Schorer, has been working on. I could not tell you where she is up to with it.

The CHAIR: You talked about training for staff. I note you have also looked at a fair bit of community engagement through the office. What is the plan there and how is it working?

Mr BARNES: In what way?

The CHAIR: You looking to connect with different communities, including Aboriginal communities as well, on the work you do and how you do it and why you do it. Essentially, it is really just an update on how that is working?

Mr BARNES: You are right, that is a challenge for us. People who are plugged into the system know how to use it well and the concern is that there might be significantly large groups of the community who do not have that facility who might be vulnerable for other reasons and might not be getting the quality of service that they are entitled to. That is a concern that we have. Mr Lester's area has primary responsibility for that. I will ask him to talk to you about it.

Mr LESTER: There are two areas at play here. The first area is the way by which we consider the gravity around community engagement and what does that actually mean. What is the intent of community engagement? To be quite frank and honest, the process by which is about greater efficiencies and effectiveness in service delivery in government agencies, that is the tie-back constantly. I can say to you in the last five years, discharge and part 3B in particular for OCHRE work, we have done 77 visits and gone to over 35 communities. The reason for that is because for us to monitor and to assess the impact that investment and public policy is making on the ground we need to see it firsthand. As part of the restructure we have established a specific function in our organisation that is targeting the culturally and linguistically diverse [CALD] community. That is looking at the way by which accessibility to government services can be best served. One of the aspects that we have discovered immediately is the relationship on language and the way by which agencies apply or do not apply interpretation services potentially.

That is certainly something that we would be considering in our update on our annual report this period because it is an area that we are embarking on as an organisation as a whole. The other aspect too is that the way by which we gather information when we are out in communities is critical and we are now committed to greater integration and collaboration with other business units inside of the Ombudsman's office. When we are discharging part 3B, monitoring and assessing, or looking at the CALD community engagement, we are also bringing staff from Nicole's area to look at enquiries and/or complaints as a collective. So ideally the way by which our community engagement scheduling is now performed in the Ombudsman's office is collective, collaborative and holistic in terms of serving the community as a whole. We did that in parts previously, but I can say moving forward it is going to be greatly integrated.

The CHAIR: Thank you very much for your time this morning. We may send you some supplementary questions as they come up and we have at least one question on notice. If you could reply to that, that would form part of your evidence and be made public. Would you be happy to provide a written reply to any other queries?

Mr BARNES: Of course, at any time.

(The witnesses withdrew.)

MICHAEL ALAN BARNES, Convenor, NSW Child Death Review Team, affirmed and examined

MONICA KATHLEEN WOLF, Assistant Ombudsman, Project and Systemic Reviews, NSW Child Death Review Team, affirmed and examined

The CHAIR: We are here considering the 2017-18 and 2018-19 annual reports. How has the updated register of child deaths and data capture system improved the work of the Child Death Review Team [CDRT]?

Ms WOLF: Very much. We refreshed the system a year ago. We have done it a number of times; this time was to look at the fields we are capturing, the information we are gathering on the deaths of children. It has allowed us to systematise what we are capturing and also provides a much better base for us to look at how we are preventing deaths of children and the trends and patterns in deaths. It is a much better and much tighter approach.

The CHAIR: So you actually do see data that shows you trends in certain areas?

Ms WOLF: We gather information from all different agencies. We start with Births, Deaths and Marriages, we gather information from health services, from anyone that was involved in the life of the child and the family. We put all that information into our register and from that we can get a holistic picture of what has happened both individually but also across all different death types.

The Hon. ADAM SEARLE: Over those two reporting periods what are the trends that you are seeing?

Ms WOLF: The trends we are seeing over time is that there has been quite a significant decline across the board in child deaths, which is a really positive thing. We are also seeing that that decline is not entirely uniform; you still have a much higher likelihood if you are Aboriginal of dying—it is twice as likely if you are an Aboriginal child than if you are non-Indigenous. There is a much higher rate of children who die in areas of low socio-economic advantage compared to those in highly advantaged areas.

The Hon. ADAM SEARLE: What proportions?

Ms WOLF: Twice as likely, in low socio-economic areas I believe it is 1.8, almost twice as high.

The Hon. LOU AMATO: What are the deaths from? What are the causes of death?

Ms WOLF: All sorts.

The Hon. ADAM SEARLE: What are the key death causes and are there any trends in the cause of deaths that you are seeing?

Ms WOLF: Yes, there are. Most children die of natural causes—about 80 per cent of children die of natural causes, and that is very consistent over time. Twenty per cent of children die from injury, either generally unintentional injury—car crashes are really significant; drowning, those kinds of things. Suicide is also a cause of death for young people that has risen over time; it is one of the few causes that has gone up. I think we had 54 children and young people die by suicide in the last two-year reporting period.

The CHAIR: What age does that cover? Up to?

Ms WOLF: That would be 10 to 17.

Mr MARK COURE: What do you see as the role of the Child Death Review Team in addressing that issue? Because it is quite significant. According to your annual report, for Aboriginal and Torres Strait Islander children, it accounts for 15 per cent of suicide rates.

Ms WOLF: Yes, it is very high. I think the role of the team is to prevent child deaths basically, and we do that by gathering information, analysing that information, reporting to Parliament, doing research and then making recommendations to that effect.

Mr MARK COURE: Just an additional question. Are those recommendations followed up?

Ms WOLF: Yes, very much. The annual report—we had a change in how we do our work through a legislative amendment, which meant instead of reporting annually on the deaths of children we now report biennially, but that means we also do an annual report and the annual report has now become a really significant avenue for us to monitor recommendations by agencies. We engage with them along the way, but we then ask them to report formally to us about how they are implementing the recommendations.

Mr MARK COURE: And that is a system and process that has been in place for how long now?

Ms WOLF: I guess we have done an annual report now three times. We used to report on the progress of recommendations in the child death review report, but this is a much more active way of doing it.

Mr MARK COURE: That leads me to my final question. Of those recommendations how many are still yet to be implemented?

Ms WOLF: We have 17 new recommendations. We released the biennial report just last year. We are now in the process of following those 17 recommendations. There are some other recommendations that have been partly implemented. We continue to look at what agencies are doing in different areas as they progress. So they might do a part of a recommendation but we will make sure that the intent overall is met over time.

The CHAIR: In the 2017-18 report at least you talked about shining a light on prevention, and it sort of ties into what Mr Coure has been saying. What role do you have and how can you maximise that role in preventing ongoing child deaths?

Mr BARNES: We are not a front-line service delivery agency, we have no coercive powers in relation to the prevention strategies that could be taken. We can simply make recommendations largely to public sector agencies. That is the extent of our influence, it is whether the recommendations are taken up; many of them are, others have been repeated a number of times. Kids on quad bikes as an average is an obvious one. We keep saying we think children should not be riding adult quad bikes. For various reasons that has not been picked up.

The Hon. TREVOR KHAN: Children and young people.

Mr BARNES: Yes. Children under 17 we say should not ride quad bikes.

Ms WOLF: Under 18.

Mr MARK COURE: I thought that had been taken up.

Mr BARNES: As a result, last year three more children died from quad bikes.

Mr MARK COURE: I thought that had been taken up. But anyway, that is another issue.

The Hon. ADAM SEARLE: What are the leading natural causes of death for children, both generally, for Aboriginal children, and children from disadvantaged backgrounds?

Ms WOLF: The leading cause of death is perinatal and congenital conditions and most deaths occur in the first year of life. There are some differences in causes of death for Aboriginal children and non-Aboriginal children. I would have to get the detail to you.

The Hon. ADAM SEARLE: If you want to take these questions on notice—

Ms WOLF: This one I will, thank you.

The Hon. TREVOR KHAN: Is there anything you can say now with regard to that distinction between Aboriginal and non-Aboriginal children in terms of infant—

Ms WOLF: Yes. Injury is higher, injury causes of death. We see injury deaths as being very preventable generally. So that is one.

The Hon. TREVOR KHAN: But that is reflective of low socio-economic status.

Ms WOLF: Yes, it could be, too—conflating.

The Hon. TREVOR KHAN: I am not dismissing, in any way. In fact, if you did it by low socio-economic status, you would find, across that cohort, a higher level of injury- or trauma-caused deaths. Would that be right?

Ms WOLF: Potentially. One of the things we are doing at the moment is looking at research that digs—drills—much more down into those issues around what is low socio-economic status and what does that mean.

Mr BARNES: Poor people live in remote and regional areas. They drive older cars on bad roads, often without proper child restraints.

Mr MARK COURE: Seatbelts and so forth.

The Hon. ADAM SEARLE: Are you able to get a snapshot about those sorts of causes versus causes that might arise from poor access to health care, for example?

Ms WOLF: That is difficult but that is where we are intending to go with some current research we are working to do over the next couple of years.

The CHAIR: As in looking at whether better health facilities will generate better outcomes?

Ms WOLF: Looking at what lies underneath—that disadvantaged children die more than other children. So, really trying to—

Mr BARNES: The short answer is poverty but what is it about poverty that makes it dangerous?

The Hon. TREVOR KHAN: And, actually, from what you said before, separating out poverty in rural and remote locations from poverty in metropolitan areas.

Ms WOLF: Yes.

The Hon. ADAM SEARLE: Is geography a key factor here? Is there a correlation between certain geographies and mortality outcomes?

Ms WOLF: Yes, but that, again, correlates to low socio-economic areas. So, we did spatial analysis a couple of years ago that found that there was not a huge leap in any particular area, but areas that were high were those areas that were low socio-economic.

The Hon. ADAM SEARLE: I am happy for you to take this on notice: Can you provide us with that sort of spatial information so we can have a look at where there is a greater preponderance of these terrible incidents?

Ms WOLF: Sure, yes.

The Hon. ADAM SEARLE: That might be interesting.

The CHAIR: Yes, absolutely. Probably there is an overall suggestion that in regional areas, certainly in remote areas, deaths are more likely but we do not really know why.

The Hon. ADAM SEARLE: No question.

Mr MARK COURE: Without a doubt.

The Hon. TREVOR KHAN: Have you noticed any trends with regard to the vaccination, non-vaccination issue?

Mr BARNES: We did do some work on that.

Ms WOLF: We did some work on that. Deaths that can be prevented by vaccination are quite low generally and they are very concentrated in very young children—pre-vaccination—and also children who are immune-compromised. If there is a bad flu season, those deaths from infectious diseases do rise, but it is very reliant on that.

Mr BARNES: Did we do a report on that?

Ms WOLF: Yes, we did a report on vaccine-preventable diseases. There has been a lot of work done by NSW Health since then, including free vaccination for children under six and much better outreach to people who are in contact with newborns.

Mr BARNES: The thrust of the research finding was that it is not so much anti-vaxxers stopping people vaccinating, it is people not being aware of the need or having access to vaccinations.

The Hon. ADAM SEARLE: What are the leading non-natural causes of child death?

Ms WOLF: The leading cause, generally for all groups, is motor vehicle crashes. Drowning is one.

The Hon. ADAM SEARLE: Is this in ranking? So, motor accidents first then drowning then—

Ms WOLF: Yes.

Mr BARNES: And suicide.

Ms WOLF: And suicide. Suicide is higher than drowning, sorry. I was talking about unintentional causes.

The Hon. TREVOR KHAN: Some years ago—and I am going back quite a few years ago—there were real issues with the nature of motor vehicle restraints for children. Has there been any further analysis as to whether the restraints that are now available are appropriate or need to be improved?

Ms WOLF: We did quite a big piece of work on restraints for children who are passengers aged under 13 years old. What we found—and we had an expert review every matter, every case, to see the causes—I think

there were 66 children and half of those were not correctly restrained in the vehicle when the vehicle crashed. The crash expert also identified that for about a third of the children the deaths could potentially have been prevented had they been correctly restrained. So there were three issues—one that the child was not restrained; one that the restraint was incorrect for the size of the child, so people did not get a bigger or smaller seat; and the other, that was incorrectly restrained. So it might have been—

Mr MARK COURE: Fitted incorrectly?

Ms WOLF: Yes, fitted incorrectly or, actually, put across—put on the child incorrectly, so arms out, that kind of thing.

The Hon. LOU AMATO: Is there an education program that is educating those communities on the correct procedure?

Ms WOLF: Again we found that rural and remote and low socio-economic areas were much more highly represented. So we have made a number of recommendations to Transport to do some education and do work around that, and they have accepted those recommendations.

The Hon. LOU AMATO: But nothing has been done as yet?

Ms WOLF: There are various programs, so you can have—there is the—I think it is called "CREP" [Child Restraint Evaluation Program]—where you can go and get your car seat fitted. So there are things happening.

Mr MARK COURE: I got mine fitted last week.

Ms WOLF: Yes, great.

The CHAIR: Councils do programs.

The Hon. LOU AMATO: Does that come at a cost to those of lower socio-economic backgrounds?

Ms WOLF: Cost does—

The Hon. LOU AMATO: Because usually when you go to a child restraint—there are fitting stations, right, and obviously there is a cost incurred in getting that done.

Ms WOLF: Yes.

The Hon. LOU AMATO: What about for those who obviously cannot afford it?

Ms WOLF: I think the issue is the cost of the restraint as well, so people are using second-hand restraints sometimes. It is, and we have made a number of—

Mr MARK COURE: It is a big issue. These restraints are anywhere from \$400 to \$650, as we learnt last week. To get it fitted can be anywhere—depending on the council; some councils may do it for free.

Ms WOLF: Yes, that is right.

Mr MARK COURE: But others do not. It could be \$150.

The Hon. TREVOR KHAN: You have the added problem that in some communities, particularly in rural and remote communities, you will have young mothers who do not have a car and to get into town they have to get into somebody else's car.

Mr MARK COURE: Exactly right. That was my next point, absolutely.

The Hon. LOU AMATO: They get a ride, yes.

Mr MARK COURE: So, how many recommendations did you say were presented to Transport?

Ms WOLF: I think it was—and I would have to check—it is around seven or eight. Four. And some of that is around a study, especially in low socio-economic areas and those outside major cities, to look at what is happening there, and the active promotion of material that is about safe restraints and programs that really promote where you can get your restraint properly fitted—those things.

Mr MARK COURE: Maybe the Office of Local Government can help as well.

Ms WOLF: Yes.

The CHAIR: In regional areas they certainly do. Normally it is run through councils, with days every three to six months where people can go—I think it is normally a free service—to get your car checked or fitted or whatever, so there is that availability in some areas. It is obviously one to work on.

Ms WOLF: Yes.

The Hon. ADAM SEARLE: In relation to trends in child deaths, what relationship, if any, do you see with children in care? Is it improving? Not improving? Children known to the care authorities.

Ms WOLF: I would have to take that on notice but I think it does change with the population of children in care, and the majority of children in care die as a result of natural causes as well.

The Hon. ADAM SEARLE: Sure, but it would be very interesting to learn of any trends you have perceived.

Ms WOLF: Yes.

Mr MARK COURE: Just very quickly: Has a priorities plan for the next three or four years been finalised yet?

Ms WOLF: Yes.

Mr MARK COURE: Is that public now?

Ms WOLF: It may not be public. I think we published it in the annual report—a strategic priorities plan.

Mr BARNES: We would certainly be happy to provide it.

Ms WOLF: But we can provide it to you.

The CHAIR: Thank you very much, and thank you for your attendance. We may send you some additional questions. Your replies would then form part of the evidence and be made public. Would you be happy to provide written responses to any further queries?

Mr BARNES: Certainly, yes.

The CHAIR: You have taken a couple of questions on notice as well so we will await your reply within 10 days.

(The witnesses withdrew.)

ELIZABETH TYDD, CEO and Information Commissioner, Information and Privacy Commission, sworn and examined

SAMANTHA GAVEL, Privacy Commissioner, Information and Privacy Commission, sworn and examined

The CHAIR: Welcome and thank you for coming to our public hearing today. I want to start with the strategic plan. As part of your annual reports of 2017-18 and 2018-19, you look at the role of the Information and Privacy Commission as an effective contemporary regulator. I am wondering how things have changed over time and what changes you think are needed to continue to be effective into the future.

Ms TYDD: Chair, I am happy to respond initially and I am sure my colleague will also have issues to raise. There is great change in the New South Wales public sector that impacts information access and, indeed, privacy rights and rights generally. Those changes include structural changes—machinery-of-government changes. There are also changes in the way government delivers services and conducts its business and makes decisions, and that goes to the use of digital technology broadly. There is also the change that is delivered through partnerships and outsourcing arrangements. Certainly under the Government Information (Public Access) Act [GIPA Act], there is a provision that attaches to those sorts of arrangements. Then there is a third change that is impactful, and that change is around working across traditional silos and traditional departments. That is the creation of, perhaps, things like task forces, for example, that enable a prompter service delivery to be provided to the citizens of New South Wales.

They are some of the current dimensions of change that we are seeing, especially from an information access perspective. There will be other changes from other perspectives. But they also attach with them the constant need to ensure cultural—in practice and in spirit—compliance with requirements under the GIPA Act. Very pleasingly, our contemporary approach has demonstrated that to be culturally engaged, to be an expert, to be assisting in the provision of expert information, making recommendations that demonstrate a practical application, together with a rigorous approach to the legislation, are demonstrably effective. In proactive release rates over the past three years, there has been a demonstrable increase in compliance levels by agencies, and that is certainly borne out in my previous section 37 report.

The upcoming section 37 report will be tabled within the next month or so, and that delay is referable to recent legislative changes that require that the information is not provided to the Information Commissioner until it has been through the process of a report being tabled in Parliament by way of the annual report of the agency. Whilst there is a great degree of change, there is also a great degree of continuous work that needs to be done to build capacity, to ensure compliance and to cultivate a compliance appetite. Largely, that is the sort of behaviour that, from an Information Commissioner perspective, I am seeing in agencies. There are, of course, outliers and my work is also directed to those outliers.

The CHAIR: Ms Gavel, from your perspective part of that ties into—while we are talking about contemporary ways of doing things—the digital world we live in and privacy. How do you see your responsibility as maintaining that into the future?

Ms GAVEL: Yes, that is right. I think the Information Commissioner has outlined some of those issues that we are dealing with very well. Certainly from a privacy point of view, the increase in the use by government of digital technology is a real challenge. The digital technology brings lots of new ways to do things and lots of potential benefits for citizens, but it also creates higher risks in terms of privacy and the rights that we both oversee. A lot of our focus is working with agencies to ensure that they are complying with the privacy Act in some of the work that they are doing with digital technology.

I would nominate a couple of examples. The first one is the digital driver licence, which was released last year after being through a pilot testing phase. I understand it has been very popular with the public. What is really important is that our agency worked with what was the Department of Finance, Services and Innovation and is now the Department of Customer Service to ensure that privacy was really built into the digital drivers licence so that, for example, it does not collect location information in the way that some commercial apps do. It does not have access to people's photos in the way that commercial apps do. These are the sorts of issues that we are considering with the new technology coming in and making sure that we are talking to agencies about it.

In our strategic planning we are making sure that we are thinking ahead to what kind of guidance agencies might need that we can provide for agencies on these sorts of issues—making sure that the way that we regulate is keeping up with the issues and that we are being proactive. I think, as the Information Commissioner said, my experience as Privacy Commissioner is that agencies really do want to comply with the Privacy Act. They are very concerned to make sure that they are not non-compliant with the Act. That is very positive and that means

that we can work with them to elevate compliance and to encourage them to make sure that they have a really privacy-aware culture throughout the agency, which, of course, assists in compliance as well. They are the sorts of issues that we are focusing on.

The CHAIR: How much expertise do you have in-house around the digital world and where it is going, as opposed to needing to seek advice on it? How much have you actually got in-house?

Ms GAVEL: We have got some very good privacy expertise in-house. We have got some people who have worked in privacy for quite a number of years and have a very good understanding of privacy issues and how to mitigate privacy risks—the sort of issues that need to be taken into consideration. Of course, there are lots of technical issues these days around, perhaps, technical solutions to privacy issues that people like Data61 might be looking at that are more technical-type solutions. We do not have that type of expertise on staff, but if needed we can go out and seek that type of expertise. Generally our expertise is around being able to advise agencies and say to agencies, "Have you thought about privacy by design with this project that you are doing? Have you done a privacy impact assessment? What are the risk mitigations that you are putting in place to make sure that the work you are doing takes account of privacy and really builds it into the project?"

The CHAIR: I think we have asked—probably in a private meeting we have had—about the fact that you are situated together. How do you maintain your independence but also work effectively together?

Ms TYDD: I am happy to start with that. Very effectively, is the response that I would provide. We have an organisation that was always created as a one-stop to assist in the balancing of those rights to enable us to provide holistic advice. Over the past 12 months we have worked together really collaboratively and effectively, I think, to provide advice to agencies that might need to maintain a separation. So we will have a component dealing with one right and then a component dealing with another right. In other instances we were able to combine those advices and assist agencies generally in balancing those rights. They are not always mutually exclusive rights and in a number of projects that we have looked at we see similar issues, particularly in terms of access to information in digital environments.

Our resourcing internally and also our ability to acquire information externally, either through the national forums that we both participate in—we have regard to developments across Australia and we are both able to bring that back and share that learning very effectively for ourselves as commissioners but, more importantly, for the staff of the Information and Privacy Commission [IPC], who largely are the interface with agencies. In my view that has been very effective. We have certainly been demonstrably effective in terms of our timeliness. The recent review of the GIPA Act has imposed a 40-day statutory time frame for the provision of decisions—the external review decisions.

That is not required of any other jurisdiction from an external review and information access in Australia. When that legislative amendment passed we discussed the matter and, in consultation with the Privacy Commissioner, we determined that we would apply that 40 days to reviews of both streams. That delivers equitable service delivery outcomes for the people of New South Wales. They are not waiting on one because the other is prioritised. I think we have seen some real benefits from that kind of collegiate and integrated approach, where it is able to be integrated. It is systems. It is processes.

The CHAIR: Ms Gavel, your thoughts on that?

Ms GAVEL: I would agree with what the Information Commissioner has said. We work well together and have a good working relationship, which helps ensure that all of these issues are considered and work well. The Information Commissioner is the CEO of the agency but she is very respectful of the needs for the privacy work to be done to ensure that it is properly resourced and properly elevated within the agency. I think that is a really good example that the Information Commissioner has outlined in terms of when the GIPA Act changes came in. We made sure that those time frames were applied to privacy as well, so that privacy did not get left behind or was under-resourced. I think it is a good example of the way we work together to make sure that both streams are resourced properly and managed effectively.

Mr PAUL LYNCH: Can I perhaps ask the Privacy Commissioner—you have supported, in principle, moving from a voluntary reporting scheme for serious breaches of privacy by State agencies to a mandatory scheme. Do you think that the State scheme should follow the Federal model?

Ms GAVEL: I think the Federal model is a very good starting point. If there is already a model in place it makes sense to take the best parts of it and use those. At the same time, I think there will be issues that are really New South Wales issues that might mean that we might need to have some differences in a scheme. As you know, the Department of Communities and Justice put out its discussion paper last year on such a scheme. We have been consulting with Justice around the sorts of issues that need to be taken into account and how such a scheme might

work. Some of the issues are around the scope of the scheme, because that is very important that the scheme is a manageable scheme for agencies and for the IPC. I think the Australian Information Commissioner has had some issues with the threshold they have set for reporting, where they are actually having too many matters reported that are not necessarily significant matters. Those are matters that we can actually take into account in considering a new scheme so that hopefully we can build on what they have got and have an even better scheme.

Mr PAUL LYNCH: My second question was going to be about the discussion paper. Have you got any idea what the Government is up to with it?

Ms GAVEL: I am aware that the Government is certainly considering the scheme. As I said, I have had consultation with the Department of Communities and Justice and the Department of Customer Service about that. I am really hoping that we will see such a scheme coming in, I would hope, this year, but let us see what develops.

Mr PAUL LYNCH: There has been a fair bit of talk about the digital world and what have you. The legislation governing privacy in this State, the Privacy and Personal Information Protection [PPIP] Act, was drafted and adopted before the iPhone was invented. I suspect it is probably time to have a proper review of that Act and probably rewrite the entire thing.

Ms GAVEL: I think legislation does age, as we all know, and the PPIP Act is now over 20 years old. I think, in its favour, the PPIP Act is a principles-based Act. Those principles around having a lawful basis for collecting information, making sure that you use it appropriately, disclose it appropriately, keep it secure—those principles apply whether you are dealing with a paper-based technology or a digital technology. Indeed, I would argue that they apply in terms of artificial intelligence [AI] technology even though, perhaps, I might get a sense sometimes that some of the more forward-thinking digital organisations might think that privacy does not apply to them. I would say that it does and the principles still apply.

I think that the PPIP Act continues to be fit for purpose. I think there are areas where consideration could be given to fixing up, perhaps, what we would call some of the gaps. I think the mandatory data breach scheme is a really good example of that. That is very relevant in a time when we are using a lot of digital technology because I think people expect that they will be told if there is a data breach so that they can change passwords, for example. It also promotes trust in digital technology on the part of the community and it encourages agencies to really elevate their privacy practice internally to make sure that they are not having to notify mandatory data breaches.

Mr PAUL LYNCH: Could I ask you to take on notice a question as to what the other gaps are that might need to be filled in? Not now, but if you could perhaps come back to us about that and give that a proper, considered response.

Ms GAVEL: Yes, certainly.

Mr PAUL LYNCH: In terms of your fears about some people in the digital space not thinking privacy applies to them, what is your view of a digital bill of rights?

Ms GAVEL: I have to say a bill of rights, per se, is not one that I have given a lot of thought to at this point. It is probably something that I would want to think about further. But there is a lot of work being done in Australia and globally on these sorts of issues and how we make sure that rights are preserved, particularly with digital technology and AI and machine learning and all of these exciting things that are coming in. The Australian Human Rights Commission put out a discussion paper on technology and rights in December to canvass some of these issues. I think, once it puts out its final report, that is going to be very influential. These are certainly issues that myself and the Information Commissioner are thinking about.

Mr PAUL LYNCH: Do you think there is anything that we can learn from some of the changes they have introduced in Europe?

Ms GAVEL: Certainly. I think, with privacy, it is one of those issues where there are advances globally as well as here. We have got the General Data Protection Regulation [GDPR] in the European Union. We have even got the—California has recently brought a privacy statute for the first time in America. New Zealand has actually done some really interesting things in this space. So, definitely, I think it is important for both the Information Commissioner and I to be up on some of these issues as well and understand what is happening so that we can feed that back into some of the initiatives that are happening at the State Government level.

The CHAIR: Ms Tydd, you mentioned the new GIPAA rules you are working within in 40 days. Has that meant much of a change in the operation, and what does that look like?

Ms TYDD: It meant a pretty fundamental change in the operation of the organisation. We conducted a structural review—organisational review—of both our processes and our workforce capability within that

environment to process the reviews within that period of time. The processes were developed from the ground up, with staff feeding very much into what they saw as ways to ensure that we could meet the 40-day time frame for both privacy and information access. Largely the processes are able to be uniform to the degree possible and that has helped. But in addition to that we have submitted—and it is certainly on the public record—that we required an additional \$500,000 to support that structure, which required a modest level of additional staffing, around about two additional staffing requirements. The IPC was established in 2010 with 28.6 staff, including commissioners within that envelope. We are now at 30. We changed the grades of the staff so that we had, in summary, a higher level of expertise available.

With the machinery of government changes, the Department of Customer Service provided that additional \$500,000 injection for the first year. This year I have submitted, in accordance with the 2020-2021 budgetary requirements, a budgetary enhancement submission. I have had confirmed from the Department of Customer Service that they will also consider that within their priorities as well. So that will support the ongoing delivery of that 40-day time frame, which approximately halved our 90-day customer service target. It did mean considerable change. The other changes were certainly in the information we had to put out to agencies because of some of the other, more substantive amendments, and the provision of expert regulatory advice around that. We have conducted a number of workshops with practitioners to assist them.

So it has had a significant impact. I would stress that that is to meet the existing issues for the IPC. Those existing issues to date have seen—when I compare 2010 statistics to this year's statistics it is a 14 per cent overall increase. We have increased sometimes 8 per cent a year, might have flatlined another year, but overall since establishment—and there has been no budgetary enhancement—there has been a 14 per cent increase across the board in complaints and review. That is just the casework that comes into the organisation. We also, I am very pleased to advise, have now been able to realise the real intention of the combination of the GIPAA and the GIIC Act, which is the Government Information (Information Commissioner) Act 2009, to proactively conduct audits, to identify risks and work with agencies through the provision of additional advice.

We have also jointly provided software tools for agencies to be able to self-audit, so that they can see where they are meeting their targets, where their capability might need to be improved and they can work with us on designing a project to ensure that they are as compliant as they can be.

The CHAIR: We heard a little bit about voluntary data breaches. What if it was to be made mandatory? What impact would that have on our staffing needs and levels?

Ms TYDD: If I perhaps start at a high level and if the Privacy Commissioner has more granular and expert opinions and advice, that would assist. At a high level, first of all, starting with what the scheme looks like and taking up the Privacy Commissioner's earlier point about the level of notification, how many that means: There are issues around the volume of notification, in terms of how the Act might work, the work that is then required of the Privacy Commissioner and staff of the IPC to respond to that and what oversight role the Privacy Commissioner has in that regard. Indeed, at the very highest level there would be resourcing implications and requirements.

Ms GAVEL: I would agree with that summary.

The CHAIR: Have you looked at what sort of numbers that might be at this point?

Ms GAVEL: We are starting to have a look at what it might look like, but until we have a more detailed form of the scheme it is difficult to be sure, because it does depend on that threshold of what is going to be reported—so how many reports we are getting—and, as the Information Commissioner said, the oversight role for the Privacy Commissioner.

Mr PAUL LYNCH: To the Information Commissioner: How many of the external review decisions have been made within the 40-day period?

Ms TYDD: We have made 100 per cent at 40 days and we have reported that in our dashboard. We recently changed the methodology to be 39 days, so we have had two files that have not actually been within 40 days. It sounds somewhat pedantic, but it is something that we have to ensure that we are faithful to the legislative amendments that this Parliament has passed.

Mr PAUL LYNCH: How many agencies that are subject to the GIPAA do not accept GIPAA applications online?

Ms TYDD: I could not with authority speak to all of the agency practices, but I can tell you I have provided, under the old pre-November amendments, advice in relation to probably three agencies that have implemented online lodgement schemes to insure that they are compliant with the legislation and to assist them

in that regard—and that they are accessible. The other arrangements that agencies might have now implemented post that amendment I could not speak to, because there is no requirement to formally consult me. I would, however, as you have probably seen in my published materials, commend what was Family and Community Services [FACS] on its online lodgement system. That was a recent initiative last March, I think. That really serves the needs of a particular community very well, in my view, and that was a great step forward for a high-volume agency. There are a number of agencies that have formally instituted those processes. There may be other processes that I am not aware of, including lodgement by way of email and then payment through a different gateway.

Mr PAUL LYNCH: There would not be any agencies you would be aware of that would be covered by GIPAA that are not connected to the internet?

Ms TYDD: I could not identify an agency at this point—and, indeed, I am working quite closely with local councils in relation to another requirement that they have and certainly in my desktop review they have websites.

The Hon. ADAM SEARLE: Just in relation to the volume of complaints: Given the level of visibility that you have got, what is your impression of those complaints? Are they largely well founded and made out about agencies not complying or dragging their feet in terms of wanting to give up the information?

Ms TYDD: The complaint process is quite distinct, as you are aware. It is housed under the GIIC Act. Unlike the review provisions, it does not have an justified/unjustified outcome; it is a traditional complaint-handling model. In terms of the issues that arise—the number of complaints that deal with things such as the conduct of searches, because it is about the conduct of an agency; the imposition of processing charges—they are quite significant matters that arise as a result of complaints. Sometimes there are complaints that express a dissatisfaction with the outcome of a review, and they also make up a statistically meaningful number, but the conduct along the way—I do not have those statistics at hand. It would mean that I would need to go back through those complaints of last year and provide you with that.

The Hon. ADAM SEARLE: If you could provide that information on notice—

Ms TYDD: I certainly can. I certainly can provide that. But they do give us insights. In particular, the issue of searches was something that I focused on a lot last year with agencies in conducting a forum to assist them in the conduct of searches, largely relevant to the change in the way information is held by agencies and where the search begins and the certification processes that are required. That then flows on to the imposition of processing charges. That matter is a matter that we have identified in our regulatory plan going forward this year, to look at how agencies calculate those processing charges. There are some subjective elements to those processing charges; whilst the fee is set, different aspects of processing charges might arise in dealing with any application. I think it would be very helpful for agencies generally, together with the citizens of New South Wales, to have at least a framework of expectation in relation to how fees and charges are calculated. The first instance for us on our regulatory plan is to conduct an audit.

The Hon. ADAM SEARLE: What is the overall outcome of complaints? Are they mostly found to be substantiated, from your point of view?

Ms TYDD: I do not have that information available to me. One of the reasons is because there is no legislative requirement.

The Hon. ADAM SEARLE: Should there be?

Ms TYDD: In a complaints management framework there is generally an ability to provide additional information, so whilst there may not have been any action that would offend the GIPAA and the requirements of agencies in that regard, it may be that inadequate information has been provided—or suboptimal levels of information. The majority of complaints within the IPC in the information access stream are resolved by way of providing of additional information.

The Hon. ADAM SEARLE: Speaking personally, I have been a sort of serial GIPAA applicant and a serial visitor to the NSW Civil and Administrative Tribunal [NCAT]—

The Hon. TREVOR KHAN: I thought it was just Standing Order [SO] 52 requests.

The Hon. ADAM SEARLE: Well, you have got to keep your hand in.

Mr PAUL LYNCH: It goes to SO 52 when the other thing fails.

The Hon. TREVOR KHAN: No, I think they have moved on from that now, Mr Lynch. They just do not bother with the GIPAA's anymore.

The Hon. ADAM SEARLE: This is a meaningful point: My experience has still been that there is this cultural reluctance by agencies to yield information, even where the description of the information sought is pretty clear—even in cases where you can actually name almost exactly the name of the document. There seems to be this cultural unwillingness in agencies to give up information unless there is actually an order of NCAT. Are you encountering that sort of cultural phenomenon amongst agencies?

Ms TYDD: Close to 10 years of data from the GIPAA has given me—and we make these reports publicly available, so I think it also gives visibility to the public at large. There have been reasonably consistent release rates. Now, they have tapered off a little since the inception of the Act, but they generally remain around about the 70 per cent of release rates in total—that is in full and in part, combined. If I compare that to the national dashboard, the metrics that I have worked on with my colleagues who are information commissioners throughout Australia, New South Wales sits pretty much in the middle in terms of release rates.

So there is not necessarily a strong support in that data for the proposition that you are putting forward. However, there are cases in which the NCAT may arrive at a different decision to that of the agency. The Information Commissioner exercises a right to appear in the novel, contentious, complex cases. Increasingly our submissions are assisting both agencies and citizens together with NCAT in clarifying the requirements of the Act. Overall I think that system is working quite well.

The Hon. TREVOR KHAN: Could I just ask in regards to that, if in those matters that you have intervened, where you have I take it performed essentially an amicus role—

Ms TYDD: Correct.

The Hon. TREVOR KHAN: —how many times have you ever been backed in, as opposed to hit to the boundary, by NCAT? Is your organisation getting it right in your assessment of the Act?

Ms TYDD: Again I would not provide a response that reflects statistics or outcomes of the tribunal because of the way that information is collected, but I know through the outcomes of decisions and also our engagement with NCAT that the Information Commissioner's submissions are seen as extremely helpful to the NCAT in providing an objective lens in terms of how the Act might operate, particularly when discrete sections of the Act are the focus of litigation. The Act, I am increasingly coming to appreciate, is quite interlinked. There is a tapestry within that Act. Bringing to bear that expert knowledge and allowing NCAT to have additional information before it that parties might not necessarily have raised, because they are not necessarily directly on point with the issues in dispute, has actually added real value to the tribunal and certainly provided greater authority in terms of case law.

Mr PAUL LYNCH: Despite your comparatively optimistic answer to Mr Searle's questions, are you aware of the case of *Salmon v Corrective Services NSW* [2016] NSWCATAD 257?

Ms TYDD: Yes.

Mr PAUL LYNCH: You know the commentary that was made there—

Ms TYDD: Yes.

Mr PAUL LYNCH: —that officers consciously said they would not accept any recommendation from the IPC. The junior officer would not disagree with a senior officer. It was, on any view of it, an atrocious situation. Surely the position is a little bit dimmer than you suggested to Mr Searle?

Ms TYDD: Whilst NCAT will only deal with a very small percentage of matters, that is the only matter—besides the decision in Taylor, which is quite factually distinguishable—that has brought into question that type of cultural approach. I have not seen that highlighted in any of the engagements that we have had and, indeed, we followed up with the relevant agency following that. Certainly that comment is not reflected in the approach of the agency more broadly. It is something that I will remain vigilant about for obvious reasons. Whilst, as I said, the other decision, Taylor, also raised some issues around decision-making and the ability to approach the GIPA Act as intended, they are the only two cases that I am aware of that have highlighted those sorts of outlying behaviours.

The Hon. TREVOR KHAN: How else would you become aware of them?

Ms TYDD: We conduct an intelligence gathering process. We have a compliance committee that looks at our information holdings by way of reviews and complaints, it looks externally at the media, for example, it

includes NCAT and looks at the data from the section 37 report. We operate that committee for both information access and for privacy. That gives us real visibility over both statutory streams. We then design our work programs and our targeted compliance activities according to risks that are identified through that process and any others that might come to light that might not necessarily fall within that scope. We do have an ability to monitor the behaviour of agencies, the issues raised by citizens through a number of avenues and distil that information into a meaningful compliance program.

Mr PAUL LYNCH: I would simply note that if the general acceptance rate is 70 per cent, that is a much higher rate than Mr Searle and I are used to experiencing.

The Hon. ADAM SEARLE: Maybe there is a special response for members of Parliament.

The Hon. TREVOR KHAN: It may reflect what you are asking for.

The Hon. ADAM SEARLE: It is usually sensitive material, true.

The Hon. TREVOR KHAN: You just might be being unduly difficult.

The Hon. ADAM SEARLE: We will find out next Thursday.

The CHAIR: One thing you have noted is that you have proactively begun auditing agencies now. In 2018-19 you did NSW Treasury, NSW Police Force, WaterNSW and the Sydney Cricket and Sports Ground Trust. First of all, was that throwing darts at the wall or did you specifically do them for a specific reason?

Ms TYDD: Through the compliance committee, that is one mechanism, but the other is we may receive a number of individual complaints or one significant individual complaint, which, coupled with the information that we currently hold, enables us to identify a particular risk. So we also use the GIPA Dashboard, which is a tool of all of the data of every agency. That provides, if you like, a bit of a benchmark, an average performance level. In initiating those audits we will have regard to performance indicators such as timeliness, for example, review rates and deemed refusals. They are all indicators of processes and where they fall below that average benchmark on a comparable level—I would not be comparing a council with the Department of Health, for example—that may provide further evidence to stimulate an audit.

The CHAIR: Did you identify any specific trends in these cases? Was there anything that stood out as being problematic?

Ms TYDD: In relation to both the Sydney Cricket Ground and the sporting venues audit, that matter arose from an assessment of the dashboard together with complaints. They identified issues in relation to the processes that were in place to support the performance of the GIPA Act. The GIPA Act operates at a transactional level through, and is completely dependent upon, sound processes. Our intelligence indicated that process improvement was warranted there, and certainly our audit reports demonstrate that. Likewise, in relation to Treasury, issues that looked at the type of applicant, for example, in Treasury. The timeliness was certainly demonstrated to be positive with Treasury. I think that you will see that audit report also demonstrates a positive compliance attitude together with a sound training program. Whilst there were I think 14 recommendations made, like every other audit, those recommendations have been accepted by the agency. Again, that is cause for an optimistic approach to compliance, the attitude that agencies are demonstrating in terms of compliance.

The CHAIR: Ms Gavel, you mentioned AI earlier on around moving forward and the fact that you think the provisions are there to incorporate privacy into the future anyway. AI is something that is developing rapidly obviously. Do you see that there will be a need for you to be involved along the way a bit more specifically on that in the future, or do you think the way things are will hold up for some time?

Ms GAVEL: I guess it depends on the actual project. I mean, there are some projects that do not use personal information. I understand that Transport for NSW is using AI in rail maintenance, for example, in fleet maintenance. That does not require the use of personal information, so it does not bring privacy issues into it. We have recently seen the rollout of illegal mobile phone detection cameras in New South Wales to detect motorists who are illegally using a mobile phone while they are driving. That technology does use a form of AI, which assesses images to determine whether a motorist is using a phone or not. Clearly that involves privacy issues because images are the personal information of the people who are being photographed. Therefore Transport is required to comply with the PPIP Act in relation to that program.

The IPC had a significant consultation process with Transport for NSW on the privacy aspects of that program. I would expect that would be the case in other future programs that might involve the use of AI where there is a use of personal information. Just because it is being used in an AI system does not mean that the privacy issues can be ignored, because the PPIP Act still applies.

The CHAIR: Thank you very much.

(The witnesses withdrew.)

FIONA ESTELLE RAFTER, Inspector, Office of the Inspector of Custodial Services, affirmed and examined

The CHAIR: Would you like to make an opening statement before we begin?

Ms RAFTER: Yes, thank you, Mr Chair. Thank you for the opportunity to appear before you today. I would like to firstly acknowledge the Gadigal people of the Eora nation. The Inspector of Custodial Services is an independent statutory office created in October 2013 pursuant to the Inspector of Custodial Services Act 2012. Since I commenced in the role in April 2016 my office has continued the schedule of inspections started by the first inspector, Dr Paget.

As the Committee is aware, to respond to legislative obligations using the resources available to the Office of the Inspector, a model of inspection was developed by Dr Paget, which allowed for multiple centres to be included in a single theme-based inspection. October 2018 marked five years since the establishment of the Office of the Inspector. In the first five years of this office we met our legislative mandate to inspect each custodial facility every five years and juvenile justice centres every three years in New South Wales. Over the 2017-19 financial years the office of the inspector undertook the following seven thematic inspections: Management of radicalised inmates; 24-hour court cells; use of force, separation, segregation and confinement of detainees in New South Wales juvenile justice centres; women on remand; the inspection of five minimum security correctional centres in non-metropolitan New South Wales; the provision of health services; programs, employment and education; and the inspection of the residential facilities and the compulsory drug treatment centre.

In the first five years, eight reports, including six thematic inspection reports and two public interest reports, were tabled by the office relating to the inspection of 31 facilities and resulting in 198 recommendations. A further five thematic inspection reports relating to the inspection of 28 custodial facilities have been completed since then. I am currently working on the last thematic inspection report from this period. In 2019 we commenced individual centre inspections and reporting. These included Kirkconnell and Kariong correctional centres and the Integration Support Centre; Youth Justice Facilities in New South Wales; Parklea; Mary Wade Correctional Centre and Berrima; the Rapid Builds centres, Macquarie and Hunter correctional centres; and we are soon to inspect Cooma and Oberon correctional centres. We will also continue to undertake some thematic reviews such as the inmate transport review we commenced in 2019.

Since my appointment in April 2016 we have undertaken 69 custodial facility inspections and tabled 8 significant reports relating to 51 facilities. The office has made and is monitoring the implementation of 395 recommendations. In addition to inspections, we conduct liaison visits to centres to inform inspection work, monitor the implementation of recommendations, provide the opportunity for information sharing and meet with official visitors. This has meant we have undertaken over 180 liaison visits since April 2016. We also continue to manage the official visitor program for New South Wales and have undertaken significant recruitment processes resulting in an increase in the number and diversity of appointments. Thank you.

The CHAIR: Thank you. The Committee previously resolved to hear a portion of your evidence in camera. I ask that we clear the gallery now and go in-camera.

(Public hearing resumed.)

The CHAIR: Mr Coure, will you ask your question?

Mr MARK COURE: Thank you, Chair. The annual reports of the past few years note that additional resources in the form of temporary positions are required to meet the statutory obligations. Are the current levels of resourcing adequate to ensure that you fulfil your role? If not, what is needed?

Ms RAFTER: They are not adequate to be able to table reports as fast as I would like and they are not adequate to meet all of the functions that I would like to perform as an NPM (National Preventive Mechanism) for the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. I currently have nine permanent positions, four temporary positions and a casual cadet position in the office. I have previously provided to Government some information around additional resourcing that I would require to fulfil the OPCAT functions and I have been asked to provide further information in relation to that. I will be putting forward a submission about increasing the number of resources in the office.

The resources that I have at the moment have been sufficient to complete all of the inspections and to oversee the Official Visitors Program but there are discretionary functions that I have to do—public interest reports. The current resourcing does not allow me to actually be able to do that. That is an existing function but it is the discretionary part of the functions on top of the regular inspections. As far as for OPCAT, because it is a

preventive model, it requires regular visitation into the centres. I have told you in my opening statement about the number of visits. That is on top of inspections that we do. My understanding of OPCAT is that it requires even greater visitation, so I need to make sure that I have got additional resourcing to allow that to happen as well as prepare the reports if it is announced that we are the NPM.

Mr PAUL LYNCH: Following on from that, OPCAT will require more visitations of the centres that you currently visit. It will also require visitations to other centres that are not currently within your remit. Is that right?

Ms RAFTER: We have an obligation to inspect all of the custodial facilities. In fact, that includes the 24-hour court cells and they may not actually fall within the remit of "detention centre" for OPCAT purposes. In fact, we might have obligations that are beyond OPCAT. What OPCAT will require for places of detention is probably police lock-ups and we do not have jurisdiction for police cells that are not managed by Corrective Services. If that was to come within our remit we would need additional resources for that, but it may be that Government looks to another body to take on that function.

Dr HUGH McDERMOTT: Do you think it would be of benefit for you to have that jurisdiction to go and be able to do that work?

Ms RAFTER: Provided I had the resources, I would be more than happy to undertake that function.

Mr PAUL LYNCH: What other bodies might Government be looking at to carry out that role, if not to you?

Ms RAFTER: For example, LECC could be considered for that role because they have an oversight of police functions.

The CHAIR: I think we have covered everything we need to cover off. You may be sent additional questions in writing. Your replies would then form part of your evidence and be made public. Would you be happy to provide a written reply to any further questions?

Ms RAFTER: Of course. Thank you, Mr Chair.

The CHAIR: Thank you very much for coming.

(The witness withdrew.)

(Short adjournment)

PETER COTTER, Acting Commissioner, NSW Crime Commission, sworn and examined

MICHAEL WILDE, Executive Director, Corporate Services, NSW Crime Commission, affirmed and examined

The CHAIR: Good afternoon and thank you for attending today. Before we proceed, do you have any questions about today's hearing?

Mr COTTER: No.

The CHAIR: Would you like to make any opening statements before we start?

Mr COTTER: Thank you, Chair. Good afternoon, everybody, and thank you for the opportunity to come down here today. Thank you for the opportunity to be before this Committee this afternoon. It was a great honour to be appointed as the Commissioner in November 2018 and I am extremely proud of the Commission's success in the reporting period of 2018 and 2019 and from that period up to the minute today. I am equally proud of the success of our State law enforcement partners and our national law enforcement partners who we work hand in hand with every day in an attempt to tackle, combat, prevent and disrupt serious and organised crime. It is a partnership with law enforcement which is entrenched, formidable and stronger than ever.

I am convinced that it is our unique and niche capabilities at the Commission which set us apart. They are our strength and they are our future. Touching on those, the first pillar that I rely on is our investigation and analytical capability. We are immersed in many joint investigations targeting drug import and supply, money laundering, homicide and terrorism. Through our joint involvement with law enforcement—99 arrests and 616 charges and 517 intelligence disseminations throughout the period. They range from breaking down and disrupting criminal networks, drug importations at Sydney Airport with baggage handlers, drugs being imported in various and multiple types of heavy machinery, drugs being imported in chilli sauce and literally people being stopped in the street with shopping bags full of hundreds of thousands of dollars.

Coercive hearings—103 were held in the reporting period. Again, one of our niche and most protected and most revered capabilities. And of course asset confiscation—again, another year on average meeting the five-year average of approximately \$30 million in confiscation orders. In addition to that, that is the now. But what has hit the tin? What has hit the New South Wales coffers in that period? Equally, \$30.4 million. The impact is always hard to gauge but we play our part—a significant role—in delivering a safer community for New South Wales by disrupting national and international criminal networks. If we do not demolish them, we certainly have disrupted them significantly. We have a reach that has an impact on both city metropolitan and regional New South Wales.

One of the things we and I have particularly focused on in my tenure there is that we do not exist in isolation. The relationships, and in some cases partnerships, are crucial. We have worked very hard to harness and sustain relationships with the Minister for Police and Emergency Services, the Department of Communities and Justice, the police both principally in New South Wales and the Australian Federal, the Director of Public Prosecutions [DPP] and LECC. And I have always called on the wise counsel afforded to me by Anthony Whealy, the chair of our management committee. One of the matters we will touch on was a matter that was raised here at this forum for some of these Committee members but 2 years ago, that is our structure and the CEO/special legal qualification matter.

For the reporting period being 8 months, and for the 16 months that I have been there in total, we have operated under essentially the commissioner/CEO model where I myself have to fill those roles. I respect greatly the diverse opinion which was tabled here at this forum two year ago regarding relaxing the special legal qualifications and/or having a CEO model would lead the place to significant vulnerability. I respect those opinions, but the last 16 months have lay testament that we have survived and we have not been vulnerable. We have invested in a very simple hierarchical model. The Commissioner at the top—one boss, one leader, one Commissioner—and below that our three Executive Directors and Assistant Commissioner (Legal). Very clear lines of demarcation and delineation.

The Assistant Commissioner reports to the Commissioner, and the Assistant Commissioner ostensibly looks after and leads the day-to-day legal front arm of the Commission. The Assistant Commissioner is essentially charged with delivering and directing all things legal. Inclusive of the exercise and the authorisation of our special powers pursuant to our Crime Commission Act and determinations and settlement under the Criminal Assets Recovery Act, Mr Bodor, who fulfils that role of Assistant Commissioner, has provided over all 103 hearings and approximately 50 thus far in this reporting period. As you know, irrespective of my title and role at the Commission, I am substantively a police officer. Before I even got here, the first statement I made to the

Government was, "I am going to quarantine myself from sitting on the bench and presiding over any of those hearings."

I also believe it is potentially not the role of the CEO to spend all of their time presiding over such matters. I took on the role vested in me with leadership and the stewardship of the Commission at the forefront, as that Commissioner and as that CEO, I am involved in decisions that involve the strategic legal matters of the Commission, such as those that affect our brand name and such as those where we are under litigation from outside sources. To date there has been no conflict at all between myself and the Assistant Commissioner (Legal). Clearly in any forum where there is a group of lawyers there is always different viewpoints. We have had many healthy conversations, and the complex matters that have affected or impacted on the commission have been involved always through collaboration and consultation, putting the interests of the commission as a whole at the forefront.

The Commission has not been vulnerable because of someone who lacks eminent legal qualifications, but equally the strengths and the leadership that is required to lead a business suggests that law is but one of the many things that are required there. You do need to be legally qualified; there is no doubt about that, but it is not just about administering the law. There is leadership required. There are people there, they need leading and there needs to be vision set. There needs to be management and administration of the business: all things budget, procurement, human resources, internal and external relationships, media, and of course there is core business operations and investigations. That is the business we are in. Underpinning that and an equal standing is the law, ensuring that our special powers are always administered legally, fairly and reasonably. It works well.

The Commissioner plus the Assistant Commissioner (Legal) deliver success. It is a hierarchical model but it is streamlined in its distribution of responsibility. There is the running of the business and there is also the administering of the special legal powers. For our future, the three pillars as I articulated are our strength. In the domain of serious and organised crime there is more than enough work—drugs, money laundering, violence and murder, which flows when things go wrong. This forum in 2018 discussed at length a then push by, I think potentially, the office for police around a cybercrime capability or strategy. My understanding is that was not funded by Treasury and anything that was funded was invested into the NSW Police Force—I would say quite rightly—to build their capability. For us to deliver that it would take millions. It takes infrastructure and it takes talented people with significant training.

The Commission is not built, nor funded, nor I suggest will be at any time soon to further such a strategy so it is not part of our current strategy. We do need to tap into cyber investigations. Again, playing to our strength, the niche capability to confiscate assets. To build one of our further strategies is a business case at the moment which is deep through the department and has reached Treasury. My understanding is it has significant interest of the minute. That is to enhance our asset confiscation capability. To essentially quarantine off the confiscated proceeds account, which pursuant to section 32 of the Criminal Asset Recovery Act, I would suggest we are able to do to access proceeds of that account which can aid in law enforcement, deliver crime prevention programs or programs supporting safer communities. That arm of our business is a \$4 million enterprise.

That \$4 million enterprise returns year in, year out \$30 million to the State, which aids principally in other law enforcement strategies—some of them covert—and equally aiding victims of crime, most importantly. We have put a business case together which is humble but sensible and appropriate. In it we have asked to tap into over 10 years—about \$3.6 million a year, so \$36 million over 10 years, which will deliver, we say, for every dollar invested, \$5.70 in return. There is a whole tier of criminals out there we believe we are missing with asset confiscation. There are about 1,000 referrals to us a year and we action about 130 to 140 a year. That is not to say the next group of people are going to be the silver category or the bronze category.

What I am saying to you is that there are a whole lot of people in gold, silver or bronze, which we cannot get to. Asset rich through crime and with double capacity, turning twentysomething people into fortysomething, which is a combination of analysts to find that criminality, to work with the police and then financial accountants to find the money and the lawyers to go down to the Supreme Court and to get the confiscation orders and the litigation commenced. That is attracting significant interest at the moment and we will wait and see how that lands and we hope it is received positively. Chair, that is essentially my opening address to the Committee and yourself.

The CHAIR: Thanks very much. I appreciate those opening thoughts. I think there is a lot of interest in the NSW Crime Commission and your role. I think one of the main things that has been noticeable is that since November 2017 it has been an acting role. You have been an acting position since 2018. Given that it is an acting role, not a full role, has that proved any problem in any way, shape or form?

Mr COTTER: No. Personally, I walked in there, taking on the role—leaving my previous career, even though I am still attached there, at the door and walking in there 100 per cent to work for the Crime Commission. So, personally, no. It took a little while, I think, for some people to warm to me, to be honest, and I think through

my actions and through my behaviours over the past 18 months we have made enormous headway there. Clearly, there might have been some fears that I was there for another motive or put there for another motive or, alternatively, to run the place like an arm of the NSW Police Force. None of that was certainly true. I do not think it has been an impediment at all. I have assumed full ownership of the role and lived it like it was my current job, like I have done every other job in my career. It has been enjoyable, rewarding, challenging on a whole lot of fronts and a great education and development for me.

The CHAIR: You mentioned in your opening remarks, as well, benefits to the current set-up around being a CEO. You mentioned not necessarily needing a legal background. I am sure there will be more questions about this, but you mentioned the past 16 months and the way you see things have run. What would you say to those who would say this position should have a legal background?

Mr COTTER: No. I think my words were very much around you do need to be legally qualified. You do need to be a lawyer. I think I said that you do not necessarily need eminence—in other words, significant standing—to run the business and the legal side of it. You do need to have legal acumen. You do need to think legally because, as I said, there are a number of legal issues and litigation matters that affect the brand name, the Government and everything else that we have to turn our mind to. But the day-to-day arm of it is dealt with, clearly, by someone with significant legal experience. That is the role and the diversification that we have vested in the Assistant Commissioner (Legal), who does all that front-arm criminal, asset recovery, presiding over hearings.

Mr MARK COURE: Mr Cotter, in your opening remarks you talked about the three pillars. You talked about where you would like to see improvements—for example, cyber investigations, asset confiscation capabilities, etcetera. Knowing that your appointment finishes or concludes in November of this year, what is your vision for the Commission for the remainder of your period?

Mr COTTER: I am there until November, so I believe. In that time, as I said, I will carry on the stewardship that I have administered so far—that is, trying to deliver, as I said, the business case that we have put forward to government, which I think is an enormous strategy in itself to double asset confiscation in this State. That has been one of the big strategic operational drivers. Continuing to build our relationship with other parts of the NSW Police Force—traditionally it has been very centric to the Organised Crime Squad, where there is a joint standing arrangement. In my time there we have been able to successfully have some operations with regional New South Wales cities and towns and also other arms of State Crime Command, who have traditionally not used our services or we have not tapped in with them.

So, again, expanding that brand name and that impact across other areas of organised crime and with other arms of law enforcement and clearly, again, always working with our Australian Federal Police [AFP] law enforcement partners. That is what I believe is certainly enough to deliver and deliver it well. As I said, the cyber strategy, I think, is best dealt with elsewhere by the NSW Police Force with their capability.

Mr MARK COURE: Why is that?

Mr COTTER: Because they have a squad that is over 100—Cybercrime Squad—which not only deals with cyber attacks per se, but also crime that is committed through the medium of cyber; whereas we do not have any of that capability, as in people, training, computers, machinery, equipment, nor do we have a heritage in it.

Dr HUGH McDERMOTT: Commissioner, before I start I will say that I recognise you have a long history in the NSW Police Force and an outstanding history, and you are going to go back there later this year. With that in mind—and obviously we have noted that for a number of years as well. There are a number of questions we want to ask you in regards to the state of the Crime Commission. We find the Crime Commission to be a very, very important organisation. There is plenty of organised crime in this State. We have to be sure, and I want to be sure, that the organisation is growing and is doing its job. I have had serious concerns over a number of years on this Committee regarding the Crime Commission and the leadership of it.

I do not have that with you, but I am going to talk to you about what has happened and what you have inherited and then go through a number of the things that are raised in the annual report. When you took over the Crime Commission from Commissioner Hastings in 2018, what state did you find the Commission in? I am talking operationally, management-wise, the morale of the staff—what were the big challenges you were facing when you took over?

Mr COTTER: Just to correct, I think Mr Hastings finished in November 2017. Mr Bodor was acting commissioner for that 12 months, November 2017 to 2018. I directly took over from Mr Bodor. There were a number of things going on which, rightly or wrongly, I think the government of the day and the Minister of the day were a little bit fed up with. One of them was considerable leaks into the media and some unhealthy and

disparaging remarks about a whole lot of things. The only mandate that I assumed was to settle the place down and to get it out of the media and start running the place like a sensible, mature business that it is and I believe has been.

I do not know where the conflict around all of that happened or its origin. I really do not know. But I walked into a place where I thought it has got extremely talented, hardworking people. I will say that today: They are some of the most talented and hard-working people I have ever seen and they achieve amazing results. I am very, very proud of them. I do not think that has ever wavered. Morale was, I would say, a little bit down. Of course, I come from an organisation which from time to time has its problems with morale, depending on what section, so it was not unique to me to walk into that. I think it needed strong, ethical leadership. I do not mean ethics in a corruption way; I just think it needed strong, ethical leadership and decision-making. I hope I brought some of that to the place in my time there.

Dr HUGH McDERMOTT: Thank you. I will go through some of the elements of the annual report and I have a number of questions about it. In the annual report you talk about the Joint Organised Crime Group [JOCG] and how that task force was disbanded in 2018. Can I ask why it was disbanded and what, then, has been the replacement for the multi-agency liaison role it had?

Mr COTTER: That was not a decision of ours. That is more a question, with respect, to our federal partners and particularly the AFP and the New South Wales police, who decided that that joint arrangement was not to continue in that form, which had existed and had significant success over a number of years. I am not privy to the exact core reasons why that was disbanded. All I know is that by the time I got there, the JOCG—as it was affectionately known—was all but over.

Dr HUGH McDERMOTT: What has replaced it? Anything in your organisation?

Mr COTTER: No, not as a standing joint organised crime national combo. That entity or type of entity has not been replaced. It is replaced on a needs basis by joint strike forces and operations. So, in other words, there have been, in some of the operations that we have been involved in this year, it has been a combination of the Australian Criminal Intelligence Commission, the Australian Federal Police, the NSW Police Force and the NSW Crime Commission. That job I alluded to out at the airport in around May of 2019 where some significant people in the horseracing industry and also baggage handlers, in a network, coming from South Africa to Sydney for years, was eradicated.

Dr HUGH McDERMOTT: Do you think that is a problem, or are these strike forces, as you called them, adequate enough to continue that liaison role?

Mr COTTER: The minute, I suppose, you disband a group which has national reach to the national picture, then it is fair to say that something might be missed in the hunting and gathering stage of what might be direction. So I will leave it at that, except to say—because it is not—as a partner in that arrangement we are probably but a minnow and a willing contributor over the years, but we are a minnow to the major forces who have to decide whether they want that or not.

Dr HUGH McDERMOTT: Okay. I will now move on to comments you have made on page 26 regarding encrypted communications and having to deal with that, especially with money laundering operations. I am wondering what strategy the NSW Crime Commission has put in place to try to deal with that element—if you can talk about that—to counter this issue?

Mr COTTER: With encryption?

Dr HUGH McDERMOTT: Yes.

Mr COTTER: Today's encryption is probably not tomorrow's encryption. As fast as technology is advancing, so is capability. In my opinion there is a disconnect between industry—corporate world—and law-enforcement world, and a selling mechanism for a device might be nobody else can get into your information, nobody else can see it, nobody has visibility. It is not going to be in their brochure that law enforcement cannot get it but the corollary is that, clearly, if no-one can, necessarily, law enforcement is going to be, at least, hindered. So that is a selling device or a marketing pitch by companies around the world, and we have to try to keep pace as law enforcement—if I speak globally on law enforcement—to try to access and intrude into, with the governance of, obviously, our legal rights and privacy concerns, under warrant and so forth.

Getting the warrant is but one thing—substantiating the cause—but then being able to get the technical product and interpret it into plain English in real time, perhaps, is way more complex. I do not come from a techno background. I am not going to make a fool of myself and start to talk about it in that vein, except to say it has been a problem for a number of years, it is a problem today and it will continue to be a massive problem.

Dr HUGH McDERMOTT: So we really have not got an answer for it then?

Mr COTTER: I have not got an answer for this Committee.

Dr HUGH McDERMOTT: All right. If we move on to comments you have made on pages 27 and 28 with regard to drug supply in regional areas. There is comment here:

With the exception of cocaine, heroin and alcohol, the regional average for drug consumption exceeded capital city consumption—in regional areas—and on page 28 it goes on about the "high average use in regional areas" of drugs and how organised crime groups have targeted regional areas because of lack of police resources and other reasons. I am wondering what strategy has been put in place by the NSW Crime Commission or your agencies with you to address this issue.

Mr COTTER: Yes. It is a growing concern to the police and to regional communities. I know Mr Saunders comes from one such. There is an abundance of money around everywhere in the country—maybe not the premium dollar to buy drugs that might float around Sydney but there is still money everywhere, and there is an appetite for it, just as there is in Sydney. And I think criminal networks have understood—recently, perhaps, more so—that perhaps a two- or three-hour drive somewhere can be more covert, can be more clandestine, than, perhaps, operating in the saturated policing districts of metropolitan Sydney; both with its local police and also, clearly, it is the major crime element of policing that is domiciled here.

So, regional cities and also, now, regional towns are becoming more and more prone to drug supply and administering. The challenge for law enforcement is deploying not only local resources but also other more significant covert, electronic and otherwise strategies into these areas. It is not always easy for, clearly, some obvious reasons. The Commission itself is working, and is most happy to work, with any ideas and strategies that law enforcement have, particularly the NSW Police Force. And I can tell you there are some commencing and ongoing at the moment into regional New South Wales. I will not say more about them because of the compromise element.

Dr HUGH McDERMOTT: So there is a strategy that has been put in place since these comments have been made?

Mr COTTER: Yes.

Dr HUGH McDERMOTT: In those regional areas, to try to assess organised crime?

Mr COTTER: I am very aware that the regional policing commanders and the NSW Police Force have put in strong efforts to build their regional enforcement squads and so forth, have bolstered their local detectives offices, both city and country, and they are doing everything they can and calling on State crime and, equally, if we have got a need or an involvement, we are injecting ourselves.

Dr HUGH McDERMOTT: So you have been asked to be involved at times?

Mr COTTER: Yes, we have—one going on at the moment.

Dr HUGH McDERMOTT: On page 31 you talk about:

roughly \$3.5-\$6 billion worth of Australian bank notes, representing 4–8 percent of all bank notes on issue ...

are being used as proceeds of crime, and:

The total confiscation ... by the [Crime] Commission—

we will go into this more—

was ... \$30 million for the ... financial year ...

And that:

[this] is a favourable figure when compared with other agencies around the country.

My personal opinion is that \$30 million is not a great deal compared to a number of other agencies. I am happy to be proven wrong with that but, that statement about it being comparable, is that State agencies or Federal agencies?

Mr COTTER: Both.

Dr HUGH McDERMOTT: Both? What type of figures are they talking about?

Mr COTTER: Nowhere near \$30 million. I can tell you, of the current matters in the asset confiscation in the Supreme Court of New South Wales—the NSW Crime Commission, who own the Act, of course, so no-one

else can touch it from within New South Wales, essentially—86 per cent are NSW Crime Commission and, for example, 14 per cent are Commonwealth matters. And I think that is reflective around the country. Nobody—I cannot give you the figure, per se, of other jurisdictions but, yes, we, in our law, in our approach and in our methodology and our returns, we are leaders in this country in this asset confiscation.

Dr HUGH McDERMOTT: You are right. It is difficult to find figures but if you look at, for example, the Criminal Assets Confiscation Taskforce, which is made up of the Australian Federal Police, the Australian Tax Office [ATO] and the Crime Commission, as it was at the time, you are talking about more than \$97 million at that time. Would that be because we are dealing with the ATO?

Mr COTTER: Be careful of figures. For example—it depends at which stage of the journey you want to start counting the dollars. I will give you an example. You own a house worth \$1 million. You are convicted of drug—I will restrain your house worth \$1 million. I will put a caveat on it. It will be restrained. You cannot do anything. If I count that right here and now, that is \$1 million. That is the commencement of the litigation process. And then we go along that journey, and then there is the settlement process, of which—well, you were a businessman for 30 years and you decided to get into the drug business. You bought that house way back then. What is your criminal value, perhaps, that is going to be fair and reasonably decided? That might be, for example, \$500,000.

So the final determination, the confiscation order, is now \$500,000. Then that might take time. So how do we get that \$500,000 out of you? We might have to wait another couple of years, perhaps even until you sell that house. The market could go down, the market could go up. The figures we are talking are real dollars. I am not going to stand by what any other agency at any other point in time calculates as a dollar amount. You could say it is \$1 million, you could say it is \$500,000 or when you sell the house and it is realised it could be \$300,000. What hits the tin depends at which point. I might just leave it there. But I will just say we restrained—let me get a figure here for you. If you look at the total value—

Dr HUGH McDERMOTT: Would that be the \$75 million?

Mr COTTER: —\$75 million, correct. Thank you. That is the \$75 million. Bearing in mind that \$75 million restrained at first blush last year, that will not crystallise or go through the system for a number of years through the litigation and so forth. So the \$30 million which hits the tin this year and the \$30 million which we would say is the realisable asset—it is like looking at a star. They are things reflective of past seizures so much. So the \$75 million this year will diminish to some sort of figure if the averages have it in and around somewhere between \$30 million and \$40 million.

Dr HUGH McDERMOTT: I understand that and I did see those figures. I just wanted to discuss that with you.

Mr COTTER: I am not sure exactly how others calculate or when they calculate.

Dr HUGH McDERMOTT: I wonder at times myself when I see some figures and I see them vary from year to year. I will go into more of that but I just wanted to clarify that.

Mr COTTER: I have had that question asked when I first arrived, you know, "Do you really get that much?" So I drilled down and I made sure I had a very fundamental, raw understanding of what we actually do at stage one, what we actually get orders for at stage two and what actually gets into the New South Wales coffers at stage three. The bottom two are \$30 million.

Dr HUGH McDERMOTT: With the potential of \$75 million, but not realised as yet.

Mr COTTER: With the potential of \$75 million if it landed that way, yes.

Dr HUGH McDERMOTT: Let's move on from there. I will come back to figures a bit later. The recommendations for change, which are on page 33, that is to do with obviously changes to the Crimes Act and dealing with gatekeepers—I think that is the proper term, but anyway—professionals or persons involved in money laundering.

Mr COTTER: Yes.

Dr HUGH McDERMOTT: I imagine you are talking about tranche 2 and stuff like that, which is obviously more a Federal thing, but lawyers, accountants, financial advisers, real estate agents and motor vehicle agents. Has there been any discussion to date with the Minister or the Government about making these legislative changes?

Mr COTTER: Yes.

Dr HUGH McDERMOTT: Can you tell me where we are up to with it as far as that goes?

Mr COTTER: Yes, sure. The whole intent of this legislative change is twofold, as you pointed out. It is to get those professional money launderers. Back in the old days it would be rare for a criminal necessarily to entrust someone too much with their bag full of loot. But a lot of money these days—putting distance between the criminal who gathers the money and wanting to get it wherever. They are investing in a whole lot of people. It is like an illegal cash-in-transit industry. When I say, "Last year within 24 hours two separate people but part of the same network were caught with \$600,000 and \$600,000 cash in green shopping bags that you would take to Woolies," that is true. We are finding \$600,000s, \$800,000s, millions, all the time, just floating around. People using ATMs to do these deposits.

We have said, "Well, the criminality required to prove some of those offences must prove that you have some knowledge of the origin of the money that derives from criminality" and so forth. We have said, "Well, can't we have a regime or a suite of offences," which are perhaps adventurous to a degree but say, "Well, you just can't stick your head in the sand and carry around \$600,000 or a million dollars without some sort culpability landing on you." That has been the spirit of it and, depending on the quantum of dollar, laying some sort of aggravation offence which carries greater penalties both to specifically deter, but also as some type of general deterrence. So where is it at? To your question, the submission was a joint submission by the Crime Commission and NSW Police Force. It has gone through the Communities and Justice cluster. That has been worked on significantly.

The last I knew of it, about a couple of weeks ago there was significant consultation with the DPP. I am not privy to their exact concerns, except to say they had a couple of issues around perhaps proving it, the proof required and so forth. My understanding is that they and the Justice cluster—they are within the Justice cluster—are all working together to try and get something massaged that reduces the criminality, delivers more penalty and can be a more usable and significant piece of legislation to target this type of professional.

Dr HUGH McDERMOTT: Do we have a time frame on that, where they are going with it?

Mr COTTER: I have not got an absolute time frame, no. The Minister is aware of it, clearly the department is aware of it and we are progressing it and talking, engaged in mature conversations around it.

Dr HUGH McDERMOTT: You go on and talk in chapter 3 that the Commission employs expert forensic accountants and financial analysts who specialise in tracing proceeds of crime, identifying assets et cetera. I was just wondering how many forensic accountants and analysts you have in the Commission? Have you employed more since you have been there? And the next question is probably do you need more?

Mr COTTER: I think we have about six—are you talking particularly in the asset confiscation financial world?

Dr HUGH McDERMOTT: It is. That is what I was focusing on, but I am happy for you to expand that.

Mr COTTER: I can give you the exact number. I will give you the exact number but it is around the half-a-dozen to eight figure. Do we need more? Hence the business case which we put forward, which would articulate that that whole group, which clearly has administrative support, financial accountants, forensic accountants and lawyers attached to it, we would be saying to double that to increase our capability. Increasing one area of those silos within that group, within that team, will not deliver some of the outcomes that we think—it is a well-oiled machine. As I said, we need analysts to identify who you want to target. You then have to have the specialists who can find that five cents in the Grand Canyon and work out what is illicit and what is not. Then you need the experienced lawyers to commence such litigation and fight it if need be. I will just get those numbers for you—

Dr HUGH McDERMOTT: Have you lost any people in that area in the last few years?

Mr COTTER: We have not lost any. We have recruited a couple in the time I have been there. We have one vacancy and we are going to recruit. We also have a couple of contractors as well.

The Hon. ADAM SEARLE: I just wanted to ask a couple of questions. You have been Acting Commissioner since November 2018?

Mr COTTER: Correct.

The Hon. ADAM SEARLE: And there was an Acting Commissioner for a year before that. We have had over two years of temporary leadership. Do you think it is appropriate to have temporary leadership for such a long period of time in such an important organisation as the Crime Commission?

Mr COTTER: I think the key is that Mr Bodor and myself have delivered leadership. I take your point around the temporary nature of the people fulfilling the role, but I think what we have delivered is leadership.

The Hon. ADAM SEARLE: Just on the issue of leadership, if you look at the NSW People Matter Employee Survey for 2019, for each of the nine questions about senior managers—I think it is on page 13—your commission rated below the public sector average. For eight out of the nine questions the commission had a below 50 per cent positive rate and there was an overall decline under your leadership compared to your predecessor, Mr Bodor. Can you indicate to the Committee why there has been that drop in morale under your leadership?

Mr COTTER: No.

The Hon. ADAM SEARLE: You have got no explanation?

Mr COTTER: No, I have not, but I can tell you some things we have done to try and rectify that since day one.

The Hon. ADAM SEARLE: Just before you do that—

The Hon. TREVOR KHAN: Let him answer.

The Hon. ADAM SEARLE: Can I just clarify this: I have taken him to the statistics that have occurred under his leadership; he started by saying—

The Hon. TREVOR KHAN: He is entitled to answer the question and he is commencing to. Let him answer.

The CHAIR: Thank you, Acting Commissioner.

Mr COTTER: Let me say some of the things we have done. When I arrived there in November 2018—and this is not empirical data but let me just say people turning up to a Christmas party is somewhat to be taken note of—30 people attended the Christmas party in 2018. Over 80 attended in 2019, and the buzz in that room was tangible. For the very first time, December 18 last year, we held a service awards ceremony—Hyatt Regency, the Minister for Police, Deputy Secretary from the Department—50 people turned up, we struck a medal, we had a program. For the very first time in the Commission's history people were awarded with a 10-year, 15-, 20-, 25-, 30-year medal. Photographs were taken and uploaded. The buzz in that room was tangible and significant.

Things around training, communication, we are improving all the time. I would say to you that there has not been a Commissioner there who has communicated to the people more than me—personally, face-to-face and also in writing. Leadership and training have been a bugbear in career progression. It is not the place that you can come and reach the CEO status, it just is not. It is a place where you can come and learn, do massive amounts of good work and make a significant difference in law enforcement. But then, like everyone and all of us, you have to make a decision about your own personal career and your aspirations.

But I have seen we have increased the training budget and people are enrolled in courses at the Australian Institute of Police Management, people are enrolled in tertiary, I have sent people to government forums, I have made myself available every single day to a whole host of people. Some of those questions there I cannot explain with a negative answer. You talk about under my leadership diminishing; I would say it is minutiae and minor percentages. But we are trying to do everything possible—myself personally and my executive team—to lift morale and deliver real leadership every day.

The Hon. ADAM SEARLE: Just on that, question 7 (c) states, "I feel change is managed well within my organisation", and 22 per cent of respondents agreed compared to 42 per cent in the public sector generally. Question 6 (b) states, "I feel senior managers effectively lead and manage change", and 34 per cent agree in your organisation compared with 47 per cent in the public sector. Again, the People Matter survey clearly shows that senior management is experiencing communication issues. You say you are leading change and that no-one is being more communicative than you.

But again, if you look at question 6 (g), "I feel senior managers keep employees informed about what is going on", 39 per cent agree; that was down from 48 per cent in 2018 and compared to 48 per cent across the public sector. So whichever indicia you are looking at across all of these responses from within your organisation, they are well below the sector average and most of them are down on the previous year in the Crime Commission. So what are you doing to address those issues?

Mr COTTER: I have spoken a lot about what I have done, not what I am going to do, and we will be doing more of the same—communicating to the people; I have opened myself up to open forums; I addressed the whole group last week; we have individual subgroups which I am present at meetings of the group. But it is not

just about me. Clearly, it is a team game. The executive leadership and I would say there are some entrenched opinions on both sides of the ledger—on the leadership side and also on the practitioner side, and I think there needs to be understanding and some fairness around what everyone is trying to do for each other. I think we are doing a very good job in trying to lead this place ethically as a group and myself personally.

The Hon. ADAM SEARLE: On page 51 of the annual report the senior executive team lists nine senior executives and their remuneration. Only one of those is female and she seems to be paid the lowest of the executives. Is that the current structure, that listed on page 51 of the annual report? And how are you addressing the New South Wales Government's commitment to reducing barriers to women's participation in the public sector in leadership roles?

Mr COTTER: Before I got there, and I have never met either of these ladies, one was fulfilling a role of Assistant Commissioner and one was fulfilling the role of Director, Governance. Both those two females are no longer in the Commission but left prior to me and I cannot take that any further. We are a small agency. If any position becomes vacant we will have a robust, fair and reasonable process, which will be advertised and the job will go to the person with the most merit—male or female. I have no discomfort around any of that. In fact, the commission itself is 60 per cent female versus about 40 per cent.

The Hon. ADAM SEARLE: That is rather the point, is it not? Seventy-five women employees and 58 male employees but only one of the nine senior managers is a woman. That is not consistent with New South Wales Government policy, so I am asking you what proactive steps are you taking to address that?

Mr COTTER: These people were appointed long before I ever walked through the door and they hold executive positions. Their performance is not that they are going to be removed or anything like that, and clearly if they want to retire, resign, whatever the situation is, as I said, we will go through a process.

The Hon. ADAM SEARLE: Question 6 (i) of the People Matter survey says "Senior managers in my organisation support the career advancement of women." Only 48 per cent of respondents in your organisation agreed. That was a drop of 10 per cent on previous years. Why is there this fall in morale on that issue in your organisation?

Mr COTTER: I have no idea.

The Hon. ADAM SEARLE: Are you taking steps to understand these results?

Mr COTTER: Absolutely. In fact, on my desk there is a whole training program around leadership and opportunity for everyone—male and female. As I said, this is an agency where we have people aged from 25 to, essentially, 65, and 60 per cent of them are women. We treat everyone fairly. These executive positions you are talking about have been long held by entrenched personnel who are doing a good job. When and if any position becomes vacant, I keep saying we will advertise, as we have, and in fact a number of our recruitments at various levels have been female—in our legal world, in our analytical world and in our corporate world—in the last 12, 18 months.

Dr HUGH McDERMOTT: Can I bring you back to the positions? You talked about a flat management structure means that the positions of Assistant Commissioner Operations, Inspector of Governance and Director Legal Services have not been replaced. In the annual report you talk about how that money has been moved across to do operational work. I will read a statement to you that has been put to me—and there is a number of statements—but I was advised that there are over 200 matters in litigation, and certainly your annual report reflects that, but the NSW Crime Commission does not have the resources to run these cases. Any cases that do not settle and are forced by the criminal defendants go to trial will mean that the NSW Crime Commission will be forced to withdraw the prosecution due to lack of personnel and resourcing. What would be your comment on that? Is that true or is it not?

Mr COTTER: I think it is—well, first of all, we do not prosecute anyone. We are not in charge of prosecutions. We work with the NSW Police Force, predominantly, as an analytical capability. The police decide who to arrest and not to arrest and the DPP decide who to prosecute. We do not have any role in the prosecution. I would say that statement is flawed in a whole lot of ways.

Dr HUGH McDERMOTT: Do you think that you actually do have enough personnel and resourcing to go after the 265 litigation cases that you have before you at the moment?

Mr COTTER: Is this a question about lawyers?

Dr HUGH McDERMOTT: Personnel, resources—do you look at the amount of work you are doing, and I understand you are a small agency and you do a lot of work, but the question I have got: You have got an

efficiency dividend as part of your budget in your projections and I have concerns that the figures, whatever that dollar figure is—and perhaps you could give that to me—is going to put more and more constraints on what you can do.

Mr COTTER: Yes, clearly. Mr McDermott, budget is extremely tight across the whole public sector. Those matters there—when you are talking 260 matters in litigation, they are the current matters in the Supreme Court through asset confiscation. They are not in any way connected to prosecution. They are to deal with asset confiscation solely. If your question is do I have enough lawyers to do that, that is all part of my financial investigation team. They are gainfully employed and they work very hard and I am very proud of them. They do an enormous job. It would always be welcomed to have a few more anyones to do the business, and particularly it would be great to have some more lawyers. But interestingly, can I say, interestingly—

Dr HUGH McDERMOTT: Says all the lawyers.

Mr COTTER: When we talk about communication, it would have been handy perhaps for that statement, wherever its origin is, to come to me and we could have dealt with it there. That is the interesting side about communication. It is very much a two-way street. It is interesting that that matter itself in those words or that frame have never been raised with me.

The CHAIR: Can I just jump in here? We are running close to time. I will allow one more question, but other questions can be taken on notice.

The Hon. ADAM SEARLE: Look—

Mr COTTER: Sorry, Mr Searle, a correction: When we spoke about those two females who had resigned or moved on there is, sorry, one director female within the commission.

The Hon. ADAM SEARLE: Okay. Statistics on arrests and charges and confiscations are the sort of usual productivity indicators, I think, for your organisation. The number of arrests in the most recent annual report is significantly down on the previous year. I think telecommunications intercept warrants are also flatlining and warrants under the Surveillance Devices Act 2007 have also shown a remarkable decline. I think in the 2018-19 year you applied for and got only six warrants, down from 113 the year before. In all these productivity indicators they seem to have collapsed. What is happening? What is going on?

Mr COTTER: No, it is not a "collapse," per se. We are not administering surveillance devices at the moment. They have been warrants that we have got and then deployed with our technical teams over the years. Our partners are principally doing that side of the business now, as in the police force. Telephone interception—again, there is a threshold to get any device, any warrant, which means, essentially, "Can it help your investigation?" It is actually robust and sensible that the matters that have been put before the tribunal members or the adjudicators to whether to authorise or not authorise are ones that are genuine, legitimate and have the most merit. Again, there is a legal threshold that you must get over before you administer any interception. If it is decided as an operational strategy not to, or there is not enough, then let us hope those decisions are being made sensibly.

The arrests—again, we do not arrest any person ourselves. We do not walk out the door and put the handcuffs on anyone. We work in tandem with particularly the organised crime squad—probably 90 per cent of our business—and the other 8 per cent would probably be with the homicide area and then another couple of per cent with other arms of the police force. Sometimes these jobs can be over in a week or two and it can land six people arrested. Sometimes these jobs go for six months, particularly complex, and might only arrest two people—again, a statistic that shows productivity, but only to a certain degree when analysed more deeply as to what you are comparing it to and the impact that you are having on the network.

The CHAIR: We are going to have to wrap things up—

Dr HUGH McDERMOTT: Just a last question.

The CHAIR: Make it a quick one.

Dr HUGH McDERMOTT: It has been put to me that currently all your referrals or most of your work is actually from, your work is predominantly driven by, referrals from the NSW Police Force and linked to New South Wales arrests. As such, there are currently no—NSW Crime Commission investigations are not focusing on the big end of town, the high-wealth criminal individuals or organisations and syndicates. Did you have an answer for that?

Mr COTTER: Again, you are talking specifically about the asset confiscation arm of the business. Yes, everyone arrested essentially generates a referral. They are filtered through by the unit and those ones that are

chosen by the criteria are chased down. It dovetails with your other question about the capacity of the asset confiscation unit—as I said, gainfully employed, work extremely hard and I am very proud of them. Yes, they are probably only just keeping up with the referrals, but let's not forget some of these big referrals are the people who have been arrested for significant drug crime: tonnages, hundreds of kilograms, hundreds of thousands of dollars—significant criminals in themselves. They are most worthy to be targeted, and with a criminal conviction hanging around them are very, very ripe under the Act for asset confiscation. What we are saying—and this is the whole intent of the business case—is that there are criminals out there who are asset rich and we do need a greater capacity to reach into them, analyse where their funds are, where they have got their money and commence proceedings under—

Dr HUGH McDERMOTT: And these criminals are all Australian based and not offshore?

Mr COTTER: Yes. There is enough here to keep us going.

Dr HUGH McDERMOTT: So you have got a billion dollars going offshore in proceeds of crime but you, at the moment, have not got the capacity to chase that or to seize that money or to go after those individuals, unless they are in this jurisdiction?

Mr COTTER: No. Well, yes, principally we are focusing on New South Wales. We have a lot of reach into other jurisdictions, State jurisdictions. But ostensibly we have got enough work here and we are doing it. Of course, to your question: Do we need more people? Can we do more with more? Yes, yes we can. But we have got what we have got, we are trying to manage it, we are working extremely hard and we are having significant success with what we have got. We have got a business case in at the moment. We have advocated and articulated the strengths of that and it might gather some momentum, but we can only do what we can do and we cannot chase billions of dollars overseas when we have got significant criminals here who are asset rich and we are chasing them.

The CHAIR: Thank you.

The Hon. ADAM SEARLE: We could keep going.

Dr HUGH McDERMOTT: I could keep going for another hour, actually.

The CHAIR: Yes, well we will take the rest of the questions on notice. Thank you for appearing today. We may send you some additional questions and your replies would form part of your official evidence. Are you happy to provide written responses to those questions?

Mr COTTER: Sure.

The CHAIR: Thank you very much, and thank you for being here. That concludes our public hearing today. Again I place on record my thanks to all the witnesses who have appeared. In addition I thank the Committee members, staff and Hansard for their assistance in the conduct of the hearing.

(The witnesses withdrew.)

The Committee adjourned at 16.05.