

# **PORTFOLIO COMMITTEE NO. 5 - LEGAL AFFAIRS**

**Tuesday 10 March 2020**

**Examination of proposed expenditure for the portfolio area**

## **POLICE AND EMERGENCY SERVICES**

**The Committee met at 09:30.**

<b>UNCORRECTED</b>
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### **MEMBERS**

The Hon. Robert Borsak (Chair)  
The Hon. Anthony D'Adam  
The Hon. Wes Fang  
The Hon. Sam Farraway  
The Hon. Rose Jackson  
The Hon. Natasha Maclaren-Jones  
Mr David Shoebridge (Deputy Chair)

### **PRESENT**

**The Hon. David Elliott**, *Minister for Police and Emergency Services*

## **CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS**

**Corrections should be marked on a photocopy of the proof and forwarded to:**

**Budget Estimates secretariat  
Room 812  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000**



**The CHAIR:** Welcome to the public hearing for the inquiry into budget estimates 2019-20 further hearings. Before I commence I acknowledge the Gadigal people, who are the traditional custodians of this land. I also pay respect to the Elders past and present of the Eora nation and extend that respect to other Aboriginals present. I welcome Minister Elliott and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolio of Police and Emergency Services.

Today's hearing is open to the public and is being broadcast live via the Parliament's website. In accordance with broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that you must take responsibility for what you publish about the Committee's proceedings. The guidelines for the broadcast of proceedings are available from the secretariat.

All witnesses in budget estimates have a right to procedural fairness, according to the procedural fairness resolution adopted by the House in 2018. There may be some questions that a witness could only answer if they had more time or with certain documents to hand. In those circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days. Any messages from advisers or members' staff seated in the public gallery should be delivered through the Committee secretariat. Minister, I remind you and the officers accompanying you that you are free to pass notes and refer directly to your advisers seated behind you.

Transcripts of this hearing will be available on the web as soon as possible. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. Minister Elliott, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament. I also remind the following witnesses that you do not need to be sworn as you have been sworn at an earlier budget estimates hearing before this Committee: Mr Coutts-Trotter, Commissioner Fuller, Commissioner Baxter, Commissioner Fitzsimons and Mr Vevers. The proceedings will be conducted from 9.30 a.m. until 12.00 p.m., although those times may vary according to a resolution of the Committee.

**GARY WORBOYS**, Deputy Commissioner of Police, Regional NSW Field Operations, NSW Police Force, sworn and examined

**JEFFREY LOY**, Deputy Commissioner of Police, Metropolitan Field Operations, NSW Police Force, sworn and examined

**SCOTT COOK**, Assistant Commissioner of Police, Police Prosecutions and Licensing Enforcement Command, NSW Police Force, sworn and examined

**ANTHONY BELL**, Superintendent, NSW Firearms Registry, NSW Police Force, sworn and examined

**CARLENE YORK**, Commissioner, State Emergency Service, sworn and examined

**SAMUEL TOOHEY**, Director of Emergency Management Policy and Coordination, Department of Communities and Justice, affirmed and examined

**MARG PRENDERGAST**, Executive Director, Disaster Recovery, Office of Emergency Management, Department of Communities and Justice, sworn and examined

**MARK JONES**, Assistant Commissioner, Commander, North West Metropolitan Region Command, NSW Police Force, sworn and examined

**MICHAEL COUTTS-TROTTER**, Secretary, Department of Communities and Justice, on former oath

**MICHAEL FULLER**, Commissioner, NSW Police Force, on former oath

**PAUL BAXTER**, Commissioner, Fire and Rescue NSW, on former affirmation

**SHANE FITZSIMMONS**, Commissioner, Rural Fire Service, on former oath

**PAUL VEVERS**, Deputy Secretary, Housing, Disability and District Services and Emergency Management, Department of Communities and Justice, on former oath

**The CHAIR:** I declare the proposed expenditure for the portfolio of Police and Emergency Services open for examination. As there is no provision for any witness to make an opening statement before the Committee commences questioning, we will begin with questions from me. **Minister Elliott, in the light of what we saw in the newspaper today in relation to shooting an HK UMG40, have you been accredited under the relevant legislation to use prohibited weapons in that way?**

**Mr DAVID ELLIOTT:** In relation to the story this morning, I attended that range as the corrections Minister to commission that range and acted in good faith that the range master would be acting within the obligations of the Act.

**The CHAIR:** But that is not answering the question. Are you accredited? Were you accredited?

**Mr DAVID ELLIOTT:** Well, as you know, there are exemptions under the Act and I just had taken it in good faith that the range master had been acting within the confines of the Act.

**The CHAIR:** I am not aware of any exemptions for handling prohibited weapons. Can you enumerate what those exemptions are?

**Mr DAVID ELLIOTT:** I will take that on notice. It is in the Firearms Act.

**The CHAIR:** It is in the Firearms Act?

**Mr DAVID SHOEBRIDGE:** There are not any exemptions.

**The CHAIR:** There are no exemptions.

**The Hon. WES FANG:** Point of order: It is one question at a time. To have two questions coming from the Chair and Deputy Chair is—

**The CHAIR:** That is no point of order. You know that. All you are doing is running interference.

**The Hon. WES FANG:** I am not running interference. The Minister is entitled to have one question from one member.

**The CHAIR:** The Minister can answer the question that he hears the way he likes. That is always the rules. What is your answer, Minister?

**Mr DAVID ELLIOTT:** I refer you to my previous answer.

**The CHAIR:** You have not been accredited and you did not follow the relevant legislation? That is really what you are saying.

**Mr DAVID ELLIOTT:** Well, that is now going to be subject to an inquiry. Corrective Services issued an apology to me this morning for the way that that range has been operating for quite some time. I have accepted that apology and I will wait to see what the investigation requires.

**The CHAIR:** It is interesting you mention an apology this morning. Did your office have a hand in crafting that apology and that statement?

**Mr DAVID ELLIOTT:** No.

**The CHAIR:** None whatsoever?

**Mr DAVID ELLIOTT:** Not that I am aware of, no.

**The CHAIR:** Okay. You were not involved in crafting, or the New South Wales police were not involved in crafting the wording of that apology to you?

**Mr DAVID ELLIOTT:** I cannot answer for the police whether they were involved in it, but I can assure you I saw that apology just as it was being released.

**The CHAIR:** Mr Coutts-Trotter?

**Mr COUTTS-TROTTER:** I spoke to Commissioner Severin last night. He was mortified. I was mortified. The Minister was at all times acting on the advice of Corrective Services while he was on the range and appropriately we issued an apology to that effect this morning.

**The CHAIR:** Did you realise at the time that you fired the HK UMG40 that you were holding it by the magazine, and not by the front receiver handle?

**Mr DAVID ELLIOTT:** I am sorry, could you repeat the question?

**The CHAIR:** Did you realise when you were firing the HK UMG40 that you were actually holding it by the magazine, not by the front receiver handle?

**Mr DAVID ELLIOTT:** I think you will find that the photo you are referring to was a photo before I started firing the weapon.

**The CHAIR:** You have military training.

**Mr DAVID ELLIOTT:** Yes.

**The CHAIR:** Why would you hold it by the magazine?

**Mr DAVID ELLIOTT:** Well, I do not know whether the photo was taken as I was handed the weapon, but as you quite rightly say, I have had military training and I know where you have to hold the weapon when it is being fired.

**The CHAIR:** So you were posing at the time with the UMG40 and not holding it correctly. So you are saying that you did or you did not know that you were holding it incorrectly?

**Mr DAVID ELLIOTT:** Well, I was not posing for anything because, as you could see by the photo, I was not looking at it. I was looking at the—

**The CHAIR:** You must have been posing because the photo was released onto your Facebook page.

**Mr DAVID ELLIOTT:** It was taken by a third party, obviously.

**The CHAIR:** Yes, but on your Facebook page. You are not taking responsibility for the photo now?

**Mr DAVID ELLIOTT:** No. That is not what I said at all.

**The CHAIR:** Well, what are you saying?

**Mr DAVID ELLIOTT:** I said when I fired the weapon my hands would have been as per the instructor's advice.

**The CHAIR:** The instructor is standing right next to you and he does not seem to be changing. He is allowing you to hold it in that fashion and it does look like you are leaning into it like you are about to fire it.

**Mr DAVID ELLIOTT:** Okay. Well, I was consistently over the course of the exercise under the instruction of a qualified firearms instructor.

**The CHAIR:** Minister, you have said in the past, and I quote, "No-one is more interested in making sure that firearms are used appropriately in this State than me." Is that a correct quote?

**Mr DAVID ELLIOTT:** Yes.

**The CHAIR:** Do you think what you did was appropriate?

**Mr DAVID ELLIOTT:** As I said, it was under the supervision of the range master.

**The CHAIR:** So you take no responsibility for yourself in relation to those things? You just assume that someone on the range is going to take responsibility for you handling a firearm which is a prohibited weapon and no-one is allowed to touch them unless they have a specific licence for them.

**Mr DAVID ELLIOTT:** Well, I will take that as a comment.

**The CHAIR:** You are taking it as a comment?

**Mr DAVID ELLIOTT:** Well, you are presuming that you know what I think, so I will take that as a comment.

**The CHAIR:** Well, you tell me what you think?

**Mr DAVID ELLIOTT:** I have the utmost respect for firearms as a former officer in the army. I was consistently under the supervision of the range instructor.

**The CHAIR:** You were under his supervision. So you were holding it incorrectly, you were not licensed to hold it, you had absolutely no idea what was going on on the range whatsoever—is that true?

**Mr DAVID ELLIOTT:** No, that is not correct.

**The CHAIR:** By the apology you got today, it seems to be the way—"I'm not responsible, Minister". That is really what you are saying.

**Mr DAVID ELLIOTT:** No, I have said I acted in good faith believing that all obligations of the range master were being upheld.

**The CHAIR:** Every other firearms owner in this State who is licensed has to take responsibilities for their actions. They cannot "act in good faith" but you are telling me, as a Minister, you are allowed to make that assumption.

**Mr DAVID ELLIOTT:** No, I am telling you that I was under the instruction of a firearms instructor and I acted in good faith under his direction.

**Mr DAVID SHOEBRIDGE:** That is irrelevant for the purposes of the law, Minister. There is a clear prohibition on anybody using or possessing a prohibited weapon. We agree that this was a submachine gun and a prohibited weapon—can we agree on that?

**Mr DAVID ELLIOTT:** Well, I acted in good faith under the instruction of the range instructor.

**Mr DAVID SHOEBRIDGE:** Minister, my question was not that. Can we agree that this was a submachine gun and a prohibited weapon?

**Mr DAVID ELLIOTT:** That is determined by the Firearms Act, so yes.

**Mr DAVID SHOEBRIDGE:** So we have you not just holding but you admit now that you were firing a submachine gun, which is a prohibited weapon? Can we establish that?

**Mr DAVID ELLIOTT:** Yes. Can I just clarify, Mr Chairman? Is it Mr David Shoebidge's turn to ask questions because I did not hear the bell go off?

**The CHAIR:** I will decide who asks questions, not you, Minister. Your job here is to answer questions, not ask questions of me.

**Mr DAVID ELLIOTT:** Well, I know the practice.

**The Hon. WES FANG:** Point of order: The Minister is entitled to seek clarification.

**The CHAIR:** Point taken, and he has got his clarification.

**Mr DAVID SHOEBRIDGE:** Minister, you would now—I assume, if you were not at the time—be aware that section 7 of the Firearms Act for which you have responsibility as police Minister—

**Mr DAVID ELLIOTT:** Now I do, yes.

**Mr DAVID SHOEBRIDGE:** —states unambiguously:

- (1) A person must not possess or use a pistol or prohibited firearm unless the person is authorised to do so by a licence or permit.

It carries a maximum penalty of 14 years in jail. It is a simple question, Minister: Did you have a licence or permit?

**Mr DAVID ELLIOTT:** Given that matter is now under investigation by Corrections NSW, I think I will just put every other question on notice.

**Mr DAVID SHOEBRIDGE:** You are the police Minister.

**Mr DAVID ELLIOTT:** Yes.

**Mr DAVID SHOEBRIDGE:** Responsible for law and order, potentially having committed a crime which carries a 14-year maximum jail penalty. You cannot take the fix. Did you have a licence or permit?

**Mr DAVID ELLIOTT:** I have already stated that I did not have a licence or permit but that was not an obligation, according to what I understood, at that range because the range instructor was responsible for safety and security.

**The CHAIR:** No, no, Minister.

**Mr DAVID ELLIOTT:** Can I finish because otherwise I will put all your questions on notice?

**The CHAIR:** You can put them all on notice; I am just going to keep asking them, that's all. You will make a bigger fool out of yourself than you have today.

**The Hon. WES FANG:** Point of order: Can we at least have a little bit of civility?

**The CHAIR:** Of course we can.

**Mr DAVID SHOEBRIDGE:** It was my understanding he had finished, but if the Minister has more to add?

**Mr DAVID ELLIOTT:** No, my point is that the matter is now being investigated by Corrective Services NSW. It is quite possible that there have been breaches over many, many years, including many, many people. So I will wait and see what sort of response that requires.

**Mr DAVID SHOEBRIDGE:** Minister, this is a serious breach of the Firearms Act. Why is it being investigated by Corrections NSW and not one of these uniformed members of the NSW Police Force, given it carries a maximum penalty of 14 years in jail? Did you have it diverted to Corrections away from Police?

**Mr DAVID ELLIOTT:** I will invite the secretary to make some remarks on that.

**Mr COUTTS-TROTTER:** Just to be clear about that, Corrections has referred our actions at the range to the New South Wales police Firearms Registry.

**The CHAIR:** Well, that was my next question. My understanding was that it was referred to the registry?

**Mr COUTTS-TROTTER:** Yes.

**The CHAIR:** Or was it referred to the commissioner's office and then referred to the registry?

**Mr DAVID ELLIOTT:** The commissioner will answer that.

**Commissioner FULLER:** I can confirm last night I was made aware of potential breaches by the range, and potentially multiple people who have visited that range over many years. I rang Deputy Commissioner Dave Hudson and asked him to start an investigation into those allegations. So to be clear, NSW Police Force is investigating any illegal behaviour by the range broadly and by anyone who may have used firearms or other activities on that range.

**The CHAIR:** Thank you, Commissioner. Who made that reference to you?

**Commissioner FULLER:** The Minister called me—I would not say the time—late evening or around about to say that he had visited the range and he had concerns that there may be issues, there may be issues with



the range. So I took that on. I instructed Deputy Commissioner Dave Hudson to then talk to the corrective services commissioner to make sure that from yesterday, this day forward, there are new breaches obviously and the fact that we would be conducting a criminal investigation into the allegations more broadly about the range, and people who have visited that range who may have breached the Firearms Act.

**The CHAIR:** Superintendent Bell, one for you—

**Mr DAVID ELLIOTT:** Mr Chairman, your questions are supposed to come through me.

**The CHAIR:** Oh okay, through you, Mr Elliott—

**The Hon. ROSE JACKSON:** Point of order: That is not the case. My understanding is we can direct questions to witnesses.

**The CHAIR:** We can actually direct questions anywhere, but I am happy to direct this question to you.

**Mr DAVID ELLIOTT:** Traditionally—

**The Hon. WES FANG:** To the point of order: The Minister is entitled to take the question if he feels he is the best person, the appropriate person, to answer.

**The CHAIR:** He has not heard the question yet. That is not a point of order. **Is that range licensed in the same way every other range in the State is licensed?**

**Mr DAVID ELLIOTT:** I will have to put that on notice, unless Superintendent Bell is aware of that.

**The CHAIR:** Superintendent Bell, can you answer that?

**Mr BELL:** That matter is now the subject of a formal police investigation so I am not able to—

**The CHAIR:** What? The fact that it is licensed the same as every other—

**Mr BELL:** The whole issue involving that incident, and the range and those who used the range is now subject to—

**The CHAIR:** I am not asking who used the range. I am not trying to delve into a police investigation, which I think itself is wrong. Do the police think investigating the police Minister is a good thing? Maybe that is for you, Commissioner.

**Mr DAVID ELLIOTT:** Before the commissioner answers that, that is a matter—

**The CHAIR:** Don't you think you would have undue influence in relation to that?

**The Hon. WES FANG:** Point of order—

**Mr DAVID ELLIOTT:** Certainly not.

**The CHAIR:** No?

**Mr DAVID ELLIOTT:** I also think that the fact that it is a Corrections range who else would investigate it?

**The CHAIR:** You tell me. I mean, the police are investigating your activities on that range.

**Mr DAVID ELLIOTT:** Well, the commissioner can answer that but that is not necessarily the case.

**The CHAIR:** I asked the commissioner the question. You decided to try to answer it or not answer it. Commissioner?

**Commissioner FULLER:** Could you ask the question again, Mr Chair?

**The CHAIR:** The question is: Is it a good thing for NSW Police Force to be investigating the activities of its Minister on a range illegally using a submachine gun? Shouldn't someone else be looking at investigating that?

**Commissioner FULLER:** Look, at the end of the day, I am responsible for administering the Act. We have officers from State Crime Command, who are experts in these type of offences, who will conduct the investigation. We are well oversighted in New South Wales. We are a force that has extremely high integrity and ethics, and I have no issues in relation to that.

**The CHAIR:** Will you be looking at the relevant licensing arrangements for that range?

**Commissioner FULLER:** We will leave no stone unturned. We will be looking at that range and any other ranges that Corrective Services use. We will be looking at whether they have potentially breached other parts of the Firearms Act. We will also look at the number of the people who may have been put in the same situation as the Minister as well. I appreciate your focus on the Minister, but we will look at this much more broadly.

**Mr DAVID SHOEBRIDGE:** Minister, you said earlier that Corrections has apologised to you. Do you think that resolves the matter?

**Mr DAVID ELLIOTT:** No, no because, as I said in my statement, this practice may well have occurred over 20 years. It certainly includes a lot more people than just me, so the apology may well need to go to a whole lot of people.

**Mr DAVID SHOEBRIDGE:** Minister, are you going to apologise to the people of New South Wales for, while being a Minister, grabbing hold of a submachine gun for which you had no licence or permit in what appears on any argument to be in breach of the Firearms Act? When are we going to get an apology from you?

**Mr DAVID ELLIOTT:** If we let the inquiry take its course well then I know what sort of liability me, and everybody else that has been on the range, has to accept. But I also need to find out has Corrections been operating that range under the Firearms Act.

**Mr DAVID SHOEBRIDGE:** Minister, how could you possibly be the person making these inquiries when, on the face of it, you have committed a serious criminal offence and have such an obvious conflict of interest? You should be a mile away from any of these investigations, so what are you doing chasing them?

**Mr DAVID ELLIOTT:** I am not chasing it. The police are investigating it.

**The CHAIR:** Well you made the referral to the commissioner.

**Mr DAVID ELLIOTT:** Who else was going to make the referral?

**The CHAIR:** Someone else should.

**Mr DAVID ELLIOTT:** Given the story was in the—

**Mr DAVID SHOEBRIDGE:** The Premier.

**The CHAIR:** The Premier should.

**The Hon. NATASHA MACLAREN-JONES:** Point of order—

**Mr DAVID ELLIOTT:** I am sorry, given the questions were to me, and I believed that there could have been a case to answer, why would I ask anybody else to refer it to the police when I should have done it? I have got to take responsibility for my own actions. The question was about me. The photo was about me. I understand that now, as the police Minister, I am the one who administers the Firearms Act so who else did you expect to refer it to the police?

**The Hon. ANTHONY D'ADAM:** Minister, surely in that circumstance you should be stepping aside. Surely you should be letting someone else make the decision where you have a conflict of interest. Are you going to step aside, Minister?

**Mr DAVID ELLIOTT:** Well if you are suggesting that the police are not going to run an appropriate inquiry, well, then you need to give—provide some evidence to that effect.

**Mr DAVID SHOEBRIDGE:** Minister, it is an impossible situation you have put members of the police in: to undertake an investigation of their own Minister. If they come up with a conclusion that says that you are in breach of the law, that would be more than career limiting. You have put the police in an impossible situation now for the second time.

**Mr DAVID ELLIOTT:** I can assure—

**The Hon. NATASHA MACLAREN-JONES:** Point of order—

**Mr DAVID SHOEBRIDGE:** Why will you not step aside?

**The Hon. NATASHA MACLAREN-JONES:** Point of order—

**The Hon. WES FANG:** Point of order: There has been a point of order called.

**The Hon. NATASHA MACLAREN-JONES:** I am wondering if Mr Shoebridge actually has a question or is continuing to make a statement to the media.

**Mr DAVID SHOEBRIDGE:** I will repeat it: Minister, you have put the police in this impossible situation previously with your road rage incident.

**The Hon. NATASHA MACLAREN-JONES:** Point of order: I am wondering whether or not Mr Shoebridge actually has a question rather than just making—

**Mr DAVID SHOEBRIDGE:** Will you stop running interference?

**The Hon. NATASHA MACLAREN-JONES:** I am not running interference.

**The CHAIR:** I will allow the question to be asked.

**Mr DAVID SHOEBRIDGE:** Minister, you have previously put police in this impossible conflict situation with your road rage incident. You are now doing it again as the police Minister with this firearms offence that, on the face of it, you have committed. When will you do the decent thing and resign as police Minister and allow the police to investigate it without that conflict of interest? When will you step down?

**Mr DAVID ELLIOTT:** It is not—Corrections are potentially the ones who have caused the breach.

**Mr DAVID SHOEBRIDGE:** Minister, you are the one who has, on the face of it, committed a serious crime and you are trying to hide behind Corrections. Will you take responsibility for grabbing hold of a submachine gun without a licence, without a permit, and firing it without any lawful permission?

**Mr DAVID ELLIOTT:** First of all, I did not grab the machine gun. I was there to commission the range and I was asked if I would like to fire it, which I did. But I am going to refer all the other questions on to the notice paper because, as far as I am concerned, this matter is under investigation. If you are suggesting that I interfere with the investigations of the police force, I would like to see any evidence that that has occurred. Other than that, I just refer you to my previous answers.

**Mr DAVID SHOEBRIDGE:** Commissioner, what are you doing to protect your members of the police force from the obvious conflict of interest of investigating their boss, the police Minister? How do you say that can be done in any kind of fair or open way, given the obvious conflict of interest?

**Commissioner FULLER:** I do not feel a conflict of interest, Mr Shoebridge. Certainly from my perspective, as with any of these complex matters, I would say that Deputy Commissioner Dave Hudson—we are not running an inquiry; we are running a criminal investigation. Just to be clear on that. It is into the ranges and perhaps other ranges, and perhaps the Minister and perhaps multiple other people, Mr Shoebridge, but I certainly do not have any fears in terms of running an ethical, open, transparent investigation. To suggest in New South Wales that I could just simply cover up potentially multiple breaches, I think that is unreasonable.

**Mr DAVID SHOEBRIDGE:** No, what I am suggesting to you is this: If any of your members of the police force come up with a conclusion that says that the police Minister should be charged with an offence that carries a maximum penalty of 14 years in jail, that would be more than career limiting. That would destroy the career of a junior police officer.

**Commissioner FULLER:** I would certainly—

**Mr DAVID SHOEBRIDGE:** Why cannot you acknowledge that conflict of interest?

**Commissioner FULLER:** I would certainly take responsibly for that, Mr Shoebridge, in terms of that difficult decision to protect any police officer from that fear.

**Mr DAVID SHOEBRIDGE:** It would be career limiting for the police commissioner to undertake—to proffer charges against the police Minister.

**Commissioner FULLER:** I think I have the ceiling, Mr Shoebridge. I have hit my ceiling, I think, so I am more than happy to take that responsibility.

**Mr DAVID SHOEBRIDGE:** You are not undertaking the investigation, though, are you? You have handed it down to junior police to undertake the investigation. They will be the ones who assess the evidence—

**Commissioner FULLER:** I have handed it to—

**Mr DAVID SHOEBRIDGE:** —and they will be the ones who make the recommendation, not you.

**Commissioner FULLER:** As per my evidence, I gave the matter to a deputy commissioner of police who will oversee that investigation through State Crime Command detectives, some of the most experienced detectives in the State. I have no doubt that they will do a fearless investigation into that, knowing that they have my support.

**Mr DAVID SHOEBRIDGE:** Minister, did anyone from your office contact anyone at Corrections or the corrections Minister's office about this matter since you were put on notice of it by the media?

**Mr DAVID ELLIOTT:** Sorry, since yesterday?

**Mr DAVID SHOEBRIDGE:** Correct.

**Mr DAVID ELLIOTT:** Well, yes, because obviously when it was raised with me, it was very clear that there was a breach and the New South Wales Corrections were operating their range outside the obligations of the Firearms Act.

**Mr DAVID SHOEBRIDGE:** So, you were angry, were you? You were angry with Corrections?

**Mr DAVID ELLIOTT:** No, certainly not.

**Mr DAVID SHOEBRIDGE:** Were you demanding an apology?

**Mr DAVID ELLIOTT:** No, certainly not. Mr Shoebridge, you have to appreciate that this is a practice, from what I subsequently found out, that has occurred over probably 20 years, which is why they have apologised to me and I suspect they will have to apologise to a whole range of people who may have been in breach of what is essentially an administrative error.

**Mr DAVID SHOEBRIDGE:** Minister, you keep talking about Corrections have to apologise. What is going through your mind? What is going through your mind when somebody hands you a submachine gun, you know you have not got a licence, you have not got a permit? "Yep, great, hand it over. I will just shoot off a few rounds of a prohibited submachine gun." What was going through your mind at the time?

**Mr DAVID ELLIOTT:** I was acting—I believed that I was acting in good faith and that the Corrections weapons handler and the range master understood what the obligations were under the Act.

**Mr DAVID SHOEBRIDGE:** Minister, it was not only a crime, it was a serious lack of judgement from the person who is meant to be in charge of law and order in this State. Do you accept that?

**Mr DAVID ELLIOTT:** The question—at the time I was not the police Minister, as you are well aware. The question of, if it is a crime will be something that will be determined by the investigation. But can I just give it some context here? I was there to commission a firing range in my capacity as the Minister responsible for the firing range. I was there with students of the firing range—

**Mr DAVID SHOEBRIDGE:** That adds to your culpability that you were the Minister responsible.

**Mr DAVID ELLIOTT:** Can you not interrupt?

**The Hon. WES FANG:** Point of order: Allow the Minister to complete his answer, please.

**Mr DAVID ELLIOTT:** I am not just going to answer any more of your questions, David. I have already asked you to stop interrupting me, so everything from you will go on notice from now on.

**Mr DAVID SHOEBRIDGE:** That is because you have got a lot to hide, Minister.

**The Hon. WES FANG:** Point of order—

**Mr DAVID SHOEBRIDGE:** That is why you have a lot to hide.

**The Hon. WES FANG:** Point of order—

**Mr DAVID ELLIOTT:** I will take that as a comment.

**The Hon. ROSE JACKSON:** Commissioner Fuller, I want to ask some questions about your phone conversation last night with the Minister. Did he ask you to refer investigation into his own actions and behaviours or just the behaviours and actions of the firing range?

**Commissioner FULLER:** Holistically, it was a discussion around initially that he had attended the opening and had possibly breached the Firearms Act, and that there was something coming online in relation to that. I then said to him, "What was the situation?" and he said it was apparently an opening of a new firearms facility and that potentially there were other breaches. I just said, "Look, I will stop you there, in the sense that we

will need to investigate this matter. My plan will be obviously to take this offline, give it to an experienced deputy commissioner." I said, "But the primary is contacting Corrective Services to make sure that if they have been breaching this continually, that stops as of today as a starting point to ensure that there are no further breaches." And that was the end of the conversation.

**The Hon. ROSE JACKSON:** So he was providing you with an explanation, some of which we have heard today, and you cut him off in that explanation to indicate that the matter would need to be referred for investigation?

**Commissioner FULLER:** Ninety per cent of the explanation that has been given today was the first time I have heard that.

**The Hon. ROSE JACKSON:** When you then called, sorry—

**Commissioner FULLER:** Deputy Commissioner Dave Hudson.

**The Hon. ROSE JACKSON:** When you called Deputy Commissioner Hudson did you pass on to him the explanation that the Minister had given you?

**Commissioner FULLER:** No.

**The Hon. ROSE JACKSON:** So what was the detail on that conversation?

**Commissioner FULLER:** It is that we need to commence a criminal investigation into, firstly, the range, in the sense of multiple breaches that could include multiple people, including the police Minister.

**The Hon. ROSE JACKSON:** It was an investigation into the range and into the actions of the police Minister that was part of your conversation with the deputy commissioner?

**Commissioner FULLER:** Absolutely, and potentially multiple other people—potentially hundreds and hundreds of people.

**The Hon. ROSE JACKSON:** How long do you anticipate this investigation will last?

**Commissioner FULLER:** The deputy commissioner has committed to getting an investigation planned over the next couple of days and, again, the State Crime Command firearms unit will take that because they are experts in investigating these types of matters. But if it was just one range and one person, I imagine it would only take a few weeks, but if it is hundreds and hundreds and hundreds of people it could take some time.

**The Hon. ROSE JACKSON:** And you would anticipate that the Minister would be interviewed as part of this investigation.

**Commissioner FULLER:** He will certainly be offered an opportunity, as would anyone who has potentially breached the Firearms Act or any other law.

**The Hon. ROSE JACKSON:** There is a difference being him being offered an opportunity to participate and him being required to answer questions in relation to his behaviour.

**Commissioner FULLER:** I know, but outside of this room people have a right to silence. So at the end of the day, through any criminal investigation, we would always approach all the individuals asking them if they want to give a statement in relation to that or be interviewed but, of course, we would ask that question.

**The Hon. ROSE JACKSON:** Minister, do you commit to answering questions from the police or will you be invoking your right to silence in relation to this?

**Mr DAVID ELLIOTT:** Of course I will answer any questions from the police. As you have just already heard, I am the one who reported it to the police.

**The Hon. ROSE JACKSON:** That is an issue of concern for us because, as you can understand, we are concerned that that is going to exert undue influence in relation to the conduct of the police investigation.

**Mr DAVID ELLIOTT:** It is under investigation. I self-reported a potential breach. My understanding of the story that was published was that Corrections were operating outside their obligations of the Firearms Act and that literally hundreds of people could be in breach of the Act.

**The Hon. ROSE JACKSON:** Is it not also your understanding that you were acting outside of the provisions of the Firearms Act?

**Mr DAVID ELLIOTT:** At the time I was—

**The Hon. ROSE JACKSON:** Let us put the actions and the behaviours of the firing range to one side. Do you accept, in your reading of the article and the Act, that you were almost certainly acting outside the provisions of the Act?

**Mr DAVID ELLIOTT:** I was acting in good faith under the direction of the range master.

**The Hon. ROSE JACKSON:** Minister, if someone consumes illegal drugs, are they able to say, "Well, I thought that it was okay because someone sold them to me"? Is that a legal defence for the consumption of illegal drugs?

**Mr DAVID ELLIOTT:** I am not going to comment on hypotheticals.

**The Hon. ROSE JACKSON:** You are the one who has raised this suggestion repeatedly here today that acting in good faith is somehow a defence to a breach of the Firearms Act, a criminal breach carrying a 14-year penalty. You are the one who has put that suggestion on the table. So I am asking you again: How many criminal acts can you avoid liability for for saying, "Oh well, I was acting in good faith when I committed the criminal act"?

**Mr DAVID ELLIOTT:** I will take that as a comment.

**The Hon. ROSE JACKSON:** It is a question. How many provisions of criminal Acts can you avoid liability for by simply saying to the judge or the jury, "I was acting in good faith"?

**The Hon. NATASHA MACLAREN-JONES:** Point of order—

**Mr DAVID ELLIOTT:** That is obviously something that the inquiry will investigate.

**The Hon. ANTHONY D'ADAM:** Minister, do you acknowledge that you have a conflict in this situation?

**Mr DAVID ELLIOTT:** No, because I was the corrections Minister at the time and, of course, there will be lots of people caught up in this investigation if, indeed, the error has been made the way that it has been purported to be made.

**The Hon. ANTHONY D'ADAM:** But you are one of those people, are you not?

**Mr DAVID ELLIOTT:** Yes.

**The Hon. ANTHONY D'ADAM:** So you are implicated?

**Mr DAVID ELLIOTT:** Clearly, yes.

**The Hon. ANTHONY D'ADAM:** So you do have a conflict, do you not?

**Mr DAVID ELLIOTT:** How would I have a conflict?

**The Hon. ANTHONY D'ADAM:** Because the investigation relates to your conduct.

**Mr DAVID ELLIOTT:** The investigation actually relates to the conduct of the rifle range, of the firing range. I am not investigating—

**The Hon. ROSE JACKSON:** Commissioner Fuller has made it clear—

**Mr DAVID ELLIOTT:** Can you not interrupt? I am going to answer Adam's question.

**The Hon. ANTHONY D'ADAM:** Anthony—Mr D'Adam actually.

**The Hon. ROSE JACKSON:** The Hon. Anthony D'Adam.

**Mr DAVID ELLIOTT:** I am not investigating myself, so I do not see how I am in conflict.

**The Hon. ROSE JACKSON:** But people who work for you are investigating you. You are the one that went out and said you pay for their badges. That was you who said that.

**The Hon. WES FANG:** Point of order: Please ask the Minister a question and allow him to answer.

**The Hon. ANTHONY D'ADAM:** Minister, did you seek any advice on the possibility of your conflict in this situation?

**Mr DAVID ELLIOTT:** In what regard?

**The Hon. ANTHONY D'ADAM:** Did you seek legal advice?

**Mr DAVID ELLIOTT:** I would have to take that on notice if we received legal advice.

**The Hon. ANTHONY D'ADAM:** You do not know? You are unable to say—

**Mr DAVID ELLIOTT:** I would have to take that on notice.

**The Hon. ANTHONY D'ADAM:** —in the 24 hours that you—

**Mr DAVID ELLIOTT:** I had some discussions internally as to whether or not and what processes we should go through.

**The Hon. ROSE JACKSON:** Who did you have those discussions with?

**Mr DAVID ELLIOTT:** My chief of staff.

**The Hon. ANTHONY D'ADAM:** So there was no legal advice?

**Mr DAVID ELLIOTT:** I will take the rest on notice.

**The Hon. ANTHONY D'ADAM:** Did you consult the Premier?

**Mr DAVID ELLIOTT:** I consulted her office.

**The Hon. ANTHONY D'ADAM:** You have not spoken to the Premier about this?

**Mr DAVID ELLIOTT:** No.

**The Hon. ANTHONY D'ADAM:** Have you offered to step aside?

**Mr DAVID ELLIOTT:** No.

**The Hon. ANTHONY D'ADAM:** Why not?

**Mr DAVID ELLIOTT:** Because it is an administrative breach, which occurred two years ago, which will now have to be investigated by Corrections.

**The Hon. ANTHONY D'ADAM:** But it is an impossible situation, is it not, for you to remain in office when you are potentially guilty of a criminal offence carrying 14 years in jail?

**Mr DAVID ELLIOTT:** Let us just wait and see what the inquiry says.

**The Hon. ANTHONY D'ADAM:** Surely in that circumstance you should be at least stepping aside while the investigation is underway?

**Mr DAVID ELLIOTT:** I will take that as an opinion.

**The Hon. ROSE JACKSON:** At what point in the investigation would you be prompted to step aside? You are refusing to step aside now the investigation has commenced. Would it be when the investigation is concluded and suggests that there is prima facie evidence that you have committed a breach of the Firearms Act?

**Mr DAVID ELLIOTT:** Of course.

**The Hon. ROSE JACKSON:** At that point would you step aside?

**Mr DAVID ELLIOTT:** Of course. If I have broken the law I am treated like everybody else.

**The Hon. ANTHONY D'ADAM:** Did the Premier's office ask you to step aside?

**Mr DAVID ELLIOTT:** No.

**The Hon. ROSE JACKSON:** Minister, how many people were supervising the firearms range when you were there?

**Mr DAVID ELLIOTT:** For the opening, for the commissioning?

**The Hon. ROSE JACKSON:** Yes. How many people were supervising the—

**Mr DAVID ELLIOTT:** I would have to take that on notice. There were certainly at least two. There was obviously the inspector of the rifle range and there was another instructor, so there were certainly at least two.

**The Hon. ROSE JACKSON:** How many people were firing weapons? Was it just yourself or were there others?

**Mr DAVID ELLIOTT:** I would have to take that on notice. Again, just by way of clarification, this administrative oversight has actually been occurring for potentially decades. Dozens, if not hundreds, of people are potentially going to be seen as being in breach. On that day were there other people shooting? I cannot tell you. It was two years—

**The CHAIR:** Minister, how can this breach be occurring for decades?

**Mr DAVID ELLIOTT:** Can I finish my answer?

**The CHAIR:** Do you want to answer the question?

**Mr DAVID ELLIOTT:** I am answering the question. There are potentially dozens, if not hundreds, of people that may well find themselves had not signed the appropriate documentation.

**The Hon. ROSE JACKSON:** I am asking you specifically, on that day do you recall anyone else—

**Mr DAVID ELLIOTT:** It was two years ago. I would be very surprised if I was the only one who fired on the range that day.

**The Hon. ROSE JACKSON:** Minister, do you think it is appropriate for yourself as the police Minister with responsibility for the Firearms Act to be describing a potential breach of sections in relation to the use of prohibited weapons as an "administrative issue"? These appear to me to be serious criminal breaches of our firearms legislation.

**Mr DAVID ELLIOTT:** I will take that as an opinion.

**The Hon. ROSE JACKSON:** I am asking you whether you think it is appropriate to use the term "administrative issue" in relation to—

**Mr DAVID ELLIOTT:** I have because—

**The Hon. ROSE JACKSON:** —potential breaches of section 7 of the Firearms Act?

**Mr DAVID ELLIOTT:** I have, but I will take that as an opinion. It is hardly objective.

**The CHAIR:** What appropriate documentation would apply to get you out of this if you had signed it?

**Mr DAVID ELLIOTT:** Yes, there is a form. I might see if Superintendent Bell knows the name of the exemption form.

**Mr DAVID SHOEBRIDGE:** For a prohibited weapon.

**The CHAIR:** For a prohibited weapon, what form can you sign? Superintendent Bell?

**Mr DAVID SHOEBRIDGE:** There is no form, is there?

**The CHAIR:** There is no form, is there?

**Mr BELL:** In regards to the matter being questioned, all of this will be the subject of a thorough investigation.

**Mr DAVID SHOEBRIDGE:** Superintendent Bell, this is about a simple matter of procedure and law. There is no permit that somebody can sign to allow them to use a prohibited weapon, is there? There is no such form.

**Mr BELL:** Not a form as such. There may be an authority under the Act specific to certain activities that may be required to test firearms and for training purposes, depending on the person that is engaged in that activity. In relation to the circumstance—

**Mr DAVID SHOEBRIDGE:** There is no form.

**Mr BELL:** There is no form as such, but there are authorities under the Act to fire certain prohibited firearms.

**The Hon. ROSE JACKSON:** Earlier in your questions when—

**Mr COUTTS-TROTTER:** There are two separate issues here though, as you well understand. Number one is third parties, non-custodial officers, using the range using ordinary weapons—a form required. Secondly, the issue of prohibited weapons, which custodial officers have a blanket exemption to use in a workplace context.

**Mr DAVID SHOEBRIDGE:** But not Ministers.



**The CHAIR:** Not Ministers.

**Mr COUTTS-TROTTER:** No, I am not quibbling with that.

**The Hon. ROSE JACKSON:** Minister, earlier in response to questions from my colleague Mr Shoebridge about the fact that you took it upon yourself to refer this incident to the commissioner, you said that you did that because you wanted to take responsibility for what had occurred and for your actions. Why did you think it appropriate to take responsibility at that point but not at the point in which you allegedly breached the Firearms Act and insist on continually saying that that is entirely the fault of Corrective Services NSW? Why will you not take responsibility for the core of the issue, which is your alleged illegal use of a submachine—

**Mr DAVID ELLIOTT:** As I said, I acted in good faith under the direction of the instructor, the range master.

**The Hon. ROSE JACKSON:** But why will you not take responsibility for the fact that it appears as though that good faith was erroneously misplaced?

**Mr DAVID ELLIOTT:** Clearly that is what will form part of this investigation. I am hoping for advice to Corrections to ensure that this does not happen again.

**The Hon. ROSE JACKSON:** Minister, how many times do you need to be investigated by the police force before you stand down as police Minister? We are up to two. Is it a three strikes thing or—

**The Hon. WES FANG:** Point of order: That is a statement, it is not a question.

**Mr DAVID SHOEBRIDGE:** It is a question.

**The CHAIR:** It is a question. The Minister can answer if he likes.

**Mr DAVID ELLIOTT:** I will take that as an opinion.

**The Hon. ROSE JACKSON:** It is a serious question. You are now police Minister. This is the second time that the police force, which is answerable to you and, as you state, to members of the public—you pay for their badges—have investigated your conduct. Do you not think that that raises questions about your suitability to be police Minister?

**Mr DAVID ELLIOTT:** No, I do not.

**The Hon. ANTHONY D'ADAM:** Minister, you eluded to this being a longstanding practice at the rifle range. That goes to administrative questions, does it not, about how Corrective Services have been operating the range? It is not just a question of criminality, is it?

**Mr DAVID ELLIOTT:** Potentially. That is one of my main concerns.

**The Hon. ANTHONY D'ADAM:** Then on what basis can you, as a Minister, make a decision to refer the matter exclusively to the police? It goes broader than that, does it not?

**Mr DAVID ELLIOTT:** Yes, well, that—I do not—

**The Hon. ANTHONY D'ADAM:** You have made a decision, have you not, as a Minister, in which you are potentially implicated. You have made an administrative decision as a Minister. That is correct, is it not? It is not just a reference in terms of the criminal question; it is also a question about the administrative practices of Corrective Services NSW. On what authority can you refer that—

**The Hon. NATASHA MACLAREN-JONES:** Point of order—

**The Hon. ANTHONY D'ADAM:** This is my question—

**The Hon. WES FANG:** Get to the question.

**The Hon. ANTHONY D'ADAM:** On what authority can you, as a police Minister, make a decision about Corrective Services NSW practices?

**Mr DAVID ELLIOTT:** I can't. That is the secretary's job.

**The Hon. ANTHONY D'ADAM:** Why have you made the decision?

**The Hon. NATASHA MACLAREN-JONES:** Point of order—

**The Hon. SAM FARRAWAY:** Let him answer the question.

**The Hon. ANTHONY D'ADAM:** He answered. He said, "I can't."

**The Hon. WES FANG:** He got about two words out before you jumped in.

**The CHAIR:** Order!

**Mr COUTTS-TROTTER:** To the best of my knowledge, from a discussion with the commissioner last night and this morning, we are licensed as any other shooting range would be licensed.

**The CHAIR:** Thank you, Mr Coutts-Trotter, for giving us an answer on that.

**Mr COUTTS-TROTTER:** We should meet those responsibilities and, quite clearly, we stuffed up. We have stuffed up for a number of years in not appreciating that we should have been getting third-party shooters to fill out the appropriate application form.

**The CHAIR:** Can we explore that for a second, Mr Coutts-Trotter?

**Mr COUTTS-TROTTER:** Sure.

**The CHAIR:** Will you table a copy of the licence that that range has?

**Mr COUTTS-TROTTER:** Yes, of course.

**The CHAIR:** When you talk about appropriate forms being signed, what forms are you referring to?

**Mr COUTTS-TROTTER:** I am sorry, I do not have the detail of that.

**The CHAIR:** Are you referring to P650s?

**Mr COUTTS-TROTTER:** That rings a bell, yes.

**The CHAIR:** Are you aware of the fact that when someone is appropriately licensed, and assuming the range is appropriately licensed, the categories A, B, C even, or perhaps even D and H do not need to sign P650s if that range is licensed for them?

**Mr COUTTS-TROTTER:** I am aware there are circumstances in which licensed shooters would not need to do that, yes.

**The CHAIR:** Using your own words, correctional officers, as part of their employment, would be allowed to use H&K UMG .40s on the range without having to sign any forms.

**Mr COUTTS-TROTTER:** That is my understanding.

**The CHAIR:** So the answer that we have been getting from the Minister that there are hundreds of people who are in his category—who would they be?

**Mr DAVID ELLIOTT:** Potentially. Potentially hundreds.

**The CHAIR:** Potentially. But who would they be?

**Mr DAVID ELLIOTT:** People that have used that—

**The CHAIR:** Can I finish? My question is directed to Mr Coutts-Trotter. Who would those hundreds of people be on that range if you exclude those two categories?

**Mr COUTTS-TROTTER:** Both the current corrective services commissioner and his predecessors have taken third parties onto the range. We are asking questions now about the history of this to try and identify any information we hold about who in that category might have used the range and therefore might have used the range in breach of licensing obligations.

**The Hon. ROSE JACKSON:** Did Minister Roberts fire submachine guns on the range in a similar manner to Minister Elliot?

**Mr COUTTS-TROTTER:** Not to my knowledge, but I am happy to take that on notice.

**The CHAIR:** Is Commissioner Severin covered by the exemption of employment?

**Mr COUTTS-TROTTER:** Yes, he is. He is a custodial officer.

**The Hon. ROSE JACKSON:** Minister Elliot, have you spoken to Minister Roberts in relation to this matter?

**Mr DAVID ELLIOTT:** Yes.

**The Hon. ROSE JACKSON:** When was that?

**Mr DAVID ELLIOTT:** Last night and this morning.

**The Hon. ROSE JACKSON:** What was the nature of those conversations?

**Mr DAVID ELLIOTT:** Very much similar to the conversation I had with the commissioner—that there was potentially a breach occurring over many years and that potentially dozens, if not hundreds, of people could have been caught up in the same situation that I had found myself in.

**The Hon. ROSE JACKSON:** Did you ask for him to arrange for an apology to yourself from Corrective Services NSW? Did you ask him to do that?

**Mr DAVID ELLIOTT:** I told him that I was very upset with Corrections.

**The Hon. ROSE JACKSON:** Did you say, "Can you get them to apologise to me"?

**Mr DAVID ELLIOTT:** I do not instruct the Corrections commissioner to do anything. I have not discussed it with the Corrections commissioner.

**The Hon. ROSE JACKSON:** No, did you ask the Minister to arrange for Corrective Services NSW to issue you an apology?

**Mr DAVID ELLIOTT:** I have said to the Minister that I was very, very upset at the way that I had been treated and let down, yes.

**The Hon. ROSE JACKSON:** What did he commit to do in response to that information about you being very upset?

**Mr DAVID ELLIOTT:** I cannot recall. You would have to ask him.

**The Hon. ROSE JACKSON:** It was this morning that you spoke to him.

**Mr DAVID SHOEBRIDGE:** Minister, did you say you were owed an apology? Did you have a conversation about that with Minister Roberts?

**Mr DAVID ELLIOTT:** I cannot recall the exact tone of the conversation, other than the fact that he knew that I was very upset with the way that not only I had been exposed to potential breaches, but how so many other people over a number of years had been exposed to potential breaches.

**The Hon. ANTHONY D'ADAM:** Can you recall whether the word "apology" entered into the conversation?

**Mr DAVID ELLIOTT:** I cannot recall.

**The Hon. ROSE JACKSON:** Who from the Premier's office did you speak to in relation to this matter?

**Mr DAVID ELLIOTT:** I have spoken to the Premier's press secretary.

**The Hon. ROSE JACKSON:** In relation to the Corrective Services NSW apology to you?

**Mr DAVID ELLIOTT:** No, I do not recall that being discussed.

**Mr COUTTS-TROTTER:** I have spoken directly to Commissioner Severin. At no point did he indicate he was told to do anything. He, as I do, recognised that we have embarrassed the Minister greatly on this occasion, potentially we have embarrassed other people, and an apology is an appropriate response to that. We are licensed and we failed a licensing obligation, on the face of it. That deserves an apology.

**The CHAIR:** Does it not deserve punishment?

**Mr COUTTS-TROTTER:** The regulatory authority will make whatever decisions it decides to make.

**Mr DAVID SHOEBRIDGE:** You can say it: the police.

**The CHAIR:** You can say the police.

**Mr DAVID SHOEBRIDGE:** That is the regulatory authority.

**Mr COUTTS-TROTTER:** Yes, sure.

**The Hon. ANTHONY D'ADAM:** Minister, did you ask Minister Roberts to initiate an inquiry or investigation into the practices of the Corrective Services NSW rifle range?

**Mr DAVID ELLIOTT:** As far as I can recall, the only person that I raised the need for an investigation into a potential breach with was the commissioner.

**The Hon. ANTHONY D'ADAM:** The commissioner only?

**Mr DAVID ELLIOTT:** Yes.

**The Hon. ANTHONY D'ADAM:** You have not spoken to the Minister?

**Mr DAVID ELLIOTT:** No, I have already stated that I spoke to the Minister twice.

**The Hon. ANTHONY D'ADAM:** On that question, sorry.

**Mr DAVID ELLIOTT:** The authorising authority—an investigation would probably come from the police, as far as I am aware. Having said that, I would not be surprised if Corrections right now are investigating their practices. They have a very thorough professional standards command, which I would have thought right now would be doing exactly what the police will be doing.

**The CHAIR:** Minister, do you consider yourself exempt from the firearms laws of New South Wales?

**Mr DAVID ELLIOTT:** No.

**The CHAIR:** Okay, good. Do you believe an apology gets you out of those laws?

**Mr DAVID ELLIOTT:** No.

**The CHAIR:** You don't? So why are you continually talking in terms of an apology as if it is a get out of jail free?

**Mr DAVID ELLIOTT:** I am not saying it is a get out of jail free. I am saying that I have been let down because I believe that the range master had not been complying with the Firearms Act. As I said, I suspect there will be a lot of other people who have been let down by that conclusion as well.

**The CHAIR:** Minister, this is not about other people. This is about you, is it not?

**Mr DAVID ELLIOTT:** No, I am—

**The CHAIR:** You, being the Minister responsible for the firearms laws in New South Wales, not understanding that you have an obligation to understand those laws.

**Mr DAVID ELLIOTT:** Mr Borsak, when I opened that range I was the Minister for Corrections, not the police Minister. When the incident occurred I, in fact, was not responsible for the Firearms Act.

**The CHAIR:** You may not have been responsible for the Firearms Act at that time, but the fact that you step onto a range and handle a firearm—are you saying that you had no idea whatsoever what was the situation with regard to firearms laws in New South Wales?

**Mr DAVID ELLIOTT:** That is right. That is why this matter is now under investigation, because those of us who have been on the range who may not have had the authority to be there will now need to ensure that that does not occur again.

**The CHAIR:** Minister, do you understand that you were the person responsible for that range at that time?

**Mr DAVID ELLIOTT:** The commissioner was responsible. It was within my portfolio.

**Mr DAVID SHOEBRIDGE:** Anybody but you, Minister.

**The CHAIR:** Minister, that is not an answer.

**Mr DAVID ELLIOTT:** As you well know—

**The CHAIR:** That is a Sir Humphrey answer.

**Mr DAVID ELLIOTT:** No, it is not, because you well know that a range master on a firing range has executive authority.

**The CHAIR:** That is not my question.

**Mr DAVID ELLIOTT:** So whoever walks onto a firing range, whenever there are weapons being fired, is answerable to the range master?

**The CHAIR:** Minister, I ask you again: As Minister, were you the person responsible for that range and the administration of the range and legal obligations under that range?

**Mr DAVID ELLIOTT:** From a government point, I will take that on notice. The matter is before an investigation, so I am not going to—

**The CHAIR:** So the Minister is not responsible? That is what you are trying to say to me, is it? What do you get paid for?

**Mr DAVID ELLIOTT:** On the question of obligations, and obviously complying with the Act, the range master is responsible for that. On the question of whose portfolio the range falls under, clearly at that time it was mine.

**The CHAIR:** So you were clueless, then, in relation to that?

**Mr DAVID ELLIOTT:** As I have said before, I was acting under the instruction of the range master, like I did for seven years as an army officer.

**The CHAIR:** Do you hold a current firearms licence at all?

**Mr DAVID ELLIOTT:** Well, no. I have already made that public.

**Mr DAVID SHOEBRIDGE:** Did you have one at the time?

**Mr DAVID ELLIOTT:** I will put that on notice.

**Mr DAVID SHOEBRIDGE:** Sorry, no.

**Mr DAVID ELLIOTT:** I am putting all your questions on notice, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** Minister, Minister—

**Mr DAVID ELLIOTT:** Because, as you proving right now, you always interrupt me.

**Mr DAVID SHOEBRIDGE:** Minister, did you have a firearms licence at the time you were holding a submachine gun—

**Mr DAVID ELLIOTT:** I will put that on notice.

**Mr DAVID SHOEBRIDGE:** —at a rifle range that you were responsible for as corrections Minister?

**The Hon. WES FANG:** Point of order: The Minister has taken the question on notice.

**Mr DAVID SHOEBRIDGE:** I have not finished my question.

**The CHAIR:** Let him finish the question.

**Mr DAVID SHOEBRIDGE:** Did you hold a firearms licence at the time you were on a firing range under your control as the Minister for Corrections and using a submachine gun?

**Mr DAVID ELLIOTT:** I have never had a firearms licence.

**The Hon. ROSE JACKSON:** Minister, have you spoken to Commissioner Severin in relation to this matter?

**Mr DAVID ELLIOTT:** No.

**The Hon. ANTHONY D'ADAM:** Can I just clarify: Earlier you said—maybe I heard you incorrectly—that you had spoken to the Premier's chief of staff?

**Mr DAVID ELLIOTT:** No.

**The Hon. ANTHONY D'ADAM:** You had spoken to the press secretary.

**Mr DAVID ELLIOTT:** Yes.

**The Hon. ANTHONY D'ADAM:** That is the only person in the Premier's office you had spoken to?

**Mr DAVID ELLIOTT:** Well, yes.

**The Hon. ANTHONY D'ADAM:** Was that on a media question? Why would you contact a press secretary—

**Mr DAVID ELLIOTT:** I highlighted to him—

**The Hon. ANTHONY D'ADAM:** —rather than the chief of staff, if you cannot get the Premier, obviously?

**Mr DAVID ELLIOTT:** Because it was a question from a journalist.

**The Hon. ANTHONY D'ADAM:** So your contact with the Premier's office was only concerned about how you spun this particular story. It was not about the substantive issue. Is that correct?

**Mr DAVID ELLIOTT:** I will take that as a comment.

**The Hon. ROSE JACKSON:** Well, no. It is a question.

**Mr DAVID ELLIOTT:** Well, that is a ridiculous question. I have already—

**The Hon. ROSE JACKSON:** Was the substance of your conversation with the Premier's office the media management?

**Mr DAVID ELLIOTT:** So you are asking the question, or is Anthony D'Adam?

**The Hon. ROSE JACKSON:** Yes. We are a team over here. Was the substance of your conversation with the Premier's office the media management of this issue—

**Mr DAVID ELLIOTT:** No.

**The Hon. ROSE JACKSON:** —as opposed to the potential substantial breach of the Firearms Act by yourself and Corrective Services?

**Mr DAVID ELLIOTT:** No. The conversation was about the potential breach.

**The Hon. ANTHONY D'ADAM:** What authority does the press secretary have to give you advice about how you should handle a potential breach?

**Mr DAVID ELLIOTT:** Well, he is a senior—

**The Hon. ANTHONY D'ADAM:** It seems like the wrong person, does it not?

**Mr DAVID ELLIOTT:** No. He is a senior member of the staff.

**The Hon. ANTHONY D'ADAM:** You did not ask for the chief of staff?

**Mr DAVID ELLIOTT:** I have answered the question.

**The CHAIR:** Minister, when you were in the army what were you primarily responsible for?

**Mr DAVID ELLIOTT:** At what time? I had about three or four jobs.

**The CHAIR:** When you went to Duntroon.

**Mr DAVID ELLIOTT:** Well, I was a cadet at Duntroon.

**The CHAIR:** For how long?

**Mr DAVID ELLIOTT:** Three months, I think.

**The CHAIR:** Did you do the six-week short course?

**Mr DAVID ELLIOTT:** Remember I was already commissioned when I joined the Regular Army, so, yes. It was called the Direct Entry Officers Course.

**The CHAIR:** What was the direct entry exemption about?

**Mr DAVID ELLIOTT:** Sorry?

**The CHAIR:** The direct entry exemption. What was your speciality?

**The Hon. SAM FARRAWAY:** Point of order: As per item No. 9 of the procedural fairness resolution, I just do not understand the relevance.

**The CHAIR:** You will find out the relevance in just a minute, if the Minister decides to answer it.

**The Hon. SAM FARRAWAY:** No, no, the relevance—

**The CHAIR:** There is no point of order.

**The Hon. SAM FARRAWAY:** —to the estimates process and to the portfolio. I do not see what relevance former history—

**The CHAIR:** It is highly relevant. Just wait and see.

**Mr DAVID SHOEBRIDGE:** To the point of order: Just briefly, there are multiple rulings about the wide latitude at budget estimates and it is clearly relating to the Minister's ministerial responsibility.

**Mr DAVID ELLIOTT:** I cannot see how my military service has anything to do with it.

**The Hon. NATASHA MACLAREN-JONES:** Asking him questions about what he was doing when he was probably 20 is not relevant to his position now as a Minister and before this Committee's budget estimates.

**The Hon. SAM FARRAWAY:** And it goes directly to item No. 9 of the procedural fairness resolution.

**Mr DAVID SHOEBRIDGE:** Can I just briefly say that it relates to his experience with weapons and weapons training. It is clearly relevant to what is at issue.

**The CHAIR:** That is right. Minister, when you attended Duntroon, was your area of specialty public relations?

**Mr DAVID ELLIOTT:** By the time I had got to Duntroon, yes.

**The CHAIR:** It was public relations.

**Mr DAVID ELLIOTT:** By the time I had got to Duntroon, yes. That is what a Direct Entry Officer is. You go to Duntroon and whether you have got your degree or profession or as a general service officer after you have completed your undergraduate and then you choose your corps. A direct entry officer has already chosen their corps. They are already experienced in that profession. A general service officer goes and then identifies their corps at the end of their studies. But I suspect you are going to be asking me: Did I go through weapons training? Yes. All army officers, with the exception of chaplains, have to undertake weapons training.

**The CHAIR:** No. That is fine. What I was really going to ask you about is: How would you categorise, as a public relations professional that you were at the time, what is happening to you at the moment?

**Mr DAVID ELLIOTT:** I will take that as a comment.

**The CHAIR:** It is a question.

**Mr DAVID ELLIOTT:** It is a ridiculous question.

**The CHAIR:** Especially in the light of what you have done in the past—

**Mr DAVID ELLIOTT:** You have just asked me—

**The CHAIR:** —to drivers on the roads in New South Wales.

**Mr DAVID ELLIOTT:** You have just asked me—you have just tried to tell the Government members that your line of questioning was going to be relevant to weapons training.

**Mr DAVID SHOEBRIDGE:** That was me.

**The CHAIR:** I did not say that.

**Mr DAVID SHOEBRIDGE:** That was my assumption.

**The CHAIR:** It was his assumption.

**Mr DAVID SHOEBRIDGE:** It was my error.

**Mr DAVID ELLIOTT:** Okay. Your apology is accepted.

**The Hon. SAM FARRAWAY:** What? You made a mistake, David?

**Mr DAVID SHOEBRIDGE:** Yes. I made a mistake.

**The Hon. SAM FARRAWAY:** Put that on the record.

**The Hon. ROSE JACKSON:** He happened to admit it.

**The Hon. ANTHONY D'ADAM:** It is a day for apologies, isn't it?

**Mr DAVID SHOEBRIDGE:** If I was a Minister, I would resign.

**The Hon. WES FANG:** That is never going to happen.

**The Hon. SAM FARRAWAY:** Yes. That will never happen.

**The CHAIR:** You completed weapons training in the army. Have you ever completed a firearms safety training course in New South Wales?

**Mr DAVID ELLIOTT:** Well, yes, because the army's range was at Majura and I think that is in New South Wales.

**The CHAIR:** No, I am talking specifically about the New South Wales firearms safety and training course, as accredited by the New South Wales police and the Firearms Registry.

**Mr DAVID ELLIOTT:** No. No, I have not because, as an army officer, of course we go through a significant amount of weapons training, which primarily focuses on safety. Although I have shot since I have been at Duntroon, all of that training occurred more than 25 years ago, so excuse me—

**The CHAIR:** But you would not forget it.

**Mr DAVID ELLIOTT:** Well, unfortunately there is a lot gone on since then.

**The CHAIR:** Minister, can I refer you to this picture here?

**Mr DAVID ELLIOTT:** Yes.

**The CHAIR:** I will pass that to you.

**The Hon. WES FANG:** Are you tabling it?

**The CHAIR:** I will table when it is passed to the Minister.

**Mr DAVID ELLIOTT:** I know the picture.

**The CHAIR:** You know the picture?

**Mr DAVID ELLIOTT:** It is on my Facebook account.

**The CHAIR:** That is right.

**Mr DAVID ELLIOTT:** I have been hiding it on the internet.

**The CHAIR:** You will not be hiding it. What is wrong with that picture, Minister, given that you have firearms safety training?

**Mr DAVID ELLIOTT:** I will have to take your advice on that, Mr Borsak.

**The CHAIR:** You cannot see?

**Mr DAVID ELLIOTT:** I can see the picture, but I cannot see—

**The CHAIR:** You cannot see what is wrong with the picture.

**Mr DAVID ELLIOTT:** No. As I said—

**The CHAIR:** What you have done that is wrong?

**Mr DAVID ELLIOTT:** It has been a long time since I have been instructed on the safety of firearms other than on that day when I had the briefing.

**The CHAIR:** Well, I will not ask a question; I will tell you what the answer is. The answer is you are standing in front of the firing line.

**Mr DAVID ELLIOTT:** I can see three firing lines there.

**The CHAIR:** No, there is one firing line and it is the real line and you are standing in front of the people beside you.

**Mr DAVID ELLIOTT:** Okay. Given the practices on that particular day are subject to an investigation, I will certainly take your advice and wait for the police to advise me.



**Mr DAVID SHOEBRIDGE:** Commissioner, there is no good faith defence, is there, to a prosecution under section 7 of the Firearms Act?

**Commissioner FULLER:** I would have to take that on notice, Mr Shoebridge. I should try to be an expert on all the legislation out there, but I am happy to take that on notice and get an expert advice on any questions on the Firearms Act and potential breaches. No-one here is a lawyer. No-one here is a police prosecutor.

**The CHAIR:** He is a lawyer.

**Commissioner FULLER:** Well, then he can tell me the answer to the question.

**Mr DAVID SHOEBRIDGE:** There is no good faith defence to a prosecution under section 7.

**Commissioner FULLER:** Thank you for sharing that with me. I will let the investigating police know.

**Mr DAVID SHOEBRIDGE:** Are you troubled at all by your boss, the police Minister, continuing to refer to good faith as some kind of political defence, or other defence, to what on the face of it seems to be a pretty clear breach of section 7 of the Firearms Act?

**Commissioner FULLER:** I am troubled that there is a police investigation. We are debating people's admissions or not admissions and people's opinion. That troubles me. My job is to make sure that there is an ethical and transparent investigation into this matter. I am on the record in saying that, and that will happen.

**The Hon. ROSE JACKSON:** Just in relation to it being transparent, will you commit to releasing the investigation in full so that we can see the full investigation and its findings?

**Commissioner FULLER:** In terms of the outcome of the investigation, I will release whatever I have to release legally in relation to that. The reality is, like any of these matters, I will see them to the end and I will be the person standing up justifying why we take or we do not take action. So I will be seeing this matter through.

**Mr DAVID SHOEBRIDGE:** Commissioner, we have had a previous police investigation of your boss, the Minister, have we not, under your watch?

**Commissioner FULLER:** What investigation are you referring to?

**Mr DAVID SHOEBRIDGE:** This was the investigation that was undertaken into the road rage incident. Do you remember that?

**Commissioner FULLER:** There was an incident involving a fail-to-stop accident that was investigated by New South Wales police. There were subsequent issues raised with my office. As a result of those issues, I asked for the matter to be investigated and for the fail-to-stop accident to be reviewed to make sure that was done appropriately.

**Mr DAVID SHOEBRIDGE:** And there was no transparency on that. When freedom of information applications were lodged, highly redacted copies were provided to the media and the Government is resisting the calls to produce a full set of papers in the upper House. There is no transparency at all on that investigation, is there, Commissioner?

**Commissioner FULLER:** That is not the case. There is protection for individuals in the Government Information (Public Access) [GIPA] Act and we have got to apply those. At the end of the day I am comfortable that the GIPA Act was used appropriately in this case.

**Mr DAVID SHOEBRIDGE:** This will not be a transparent investigation, will it, Commissioner? This will be an investigation done by police with no public hearings, no public accountability other than a statement at the end. That is what we are going to get again, is it not?

**Commissioner FULLER:** I disagree.

**Mr DAVID SHOEBRIDGE:** Did you review the previous investigation of your Minister? Did you review the results of that investigation?

**Commissioner FULLER:** No. I asked for a review and was given a consolidated report and I was more than comfortable with the outcome of the police investigation.

**Mr DAVID SHOEBRIDGE:** Will you table with the Committee the consolidated report that you got in relation to that investigation?

**Commissioner FULLER:** I do not have that with me but I am happy to take that on notice.

**Mr DAVID SHOEBRIDGE:** Mr Jones, did you undertake the investigation of the road rage incident?

**Mr JONES:** The review was undertaken under my supervision.

**Mr DAVID SHOEBRIDGE:** So you did not do the investigation?

**Mr JONES:** Not physically, no.

**Mr DAVID SHOEBRIDGE:** What was the rank of the police who were doing the investigation?

**Mr JONES:** A detective chief inspector.

**Mr DAVID SHOEBRIDGE:** How would you describe the power imbalance between a detective chief inspector and the police Minister?

**Mr JONES:** A detective chief inspector undertook the review on my behalf. I of course undertook the review at the request of the commissioner. So ultimately the decision lies with the commissioner.

**Mr DAVID SHOEBRIDGE:** My question is: How would you describe the power imbalance between the detective that you tasked with the investigation and the person he was investigating, which was the police Minister?

**The Hon. WES FANG:** Point of order: The assistant commissioner has provided an answer to the question. Mr Shoebridge has now re-asked a question because he did not get the answer he wanted.

**Mr DAVID SHOEBRIDGE:** To the point of order: The assistant commissioner did not address the question and provided a general response—

**The Hon. WES FANG:** The assistant commissioner provided an answer to the question.

**Mr DAVID SHOEBRIDGE:** I press the question and await a ruling from the Chair.

**The CHAIR:** Press the question.

**Mr JONES:** I refer to my previous answer.

**Mr DAVID SHOEBRIDGE:** Assistant Commissioner, what steps did you put in place to ensure that the detective who undertook this investigation felt protected and did not feel exposed because he was investigating, and potentially finding criminal liability on, the police Minister? What special steps did you take—if any—to ensure they felt protected in the investigation.

**Mr JONES:** Sure. He undertook the investigation under my supervision. So ultimately I was responsible for that not the chief inspector and of course my recommendation referred to the commissioner of police. So the chief inspector answers to myself, who in turn answers to the commissioner of police.

**Mr DAVID SHOEBRIDGE:** It would be fair to characterise a recommendation to proffer charges against the police commissioner as highly career limiting for a police officer, would it not? That would be a fair characterisation of it.

**Mr JONES:** Not at all.

**Mr DAVID SHOEBRIDGE:** Mr Jones, did you review all the material of investigation?

**Mr JONES:** From the accident?

**Mr DAVID SHOEBRIDGE:** Yes. From the accident and the incidents that followed it, including the allegations of assault. You were aware that there was an allegation that the police Minister had assaulted a 17-year-old?

**Mr JONES:** Yes, I am aware of that.

**Mr DAVID SHOEBRIDGE:** Did you review any videos?

**Mr JONES:** Yes, I did.

**Mr DAVID SHOEBRIDGE:** Did those videos show the police Minister coming into contact with a 17-year-old?

**Mr JONES:** No, they did not.

**Mr DAVID SHOEBRIDGE:** Will you table those video recordings?

**Mr JONES:** I am not sure if I am allowed to table them.

**Mr DAVID SHOEBRIDGE:** You can take that on notice.

**Mr JONES:** Thank you very much. I will take that on notice.

**Mr DAVID SHOEBRIDGE:** Whose video recordings were they?

**Mr JONES:** I am not exactly sure who took the videos. I think we have seen the videos. I would not want to guess who actually took the videos.

**Mr DAVID SHOEBRIDGE:** Do you want to provide that answer on notice?

**Mr JONES:** Of course.

**Mr DAVID SHOEBRIDGE:** Did you have any contact from the commissioner's office or the police Minister's office during the investigation?

**Mr JONES:** Certainly not from the Minister's office but I certainly spoke with the commissioner during the investigation.

**Mr DAVID SHOEBRIDGE:** What did the commissioner say to you?

**Mr JONES:** To undertake a review into the matter and to report back to him.

**Mr DAVID SHOEBRIDGE:** Commissioner, what rank of officer will be undertaking the current investigation into the police Minister?

**Commissioner FULLER:** That will be an experienced detective from State Crime Command but there will be an assistant commissioner, a deputy commissioner and a commissioner in between that individual and the Minister. So to suggest that there will not be protection for our police in any of these type of investigations—and we have arrested and charged and had members of Parliament put in jail before and police have survived all of that, Mr Shoebridge, so we do look after our police. We do understand that these type of matters put pressure on individuals but we have a difficult job to do and we do it nevertheless and we have done it in the past.

**Mr DAVID SHOEBRIDGE:** Commissioner, why will you not refer this investigation to an external police agency, whether it is the Australian Federal Police [AFP] or the Victorian police or somebody who does not have such an obvious conflict of interest? Why will you not bring in somebody without the conflict of interest so that these questions about integrity and conflict of interest are not levelled at your force?

**Commissioner FULLER:** I do not feel any pressure from the community. I do not feel any pressure from stakeholders. The only pressure I feel, obviously, is from the Committee this morning. I am more than comfortable with the integrity of the NSW Police Force, with our ability to investigate this and other complex matters against politicians, as we have in the past.

**Mr DAVID SHOEBRIDGE:** This is not just any politician. This is the man sitting next to you who is your boss, who can recommend to the Governor whether you be hired or fired, who makes decisions about the resourcing of your police force. It is not just any politician. This is your boss with all that political influence over your organisation—

**Commissioner FULLER:** Surely—

**Mr DAVID SHOEBRIDGE:** Can you not see the conflict of interest, Commissioner?

**Commissioner FULLER:** Surely after the last four years of budget estimates you would understand that I am not conflicted by that.

**Mr DAVID SHOEBRIDGE:** No, I do not. I will be quite frank. You ask me; I do not. I see a Police Force that gets every single resource demand that it asks for because of politicians like the one sitting next to you. I see you as beholden to politics to get the resources. And now you are running an investigation—

**Commissioner FULLER:** Are you questioning my integrity?

**Mr DAVID SHOEBRIDGE:** No. I am saying the Police Force is beholden to politics to get its resources. You know that.

**Commissioner FULLER:** I disagree.

**Mr DAVID SHOEBRIDGE:** It is a decision of Cabinet—which the Minister sits in—what resources you get. You understand that, Commissioner?

**Mr DAVID ELLIOTT:** That is incorrect. It is a decision of the Treasurer.

**Mr DAVID SHOEBRIDGE:** Minister, can you not see what an impossible situation you are putting members of the NSW Police Force in with now your second criminal investigation while you are the police Minister and why will you not do the decent thing? Acknowledge the conflict and step down, at least while the investigation is underway.

**Mr DAVID ELLIOTT:** As I have said before, there is an investigation going on. I believe that there may have been a mistake of fact when I was on the range and so I will wait and see the advice from the investigation. But can I reassure you, the Committee and the community that if Corrections have done the wrong thing and those of us that have been on the range and therefore, like me, have been subject to a mistake of fact, then this needs to be rectified. As you have probably heard from your Chairman, I am not a shooter. I have done enough firing of weapons to last two lifetimes. If I never get another gun in my hand, it will be too soon.

I want to make sure that the Government is doing the right thing and if I am found to have done something wrong, illegal, malicious, if I have been found that I honestly went towards that engagement on the day and deliberately did the wrong thing, well I have got to answer for that. But at the moment I am more concerned about the fact that we have potentially a Corrections firing range which has not been complying with the law. I am concerned that there could be up to 200 people—very prominent people—over the course of two commissioners who, like me, may have been victims of a mistake of fact and undertaken an activity that they should not have undertaken.

**Mr DAVID SHOEBRIDGE:** What is the mistake of fact you are referring to?

**Mr DAVID ELLIOTT:** That I believed that the people around me and that Corrections at the time were doing the right thing.

**The Hon. ROSE JACKSON:** Minister, do you not understand that your intention in relation to the holding and the firing of the weapon is probably irrelevant in whether a breach of this Act has occurred? Do you not understand that fact?

**Mr DAVID ELLIOTT:** I am sorry. I do not understand the question.

**The Hon. ROSE JACKSON:** You are suggesting that you did not intentionally breach the Firearms Act but do you not understand that the fact that you did not intend to breach the Firearms Act is irrelevant to whether in fact you did breach the Firearms Act?

**Mr DAVID ELLIOTT:** I would say that is what a mistake of fact is. I would say that it is extremely relevant.

**The Hon. ROSE JACKSON:** Commissioner Fuller, do you and the deputy commissioner conducting the investigation in relation to this incident have an open mind in relation to the outcome?

**Commissioner FULLER:** Certainly trying to, but being exposed to all of this does not assist me in any way. But the reality is there will be three outcomes to the investigation. One is that the police officers will prosecute person or persons. Secondly, they will advise the matter to the Department of Public Prosecutions for an independent review in terms of legalities; or, three, they will find that there is not sufficient evidence to charge individuals or others.

**The Hon. ROSE JACKSON:** You accept, presumably, under outcome (a) that you just described that it is a possibility of this outcome that the Minister is charged with a criminal offence?

**Commissioner FULLER:** As I said to you, whilst you are focusing on the Minister I have to focus on everyone equally in relation to this investigation.

**The Hon. ANTHONY D'ADAM:** Minister, you would accept that Ministers of the Crown are held to a higher standard, would you not?

**Mr DAVID ELLIOTT:** Yes.

**The Hon. ANTHONY D'ADAM:** It is important that the public has confidence that particularly the Minister responsible for the administration of police be a person with an unimpeachable reputation for lawful conduct. You would accept that, would you not?

**Mr DAVID ELLIOTT:** Yes.

**The Hon. ANTHONY D'ADAM:** Just stepping back to the sequence of events, you have already said that you did not seek any legal advice.

**Mr DAVID ELLIOTT:** Sorry, in relation to what?

**The Hon. ANTHONY D'ADAM:** You have not sought any legal advice in relation to this matter? You said you consulted your chief of staff—

**Mr DAVID ELLIOTT:** Yes.

**The Hon. ANTHONY D'ADAM:** —but you have not sought any legal advice?

**Mr DAVID ELLIOTT:** I would have to take that on notice. First of all, my chief of staff is an accomplished lawyer. Secondly, I do not know if she took legal advice from anybody, so I will take that on notice.

**The Hon. ANTHONY D'ADAM:** You consulted the Premier's office; you spoke to the press secretary?

**Mr DAVID ELLIOTT:** I advised the press secretary that we had a media inquiry relating to a potential breach from the Corrective Services firing range.

**The Hon. ANTHONY D'ADAM:** But at no time have you actually spoken to the Premier about this?

**Mr DAVID ELLIOTT:** No.

**The Hon. ANTHONY D'ADAM:** Do you accept that you have made a decision to refer this matter to the police for investigation?

**Mr DAVID ELLIOTT:** Sorry?

**The Hon. ANTHONY D'ADAM:** Do you accept that you have made a decision as a Minister?

**Mr DAVID ELLIOTT:** I referred it to the police because it was a potential breach. I do not know what you would expect me to do.

**The Hon. ANTHONY D'ADAM:** No, I am asking you a factual question. You accept that you have made a decision as the Minister to refer this matter to the police for investigation?

**Mr DAVID ELLIOTT:** Yes.

**The Hon. ANTHONY D'ADAM:** You do?

**Mr DAVID ELLIOTT:** Yes. That was yesterday.

**The Hon. ANTHONY D'ADAM:** I ask you whether you have written approval from the Premier consistent with the ministerial code of conduct to participate in the making of such a decision, where you clearly have a conflict of interest? Do you have such written authorisation from the Premier?

**Mr DAVID ELLIOTT:** No I did not receive written approval from the Premier to refer a matter, which I believed would be a breach, to the New South Wales police commissioner.

**The Hon. ANTHONY D'ADAM:** Do you accept that on a prima facie basis you have breached the ministerial code of conduct?

**Mr DAVID ELLIOTT:** I would have to take that on notice.

**The Hon. ANTHONY D'ADAM:** In your discussions with the press secretary did you discuss the ministerial code of conduct?

**Mr DAVID ELLIOTT:** Not that I recall.

**The Hon. ANTHONY D'ADAM:** Have you sought any advice about whether you are in compliance with the ministerial code of conduct?

**Mr DAVID ELLIOTT:** I will take that on notice.

**The Hon. ROSE JACKSON:** Have you asked anyone, whether it be the Premier's press secretary, your own chief of staff, Minister Roberts, anyone you have spoken to in relation to this matter—has at any point the question crossed your mind and have you discussed with anyone else whether in fact you may be in breach of the ministerial code of conduct?

**Mr DAVID ELLIOTT:** Given the matter is now under investigation by both Corrections and the police I am just going to refer everything back to the *Notice Paper*. The Commissioner has just highlighted the fact that the speculation and public debate over this could influence the investigation.

**The Hon. ANTHONY D'ADAM:** This is not about the investigation, Minister. This is about—

**Mr DAVID ELLIOTT:** It is potentially the breach.

**The Hon. ANTHONY D'ADAM:** —you apprising yourself of your responsibilities as a Minister to conduct yourself in a way that is consistent with—

**Mr DAVID ELLIOTT:** I will take it on notice.

**The Hon. ANTHONY D'ADAM:** —the ministerial code of conduct.

**Mr DAVID ELLIOTT:** I will take it on notice.

**The Hon. ROSE JACKSON:** Minister, as concerns have been raised in relation to both this incident and the previous investigation that my colleague referred to, will you commit to publicly releasing in full both the initial investigation that was conducted under the supervision of Assistant Commissioner Jones and this investigation that has just been commenced in order to ensure public confidence in your performance as police Minister?

**Mr DAVID ELLIOTT:** If the public thought that I had access to those investigations then public confidence would probably suffer. I do not get access to that sort of information. I certainly do not get access to any investigations that may have involved me. No, I will not be releasing them because I do not get them.

**The Hon. ROSE JACKSON:** You do not have access to and have never read a full copy of the investigation that has been completed into the incident that occurred some time ago, which was overseen by Assistant Commissioner Jones?

**Mr DAVID ELLIOTT:** Certainly not. Why would I? It would be completely inappropriate for me to even ask for it. If that is the sort of behaviour that Labor politicians engage in then they should not be in Government.

**Mr DAVID SHOEBRIDGE:** But Minister—

**Mr DAVID ELLIOTT:** Seriously, I find that to be a very, very offensive question.

**The Hon. ROSE JACKSON:** The question that you would have an interest in the outcome of a police investigation into your own conduct?

**Mr DAVID ELLIOTT:** But I would not ask for the report. That would be completely inappropriate.

**The Hon. ROSE JACKSON:** You have no information in relation to what was found in that report?

**Mr DAVID ELLIOTT:** No. Why would I? What right would I have to—

**The Hon. ROSE JACKSON:** What confidence can you have that there were not findings or suggestions in that report that you behaved inappropriately?

**Mr DAVID ELLIOTT:** Because I was advised that was the case.

**The Hon. ROSE JACKSON:** So you have been briefed in relation to it?

**Mr DAVID ELLIOTT:** No, I was just advised that no further action, that Mr Jones undertook—

**The Hon. ROSE JACKSON:** There is a difference between "no further action" in a legal sense and that some of your behaviour was questionable or inappropriate in an ethical sense.

**Mr DAVID ELLIOTT:** I will take that as an opinion. Your question to me was have I seen the briefings, have I seen any reports or notes. The answer is no, I have not.

**Mr DAVID SHOEBRIDGE:** Commissioner, from the NSW Police Force side, what if any advice or information of briefings, or however you want to describe it, was provided to the Minister following the conclusion of the report?

**Commissioner FULLER:** There were certainly no written briefings passed through my office, Mr Shoebridge. I only reiterated that the outcome of the investigation was that there were no criminal charges to be brought against anyone and the matter was finalised.

**Mr DAVID SHOEBRIDGE:** That was the conversation you had with the police Minister?

**Commissioner FULLER:** Absolutely.

**Mr DAVID SHOEBRIDGE:** Did the police Minister ask you why or how or any questions about it in that conversation?

**Commissioner FULLER:** Not to my memory, no.

**Mr DAVID SHOEBRIDGE:** Did you have any notes of that conversation?

**Commissioner FULLER:** I am happy to take on notice the one-on-one we would have had with our staff, and the meeting of that. I am happy to go back and reflect to see if there was a conversation. I will take on notice if there was any other discussion and provide that to you.

**Mr DAVID SHOEBRIDGE:** Did you take notes, or would there be a record of that?

**Commissioner FULLER:** I would have had a chief of staff or an administrative officer there with me taking notes. I do not personally take notes during those outcomes.

**Mr DAVID SHOEBRIDGE:** Minister, did you take notes of that meeting?

**Mr DAVID ELLIOTT:** Of which meeting?

**Mr DAVID SHOEBRIDGE:** The meeting that was just discussed with the Commissioner where he advised you of the outcome?

**Mr DAVID ELLIOTT:** I just received verbal advice that no further action would be taken.

**Mr DAVID SHOEBRIDGE:** I am asking you in that meeting where you got—was it a face-to-face meeting, Commissioner?

**Mr DAVID ELLIOTT:** No, it was a telephone conversation, I think, if I remember correctly.

**Mr DAVID SHOEBRIDGE:** Commissioner, was it face to face?

**Commissioner FULLER:** What I said to you was it was a conversation that we had. Then I said the next one on one, I will go back and check to see if there was any further conversation in relation to that.

**The Hon. ROSE JACKSON:** Did you ask for any information or did you seek any additional clarification from the Commissioner in relation to the investigation?

**Mr DAVID ELLIOTT:** No. That would be inappropriate.

**The Hon. ROSE JACKSON:** If it were me and there was a police investigation into my conduct, I would obviously be relieved to hear that there were no criminal charges arising out of that but I may be interested in some detail in relation to that investigation.

**Mr DAVID ELLIOTT:** Well, I was very confident that my conduct—

**The Hon. ROSE JACKSON:** Were you confident because you knew—

**The Hon. WES FANG:** Point of order—

**The Hon. ROSE JACKSON:** —that the outcome from the very beginning—

**The Hon. WES FANG:** Point of order—

**The Hon. ROSE JACKSON:** —was going to be that there would be no action taken against you?

**The Hon. WES FANG:** Point of order—

**Mr DAVID ELLIOTT:** I was very confident in my own conduct over the course of the matter that you are referring to and I did not believe that there would be anything found against me.

**The CHAIR:** What is the point of order?

**The Hon. WES FANG:** The point of order is that the Minister is trying to answer the question and the Hon. Rose Jackson is continually interjecting within the answer that the Minister is providing. I would ask that the Hon. Rose Jackson allow the Minister to answer the question and then ask a follow-up question if she wishes.

**The CHAIR:** I uphold the point of order.



**The Hon. ANTHONY D'ADAM:** Minister, you have already indicated that you understand that it is in the public interest that the police Minister have an unimpeachable reputation. This situation clearly casts a cloud over you. You are now the subject of an investigation.

**Mr DAVID ELLIOTT:** You are talking about the firearms?

**The Hon. ANTHONY D'ADAM:** The firearms incident. Surely it is in the public interest, is it not, that you step aside until this matter is resolved?

**Mr DAVID ELLIOTT:** No, I do not believe so. As I said, it is being investigated. I am one of potentially dozens if not hundreds of people. In my mind, there was a mistake of fact that had occurred when I arrived at the firing range as the Minister to the commissioner. Now I will rely on—

**The Hon. ANTHONY D'ADAM:** That aside, Minister—

**Mr DAVID ELLIOTT:** Can you wait until I finish? Are you finished? Now I will wait for that investigation to conclude. I suspect that if Corrections has been found, as I believe it has been, to have been operating that particular rifle range illegally or in breach of the Firearms Act 1996 there will be a response from Corrections and, of course, those people who may have, like me, found themselves as victims of their mistakes.

**The CHAIR:** Minister, you just said that they have been operating it illegally.

**Mr DAVID ELLIOTT:** Potentially, yes.

**The CHAIR:** Now you are putting the word "potentially" in there.

**Mr DAVID ELLIOTT:** That is what I have been saying all morning—potentially—because it is an investigation. I am not going to pre-empt an investigation.

**The CHAIR:** Are you signalling what the result should be?

**Mr DAVID ELLIOTT:** I just said there is potential. As we always say when there is an investigation going on, potential, alleged—

**The CHAIR:** Well you did not say it before.

**Mr DAVID ELLIOTT:** I would ask Hansard to correct the record to say that I am referring to the matter as "potentially".

**The CHAIR:** Hansard cannot retrospectively change your words. You can elucidate it, which is what you are doing now.

**Mr DAVID ELLIOTT:** I am certainly not going to pre-empt the investigation.

**The Hon. ANTHONY D'ADAM:** Minister, I am failing to understand your interpretation of the higher standard that applies to Ministers. I am coming back to this question around the public interest. Can you explain how your conduct as you propose is adhering to a higher standard?

**Mr DAVID ELLIOTT:** I do not think Ministers should be engaged in the illegal transfer of mining licences. I do not think that they should be engaged in paedophile activity. I do not think that they should sell drugs. I do not think that they should be taking bribes from lawyers and inmates to get—

**The Hon. ROSE JACKSON:** But illegally using firearms is okay?

**Mr DAVID ELLIOTT:** Can I finish?

**The Hon. ROSE JACKSON:** Yes? All of that? No?

**Mr DAVID ELLIOTT:** I do not think Ministers should take bribes from lawyers and inmates to get an early release. I do not think that is a high standard but, as I have said before, this matter will be investigated. I was the Minister responsible for that firearm at that rifle range. I attended that rifle range in good faith. There was clearly a mistake of fact because I understood that the range master was complying with the same laws as the range masters that I served under in the military were under operating under. I did not ask to fire the weapon. The weapon was handed to me as an opportunity for me to see how those rank-and-file officers are trained in the course of their duties. As a result, I took a photo of it—or somebody took a photo of it—and we promoted the fact that this was a brand-new firing range available for corrections officers.

**The Hon. ROSE JACKSON:** Minister Sidoti has stood down pending an investigation into his conduct, why does a different standard apply to him than to you?



**Mr DAVID ELLIOTT:** I will wait to find out what Mr Sidoti is found to have been involved in, but I am certainly not going to—

**The Hon. ROSE JACKSON:** No, the question is that he is under investigation; he stood aside. You are under investigation; you refuse to stand aside.

**Mr DAVID ELLIOTT:** I will take that question on notice.

**Mr DAVID SHOEBRIDGE:** Minister, how do you explain that the National Rugby League [NRL] has a better integrity policy? At least, they have a no-fault stand-down policy. The NRL has a tougher integrity policy than your Government, how do you explain that?

**Mr DAVID ELLIOTT:** I will take that as a comment.

**Mr DAVID SHOEBRIDGE:** Don't you see? There have been concerns about footballers behaviour, the public has responded to it, the NRL puts in place a no-fault stand-down policy. There are concerns about your conduct and you have just put on the record a bunch of other concerns about previous conduct by politicians, and yet you have a lesser standard as a Minister than a footballer. How do you explain that?

**Mr DAVID ELLIOTT:** I do not think it is a lesser standard. As I said to you before, this matter is under investigation and I will be waiting to see what the result is.

**The Hon. ANTHONY D'ADAM:** Do you intend to consult the Premier about whether you should stand down?

**Mr DAVID ELLIOTT:** I am certainly not going to pre-empt conversations that I may or may not have with the Premier.

**The Hon. ROSE JACKSON:** You have indicated repeatedly in your answer that there are potentially hundreds of people who may be in similar situations to the one you find yourself in. Where is that information coming from? Who is suggested to you that that may be the case?

**Mr COUTTS-TROTTER:** That has come from Corrections.

**The Hon. ANTHONY D'ADAM:** Minister, can I ask you whether any police officers or members of Fire and Rescue had their leave cancelled due to bushfires across the State?

**Mr DAVID ELLIOTT:** Sorry, can you ask the question again?

**The Hon. ANTHONY D'ADAM:** Were there any police officers or Fire and Rescue members who had their leave cancelled during the bushfire crisis?

**Mr DAVID ELLIOTT:** Fire and Rescue and police?

**The Hon. ANTHONY D'ADAM:** Yes.

**Mr DAVID ELLIOTT:** Can I, first of all, say thank you? After an hour and a half I am finally getting a question on my portfolio. I am actually quite grateful—

**The Hon. ROSE JACKSON:** It would be much better if you did not illegally fire firearms so we could ask you about that from the beginning.

**The Hon. WES FANG:** Point of order: I raise a same point of order as last time. The Minister is answering a question and the Hon. Rose Jackson again continues—

**The Hon. ROSE JACKSON:** He was not answering the question.

**The Hon. WES FANG:** Now you are interrupting me.

**The CHAIR:** Order! Members will address all comments through the Chair.

**Mr DAVID ELLIOTT:** This last firefighting season was arguably the worst natural disaster the State has ever seen. It was obviously, by any stretch the imagination, an environmental catastrophe. Over the course of the season, which I am delighted to report is pretty much concluded, we saw something like six months of high tempo operations from all of our combat agencies. I would like to highlight to the Committee, and indeed to the community, that these fires started in August. There was a significant amount—

**The Hon. ANTHONY D'ADAM:** Minister, we have fairly limited time. It was a very specific question.

**Mr DAVID ELLIOTT:** I think context here is very, very important because it has taken me an hour and a half to start talking about the most significant natural disaster that this State has ever seen. I note that—

**The Hon. ANTHONY D'ADAM:** There is no opportunity for individual statements in this inquiry.

**Mr DAVID ELLIOTT:** If you keep interrupting we are going to have to give you the same rules that we have given Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** You do not set the rules, Minister. Just to be clear: You do not set the rules.

**The Hon. NATASHA MACLAREN-JONES:** Point of order: Allow the Minister to respond.

**Mr DAVID ELLIOTT:** I can take everything on notice though.

**The CHAIR:** Minister, by all means, take every question on notice. Please do.

**Mr DAVID ELLIOTT:** I note, however, that over the course of this last six months we have had up to 10,000 people deployed on operations, essentially on responsibility for responding to the natural disaster. I obviously, as the Minister, have a role as part of the State Emergency Management Plan. I have constant communication with the combat agencies and the commissioners of the combat agencies, but deploying and tasking and rostering those individuals is a job for the respective commissioners. I will probably invite the police commissioner and then the fire and rescue commissioner to answer questions about the rostering of officers.

**Commissioner BAXTER:** From Fire and Rescue's point of view, we did not reach the stage that I needed to do direct cancellation of any officer's leave. I am aware, however, that some of our officer's, because of their willingness to be involved in the response, offered up to reschedule some of their annual leave and came back to work voluntarily.

**The Hon. ROSE JACKSON:** Thank you, Commissioner Baxter. Commissioner Fuller?

**Commissioner FULLER:** New South Wales police mirrored the same response. There was no corporate direction about the cancellation of leave but particularly in rural/remote areas where officers were fighting fires and standing next to other emergency services I know that some officers came back to work.

**The Hon. ROSE JACKSON:** Have there been any provisions made for those officers who did voluntarily cancel their leave to have a break? Is it something that has been factored in?

**Commissioner FULLER:** There are two things. First is that they will not lose their annual leave entitlements; that is an absolute assurance. And secondly, thankfully, with all of the great work through firefighting and the weather is that there is ample time now for police and other emergency services to take a break, even though coronavirus is another challenge we are facing.

**The Hon. ROSE JACKSON:** Minister, do you think it is appropriate, given that both Commissioner Baxter and Commissioner Fuller have indicated that members of their forces and services cancelled their leave to ensure that they were fully present during the State emergency, that you did not cancel your leave? And in fact during one of the worst periods of this crisis that you have just described to us you were on holidays in Europe?

**Mr DAVID ELLIOTT:** First of all, there was no state of emergency when I left for leave. Secondly, you would find that all of those officers that had been deployed in the five months before I attempted to go on my family holiday had been rotated, which is the normal procedure.

**The CHAIR:** Minister, in March last year you said:

Have I missed something here 'cause I'm really struggling with the whole "shooters have rights too" thing

**Mr DAVID ELLIOTT:** Yes.

**The CHAIR:** What did you mean by that statement?

**Mr DAVID ELLIOTT:** If you see the context of what the debate was on that particular day I was highlighting to people that in Australia we do not have the right to bear arms the way that they do in the United States. Under our laws, my interpretation was that shooters do not have rights; they actually have obligations. My reading of the Firearms Act actually confirms that.

**The CHAIR:** Right. So shooters have obligations but you do not, is that what you are saying?

**Mr DAVID ELLIOTT:** We all have obligations, don't we?

**The CHAIR:** We have just listened to you for the last hour and three quarters talking about administrative errors in relation to yourself, but licensed shooters have no rights; they have obligations? Are you saying you have no obligations because you are the Minister?

**Mr DAVID ELLIOTT:** No, you are putting words into my mouth.

**The CHAIR:** I asked you a question. I am not putting any words in your mouth.

**Mr DAVID ELLIOTT:** I have answered it.

**The CHAIR:** You talked in terms of obligations. Why don't you have an obligation under the Firearms Act?

**Mr DAVID ELLIOTT:** I do not understand your question. Of course I have got obligations under the Firearms Act. Why wouldn't I?

**The CHAIR:** Minister, it is pretty simple. You have said that—and I have your actual quote here in front of me—there is no context there in relation to US firearms laws or any such thing.

**Mr DAVID ELLIOTT:** Maybe not there but—

**The CHAIR:** That is a complete figment that you have just made up.

**Mr DAVID ELLIOTT:** It is a pretty comprehensive thing to make up.

**The CHAIR:** Firearms owners have no rights but you do. They have obligations but you do not. Is that what you are saying?

**Mr DAVID ELLIOTT:** My view is that firearm holders do not have rights; they have obligations, because on that day there would have been some discussion about the right to bear arms in the United States.

**The CHAIR:** That is not what your post says.

**Mr DAVID ELLIOTT:** Okay. Well, that is what—

**The CHAIR:** That is not what your post says.

**Mr DAVID ELLIOTT:** Okay. Well, I would have to see what was—

**The CHAIR:** Do you stand by that post?

**Mr DAVID ELLIOTT:** Yes, because I do believe that firearm holders have obligations. They do not have rights.

**The CHAIR:** Right, and you do not have any obligations?

**Mr DAVID ELLIOTT:** I certainly do have obligations.

**The CHAIR:** Right. Do you think you have more rights than licensed firearm shooters?

**Mr DAVID ELLIOTT:** I just said that I do not think firearm shooters have rights. I do not think they have the right to bear arms. But we—

**The CHAIR:** No-one has talked in terms of the right to bear arms. You keep raising that.

**Mr DAVID ELLIOTT:** Okay. Well, you asked me the question.

**The CHAIR:** That is an American situation, not Australian.

**Mr DAVID ELLIOTT:** That is what I was referring to, Mr Borsak.

**The CHAIR:** It does not say that in your post.

**Mr DAVID ELLIOTT:** Okay. Well, I am terribly sorry. Read the rest of the—

**The CHAIR:** I did read the whole thing.

**Mr DAVID ELLIOTT:** Read the other entries.

**The CHAIR:** I did read the whole thing. There are only four lines there. There are only four lines. Do you think therefore that, somehow or other, your breach of the firearms laws now makes you special because it is only an administrative error?

**Mr DAVID ELLIOTT:** No, I do not. Just like I do not believe that the representations that have been made to me about a man who wanted a firearm after he had shot his family accidentally. Just like I do not believe that the person should have got a firearm who had been to jail twice for armed robbery and drug-related crimes. Just like I do not believe a man should have had a firearm for advocating—because it had been revoked based on a lengthy criminal history. The same way I do not believe a man should get a firearm because—or a club had been investigated because the firearm licences were subject—

**The CHAIR:** Minister, we are in furious agreement on that.

**The Hon. WES FANG:** Point of order—

**Mr DAVID ELLIOTT:** Okay. Well then, Mr Borsak, can I finish—

**The CHAIR:** We are in furious agreement with that.

**The Hon. WES FANG:** Point of order—

**Mr DAVID ELLIOTT:** Well then, if we are in furious agreement, Mr Borsak, why did you make representations to me advocating for all of those cases?

**The CHAIR:** I did not.

**Mr DAVID ELLIOTT:** You did.

**The CHAIR:** No, I did not.

**Mr DAVID ELLIOTT:** You certainly did.

**The CHAIR:** I have had to make hundreds of representations on behalf of firearms owners to your office—

**Mr DAVID ELLIOTT:** Yes, well, you have made representations of—

**The CHAIR:** —because of the total—

**The Hon. WES FANG:** Point of order—

**The CHAIR:** —and complete shambles—

**The Hon. WES FANG:** Point of order—

**The CHAIR:** —that the firearms industry is in.

**The Hon. WES FANG:** Point of order—

**The CHAIR:** Don't you yell here or I will throw you out.

**The Hon. WES FANG:** I am asking for a point of order.

**The CHAIR:** You do not yell over me.

**The Hon. WES FANG:** You do not ignore a point of order.

**The CHAIR:** Step up.

**The Hon. WES FANG:** I will step up, Chair, because you are not.

**The CHAIR:** I will ask the questions and I will decide—

**The Hon. WES FANG:** You ask a question and you get a response, Chair.

**The CHAIR:** Sit down.

**The Hon. WES FANG:** I am sitting down. What does it look like?

**The CHAIR:** Sit down and be quiet.

**The Hon. WES FANG:** Control yourself, Chair.

**The CHAIR:** You control yourself.

**Mr DAVID SHOEBRIDGE:** I have a point of order.

**The CHAIR:** You control yourself. You are not involved in this exchange.

**The Hon. WES FANG:** No, I know.

**The CHAIR:** That is right, so be quiet.

**The Hon. WES FANG:** No, no. There was a point of order called.

**The CHAIR:** Be quiet. You are out of order.

**The Hon. WES FANG:** There was a point of order called.

**The CHAIR:** You are out of order.

**The Hon. WES FANG:** You are the Chair. Act like the Chair.

**The CHAIR:** You are out of order.

**The Hon. WES FANG:** Act like the Chair.

**The CHAIR:** I am, and I am ordering you to stand down.

**The Hon. WES FANG:** You are not acting like the Chair. You cannot order me to do anything, Chair.

**The CHAIR:** I can do whatever I like.

**The Hon. WES FANG:** What you will do is understand and observe the standing orders. You are not doing so.

**The CHAIR:** You will be quiet.

**Mr DAVID SHOEBRIDGE:** To the point of order: If I understand, the point of order was that the Chair in his questioning had spoken over the Minister. I am not going to address that. I cannot remember now. But could I say that I think there are requirements on us to behave as best we can without yelling at each other. Rather than address this as a point of order, maybe we should all just reflect upon that and not yell at each other.

**Mr DAVID ELLIOTT:** Okay. So can I conclude my answer? Mr Borsak, you made representations on behalf of all of those case studies and more, so I am not really in a position to take a lecture from you over what rights and obligations firearm owners have.

**The CHAIR:** Can you table all of those, please?

**Mr DAVID ELLIOTT:** I would be delighted to.

**The CHAIR:** Please do.

**Mr DAVID ELLIOTT:** There will be some more.

**The CHAIR:** Please do. Mr Elliott, what exactly do you think about law-abiding citizens who have firearms licences?

**Mr DAVID ELLIOTT:** Sorry, can you repeat the question?

**The CHAIR:** What do you actually think about firearms licence holders—law-abiding citizens? What is your attitude to them?

**Mr DAVID ELLIOTT:** If they are law abiding I have certainly got no beef with them.

**The CHAIR:** If they are law abiding you have got no beef with them. Well, that is good to hear. That is very good to hear. Minister, what is actually happening in relation to fixing the problems at the Firearms Registry?

**Mr DAVID ELLIOTT:** Thank you for that question. As you are aware, on the back of representations from you and other members of Parliament we put a significant amount of work into improving the Firearms Registry. I am delighted that we are joined here today by both Assistant Commissioner Cook and the Firearms Registry commander Superintendent Bell, who may be keen to answer some questions and make some comments about this as well. Can I say, in relation to the Firearms Registry we currently have a headcount of 93. Four of those are authorised police positions and we believe that since August last year when I presented to this Committee last a number of significant changes have occurred, which have allowed for stronger ties within not only police operations but also to ensure that the practices of the registry make sure firearms do not fall into dangerous hands.

We included in those improvements an increase in the number of officers working at the registry. As I said, Assistant Commissioner Cook is here, who is a dedicated corporate sponsor and an additional point of

contact for customer service. We have got a new communication process, which I am sure your stakeholders are aware of, which sees SMS sent to licensees whose firearms have expired. Mr Cook or Mr Bell may be able to make some comments on that because one of the big concerns for the registry has always been people just assuming that when they move house and change their address with one agency that it has been changed with the registry as well.

The average number of days for processing a license now has gone from 18 days in the last year to just four days at the end of 2019. The average number of days processing renewals for category A and B have gone from 27 days at the start of last year to just three days at the end of 2019. The processing days for permits to acquire for categories C, D and H have gone from 64 days to just 35 days at the end of the last calendar year. I am very confident that the concerns that you raised with me not only through this Committee but privately about the registry have been addressed. I would like to pay compliments to Mr Cook, who has done a fantastic job in ensuring, as a corporate spokesman, the registry got the support that it required. I think before I hand over to—

**The CHAIR:** Can I just ask you a question on that and maybe through you to the Commissioner? Commissioner, have you been getting the resources cash-wise to get this job done properly?

**Mr DAVID ELLIOTT:** Can I conclude my answer before we go to another one—

**The CHAIR:** Okay.

**Mr DAVID ELLIOTT:** —because I may be able to answer that question in my remarks. With the online system in 2019 we actually had 105,392 online transactions, which I would have thought again for your stakeholders is a cause—

**The CHAIR:** That is through Service NSW?

**Mr DAVID ELLIOTT:** It is through the firearms licensing and lifecycle management system [FLIMS]. Ninety-one per cent of applications have been submitted online, so there was clearly in my mind a need for us to invest time and money into the use of IT. I am sure when I pass over to Mr Cook he is going to be very keen to talk about the dashboard which will be launched. Mr Cook, would you like to make any further remarks?

**Mr COOK:** Thank you, sir. We are in a position now to place a lot of the data in terms of our performance at the registry online. That will go up as a dashboard as soon as I have approval to put that online.

**The CHAIR:** Are you talking about key performance indicators?

**Mr COOK:** I am.

**The CHAIR:** I was going to go down that line but do you want to talk about it?

**Mr COOK:** Certainly. The key indicators that we will publish will be: firearm licence renewals, how many there are and the time frame it takes to process them; new firearms licence applications; permits to acquire a firearm application; firearm permit applications, other; minors permit applications; and then some overall trends about the number of licence holders population and the number of firearms in New South Wales. We are hoping that this provides transparency and openness about the performance of the registry. There is credit to Superintendent Bell over the past 12 months, who has put in considerable effort in regard to training people at the registry to ensure that decisions are made properly. He has put in a decision-making framework, completed an entire restructure. We have now moved into some technology focus projects in respect of opening community portals and dealer portals.

We anticipate by mid-June, towards the end of June, we will be able to go live on the dealers portal, which we hope will benefit dealers. The dealers association is supportive of what we are doing there. We are looking to also do further work in the portal space regarding permits to acquire and then perhaps mid-next year we should have all licensing in electronic portal space so that we can ensure proper accountability, proper audit and proper time frames for customers.

**The CHAIR:** Assistant Commissioner Cook, you are aware of the fact that there are many people in the bush that simply do not have the access to the systems you are talking about. What are you doing to fix that?

**Mr COOK:** Part of the corporate sponsor role, which I am the sponsor for and Superintendent Bell is the deputy sponsor, is about getting regional sponsors on board with us. There is a strategic firearms statement and there is a governance framework that we have put around who will do what. A big part of that is all police engaging at a local level and the registry engaging at a local level to ensure that customers have access to what they need. We are committed to making it easy for law-abiding firearms owners and licence holders to be able to access what they need to.

As you would be aware, we trialled 10 staff at Policelink on a temporary basis to improve customer service and focus, and ensure that they are receiving calls in an appropriate time. Over the past 12 months there has been a great success there where call waiting for those in the bush and other places has gone from about half an hour down to about 33 seconds. If we cannot resolve it there and with the transactions there, it is referred back to the registry for further consultation. We want to focus on improving the functions of the registry. Then we want to move into providing proper accountabilities and enforcement around those who do not abide by the rules. We want to deal with things by exception and we want to move into that enforcement area.

**The CHAIR:** That is interesting, Commissioner Cook, because earlier the Minister was criticising me for making representations on the basis of certain constituents, who then he purports to say did not deserve to have licences. What he omitted to say was that the police obviously have criminal intelligence that I am not privy to and that the police did justifiably refuse those licences. Is that true?

**Commissioner FULLER:** We would not know the answer to that, Mr Chair.

**The CHAIR:** I am talking in terms of process, not individual cases. The Minister attempted to verbal me in relation to certain representations I made, knowing full well that I do not have access to criminal intelligence and you do.

**Mr DAVID ELLIOTT:** Do I? I do not have access to criminal—

**The CHAIR:** You do, because you had that list provided to you.

**Mr DAVID ELLIOTT:** That is right, it was responded to me—

**The CHAIR:** That is right.

**Mr DAVID ELLIOTT:** —but I do not have the access to the—

**The CHAIR:** Minister, what you were doing was trying to verbal me—

**Mr DAVID ELLIOTT:** No, I was highlighting the—

**The CHAIR:** —pretending that somehow or other I knew that these people had criminal backgrounds and that—

**Mr DAVID ELLIOTT:** I never said that you knew.

**The CHAIR:** I am sorry, but that was the inference.

**Mr DAVID ELLIOTT:** Well, it certainly was not the inference from me.

**The CHAIR:** It was not, thank you. You have made that very clear. Let the *Hansard* show that.

**Commissioner FULLER:** Mr Chair, we are happy to hand up the dashboard. It will go live in the next week or so. It is not all good news—obviously there are some areas in that that clearly you will say you need to continue to do better, but it is the highest level transparency around transactions. Then it is something that you can look at regularly. Again, it is not just we have picked out a couple of things we are performing well in; it is most of the key indicators. You asked me a question earlier, Mr Chair, I did not get a chance to answer. In terms of the investment into the Firearms Registry is that the technical solutions are the key to a better customer-focused outcome. I acknowledge that not everyone will have a computer or an app but I think most people do have smartphones. Acknowledging that, some sense of a paper-based system will remain, but the paper-based system really has been one of the great challenges around providing timely outcomes for people applying for firearms.

**The CHAIR:** It would also add timely and accurately too. I do recognise and acknowledge that the paper-based approach to the whole thing has carried on for far too long. That is why I was a key advocate for the review and expenditure of funds on the Firearms Registry, going right back to Minister Gallacher when he was police Minister.

**Commissioner FULLER:** I appreciate perhaps the speed has not been up to your standard, Mr Chair, but every year I have come back and we continue to improve performance of the registry.

**Mr DAVID SHOEBRIDGE:** We have plenty of time to review that this afternoon too, Commissioner. Minister, when did you leave for your holidays? When did the holidays start and when did they end? By the holidays, I mean the ones you had over the Christmas period?

**Mr DAVID ELLIOTT:** I went on leave on the Friday after Christmas.

**Mr DAVID SHOEBRIDGE:** Do you remember—was it the twenty-seventh?

**Mr DAVID ELLIOTT:** No, I cannot remember. I will have to take on notice, and was advised on a Monday morning—sorry and had three days—two days in Singapore, went to London on the Monday, landed in London on the Tuesday, got told that there was a state of emergency, rebooked my flights and I think I was home on the Thursday or Friday.

**Mr DAVID SHOEBRIDGE:** I have that as the Friday after Christmas is the twenty-seventh.

**Mr DAVID ELLIOTT:** I think that is right, yes.

**Mr DAVID SHOEBRIDGE:** Then if you came back, did you say the Friday that followed?

**Mr DAVID ELLIOTT:** I would have to confirm that, but I am pretty sure it would have been the second or the third, yes.

**Mr DAVID SHOEBRIDGE:** Thursday the second or—

**Mr DAVID ELLIOTT:** Yes.

**Mr DAVID SHOEBRIDGE:** Do you remember if it was late or early? Did you come back in the evening?

**Mr DAVID ELLIOTT:** I came back and I think went straight to RFS headquarters.

**Mr DAVID SHOEBRIDGE:** Do you remember if it was late or early?

**Mr DAVID ELLIOTT:** It was dark.

**Mr DAVID SHOEBRIDGE:** When you decided to go on holidays, I will read you one headline that was playing at the time:

Australians are waking to one of the bleakest Christmases in years, with hundreds of homes destroyed by bushfires and road closures sending many holiday-makers' travel plans into chaos.

At least nine people have been killed this fire season as various uncontained blazes burn across several states.

This is one of a series of headlines that was happening at this time.

**Mr DAVID ELLIOTT:** What date was that headline?

**Mr DAVID SHOEBRIDGE:** That is from 25 December—so on Christmas. Two days before you jumped on the plane.

**Mr DAVID ELLIOTT:** Yes.

**Mr DAVID SHOEBRIDGE:** How in good conscience did you, as the Minister for emergency services, decide to go and jump on a plane and go on leave when we were all facing that?

**Mr DAVID ELLIOTT:** Thank you for the question because I think, given the public commentary about my very short overseas break, I would like to put it on the record that the plan for our family holiday originated over a year ago. So I had not just decided to jump on a plane. I am very reluctant to talk about my family life. But we buried my father, my father-in-law. My wife's recovery from cancer is not going too well. My son had just done his HSC and I just admitted my mother into a nursing home. So I had promised my sons that we would go on holiday, but I also had to give them the commitment that my obligation could be, in the event that there was a state of emergency, for me to return home. As soon as the commissioner told me when I arrived in London that there was a state of emergency, I left my family and I came straight home.

Can I also highlight the fact that, for me, this emergency did not start on 25 December. I had been at fire lines since August and I had, of course, had many, many weeks without even one day off. But having all of that, I have admitted that I should have put the RFS first. My family have accepted that the RFS should have come first, which is why I came home.

**Mr DAVID SHOEBRIDGE:** Minister, first of all—and I mean this genuinely—I feel genuine sympathy for the year you have been through. We all accept politics is a pretty brutal game on families. We do. But you see, the reason that the criticism has been directed at you is you actually had direct responsibility as Minister for emergency services. Under the Westminster system, the buck stops with you. If ever there was a time when all of those family concerns had to be put to one side and you needed to step up as the Minister and say, "I am sorry"—you accept that this was a dead wrong call.

**Mr DAVID ELLIOTT:** Yes, I have admitted to that but as I said to you before, the day that I left there was no state of emergency, there was not even a total bushfire, and, of course, under the Westminster system we



do have the ability to hand over our statutory responsibilities to another Minister, which is exactly what happened when Minister Roberts stepped up. As I said, from now on, for all the questions about this, I will be apologising to the RFS and I have apologised to the commissioner and every RFS person that I have spoken to. But can I also highlight the fact that it is impossible for Ministers to go for years on end without a break.

**Mr DAVID SHOEBRIDGE:** But, Minister, when a state of emergency is going to be declared—

**Mr DAVID ELLIOTT:** Well, I did not know it was going to be declared when I left.

**Mr DAVID SHOEBRIDGE:** Just let me finish. If a state of emergency was going to be declared, that would be a matter that the Minister for Emergency Services would ordinarily be consulted on.

**Mr DAVID ELLIOTT:** And I was, because Commissioner Fitzsimmons and I spoke about five times a day when I was away.

**Mr DAVID SHOEBRIDGE:** You see, Minister, the problem here is it was a dreadful situation when you left.

**Mr DAVID ELLIOTT:** Yes.

**Mr DAVID SHOEBRIDGE:** The question of whether or not a declaration of emergency would be made was squarely on the agenda.

**Mr DAVID ELLIOTT:** No, it was not.

**Mr DAVID SHOEBRIDGE:** Well, if it was not, it should have been. The person responsible for ultimately making that declaration was on a plane heading overseas for a European holiday.

**Mr DAVID ELLIOTT:** That is incorrect. The person—the RFS commissioner might want to answer that but the decision to declare a state of emergency is actually the Premier's.

**Commissioner FITZSIMMONS:** I write to the Premier.

**Mr DAVID SHOEBRIDGE:** The Minister for Emergency Services is intimately involved and it would be an extraordinary situation for the Premier not to have sought the advice of the Minister for Emergency Services before making a declaration. Do you agree with that?

**Mr DAVID ELLIOTT:** And she did.

**Mr DAVID SHOEBRIDGE:** Where were you?

**Mr DAVID ELLIOTT:** I was on holidays but we were speaking. As I said when I left, I would be in constant communication with the Premier, the commissioner, and in the event that a state of emergency was declared I would return. Again, I apologise to the RFS for putting my family first and I arrived home as swiftly as I possibly could. But if you are questioning the chain of command and the decision-making process, you have no right to because the commissioner and I were in daily communication. The commissioner, the acting Minister and the Premier were meeting daily and I was obviously speaking to the acting Minister and the Premier.

**Mr DAVID SHOEBRIDGE:** Minister, that is not what I am questioning. As I did with my questions about you holding a submachine gun without a permit, as I have with my concerns about the incident with you and a 17-year-old driver and again now with my concerns about you taking a holiday at a crisis time, my concern is with your judgement, the lack of judgement you are showing as the Minister for Police and Emergency Services.

**Mr DAVID ELLIOTT:** Okay. Well, I just go back to my family situation and I came back and apologised to the RFS.

**The Hon. ROSE JACKSON:** Minister, what day did you put in your application for this leave?

**Mr DAVID ELLIOTT:** I would have to take that on notice but we booked it around the election, so that would have been March.

**The Hon. ROSE JACKSON:** Was it approved quickly prior to that or can you give us a sense of when the leave was approved?

**Mr DAVID ELLIOTT:** I would have to take that on notice but it was certainly booked and approved before the fire season started.

**The Hon. ROSE JACKSON:** And who approved it? Was it the Premier?

**Mr DAVID ELLIOTT:** The Premier approves the leave, yes.

**The Hon. ROSE JACKSON:** Did you offer to the Premier at any point subsequently to cancel your leave?

**Mr DAVID ELLIOTT:** Yes.

**The Hon. ROSE JACKSON:** And what did the Premier say in response to that offer?

**Mr DAVID ELLIOTT:** I just refer you to Mr Shoebridge's comments. We have a Westminster system which allows for an acting Minister. And the Premier has said repeatedly that at no time during those six days that I was away did she feel unsupported.

**The Hon. ROSE JACKSON:** But let us just go back to it. You made an offer to the Premier to cancel your leave. When was that roughly?

**Mr DAVID ELLIOTT:** I would have to take that on notice.

**The Hon. ROSE JACKSON:** But sometime in December?

**Mr DAVID ELLIOTT:** Well, I think we were actually just talking about it from as early as September.

**The Hon. ROSE JACKSON:** So at some point once the bushfire season commenced you said, "Premier, should I cancel my leave. This is getting heavy."

**Mr DAVID ELLIOTT:** There is the option for—

**The Hon. ROSE JACKSON:** And she said, "No, it's fine. Don't cancel your leave."

**Mr DAVID ELLIOTT:** Under the circumstances, the various occasions—we had no way of knowing there would be a state of emergency declared on New Year's Eve.

**The Hon. ROSE JACKSON:** I appreciate that but I just want to clarify. You made an offer to cancel your leave and the Premier said, "No, it's okay. You can go."

**Mr DAVID ELLIOTT:** Well, she did not tell me to cancel it but that option was a live option for the entire season.

**The Hon. ROSE JACKSON:** You have talked publicly about considering cancelling your leave.

**Mr DAVID ELLIOTT:** Yes.

**The Hon. ROSE JACKSON:** You made a decision to proceed with the holiday. What made you change your mind? Was it just the calling of the state of emergency?

**Mr DAVID ELLIOTT:** When I left—when I did my handover to Minister Roberts I said to the commissioner and the Premier that in the event there is a state of emergency declared I will return home. When I arrived in London I received a phone call from the commissioner to say that it is likely the state of emergency would be declared, so I rebooked my flights and came home as quickly as I could.

**The Hon. ROSE JACKSON:** Was the likely declaration of the state of emergency delayed in order for you to come home or because of any time differences?

**Mr DAVID ELLIOTT:** No, and that is quite an offensive question.

**The Hon. ROSE JACKSON:** Well, I am just asking.

**Mr DAVID ELLIOTT:** Because a state of emergency is not something that governments enter into lightly but it also increases the tempo of the response from the combat agencies. You are suggesting that the Premier and the Commissioner of the RFS put lives at risk so that I could get home in time? That is offensive.

**The Hon. ROSE JACKSON:** No. What I am asking you is this: Were any operational decisions, be they the state of emergency declaration or any other operational decisions—

**Mr DAVID ELLIOTT:** I do not make operational decisions. The commissioner makes operations decisions.

**The Hon. ROSE JACKSON:** But you have admitted that you were consulted in relation to them. You were talking five times a day. You are intimately involved in these decisions.

**Mr DAVID ELLIOTT:** Yes, but I do not make the calls. I do not stand next to the commissioners and say, "Do this, do that." I am not a firefighter, I am not a paramedic, I am not an SES volunteer, I am not a police

officer. I sit there and I provide the support for the commissioners within Government. Most of the advice that I receive from the commissioners is public information which I am then required to disperse.

**The Hon. ANTHONY D'ADAM:** Commissioner Fitzsimmons, at what point in time did you flag with the Minister that there was a high probability that you would need to invoke the state of emergency provisions?

**Commissioner FITZSIMMONS:** I would have to take that specifically on notice but, as you would appreciate, there were only a couple of days that we are talking about when the Minister was out of the country, so there was communication through messaging and phone calls to keep the Minister up to date with certain things. But in terms of the decisions around operational determinations and pursuits of state of emergency advice, there was no impediment in doing that because my advice on that is directly, as the commissioner, through to the Premier and advising the Minister of that arrangement. I could find out specifically but I just do not have that—you know, there was a period through that time.

**The Hon. ANTHONY D'ADAM:** That would be appreciated. When did, I suppose, the discussion about the scenario of the likely state of emergency—when did you sort of start to think, "Well, gosh, we might actually need to declare a state of emergency?"

**Commissioner FITZSIMMONS:** We had three distinct periods during this season when the state of emergency declarations were invoked and they were typically invoked for 14-day periods.

**Mr DAVID ELLIOTT:** Ah, I think it was—

**Commissioner FITZSIMMONS:** Sorry, seven-day periods. And a state of emergency is about a heightened level of significant implication or threat to the citizens of New South Wales. There is a range of elements that are factored in in determining or recommending a state of emergency. Fundamentally, the powers and authorities under the Rural Fires Act through section 44 provisions provide for very strong arrangements for coordinated firefighting. But given some of the existing fire activity and the increase in the weather forecasts or the likelihood of the weather forecasts and the potential for fire spread to impact on much larger numbers of citizens or communities, they were the sorts of things that would drive the need for a state of emergency declaration. What that then does is it ensures a range of additional powers unequivocally delegated to certain officers within different agencies to give effect to the broader strategic actions and decisions that were being taken.

With all due respect to the Minister, his presence in the country or out was really somewhat immaterial in my advice or recommendation to the Premier to get that enacted, albeit that the regular dialogue and interaction would occur with the Minister around that sort of thinking. We were making, if you recall, particularly around that New Year's Eve period, post New Year's Eve where we saw very significant—you might remember on New Year's Eve, the thirtieth, was the evening we had that tragic accident to Sam McPaul down near the border—and it was New Year's Eve morning at times like 3.00, 4.00 and 5.00 a.m. that we were seeing fire behaviour that you would normally experience at 3.00, 4.00 and 5.00 p.m., particularly down through south-eastern New South Wales, the ranges and out towards the coast. It was that period thereafter, given the gravity of fire behaviour, fire intensity and fire spread and the potential for weather coming again and the need to protect and move people out of the South Coast, they were the triggers to invoke the state of emergency.

**The Hon. ANTHONY D'ADAM:** Is there a reason why we were not in a state emergency just prior to 31 December? As you say New Year's Eve was perhaps the most intense day.

**Commissioner FITZSIMMONS:** It was episodic, if you like. During the entire season, and remembering that this season we were averaging over 1,000 fires a month during winter—June, July and August—and that then intensified as we went from August through to September. We saw the first two fatalities in October. We saw seven fatalities in November. We saw five fatalities in December and then we saw another 11 fatalities in January. Throughout those many months of extraordinary fire behaviour there were different circumstances that necessitated and dictated different strategies, different decisions and different options. When it was considered appropriate, we invoked state of emergency provisions concerning certain fire situations and fire scenarios.

**The Hon. ANTHONY D'ADAM:** I am trying to clarify the precise mechanism. Who declares a state of emergency?

**Commissioner FITZSIMMONS:** The Premier.

**The Hon. ANTHONY D'ADAM:** The Premier makes the declaration and that is on advice from you. Is that correct?

**Mr DAVID SHOEBRIDGE:** Whoever is head of the agency.

**Commissioner FITZSIMMONS:** Of that lead agency, yes, correct. As a matter of fact in that sort of discussion I speak with all my colleagues—police and emergency services colleagues—the Minister and then the Premier and then I formalise that request in light of the circumstances. It is for a period of time and then it is reassessed, depending on the circumstances that then follow.

**The Hon. ROSE JACKSON:** Just going back to this question, New Year's Eve is understood to have been probably one of the worst days for fires that is right?

**Commissioner FITZSIMMONS:** Unexpectedly so.

**The Hon. ROSE JACKSON:** Is your response as to why a state of emergency was not declared because it was unexpected?

**Commissioner FITZSIMMONS:** The parameters and the thresholds in our view did not precipitate that as such in that point of time. But it is also fair to say on the New Year's Eve a.m. as opposed to New Year's Eve celebrations—so the night of the thirtieth going into the thirty-first in the morning—we saw fire behaviour at 3.00 a.m., 4.00 a.m. and 5.00 a.m. and significant homes being destroyed that was not forecast or expected. What we also saw throughout that period was that even with the best science and the best forecasters landing on fire predictions, you have got conservatively the fires might spread here, most likely it will go here and worst case scenario is here—that is crudely speaking. Historically speaking, our analysis shows the most likely is the most reliable prediction. We were finding in that very short window that in some areas we were actually seeing a number of these fires actually exceeding worse-case scenario, which is not the historical pattern.

We also had to adjust a lot of our public messaging and our thinking around the communities and the populations that would likely come under threat given those experiences, particularly of the New Year's eve a.m. set of circumstances, which then drove our thinking if this is happening now, and we have got worse weather going forward—and I am saying that speculatively because I have not got the details in front of me—then yes other decisions were taken to ensure the highest levels of arrangements were in place through the effect of a state of emergency declaration.

**(Short adjournment)**

**Commissioner FITZSIMMONS:** Just to clarify, prior to the break we were talking about the three state of emergency declarations: the first on 11 November, the second on 19 December and the third on 2 January.

**The CHAIR:** They were seven days each?

**Commissioner FITZSIMMONS:** They were seven days each and they typically co-related with existing fire behaviours and potential threat and/or the forecast for weather conditions, particularly some of those periods where we were experiencing the catastrophic fire danger ratings that came through those periods.

**The Hon. ROSE JACKSON:** In relation to the Thursday 2 January declaration—

**Commissioner FITZSIMMONS:** If that is a Thursday, yes.

**The Hon. ROSE JACKSON:** The Minister has provided some evidence that on Monday 30 December you phoned him and said "Look this is what"—

**Mr DAVID ELLIOTT:** No, to the best of my recollection the state of emergency was discussed on the thirty-first.

**The Hon. ROSE JACKSON:** That was on the Wednesday?

**Mr DAVID ELLIOTT:** Yes. So I started making arrangements to return home immediately—no, the thirty-first was the Tuesday. So I received a phone call from the commissioner during the day of thirty-first. He said to me it was bad. I do not know if in the first conversation we had that he mentioned that we were likely to go to a state of emergency, but I could tell by the tone of the conversation that regardless, if there was going to be a state of emergency, I would be returning home. I think later on the day he advised me, or my staff may have advised me or it could have been Minister Roberts, that it was coming. I was back in Sydney for either the second or the third. I will have to clarify that.

**Commissioner FITZSIMMONS:** I think the conversation also included that we had just lost Sam.

**Mr DAVID ELLIOTT:** Yes, sorry.

**Commissioner FITZSIMMONS:** I think when I tried to call you originally you were in the air but once you landed you messaged you would call me back.

**Mr DAVID ELLIOTT:** Yes, and that was the other reason why.

**Commissioner FITZSIMMONS:** Something like that.

**Mr DAVID ELLIOTT:** Yes.

**The Hon. ROSE JACKSON:** That conversation with the Minister on Tuesday the thirty-first was presumably after the early morning activity that you have just described to us—that 2.00 a.m., 3.00 a.m., 4.00 a.m. activity that was unexpected and very bad. You obviously saw the forecast and your modelling indicated that things were probably going to get worse. That is when you called the Minister?

**Commissioner FITZSIMMONS:** Yes. Do not hold me to account on the specific timing, if you would not mind, because there is a bit of a blur. By way of context, along with a couple of others, we were flown down by the ADF into the accident scene of Sam on the evening of the thirtieth. We were there with those affected by the accident and the family. We flew back very early on thirty-first. At that stage I was getting updates and what have you on the extreme fire behaviour down through the south-east of New South Wales. I was in conversation with Deputy Commissioner Rob Rogers about house lost and suspected more civilian casualties. So a range of things were happening on that morning. We then got back and tidied up for a press conference and then it was another awful and very busy day. The exact timing of when I spoke to the Minister I just do not know but it was following that period.

**The Hon. ROSE JACKSON:** The Minister has suggested that he remained in contact with you throughout this period, perhaps five times a day.

**Commissioner FITZSIMMONS:** Messaging.

**The Hon. ROSE JACKSON:** Were are you also having to get in contact with Minister Roberts five times a day in order to brief him? I am just wondering, who was talking to the Acting Minister. You are talking to the Minister, who is on leave.

**Commissioner FITZSIMMONS:** To be fair, a lot of that regular contact is messaging—updates and advice and that sort of thing. There would be less frequent phone calls, as there was engagement through messaging. The Acting Minister was present and/or receiving similar updates but also the Premier was very present, particularly through those difficult times. So a lot of the narrative was just a conversation or an interaction, a combination of phone calls and messaging, which is what we did throughout the entire season.

**The Hon. ROSE JACKSON:** Is the nature of those communications substantially just briefing, as in providing information, or are you—

**Commissioner FITZSIMMONS:** It can vary. It varies depending on the circumstances, depending on—

**The Hon. ROSE JACKSON:** Some nature of this communication is you receiving direction or feedback or some kind of instruction from the Ministers?

**Mr DAVID ELLIOTT:** We certainly do not—

**Commissioner FITZSIMMONS:** In various—sorry, Minister.

**The Hon. ROSE JACKSON:** Not necessarily in relation to a state of emergency declarations, for example, but is that the nature of some of that information that they are providing to you?

**Commissioner FITZSIMMONS:** My experience, without sounding obnoxious, is that there was very little, if any, direction given by the Premier or the Minister. It was, as it is in my experience with major disasters, more about what can we do to assist the effort. Have we got everything we need in place? Is there more we can do? Is there more you need of us? It is not like there were directions being given at all. It was actually about making sure that the Government understood the societal implications around the magnitude and scale of the fire activity and the potential threat. But also, some of the decisions were needing to be made, particularly in consultation with Mr Worboys as the State Emergency Operations Controller, which had significant dislocation or implication to people. If you take the South Coast, for example, and the timing we are talking about, the relocation of people, the evacuation of people, the movement of people, the temporary housing of people—they are more than the discussions, the briefings and the updates.

Having the discussion around what we are doing, why we are doing it, what else could be done, what are the other options—it is generally dialogue and conversation in person, but if we are not in person, then there are

messages or updates just to give a periodic update on general numbers and activity or matters that occur that are noteworthy as a new development.

**The Hon. ROSE JACKSON:** Those, say, were the instructions or information that you might give to the Ministers in relation to what they could be doing to support the work that your team is doing and the decisions that your team is making, primarily communicated by you to the Premier or to Minister Roberts or to Minister Elliot, in terms of giving the Government the information that it needs about all it can be doing? Who were you providing that information to? To all three of them or—

**Commissioner FITZSIMMONS:** Generally speaking, they were invariably present. During our busiest period they were present at the State Operations Centre from early in the morning through the day. As a matter of fact, we dedicated a space out the back where the Premier and the Minister and their people and teams would set up for the day. That would occur every day. And then also getting out and visiting different locations. Depending on the normal human interaction, it was face-to-face, it was messaging, it was telephone conversations.

**The Hon. ROSE JACKSON:** In that period of Friday 27 December to Thursday 2 January, the Premier and Minister Roberts were there in person and you were in conversation briefing them. And then were you messaging Minister Elliot?

**Commissioner FITZSIMMONS:** I would say invariably, and then I have a message group that I keep the Minister and others up to date on periodically as well.

**Mr DAVID ELLIOTT:** Just for clarity, I was at RFS headquarters on Friday 27 December.

**Commissioner FITZSIMMONS:** Correct.

**Mr DAVID ELLIOTT:** I left that evening. There were only six days that I physically was not located in RFS headquarters. But as the commissioner said, in the interest of making sure that you realise that we were accepting the state of emergency with the importance that it was delivered, the Premier and I actually moved our offices for most of the month of January into RFS headquarters. The Premier and I—I certainly moved my office. RFS headquarters was my primary place of work from about mid-November to probably a week after Australia Day, I think, I was operating out of RFS headquarters, not full-time—except in January when we were there pretty much full-time.

**Commissioner FITZSIMMONS:** There were early morning briefings with the Premier and the Minister or the Acting Minister. Then invariably we would all be present with colleagues for the press briefings and press conferences first up that morning as well to ensure that we had the messaging going out to the community in terms of what the latest was and what we were expecting.

**The Hon. ROSE JACKSON:** Thank you, Commissioner. I suppose I am just interested in the extent to which there was a lot of critically important communication flowing from you and others who were leading the response. Time was obviously of critical importance. I am just trying to get to the heart of whether, having to provide those physical briefings to the Premier and the acting Minister and then ensuring that the actual Minister was also briefed via messaging apps, in terms of your time being incredibly precious, how much more of an additional burden was that, having to ensure that?

**Mr DAVID ELLIOTT:** Sending a text?

**Commissioner FITZSIMMONS:** I did not see it as a burden. If I may, because usually even though the Minister went, the Minister's staff was still present. A lot of that I would say, without verballing, to the chief of staff, "Do you want to do another update to the boss on this?" I might not have personally done every one of them. There was a lot more going out because we were present and again confirming that that advice was being shared through the message groups and things like that.

**The Hon. ANTHONY D'ADAM:** Minister, you seem to have been taking it very seriously from a fairly early time—from early November, you said, I think.

**Mr DAVID ELLIOTT:** No, August.

**The Hon. ANTHONY D'ADAM:** August? You could see that there was an intensity, in terms of the crisis, a rising intensity. At what point in time did you recognise that this was a major crisis?

**Mr DAVID ELLIOTT:** I think the first day there was a stepped approach. I think from July the intel that we had that we could not get the level of hazard reduction that we wanted to get done was going to be a risk. In fact, as soon as I was commissioned back into the Emergency Services portfolio 12 months ago I knew that the drought would create a significant level of fuel loads for the bush. On top of that, winds and a number of other

weather patterns meant that the amount of mitigation that could have been done was not always done. The first fires arrived in August—unseasonably warm spring. So probably from day one of getting back into the ministry, we knew that this was potentially going to be a challenging season.

**The Hon. ANTHONY D'ADAM:** Did you at any stage during that period leading up to when you took your leave explore the option of cancelling—make inquiries with the airline about cancelling the flights?

**Mr DAVID ELLIOTT:** It was, as I said, a live option from about September.

**The Hon. ANTHONY D'ADAM:** Did you make those kinds of inquiries about cancelling flights?

**Mr DAVID ELLIOTT:** Did I make inquiries about cancelling flights? No. Why would I when I have travel insurance?

**Mr DAVID SHOEBRIDGE:** It is always good to check, Minister.

**Mr DAVID ELLIOTT:** Thanks for the tip.

**The Hon. ANTHONY D'ADAM:** Minister, can I ask about firefighters and whether they are currently defined as "frontline workers" for the purposes of the—

**Mr DAVID ELLIOTT:** Correct. Sorry, are they?

**The Hon. ANTHONY D'ADAM:** Are they?

**Mr DAVID ELLIOTT:** No.

**The Hon. ANTHONY D'ADAM:** They are not?

**Mr DAVID ELLIOTT:** I do not believe they are. Which firefighters are you referring to?

**Commissioner FITZSIMMONS:** I do understand the context of the question. What is the context?

**The Hon. ROSE JACKSON:** Let us start with Fire and Rescue.

**Commissioner BAXTER:** I presume you are relating to the classification that was given in the Government's Labour Expense Cap that was applied in 2013. For those purposes, Fire and Rescue was not classified as "frontline".

**The Hon. ROSE JACKSON:** Are staff at the RFS similarly not classified as "frontline"?

**Commissioner FITZSIMMONS:** In that context, yes.

**The Hon. ROSE JACKSON:** Minister, given the incredible work that Fire and Rescue and the staff at RFS have done over this bushfire season, would you not think it is appropriate to classify them as "frontline workers"—they are literally on the fire front?

**Mr DAVID ELLIOTT:** That is not a decision that I would make.

**The Hon. ROSE JACKSON:** Have you made representations to the Premier?

**Mr DAVID ELLIOTT:** Can you let me finish? Are you finished? That is not a decision I would make at an estimates committee. That is something that I would talk to the commissioners about. That is something that I would engage Cabinet about.

**The Hon. ROSE JACKSON:** Have you engaged your Cabinet colleagues about that question?

**Mr DAVID ELLIOTT:** Commissioner Fitzsimmons—

**Commissioner FITZSIMMONS:** I can clarify something. The reference we talked about was dating back to 2013. In the current regime of efficiencies in budgets, the fire services are exempt in their employee-related expenses.

**Mr DAVID SHOEBRIDGE:** That is for this round of the budget—from that general ruling.

**Commissioner FITZSIMMONS:** That is for the current assigned savings under the cluster arrangements where we have been exempted from employee-related expenses except for some senior executive figures, if that makes sense.

**The Hon. ROSE JACKSON:** Minister, is that arrangement going to continue, coming into the upcoming budget, or are we going to have to spend six months talking about it again?



**Mr DAVID ELLIOTT:** As you know, it is not my role to pre-empt the budget that will be handed down.

**The Hon. ROSE JACKSON:** It is your role to advocate on behalf of these services though, so have you made those representations?

**Mr DAVID ELLIOTT:** I am not at liberty to discuss Cabinet discussions in this Committee. But if you are asking me, as I hope you are, do I put the welfare and needs of all of our emergency services, both volunteer and salaried, at the front of all my deliberations when I deal with Cabinet and the Treasurer, the answer is a hearty yes.

**The Hon. ROSE JACKSON:** Have the commissioners made requests or representations to you in relation to the continuation of that arrangement, it going into the current—

**Mr DAVID ELLIOTT:** I am not going to discuss the deliberations going on for the 2020-21 budget.

**The Hon. ANTHONY D'ADAM:** Commissioner Fitzsimmons, when did the exemption come into operation? When were you advised of that?

**Commissioner FITZSIMMONS:** My understanding is it is in the current finance cycle. For the 2019-20 budget period—for a number of years we have been exempt when it comes to employee-related expenses. I can get you the specific timing on notice, if that is all right. So employee-related expenses are exempt from the savings. The only area relates to some savings in senior executive and what we call contingent labour.

**The Hon. ROSE JACKSON:** Mr Coutts-Trotter, how does it affect your work as secretary of the department, having these non-permanent rolling exemptions of some staff from the frontline work category in terms of decisions about how to meet your efficiency dividend? You do not even know, presumably, because we do not know—or perhaps you do but you are not telling us—whether or not those arrangements are going to continue into a budget cycle that commences in mere months. How on earth do you plan for that?

**Mr COUTTS-TROTTER:** You are not describing something that is new. I have had the privilege of being in government departments since 2004 and there has always been a massive degree of uncertainty about this, and, without sounding too whimsical, I think it is the Danish philosopher Soren Kierkegaard who says life has to be lived forwards but can only be understood backwards. Each and every budget you front up to a degree of uncertainty and kind of a lack of clear ideas about how you are going to deliver what you need to deliver. But each year you look backwards and, lo and behold, it has been done.

**The Hon. ROSE JACKSON:** Is it not the case that because of the way that the budgetary decisions in relation to exemptions have worked over the past few years that the consequence of all of that has been that other staff in the cluster and other areas in the cluster have had to take more substantial cuts in order to accommodate these, in some ways, last-minute decisions about who is and is not exempt from the dividend?

**Mr COUTTS-TROTTER:** To the extent that efficiency savings can only be delivered in certain functions and not in others, yes we are constrained—no cuts to the front line, no net reduction in regional jobs; they are well-established public constraints and commitments of the Government, we have to work with that, yes.

**The Hon. ROSE JACKSON:** How much more fat is there in those areas?

**Mr COUTTS-TROTTER:** My view about our own agency is very, very little; it is a very lean organisation. All of the functions of the so-called front line account for about 8.9 per cent of our operational expenditure, which compares to an average of a Commonwealth department of about 14 per cent. So it is pretty lean.

**The Hon. ANTHONY D'ADAM:** Minister, there has been some speculation about a wage freeze. Will you guarantee that neither unsworn or NSW Police Force members will be subject to a wage freeze?

**Mr DAVID ELLIOTT:** Where did you hear the speculation? Were you going on yesterday's budget estimates committee?

**The Hon. ROSE JACKSON:** We read about it in the newspaper.

**Mr DAVID ELLIOTT:** Okay. I will take it on notice. I cannot rely on the newspaper reporting.

**Mr DAVID SHOEBRIDGE:** Commissioner Fitzsimmons, first of all, we have got caught up in other matters, but I think on behalf of the whole Committee could I thank you and the work of RFS and Fire and Rescue and all emergency services over the summer—it was extraordinary. We get caught up in politics and the like, but I think we all collectively want to say thank you for that work.



**Commissioner FITZSIMMONS:** Thank you.

**Mr DAVID SHOEBRIDGE:** And if you could pass it on, if you can, to the staff.

**Commissioner FITZSIMMONS:** Absolutely.

**Mr DAVID SHOEBRIDGE:** And thank you, Commissioner Baxter, and to you, Commissioner Fuller—extraordinary work.

**Mr DAVID ELLIOTT:** And Commissioner York.

**Mr DAVID SHOEBRIDGE:** I am sorry, Commissioner York, I did not mean to leave you out. I forget sometimes you have changed uniform. Commissioner Fitzsimmons, this was a brutal fire season—as the Minister said, it started really in August. Is that when you see this fire season as having started?

**Commissioner FITZSIMMONS:** I think this season has been building for a period of time. We had a similar outlook last season with the potential for above-normal conditions down the Great Dividing Range—largely driven by the drought—the antecedent conditions and the forecast, but we did not get the elements that came together necessarily in the 2018-19 fire season like we did in the 2019-20. So the drought conditions tended to build and, as I indicated earlier, during June, July, August, which were our winter months, we were averaging over 1,000 fires per month and it really started to increase as we got into August, where we saw the first of our section 44 declarations and a lot of areas brought their bushfire danger period early because of the conditions. We issued nationally the outlook for south-eastern Australia, for Australia, that showed most of the Great Dividing Range, south-east Queensland, north-east Victoria and other parts of South Australia were expecting above normal. But it really intensified as the months rolled on.

**Mr DAVID SHOEBRIDGE:** I remember last time we were here in estimates—it seems a long time ago, but it was just September—you were telling us about those series of local government areas across the State that had a record early call for the fire season.

**Commissioner FITZSIMMONS:** Correct, yes.

**Mr DAVID SHOEBRIDGE:** That was August, September. Things then just got worse, did they not, and some of those days that we saw, particularly you mentioned New Year's Day and New Year's Eve, some of those days we just have not seen before—I have spoken to people who have said 47 degree temperatures, dry winds coming from the coast, combinations like we have never seen before—would that be fair?

**Commissioner FITZSIMMONS:** Yes. I know there are a few people out there that have difficulty with me using the word "unprecedented" for this fire season, but the reality is it was on so many dimensions—whether it was the underlying conditions or the antecedent conditions leading into this season, absence of moisture, above-average temperatures; whether it was the forecast and realised fire danger ratings throughout the season. We saw catastrophic fire dangers across the most populated areas of the State that we have never seen before in recorded history—Newcastle region, the Hunter, the Greater Sydney environment, the Illawarra-Shoalhaven. We have never seen so many deaths in New South Wales in a fire season, which is truly horrific. The number of homes destroyed this season has been unprecedented, with just over 2,400 homes destroyed. The area burnt, consumed by fire, just on 5.5 million hectares, we have not seen that before, and particularly along the forested country. You can go back into the early seventies and early eighties and find areas in central Australia and far western New South Wales where large grassland areas have burnt, but not even to the same amount of hectares in New South Wales as what we experienced this season.

The other thing that is important, if I may, Mr Shoebridge, is we did not see the disruption to the hot, dry air mass this season that we would typically see in previous seasons. What I mean by that, the bureau have already confirmed, I think, that it is one of the latest onsets recorded of any monsoonal activity that started disrupting the moisture in the northern end of the country to start influencing the hot, dry air mass that stabilised throughout the centre of Australia and across New South Wales, driving our weather month after month after month. Unfortunately, every periodic update for the next three months just showed above-average temperatures and below-average rainfall. It was not really until about Australia Day that we started to see some disruption with some moisture. Thank goodness, dare I say it, for some of the east coast low activity that started bringing some moisture in off the eastern coast as well because there was just an absence of moisture of any meaningful amount through the whole season.

**Mr DAVID SHOEBRIDGE:** That lack of disruption—the cold change or a southerly change or a wet front coming through—meant that the fires just built and built and built. There was not the respite that we have seen in previous seasons to get things under control.

**Commissioner FITZSIMMONS:** Correct. And as you indicated, we did see changes. We saw system changes, we saw fronts moving through the State. But they were invariably dry changes. We were seeing fire behaviour, as I mentioned before, at three, four and five in the morning that we would typically expect to see at three, four and five in the afternoon. We saw fires heading in the opposite direction as their traditional fire path. South-easterly winds that were typically maritime breezes that would bring moisture and an easing of conditions were actually resulting in extraordinary fire behaviour, spreading fires—

**Mr DAVID SHOEBRIDGE:** Hot, dry winds from the coast that we have never seen before.

**Commissioner FITZSIMMONS:** Even if those winds coming off the coast were more moist, the problem was the moisture deficit in the landscape and the moisture deficit in the vegetation meant that they were highly susceptible to ignition and very flammable and they were spreading very quickly. We saw the modelling of fire paths and fire spread exceeding worst-case scenario modelling which has been built over many decades now. We have got the best people in the country working here in New South Wales on those predictive processes.

The other thing was the spotting activity that occurs in forested country is unlike grassland. There was lots of debris. There was lots of bark, embers, twigs and leaves being blown many kilometres, tens of kilometres out of the main fire front and starting multiple new fires. Then you think you are getting on top of things. I remember one afternoon, it was probably during November, if not December—do not hold me to it—where we got down to about 40 fires that were active across the State and we were looking a lot better than we were in the weeks prior. Then 24 hours later we were back to 165 fires because the dry storms would come through and deliver very little, if any, rain but start lots more fires.

**Mr DAVID SHOEBRIDGE:** And lots of lightning. I have spoken to a series of people on the ground—residents and RFS workers—who described these pyrocumulus events that they had not seen happening before: large columns of effectively a storm created of ember and fire. Then on occasions where you would get a southerly front they would collapse and throw fire debris over kilometres.

**Commissioner FITZSIMMONS:** Correct.

**Mr DAVID SHOEBRIDGE:** Have we seen those kinds of events before in that number?

**Commissioner FITZSIMMONS:** I think it is fair to say we have seen them before but we have not seen them in the frequency. There was a far greater number of pyro-convective columns developed or pyrocumulonimbus events that started this season and they were identified and recorded in a number of different locations up and down the Great Dividing Range. I think the most talked about one would have been the horrific accident down near Jingellic that involved Sam McPaul. Talking about the downdraft that comes from those big columns—in addition to the lightning that occurs around them as well, starting more fires in and around the proximity of the fireground that they are working on—that downdraft or collapse, as it is often referred to, resulted in the flipping over of a 10-tonne fire truck and rolling over another vehicle on the fireground across hundreds of hundreds of metres. They were not in the same area. Interestingly, the available weather stations in that geographic area did not pick up that extraordinary cyclonic wind-type event. It was out of sensing from the weather stations. So we did see a number of additional pyro-convective columns this season.

**Mr DAVID SHOEBRIDGE:** You have described them as unprecedented.

**Commissioner FITZSIMMONS:** The conditions this season?

**Mr DAVID SHOEBRIDGE:** Yes, and I think pretty much everyone who has experienced them has had a similar characterisation. Is this the new normal? Have we got a change in weather behaviour—I would say driven by climate change—that we are going to see this as potentially the new normal? What is your understanding of that?

**Commissioner FITZSIMMONS:** I do not know if this is the new normal but it is an indication based on the current trends that we have seen over the past decade that we are getting longer, hotter fire seasons. We are getting fire seasons starting earlier. We are getting fire seasons lasting longer. Looking forward, the indications are for more frequent, more intense episodic events in weather scenarios. But I think we cannot go past, particularly, the compounding effect of the drought this year. If you have got that cycle pattern of longer, hotter seasons, you have got more frequent and intense weather events and you overlay that across a drought-stricken landscape, the absence of moisture anywhere just made everything so flammable.

Yes, there are—as we have been documenting now for a good decade or so—movements in the season. There are longer periods. There are more challenging circumstances around prescribed burning and that sort of thing, for example, in the out-of-season context and the windows of opportunity. Yes, I would sincerely hope we

do not see another season like we have just seen. I do not want to say this is the new normal but it is somewhat symptomatic of what happens if we have a continuance of a very dry, parched landscape and highly flammable fuel, overlaid with an absence of moisture.

**Mr DAVID SHOEBRIDGE:** Minister, do you accept that the impacts of climate change played a significant part in this dreadful fire season that we have seen? Do you accept that as an understood basic fact?

**Mr DAVID ELLIOTT:** We have had droughts and famines and floods and storms since biblical times. We have obviously had two ice ages. If you are asking me do I believe that the climate has changed, the answer is yes; historically the climate has changed. Am I horrified at the ingredients, the perfect storm that occurred over recent years to cause this season? Yes, I am, which is why I am a firm believer of being a good custodian of the Earth. It is the reason why last Sunday afternoon I took my family to do Clean Up Australia Day. It is the reason why I have 32 solar panels on my ceiling. It is the reason why I have recycled and grey water used in my house. I think we need to be good custodians of the Earth.

**Mr DAVID SHOEBRIDGE:** Does that include addressing the impacts that we have through human activity of increasing the amount of carbon in the atmosphere and driving through our own activities the kind of dangerous weather and dangerous climatic conditions that led to this season?

**Mr DAVID ELLIOTT:** I do not know about you but I have got 32 solar panels on my roof, which says to me that I am walking the walk. I do not know if you do. I have got grey water in my house. I have three recycle bins. I encourage all of the departments that fall under my portfolio to be good custodians of the Earth.

**Mr DAVID SHOEBRIDGE:** Just to be clear, you accept now that climate change had a significant impact on the severity and duration of the current fire season?

**Mr DAVID ELLIOTT:** The droughts are caused by the climate changing. That is why it does not rain. But are you asking me do I believe that we need to be good custodians of the Earth, which I think is common ground for you and I? Yes, we have to be good custodians of the Earth.

**The CHAIR:** Mr Fitzsimmons, you say in your evidence that 5½ million hectares of land was burnt in this fire event. Do you know how much of that was public and/or private, in terms of the break-up?

**Commissioner FITZSIMMONS:** Off the top of my head I do not but I am happy to take that on notice. There was a combination of public and private lands.

**The CHAIR:** Would it be right to assume that the majority was public land?

**Commissioner FITZSIMMONS:** I would not say that at this stage. A fair chunk of it would be forests and parks but there are also a lot of private holdings throughout the Great Dividing Range.

**The CHAIR:** You talked a lot about the debris and detritus in the forest and how it gets very dry. Could we be doing better in relation to doing this before the event as opposed to after the event? I look at the excellent services of the Rural Fire Service as a line of final defence, if you like. Do you have any comments in relation to what we might be able to do better year on year? Earlier in the Minister's evidence, he talked about not being able to do the hazard reduction in July before the season got started. Am I right in saying that, really, there is a process of not doing enough hazard reduction over the whole cycle of a number of years?

**Commissioner FITZSIMMONS:** It is fair to say we are not meeting our annual program each year. So on average for the last five or 10 years we are properly seeing about an 80, 85, 90 per cent, probably 85 per cent completion rate across all tenures, which is a marked difference to say where we were a decade or so ago when we were lucky to complete 40 or 50 per cent of the annual program. Hazard reduction is not the panacea to all ills and particularly a fire season like this. We noticed during this fire season that recently hazard reduced areas—only areas that had been burnt at a scale level in the last two years or so—fire was just burning through them under these really hot dry windy conditions. Having said that, when the conditions eased we did see fire behaviour moderate, which is the intention of a prescribed burn.

The other thing that is important is where we saw some prescribed burning activity that we completed successfully in say the last 12 or 18 months, they were beneficial as holding lines or containment lines or containment options. So there is absolutely a benefit and it is a critical tool to the fire management piece. But what I would say in answering your question, fire management is a very complex business. It is a multifaceted business that requires investment and effort at all levels. In New South Wales we have led the way nationally since 2003 in having building standards and planning controls around building in bushfire-prone areas so we can try and make people more resilient when it comes to deciding to live and develop and build homes in bushland areas. It

is also about an annual program of hazard reduction, whether that is burning, whether it is mechanical, whether it is grazing or some other techniques—

**The CHAIR:** You are now going into the next area that I was going to ask you about. What are the tools? You talked about one tool but what are the other tools that you would like to see rolled out more often?

**Commissioner FITZSIMMONS:** It is certainly about sensible planning and development controls, being mindful that in New South Wales and right across Australia there is a whole lot of legacy development that predates building standards introduced since 2003. Off the top of my head, there are over one million properties that abut the bushland interface in the forested country alone. It is fair to say that if we had our time over again we would not be building those places we are, perched right up on top of ridge tops, trees all the way up, decks encircling trees. It is great to feed the possums and the birds in the afternoon but then why are we surprised when the timber decks and the homes burn down in ferocious bushfires.

So there is a lot of legacy there that we have got but we have made a lot of improvement over recent decades: building resilience, investing in education. Time and time again when we do our research, our independent national research, into the hardest hit areas, one of the first things people say is, "I knew I should have done more. I wish I did more to prepare my home and prepare my family before impact." Unfortunately there is, through the research, a complacency and a lethargy that we all have in the Aussie culture: She'll be right mate. It will not happen to me. But when the conditions are lining up, it does impact us and it impacts a lot of us, as we have seen this season.

**The CHAIR:** To drill down a little bit further in that. We have now had some decent rains, obviously not everywhere we wanted but all the fires I think are out.

**Commissioner FITZSIMMONS:** Yes, they are good.

**The CHAIR:** Are we now in danger of doing what we normally do and have a quick inquiry—and I have seen plenty of those—and recommendations are put on the table and then shelved?

**Commissioner FITZSIMMONS:** In my experience I think bushfire and the RFS would be one of the most inquired into public debates on record.

**The CHAIR:** I agree 100 per cent with you but what I am talking about is the implementation of recommendations.

**Commissioner FITZSIMMONS:** I am going there, if I may. What I would say is—and I have not got the latest figures in front of me—that I do remember when I had a different role prior to being commissioner, since 1994 I think we have been the subject of about 40 or 50 parliamentary inquiries, coronial inquiries resulting in hundreds of recommendations—

**Mr DAVID SHOEBRIDGE:** We have counted 53.

**Commissioner FITZSIMMONS:** You have got 53. There you go.

**The CHAIR:** I think I have counted about 50.

**Commissioner FITZSIMMONS:** And there would be probably off the top of my head about 600 or 700 recommendations that came out of those. I can confidently say that the vast majority of those recommendations over that time have been implemented and have been adopted, even though people do not like to hear that. The reality is that it has and where recommendations have not been supported, it may be the decision of the government of the day or there may be good reason why recommendations come up that are not adopted or are not followed through. I would say as we go through this season, we owe it absolutely to the families and the loved ones of the 25 people that have lost their lives this season, we owe it to all those that have lost homes, we owe it to the men and women that just gave everything they had to try and save and protect as much as they could, to seek to learn from this season

What we have got to do is make sure that we have a very sensible, a very open social discussion about what can be done in the future to better prepare ourselves, respond to and recover from fires. As we have seen this season we have gone from the Queensland border all the way to the Victorian border, right along the Great Dividing Range, it is almost a continuous line of fire from the south to the north. There are only a few areas along the Great Dividing Range that have not been adversely affected. We absolutely owe it to everybody involved to make sure we learn and I am confident that we will with the independent inquiry that has been started in New South Wales, led by former Deputy Commissioner Owens and the Chief Scientist, whose name escapes me right now.

**Mr DAVID SHOEBRIDGE:** Mary O'Kane.

**Commissioner FITZSIMMONS:** Mary O'Kane. Then we have got the other overlay from the Commonwealth concerning the royal commission to have a look at a range of things as well. They are already holding community forums. They are already soliciting and seeking information, advice and views and opinions from firefighters and members of the community, which is important. That is all going to feed into capturing some learnings, as too will all the internal reviews that the agencies undertake and the volunteers undertake in terms of this season.

**The CHAIR:** Do you think that at any stage during this fire season and certainly at the peak of it that your service was so stretched that you had nothing left to throw into the fight?

**Commissioner FITZSIMMONS:** We were stretched right throughout the season, which is why we ended up going very early to activate our interstate and overseas arrangements to provide relief and to provide additional numbers. Off the top of my head, we ended up utilising somewhere around 6,000 or 7,000 interstate and overseas personnel to support the firefighting effort. By way of an example, if I may, the deployments this season, we have identified that just through our internal system alone RFS personnel completed more than 100,000 shifts across the season. We ended up engaging just on 5,000 people from across Australia and New Zealand. Then we had several hundred from the United States and Canada to support that in incident management teams, in New Zealand in IMTs as well and there were more than another 1,800 used on cross-border assistance with Victoria, the Australian Capital Territory and Queensland under those sensible arrangements. Absolutely all fire services and emergency services were stretched this season but we accessed and utilised the additional resources that we had arrangements with to affect that assistance.

**The Hon. ANTHONY D'ADAM:** Minister, I am just going to hand you a picture of the design of the promised \$1 million upgrade to the Karuah station and a picture of what was delivered. Given the new premises have been slammed by the Police Association of NSW is unfit for purpose, why was a substandard building delivered rather than a promised \$1 million upgrade?

**Mr DAVID ELLIOTT:** Thank you for the question. In relation to Karuah, that was obviously the first station that we have delivered under the Regional Small Police Station program. It is a standard single module building. Fabrication of these sections were completed offsite and delivered for assembly as part of the development. The new station will deliver sustainable modern premises that enable police service delivery while focusing on accessibility. It is ahead of schedule and I am hopefully going to go and open it very soon.

**The Hon. ROSE JACKSON:** Look at the picture, Minister. It is a prefabricated shipping container, is it not?

**Mr DAVID ELLIOTT:** I cannot—

**The Hon. ANTHONY D'ADAM:** It is a tip of the hat to the tiny house movement, is it not?

**Mr DAVID SHOEBRIDGE:** Which is a good one.

**The Hon. ANTHONY D'ADAM:** How much do they cost?

**Mr DAVID ELLIOTT:** I know that the overall budget—

**The Hon. ANTHONY D'ADAM:** Can I ask about Tea Gardens as well, which I think is a similar module?

**Mr DAVID ELLIOTT:** The overall budget, I will take it on notice.

**The Hon. ANTHONY D'ADAM:** Minister, can I ask you about Moama police station. It has been described as the worst designed police station in the State. You cannot get a noncompliant detainee into the cells; police officers, prisoners, men, women and children share one toilet. Given that Murray River Council is offering the New South Wales Government land next to the Rural Fire Service—the most visible site in the area—will you commit to prioritising the building of a new police station?

**Mr DAVID ELLIOTT:** At Moama?

**The Hon. ANTHONY D'ADAM:** Yes.

**Mr DAVID ELLIOTT:** Yes, it is going to be commencing next financial year. It has been re-prioritised as part of the capital works program.

**The Hon. ROSE JACKSON:** Minister, just looking at those photos we provided to you, can you see the obvious frustration that the community has when it was promised one thing and delivered something very, very different? Do you understand why the community—and, in fact, the local police—are so angry?

**Mr DAVID ELLIOTT:** I will take that on notice.

**The Hon. ROSE JACKSON:** Minister, I want to ask in the short time left just about the psychological impacts of the bushfire season, particularly on the first responders—on police, on the RFS volunteers, on Fire and Rescue NSW. It is fair to say that we are going to face a pretty substantial wave of stress-related injuries coming out of this critical bushfire season, are we not?

**Mr DAVID ELLIOTT:** Was that the buzzer that I just heard go off?

**The Hon. ANTHONY D'ADAM:** Ms Jackson was in the middle of a question.

**The CHAIR:** Minister, do you care to answer that question?

**The Hon. ROSE JACKSON:** I was just asking about the psychological impact of stress-related injuries.

**Mr DAVID ELLIOTT:** I was just taking direction from the Chair. The welfare of our emergency services is probably my top priority. I made that clear when I became the Minister, both this time and originally. It is certainly a passion that I have had over the course of my tenure as the veterans affairs Minister for Veterans Affairs over the Centenary of Anzac, particularly as we are obviously receiving a lot more contemporary veterans back into the workforce. I have taken it as a personal campaign for me to make sure that the mental health and psychological recovery of individuals exposed to the sort of natural disasters that we have seen in the last six months is the Government's priority.

I suspect you are going to ask this of the commissioners this afternoon, because it is probably one of the most important issues facing the community at the moment, but in relation to mental health over the course of the last six months, yes, I accept that we are probably going to have a significant amount of post-traumatic stress disorder [PTSD] displayed. I believe that there is going to be a long tail in that PTSD because a lot of the people who have been exposed to the trauma probably will not have a handle on their mental health for a couple of years. It happens all the time in combat agencies. We have firefighters, soldiers, police officers who are going down with PTSD up to 10 years after an incident. We need to make sure that these programs have got some serious depth.

**The Hon. ROSE JACKSON:** And presumably some serious funding.

**Mr DAVID ELLIOTT:** If you let me finish, I will talk about funding. It is not all about money, believe it or not. There are RFS critical incident support services, which includes peer support. Peer support is obviously not something that is significantly expensive, but my experience in the veterans space, particularly with the RSL, is that nobody really fully appreciates the burden of trauma better than somebody who has experienced the trauma with you. That is why the RSL is such a successful organisation and why the Retired Police Association of NSW is such a successful operation.

My first and last comment on PTSD is always going to be to talk to somebody who knows what you are going through, because they are going to be providing the best level of support. Of course, psychologists are important. That is why we have the ability for officers and the rank and file to go to their general practitioner. They can obviously seek the services of chaplains. I can confidently say that I am very comfortable with the chaplaincy services that are offered by all the agencies. In the RFS we have the Employee Assistance Program, which is also a confidential free counselling service to those officers. I am happy to go on, but I would encourage you in this afternoon's deliberations to talk to each individual commissioner about what they are doing in their space, because obviously the challenges are slightly different from one to the next.

**The CHAIR:** Minister, thank you very much for coming today.

**Mr DAVID ELLIOTT:** It has been a pleasure.

**The CHAIR:** We will break now until two o'clock and then recommence questioning.

**(The Minister for Police and Emergency Services withdrew.)**

**(Luncheon adjournment)**

**The Hon. ROSE JACKSON:** Commissioner Fuller, has New South Wales police closed its investigations into allegations that Angus Taylor or his office used a forged document to influence Lord Mayor Clover Moore and other City of Sydney councillors in the exercise of their public duty?

**The Hon. WES FANG:** Wow. Really?

**Commissioner FULLER:** Yes.

**The Hon. ROSE JACKSON:** Obviously not every referral to New South Wales police results in the establishment of a strike force, thankfully, so why did you establish Strike Force Garrad in this instance?

**Commissioner FULLER:** Investigations that would see an enormous amount of public scrutiny, from my perspective, it is just important from the public perception that there are reasonable resources put into it. It is also much easier if you have a strike force name capturing what would be a rolling investigation.

**The Hon. ROSE JACKSON:** What did Strike Force Garrad investigate? What conduct did they look into? What offences did they investigate may have been committed?

**Commissioner FULLER:** Just to recap, I received I guess what you would call a letter of complaint from the shadow Attorney General in October indicating that there may have been an alleged forged document by Mr Taylor's office—that is paraphrasing a two- or three-page letter. As I said in the press, it was a well-constructed legal letter. I thought, given the profile of everyone involved, it deserved an investigative strategy in terms of that. The offence itself, if we were honest and that came in as a run-of-the-mill civilian without financial real loss, the likelihood of that being investigated in terms of a fraud is extremely low.

Again, I felt as though from ethical standards and what would the community expectations be that a portent of such importance or an office attached to a person of importance that that matter should at least have a preliminary investigation into it. It was a not a technical fraud. It was an allegation of fraud and offence that is rarely used but an offence that does exist nevertheless.

**The Hon. ROSE JACKSON:** You used the term "preliminary investigation" there but the investigation that was done by New South Wales police, was that a preliminary investigation or was that a proper investigation?

**Commissioner FULLER:** It was a proper investigation done where the investigation reached a point that if an offence had occurred it had occurred in the Australian Capital Territory. Therefore, standard procedures are that we would give that to the police force or agency with jurisdiction on that matter.

**The Hon. ROSE JACKSON:** Did the investigation conducted by Strike Force Garrad determine that a City of Sydney document had been forged?

**Commissioner FULLER:** No, but the document that was put online by City of Sydney was a document—there are two types of documents, as I understand: There is a document that is put on as a set document and then there is a PFT-type document, which you can save and make changes. It was the latter, and therefore in terms of the technical aspect to the investigation, I then identified that if the document was altered then it was altered in the Australian Capital Territory.

**The Hon. ROSE JACKSON:** Did the investigation determine whether Minister Taylor or his office had provided a forged document to journalists at *The Daily Telegraph*? Did they establish that?

**Commissioner FULLER:** No. To do that, even if we kept the investigation, just say it happened in New South Wales, then it would have required search warrants on probably two journalists and certainly wherever that offence took place by whom.

**The Hon. ROSE JACKSON:** The investigation did not determine that that did not occur. What you are saying is that at a stage prior to that determination being made either way you reached the conclusion that you described earlier in relation to the jurisdictional issues.

**Commissioner FULLER:** Yes.

**The Hon. ROSE JACKSON:** Did New South Wales police determine who created the forged document that might be relevant to where it was created, who had created it?

**Commissioner FULLER:** No.

**The Hon. ROSE JACKSON:** Minister Taylor said that his office downloaded the document from the City Of Sydney website on 6 September. He has also referenced his office accessing the document on 9 September. Did New South Wales police establish when Minister Taylor or his office downloaded the documents from the City of Sydney website?

**Commissioner FULLER:** I would have to take that on notice.



**The Hon. ROSE JACKSON:** It would be useful, if you did investigate that element, if there was a date that you determined that they did access the document and what that date was.

**The Hon. WES FANG:** Point of order: While the Hon. Rose Jackson is able to ask questions of the commissioner, she is not able to direct the commissioner to conduct investigations of any sort. I would ask you to ask her to refrain from doing so and to just ask informative questions of the witnesses.

**The CHAIR:** Can you rephrase the question?

**The Hon. ROSE JACKSON:** Sure. Did the investigation conducted by the New South Wales police determine on what date Minister Taylor or his office potentially accessed the documents? I say "potentially" because obviously you took the question of whether it did determine on notice. If indeed it did determine that, do you have the date?

**Commissioner FULLER:** I will take that on notice as well.

**The Hon. ROSE JACKSON:** Did New South Wales police review the City of Sydney's metadata in relation to the annual reports determining that they had not been altered or changed or removed since they were initially uploaded? Did you look into that element?

**Commissioner FULLER:** I will again take that on notice.

**The Hon. ROSE JACKSON:** Did you review the Google analytics from the City of Sydney to demonstrate how many downloads there were of the annual report between the relevant dates 6 and 9 September?

**Commissioner FULLER:** Again, I will take that on notice.

**The Hon. ROSE JACKSON:** Did New South Wales police determine the location of any IP addresses for direct downloads of the annual report between 6 and 9 September?

**Commissioner FULLER:** I will take that on notice.

**The Hon. ROSE JACKSON:** Specifically, did New South Wales police examine if Minister Taylor or any member of Minister Taylor's office visited the URL of the documents on the City of Sydney website or shared them via email or some kind of electronic messaging service?

**Commissioner FULLER:** I will take that on notice.

**The Hon. ROSE JACKSON:** Did New South Wales police find any evidence that the document Mr Taylor or his office provided to journalists at *The Daily Telegraph*, the alleged forged document, that that document had ever existed on the City of Sydney's website?

**Commissioner FULLER:** I will take that on notice.

**The Hon. ROSE JACKSON:** As part of the investigation, did New South Wales police request any documents or other material from Minister Taylor or his office? Was that part of the investigation you conducted?

**Commissioner FULLER:** I will take that on notice.

**The Hon. ROSE JACKSON:** Did they provide you any material? Are you aware, as part of the investigation of Strike Force Garrad, as to whether any information or documents were provided to that investigation by Minister Taylor or his office?

**Commissioner FULLER:** Again, as part of those broader questions, I will take that on notice.

**The Hon. ROSE JACKSON:** Did New South Wales police ask to interview Minister Taylor as part of their investigation? Do you know if they requested to interview him?

**Commissioner FULLER:** I will take that on notice.

**The Hon. WES FANG:** Point of order: I understand the Hon. Rose Jackson's interest in this matter—probably from a party political standpoint. However, we are starting to diverge dangerously into operational matters which are of a nature that this Committee is not authorised to be discussing in budget estimates.

**Mr DAVID SHOEBRIDGE:** To the point of order: The adequacy or otherwise of a police investigation, especially given the highly politicised nature of it, is clearly open for us to review in budget estimates. If there is any State secret or secret police material that the commissioner is aware of, he fully knows how he can make that call.



**The CHAIR:** There is no point of order. The commissioner knows how to handle these things. He is very experienced and I am sure he will answer in the proper way or take it on notice.

**Mr DAVID SHOEBRIDGE:** And he has not been overwhelming us with comment on the record for the moment.

**The Hon. ROSE JACKSON:** I asked a question about whether you requested an interview with Minister Taylor and you took that on notice. My follow-up would be: If you did request that, how did he respond? Did you in fact interview Minister Taylor as part of that investigation?

**Commissioner FULLER:** I am taking for granted—although I should not—that "you" means the strike force investigators?

**The Hon. ROSE JACKSON:** Apologies. Yes, I will try and be more clear on that. I do mean Strike Force Garrad.

**Commissioner FULLER:** Again, only for the sensitivity of this matter, I will take that on notice rather than guess in terms of what the details are of every day of what the investigators did in relation to the matter.

**The Hon. ROSE JACKSON:** I appreciate you taking questions on notice that you do not know the answer to and I think that is appropriate. Some of the more detailed ones—I do understand that. But if there are questions that you do know the answer to it would obviously be useful for our purposes if you were able to—

**The Hon. WES FANG:** Point of order: Again I am going to reiterate that the Hon. Rose Jackson is able to ask questions of the witnesses and seek a response. To direct and provide commentary on how the witness is answering those questions is highly inappropriate and for her to call into question the integrity of the witnesses is downright disrespectful. I would ask you to remind her that she is responsive to the procedures for the procedural fairness resolution of the House.

**The Hon. ROSE JACKSON:** I mean no disrespect to the commissioner. I was merely trying to establish the basis on which we are conducting this back and forth. Apologies if you consider that disrespectful, Commissioner. In relation to the investigation conducted by Strike Force Garrad and the potential interview of Minister Taylor it would be useful to know when that occurred. Do you have any information?

**The Hon. NATASHA MACLAREN-JONES:** Point of order: The witness has already said that he has taken that on notice. You are implying that witnesses have been interviewed or not, so I ask that the member rephrase the question rather than have a hypothetical.

**Mr DAVID SHOEBRIDGE:** To the point of order: The implication is being read entirely from the member making the complaint. There was no implication. It was a simple, bare request for information.

**The Hon. ROSE JACKSON:** I will move on. Did New South Wales police ask or offer to interview any of Minister Taylor's staff as part of the investigation?

**Commissioner FULLER:** I will take it on notice. Can I just say as a general comment, with this matter and other matters I had not directed any of the investigating police or otherwise in terms of what they should or should not do. Just so you know, I am not being elusive or I am not trying to dodge questions. But for a commissioner to get involved in the sort of granular detail on who someone should or should not interview in the matter is highly irregular. Just in the case of those questions I am sure we can answer them all.

**The Hon. ROSE JACKSON:** Yes. Apologies, Commissioner. I do not ask these questions because it is my assumption that you provided these instructions. I ask them in case you have information in your extensive briefings that goes to the answer to these questions that you would be able to provide as a witness here today. That is why I am asking you.

**Commissioner FULLER:** My organisation will have that information.

**The Hon. ROSE JACKSON:** Great. Did New South Wales police and Strike Force Garrad interview any family or friends of Minister Taylor in relation to this investigation?

**Commissioner FULLER:** I do not have the knowledge of who they may or may not have interviewed. We will take on notice that anyone who they may or may not have interviewed—I will take that on notice as a question.

**The Hon. ROSE JACKSON:** Let us go to the referral of the investigation to the Australian Federal Police. Can you just give us a sense again about why that referral happened? What led to that decision?

**Commissioner FULLER:** The officers investigating the matter had reached a conclusion that if there was an offence committed by a person it was within the Australian Capital Territory. Technology is not my friend. I do not understand data as well as obviously the people from cybercrime do. I can take on notice how they arrived at that conclusion, but it would be standard protocol through jurisdiction and I guess I would raise that—

**The Hon. ANTHONY D'ADAM:** Yes, if you could take that on notice—

**Commissioner FULLER:** Yes.

**The Hon. ROSE JACKSON:** So you were not involved in the decision to conclude the investigation or transfer it to the AFP?

**Commissioner FULLER:** Absolutely not. Certainly my office would have prepared a covering report to send it to the Australian Federal Police.

**The Hon. ROSE JACKSON:** Obviously the alleged offence clearly did have an impact on New South Wales. A publication was in *The Daily Telegraph* and it related to public officials from the City of Sydney council. I suppose I am interested to ask why you chose to refer the matter in its entirety to the AFP as opposed to request their assistance in relation to an investigation that New South Wales police conducted that clearly did have an impact on New South Wales?

**Commissioner FULLER:** I do not agree with that assertion. From mine, I was just following normal protocols. Whilst there is enormous public interest in matters from time to time, I just find that if you follow the rules, life is a lot less complex.

**The Hon. ROSE JACKSON:** The referral that New South Wales police provided to the AFP—what did that say? Did it cite any offence provisions? What was the detail of that referral?

**Commissioner FULLER:** I will take that on notice as a question.

**The Hon. ROSE JACKSON:** It was done in writing?

**Commissioner FULLER:** Yes.

**The Hon. ROSE JACKSON:** Would you be able to table a copy of that correspondence?

**Commissioner FULLER:** I certainly do not have that correspondence with me but I will take that as a request on notice.

**The Hon. ROSE JACKSON:** Thank you. Did you provide any material to the AFP when you made that referral—any supporting documentation or other sort of evidence that Strike Force Garrad may have collected?

**Commissioner FULLER:** Again, I will take that on notice in terms of what material we provided the AFP.

**The Hon. ROSE JACKSON:** Shortly after New South Wales police received the referral, Commissioner, you said:

... I actually don't feel as though the allegations themselves are serious, in terms of the things that I would normally stand up and talk about the types of crimes ...

Did the New South Wales police take the investigation seriously?

**Commissioner FULLER:** The fact that I gave evidence earlier that if this was a civilian complaint this would be risk assessed and would not be investigated—but because of the person's office I felt as though it was in the public interest that New South Wales police act ethically and transparently and commence the investigation that we did.

**The Hon. ANTHONY D'ADAM:** How many hours' time was dedicated to the investigation?

**Commissioner FULLER:** Look, I have no idea but I can certainly take that on notice. Not a definitive question—but I can certainly let you know how many officers worked on it broadly for how many weeks or days.

**The Hon. ANTHONY D'ADAM:** Did you make these kind of comments in a private capacity to other members of the police?

**Commissioner FULLER:** Which comments are they?

**The Hon. ANTHONY D'ADAM:** About it not being something that you would take seriously.

**The Hon. WES FANG:** Point of order: We have already discussed this in a previous point of order but for the Labor members in this Committee to be calling into question the police commissioner of this State and what he may or may not have said to other police officers in a private capacity is highly inflammatory and irregular. The members should really consider what it is that they are implying in a budget estimates hearing about the State's commissioner.

**Mr DAVID SHOEBRIDGE:** To the point of order: The members are implying nothing from their questioning and there is no special protective measure for the police commissioner or the Minister or any witness if the questions relate to budget estimates. Provided they are not inflammatory or abusive, they are in order.

**The Hon. WES FANG:** To the point of order: I remind Labor members and Mr David Shoebridge from The Greens that the procedural fairness resolution is in place and a level of respect and courtesy is to be provided to the witnesses at all times.

**The Hon. ANTHONY D'ADAM:** I do not think we were being discourteous.

**The Hon. ROSE JACKSON:** We were being very courteous. The entire point of budget estimates is to ask these difficult questions.

**The Hon. ANTHONY D'ADAM:** We did not raise our voices, Mr Fang. We did not yell.

**The CHAIR:** There is no point of order. The questioning is appropriate. I did not hear any disrespect and I am sure if the commissioner wants to answer that question or not it is purely up to him.

**Commissioner FULLER:** Can you revisit the question?

**The Hon. ANTHONY D'ADAM:** The question was: Did you tell any other officers effectively not to take this investigation too seriously?

**Commissioner FULLER:** No.

**The Hon. ANTHONY D'ADAM:** Were the officers that were tasked with this investigation directed to take the allegation seriously?

**Commissioner FULLER:** We would never task someone with such a stupid comment because that is not the way that New South Wales police operates. We are a professional organisation that takes every investigation seriously. I am on the record saying that this was not in theory a matter a commissioner would normally stand up, and I stand by that. It is not.

**The Hon. ANTHONY D'ADAM:** Would you describe Scott Morrison as one of your best friends, commissioner?

**Commissioner FULLER:** No.

**The Hon. ROSE JACKSON:** Do you see him socially?

**Commissioner FULLER:** No. I certainly see him if there is a local event, as the local member. I reckon probably two years ago would have been the last time, but no.

**The Hon. ROSE JACKSON:** Obviously we are asking because he has described you as one of his best friends.

**Commissioner FULLER:** I did not see that commentary. I do not know what an assessment of a "best friend" is. But I am also on the record in saying that I have never been to his House. I have never had a barbeque with him. He has never been to my house. Certainly in respect of functions as a Commissioner of Police or a Prime Minister, are we in the same room? Yes, we are. If he was here today, would I go and say hello and talk to him? Yes, I would. But I think this idea that we are best friends—

**The Hon. ROSE JACKSON:** As I said, we have not made that up. He is the one that said to Neil Mitchell on 3 September 2018 that you and Andrew Scipione are two of his best friends. I suppose we are asking you to respond to the suggestion that he has made.

**The Hon. WES FANG:** What are you implying?

**Mr DAVID SHOEBRIDGE:** That the Prime Minister was not being truthful.

**The Hon. WES FANG:** Is that what you are implying David?

**The CHAIR:** Order! What is your point of order?

**The Hon. ROSE JACKSON:** I am more than happy to imply the Prime Minister is not truthful.

**The Hon. WES FANG:** Is that what you are implying?

**Mr DAVID SHOEBRIDGE:** Yes.

**The Hon. WES FANG:** Go and say that outside.

**The CHAIR:** What is your point of order? There is none.

**Mr DAVID SHOEBRIDGE:** Commissioner, I think you gave some answers about the current staffing at the Firearms Registry earlier.

**Commissioner FULLER:** I do not think I did. I think it was mentioned that there are 83 current positions at the Firearms Registry and there are 10 positions at Police Assistance Line. So that is a total of 93 and all those positions are filled as I am briefed.

**Mr DAVID SHOEBRIDGE:** When was it that there was a full headcount, if we could describe it that way?

**Commissioner FULLER:** I asked as recently as yesterday when the headcount was in terms of people in positions and I was told all the positions are full.

**Mr DAVID SHOEBRIDGE:** It would be fair to say that for the great bulk of the period from 2017 until now, there have been very substantial vacancies at the Firearms Registry?

**Commissioner FULLER:** We went through an enormous period of change and there was a structural change, which we spoke about at length at last budget estimates. My commitment was at last budget estimates that now we have settled the structural change, the positions that we needed, that we would fill those positions. I think that Mr Cook and Mr Bell have done a great job filling those positions.

**Mr DAVID SHOEBRIDGE:** Were there sufficient staff in the Firearms Registry in the period from March 2017 to June 2019 to do the kind of necessary proactive work, such as inspecting firing ranges at correctional facilities? Did you have the staff necessary to ensure the law was being complied with at firing ranges across the State?

**Commissioner FULLER:** I am happy that the audit schedule that we have in place is improving all the time, but I would say that one thing that has probably been compromised more than anything with the changes in staff has been the time frames that we have gotten back to gun owners. That is the significant delays that have been caused by the vacancies: the service that we provide to people wanting to register as a gun owner.

**Mr DAVID SHOEBRIDGE:** My question was about whether there were adequate resources in the Firearms Registry to do one of its critical jobs, which is to inspect firing ranges, including those in correctional facilities, to ensure the Firearms Act was being complied with. Were those resources in place from March 2017 to June 2019?

**Commissioner FULLER:** In two parts, it is my understanding that licensed firearms dealers et cetera, they are audited. It is not just the Firearms Registry that has that responsibility. In fact, general duties and local police visit gun owners. This is a shared responsibility across 17,000 police.

**Mr DAVID SHOEBRIDGE:** I am asking not about individual gun owners or about the rapidity with the paperwork for individual gun owners. My question has been very specific about investigations, spot checks, visits to firing range facilities, including the one where it appears the then corrections Minister, now police Minister, was unlawfully firing off a submachine gun.

**Commissioner FULLER:** More than happy to take that on notice.

**Mr DAVID SHOEBRIDGE:** Is it true that in March 2017 out of a total of 92 positions, there were 17 vacancies; in May 2018 out of a total of 95 positions there were 16 vacancies; in July 2018 there were 17 vacancies; and as recently as June 2019 there were 27 vacancies out of 95 positions? More than a quarter of the staff unfilled in June 2019?

**Commissioner FULLER:** We have talked about this at every budget estimates. I will take that on notice to confirm those numbers.

**Mr DAVID SHOEBRIDGE:** Mr Bell is probably closer to the ground on those numbers.

**Commissioner FULLER:** Mr Bell was not here from 2017 and 2018. We will take on notice all answers to those questions.

**Mr DAVID SHOEBRIDGE:** He was there in June 2019. Mr Bell, were there 27 vacancies in June 2019? I am reading this from some internal Firearms Registry emails that were produced under Standing Order 52. Were there 27 vacancies as recently as June 2019?

**Mr BELL:** Mr Shoebridge, I cannot give specifics.

**Mr DAVID SHOEBRIDGE:** I am happy to show you the document.

**Mr BELL:** It is obviously fluid in terms of staffing over the time, to the point now we have filled all our positions. But as the commissioner said, we can take those on notice in terms of specifics.

**Mr DAVID SHOEBRIDGE:** That is an email, I think, from the executive director. It says in black and white that more than a quarter of the positions in the Firearms Registry were vacant in June 2019. Do you accept those figures? Do you have other figures to put to us?

**Mr BELL:** With respect, I cannot see who it is from. We would have to double-check and get back to you.

**Commissioner FULLER:** We are happy to take that on notice and we will certainly answer that question. But I am happy that we have concluded the restructure and that performance continues to improve and we have all our positions filled.

**Mr DAVID SHOEBRIDGE:** When was the last time that there was an audit of the firing range at the John Morony Correctional Centre undertaken by New South Wales police?

**Commissioner FULLER:** I will take that on notice.

**Mr DAVID SHOEBRIDGE:** When was the last time there was a spot visit at the firing range by any member of the Firearms Registry to the John Morony Correctional Centre?

**Commissioner FULLER:** I will take it on notice.

**Mr DAVID SHOEBRIDGE:** When was the last time there were any steps taken by New South Wales police to audit, investigate, review or the shooting range at the John Morony Correctional Centre?

**Commissioner FULLER:** I am happy to take that on notice.

**Mr DAVID SHOEBRIDGE:** Commissioner, as recently as 23 January the police Minister wrote to the Clerk of the upper House in response to answers he had given to questions to the Legislative Council in relation to searches following drug dog operations. He said this:

Since this information was tabled, I have been advised from the NSW Police Force State intelligence commander the data provided for questions 1 and 2 were developed differently from that applied on all other occasions to the production of NSW Police Force statistics. NSW Police Force also advise that the methodology had not been peer reviewed. As a result, I attach the new data in response to questions 1 and 2 in the questions of notice.

Did you provide the Minister with the relevant advice about the changed numbers on drug dogs?

**Commissioner FULLER:** What advice in particular are you talking about?

**Mr DAVID SHOEBRIDGE:** I assume the Minister relied upon advice from your force that said that the number of searches following drug dog operations was less than previously advised.

**Commissioner FULLER:** I will take it on notice. Obviously, if you can let me see the correspondence it will help us in developing the answer.

**Mr DAVID SHOEBRIDGE:** I am happy to show you the correspondence now.

**Commissioner FULLER:** I acknowledge that letter, but there was obviously other correspondence which I will need to source to ensure that I provide you the correct answer.

**Mr DAVID SHOEBRIDGE:** To give you the context, New South Wales police had said that the data—this is in comments provided to the ABC *Fact Check*—they had previously provided regarding sniffer dogs and drug dogs was incorrect and produced using an untested methodology.

**Commissioner FULLER:** That sounds like someone should not have used an untested methodology, I assume.

**Mr DAVID SHOEBRIDGE:** I think we are on a unity ticket there. How on earth is it—

**Commissioner FULLER:** I am happy to take it on notice to find out how that happened.

**Mr DAVID SHOEBRIDGE:** Let me finish the question, Commissioner. How on earth is it that the police are providing answers to the Parliament using an incorrect and untested methodology? What has gone wrong in your force?

**Commissioner FULLER:** I am certainly disappointed, but I am also happy that we identified that, you have been written to and that has been clarified. I always apologise when we make mistakes. It certainly would not have been any malice in misleading anyone. No doubt this has been properly picked up and rectified, as it should.

**Mr DAVID SHOEBRIDGE:** Was there a request from the police Minister for a review of the drug dog data that initially provided a false positive rate of 76 per cent and has now gone on this revised data to a false positive rate of 69 per cent? Was there a request?

**Commissioner FULLER:** Not to my knowledge, but I can certainly take it on notice.

**Mr DAVID SHOEBRIDGE:** All right. Can you explain either now or on notice, what was the fault with the original methodology and what was the change in methodology that produced the changed figures?

**Commissioner FULLER:** I guess there is an assumption on both of those things and they both could be wrong, but I get the gist of your question.

**Mr DAVID SHOEBRIDGE:** I accept that, commissioner.

**Commissioner FULLER:** I will take that on notice in terms of bringing you clarification.

**Mr DAVID SHOEBRIDGE:** All right. Are you aware that this is, I think, the fourth time in the last nine years that the NSW Police have revised, and revised down, the number of searches that they say historically they have undertaken using drug dogs?

**Commissioner FULLER:** I do not understand the question.

**Mr DAVID SHOEBRIDGE:** Well, this is the fourth occasion that the NSW Police have given revised figures, retrospective revised figures, about their drug dog operations.

**Commissioner FULLER:** If you could give me those four occasions in writing then I can provide some commentary on that for you, as a question on notice.

**Mr DAVID SHOEBRIDGE:** But up to now you were not aware that there had been this repeated pattern of getting it wrong from your own staff?

**The Hon. WES FANG:** Point of order: The member is now applying a level of commentary to a proposed set of facts that he is putting forward. I ask that he just ask the witness a question and allow the witness to provide an answer.

**Mr DAVID SHOEBRIDGE:** I will have the commissioner try again to provide an answer. Commissioner?

**Commissioner FULLER:** I guess I was asking for the evidence of those four occasions because they may not have all happened in the last three years during my—

**Mr DAVID SHOEBRIDGE:** No, I said nine years.

**Commissioner FULLER:** I understand. That is my point. If the three of them happened before I was the commissioner, then I am probably not aware of them. So I ask if you could provide me the evidence of that so I could provide you an appropriate answer on notice.

**Mr DAVID SHOEBRIDGE:** I was here when that all happened.

**Commissioner FULLER:** But I was not here.

**Mr DAVID SHOEBRIDGE:** But I am asking if you had any knowledge that this is the fourth time—

**Commissioner FULLER:** No, no, and I asked for the evidence.

**Mr DAVID SHOEBRIDGE:** And the answer seems to be no.

**Commissioner FULLER:** No. I asked for the evidence.



**Mr DAVID SHOEBRIDGE:** I am asking about your knowledge, not about my evidence. Do you have any knowledge of the repeated errors?

**Commissioner FULLER:** No.

**The CHAIR:** Commissioner, maybe through you to Superintendent Bell, the Firearms Registry recently posted on its website a document called *NSW Firearms Licensing and Ownership Information*. Given the findings by the Audit Office in February 2019 that among other things, "the Registry's processes do not ensure all data is accurate when added to the Register ... the Registry is aware that data in the Register is not accurate and up to date and data cleansing programs have been discontinued", did you validate the accuracy of the data in that document before posting it?

**Commissioner FULLER:** And again I would go to Mr Bell. However, I would say, Mr Borsak, Chair, that we have spent an enormous amount of time trying to synthesise the data. If you understand, there are Roads and Maritime Services records and a whole range of other records that it takes to do that. Often that is why there are significant delays when people provide information in terms of licences and addresses do not match and names do not match and dates of birth do not match. There will never be a perfect process for synthesising across multiple government agencies where people are providing different addresses, et cetera. However, I will pass to Mr Bell in terms of answering the specific question about the document that went online.

**Mr BELL:** Yes. Mr Borsak, they did find a number of areas where there were delays in refreshing information. Some of those delays are built within the system in terms of seven-day delays for uploads and so on. Some are linked to other factors but we are working with the systems we have now. As the commissioner said, we are reliant a lot on the firearms licence holders and other industry stakeholders to self-report and advise us of issues in terms of movement of the safe storage location, where they reside and so on. They have their obligations, as you are aware, under the legislation to comply with their requirements as a responsible firearms licence holder. But we are working through a full transformation of the registry at this point in time, which has already commenced with the structure, policy, processes and systems and a foundational component of that is—which the commissioner and others have referenced earlier—a new digital platform, which will address these issues. The key thing for us is real-time information sharing and risk identification.

**The CHAIR:** That is a good point. What form is this new digital platform going to take?

**Commissioner FULLER:** It is an app that will be easily downloaded. It will be cost effective in the sense that it will not require expensive software purchases or expensive computers. We will trial it against the licensed gun dealers first and then, with a view to rolling that out. But from all accounts and what I have seen at the moment, it is pretty exciting in terms of providing very good service to those who are owners or registered owners of firearms.

**The CHAIR:** Obviously as part of the rolling-out process, and that is what you were talking about before, you will have to do some pretty extensive validation, I would have thought. If I was to take up that app and then turn it on and find that perhaps a bunch of firearms are in my name that are not—it could be anything, really, because there have been problems historically with moving the register around—how are you going to cleanse it? That is what I am saying.

**Commissioner FULLER:** We will start with the dealers, which are such an important connection in terms of the movement of firearms around New South Wales and other States and Territories. The feedback from all the dealers is that they are very much looking forward to this technical solution themselves. That will be a great starting point in terms of making sure that the app itself is fit for purpose for the licensed gun holders in New South Wales.

**The CHAIR:** Now that you mention deals, I am aware of the fact that the Firearms Registry recently undertook a survey of firearms dealers. Is that true?

**Commissioner FULLER:** I would have to take that on notice.

**Mr BELL:** That was done by the Dealers Association.

**The CHAIR:** That was done by the Dealers Association in conjunction with the registry or—

**Mr BELL:** They shared that information, Mr Borsak, which was positive support.

**The CHAIR:** They shared the information. Thank you. My asking you what the results of the survey are is really useless. I will go to the association and they will give me the same results that they gave you?

**Mr BELL:** We got that from the president.

**The CHAIR:** Thank you. Again to the commissioner and maybe to Superintendent Bell, the NSW Police *Standards of Professional Conduct* booklet, version 14 July 2017, included a new requirement for employees to sign a declaration attesting that they had read and understood the code and that if they failed to comply with the code of conduct and ethics they may be subject to management action. How many of the registry's employees, including the 10 employees in the PoliceLink's call centre, have not yet signed a declaration?

**Commissioner FULLER:** I could take that on notice but I will see if Mr Bell has an answer.

**Mr BELL:** Could you just repeat the time frame please, Mr Borsak?

**The CHAIR:** I am talking about the NSW Police *Standards of Professional Conduct* booklet, the latest version of which was promulgated on 14 July 2017, I think. It included a new requirement for new employees to sign a declaration attesting that they had read and understood the code and that if they failed to comply with the code of conduct and ethics they may be subject to management action. My question is based on that: How many of the registry's employees, including the 10 employees who are now located in the PoliceLink call centres, have not yet signed the declaration?

**Mr BELL:** As the commissioner said, I would have to take that on notice.

**The CHAIR:** Thank you. As a general question, commissioner, the recommendations of the Audit Office from their audit in February 2019, there were 10 recommendations. Can you perhaps give us a run-down of where you are up to or where the Firearms Registry is up to in terms of implementing those 10 recommendations of the Audit Office report?

**Commissioner FULLER:** I would have to take the progress on notice but I can say that we accepted all 10 recommendations, and even before the report was handed down many of them we had worked through and completed. Some of them are technical solutions that we are still working through but if I could take that on notice in terms of making sure that the completeness of the answers is correct—

**The CHAIR:** Thank you. Commissioner, back in November 2018 the New South Wales Government promised you an extra 1,500 police posted across the State, including of course rural and regional areas, and that was to be rolled out over the next four years. Deputy Premier Barilaro said, "This boost in police numbers will benefit regional and New South Wales communities and reduce response times." Now that we are one and a half years down the track, how many of these 1,500 extra police have thus far been placed into rural police stations?

**Commissioner FULLER:** Mr Chair, if I could take it back to 2017, when I started as the commissioner I went through a re-engineering process. So if you wrap up the changes that I brought to the organisation structurally up until this date, 331 additional police have been created or moved to regional New South Wales. On 1 July this year there is an additional allocation of police, and I can get you on notice the number of police that are likely to go to the bush. There certainly has been a settlement in terms of numbers between New South Wales police, the Police Association. I just need to get Government endorsement on that, which I am confident of, and then I can give you what would be from 1 July the number of police since 2017 that we have either moved to the bush, or positions that we have created.

**The CHAIR:** Thank you. Have you mapped out where these 1,500 police will be allocated?

**Commissioner FULLER:** We have a broad allocation but it is not locked in because we know the crime environment changes from year to year. We know communities change and we know droughts have an impact and what used to be rural crime was the theft of animals, livestock, now it is diesel and water. So we know the environment changes so, whilst we have a broad view over the last four years, there is an enormous amount of flexibility in the last two years.

**The CHAIR:** For example, how many will be going to the Murrumbidgee police district? How many have been placed already in Murrumbidgee so far?

**Commissioner FULLER:** I will have the answer to that in terms of how many have, and in terms of a potential allocation I could give you that, knowing that perhaps in the last year allocation they need more than what we thought they did because of community growth or other environmental factors. There is a margin of flexibility in that, which is a good thing. It is the first time New South Wales police has had the flexibility to put police where we need them.

**The CHAIR:** Do you reasonably expect to have the 1,500 police fully placed within the four years?

**Commissioner FULLER:** So we are moving into year two, 1 July this year. The 1 July 2020-21 will be the third year and 1 July 2021-22 will be the last year allocation.



**The CHAIR:** Do you expect to achieve that target?

**Commissioner FULLER:** It is not the hope. We have made significant changes to the way that we recruit police. We used to recruit three times a year, which caused all sorts of problems around recruitment and retirement and you were not getting a consistent flow of new troops out into the PACs and the districts. Next year we will have a record six classes a year. We are recruiting big numbers at the moment. We are an employer of choice for gender equity and we have never turned out a better quality recruit than we have at the moment.

**The CHAIR:** What proportion of those 1,500 will be located in regional areas?

**Commissioner FULLER:** Again, I can give you a definitive based on the first two years. I could give you an estimate based on the second two years, noting that there is flexibility in terms of environmental changes.

**The CHAIR:** I can take it you will take that on notice and provide it?

**Commissioner FULLER:** Absolutely.

**The Hon. ANTHONY D'ADAM:** Commissioner Fuller, do you recall the telephone conversation you had with Scott Morrison about Angus Taylor referred to on 26 November?

**Commissioner FULLER:** Yes.

**The Hon. ANTHONY D'ADAM:** Did you only have one conversation with Scott Morrison, on 26 November?

**Commissioner FULLER:** Yes.

**The Hon. ANTHONY D'ADAM:** How did Scott Morrison contact you?

**Commissioner FULLER:** By mobile phone.

**The Hon. ANTHONY D'ADAM:** Did he call you on your personal mobile phone?

**Commissioner FULLER:** I have one work phone.

**The Hon. ANTHONY D'ADAM:** It is the official phone, is it?

**Commissioner FULLER:** Yes.

**The Hon. ANTHONY D'ADAM:** How long was the call between you and Mr Morrison?

**Commissioner FULLER:** I estimate it on record between four and six minutes.

**The Hon. ROSE JACKSON:** Do you know how he got your personal phone number?

**Commissioner FULLER:** No.

**Mr DAVID SHOEBRIDGE:** Is that your only mobile phone?

**Commissioner FULLER:** At the time, absolutely it was, yes.

**The Hon. ROSE JACKSON:** Could you describe what the Prime Minister said on the call?

**Commissioner FULLER:** Yes, because he was absolutely unaware that we had commenced an investigation so he was just interested in how that started. I had to sort of explain that twice. He was very short of time. At that stage the investigation had not commenced in the sense of uncovering fresh evidence. He did not ask me anything about the evidence, nor did I then have any information to give to him. It was just him trying to assess the understanding that there was an investigation potentially into one of his Ministers. Again, I explained that twice. I received a letter, and I thought the letter was of merit worthy of investigation and that the matter had been referred. There was a strike force that will look into the matter and we will try to get it finished as soon as we can, and I ran through that twice.

**The Hon. ANTHONY D'ADAM:** On notice, are you able to provide the Committee with a log of how long and the exact time that conversation took place from your phone records?

**Commissioner FULLER:** I can try to get those phone records but, again, I am on record saying four to six minutes. We will attempt to get the exact time of the phone call.

**The Hon. ROSE JACKSON:** Obviously, Commissioner, as is well known on the public record, the Prime Minister subsequent to the phone conversation with you went into Federal Parliament and indicated that, based on his conversation with you, he saw no reason for Minister Taylor to stand down during the investigation.

I appreciate that was his conclusion but are you able to provide us with any evidence as to what you said to the Prime Minister that might have caused him to come to that conclusion about the nature of your investigations?

**Commissioner FULLER:** At that stage, other than a letter of complaint from a third party—remember this is a third party—there was no evidence to suggest that anyone had done anything wrong. This was not a victim who has come forward with potential evidence; this is a third party. I could not have, even if I had it, because there was no evidence at that stage to actually even substantiate that there was a criminal offence.

**The Hon. ROSE JACKSON:** Have you spoken to the Prime Minister about this matter on any other occasion, via email or SMS perhaps?

**Commissioner FULLER:** I do not have his email account. The only thing I would say, and just correcting for the record, is that I believe he actually mentioned it in question time before he called me he was going to ring me, which I think is an important distinction in a sense of transparency.

**The Hon. ROSE JACKSON:** Yes, that is right—he indicated that and then he did call you and then he went back into the House and said that, based on his conversation with you, he did not feel as though Minister Taylor needed to stand down.

**Commissioner FULLER:** I certainly did not provide any advice and guidance on the future of Mr Taylor or anyone else in that phone conversation.

**The Hon. ROSE JACKSON:** The former Prime Minister Turnbull indicated that he would not have made such a phone call and considered it inappropriate. Did you feel—

**The Hon. WES FANG:** Point of order: The Hon. Rose Jackson is now asking for an opinion—

**The Hon. ROSE JACKSON:** No, I am not if you let me finish the question—for once.

**The CHAIR:** Let the question be heard first.

**The Hon. ROSE JACKSON:** Did you feel uncomfortable at any time in your phone conversation with the Prime Minister? Did the thought cross your mind about whether it was appropriate for you to be having that phone conversation with the Prime Minister?

**Commissioner FULLER:** It certainly did not at the time. I say that on the basis that the Prime Minister did not ask me a single question that challenged my office or his office ethically.

**The Hon. ANTHONY D'ADAM:** Were you expecting the call?

**Commissioner FULLER:** No.

**The Hon. ANTHONY D'ADAM:** It just came out of the blue?

**Commissioner FULLER:** Yes.

**The Hon. ANTHONY D'ADAM:** Were you surprised?

**Commissioner FULLER:** At that stage, I felt as though the investigation was still really a matter that only New South Wales police knew about.

**The Hon. ANTHONY D'ADAM:** Earlier in the session the Minister indicated a change in the commitment around Moama police station. Can you clarify for us, is that a proposed upgrade or a complete rebuild of that station?

**Commissioner FULLER:** I will have to take the question on notice. I know that we have moved it forward in our capital works. I have seen the building and I would be nervous to say that you could actually repair it. If I could just take it on notice exactly what is the capital expenditure in relation to that police station.

**The Hon. ROSE JACKSON:** Commissioner Baxter, I echo the comments made by my colleague, Mr David Shoebridge to Commissioner Fitzsimmons and his team, and thank you and the team at Fire and Rescue for all of the work that you and your team did over the bushfire crisis. I know that for Fire and Rescue it was also a very difficult and busy time. If you could please pass on our thanks to your guys as well that would be great. We talked with the Minister about the impact of the frontline worker characterisation on the application of the efficiency dividend. Thank you for explaining the way that that works currently. Have you made any representations to the Minister about the classification of Fire and Rescue guys as frontline workers? Is that something that you have talked to him about?

**Commissioner BAXTER:** Firstly, thank you for the acknowledgement of the work of our staff. I know that will be greatly appreciated by our firefighters, who did exceptional work. We have had ongoing conversations with the Minister with regard to the impact of the labour expense cap [LEC]. Right since my predecessor was in place the impact was assessed as not being achievable in, I think, the 2017-18 financial year. Subsequently, that savings target around the LEC was achieved but that was due largely in part to a hindsight adjustment relating to workers compensation for insurance payments, which was not foreseen at the time. We have regularly and still do regularly brief the Minister on the financial position of Fire and Rescue NSW with regard to achieving the LEC savings targets. We have obviously made it abundantly clear that we will be challenged to achieve that in this financial year—and that was before the bushfire crisis set in. Obviously that has severely impacted now because of the additional cost that we have sustained because of that.

**The Hon. ROSE JACKSON:** You have indicated that it would be very difficult to achieve that for the forthcoming financial year. As you noted, the situation has deteriorated because of the bushfire crisis. Have you indicated to the Minister that unless the exemption that was applied for the last year continues, there will need to be significant cuts made by Fire and Rescue? Have you made that clear to him?

**Commissioner BAXTER:** We have had discussions with the Minister about measures that we may need to put in place.

**The Hon. ROSE JACKSON:** What might be some of those measures?

**Commissioner BAXTER:** Constraints around the operations that we undertake. The firefighter numbers issue is obviously probably the most important thing for us because 85 per cent or thereabouts of our costs relate to firefighter numbers and salaries. To find those sorts of savings within the remaining 15 per cent of our budget is always a challenge. To undertake work in other areas, discretionary-type areas, is significantly difficult for us. We have knocked on all the areas that we possibly can and if we are to make those budget saving targets in the future years we would need to look at other areas to meet those targets.

**The Hon. ROSE JACKSON:** Let us say on average. What is the average age of the fleet that you are currently using in Fire and Rescue NSW?

**Commissioner BAXTER:** The average age of the fleet overall is around 11 years and that goes across a number of categories of our fire appliances, from large aerial appliances to frontline bush tankers and the trucks that you see driving around the streets here. We look at the average age across all of the classes. But in overall terms we are at about 11.3 years. The target for the sector across the country is around 16 years. Once again, that is an average and average figures will have some at the farthest extreme and some that are brand new that come off the run today.

**The Hon. ROSE JACKSON:** How many appliances would you have that are over 15 years?

**Commissioner BAXTER:** I would be able to provide those exact figures to you on notice across all of the classes. But obviously, once again, because they are average numbers, there are always some that are nearing the last extent of their lives and some of them will go up to around 20 years.

**The Hon. ROSE JACKSON:** That was my next question. Can you provide information as to how many are over 20 years old?

**Commissioner BAXTER:** Absolutely. We can do that for you on notice.

**The Hon. ANTHONY D'ADAM:** Commissioner Fitzsimmons, on 22 July 2019—this was prior to the RFS restructure—the RFS had 174 vacancies from 911 effective full-time equivalent staff. That is 19.09 per cent of its workforce. Currently how many of those positions remain vacant?

**Commissioner FITZSIMMONS:** I will be happy to take that on notice. It is a fluid situation.

**The Hon. ANTHONY D'ADAM:** How much money has the RFS saved in employee-related expenses by maintaining vacancies?

**Commissioner FITZSIMMONS:** Sorry, I do not understand your question.

**The Hon. ANTHONY D'ADAM:** Assuming that there are vacancies, how much savings have been achieved by maintaining the vacancies rather than filling them?

**Commissioner FITZSIMMONS:** Again, that would be a very fluid discussion. The vacancies were pending a broader review of our Area Management Model that we implemented in the latter half of last year, which was actually about growing the number of full-time equivalent positions across rural and regional

New South Wales to improve service delivery, service control and access to volunteers. The vacancy rate was not about saving money; it was actually coincidental and in anticipation of a realignment of the regional structure. Effectively, from a four-region model we have moved it into a seven-area model, which is designed to ensure that what we achieve is increasing, as a matter of fact across the State, the staffing numbers by an additional 26. We are going to see 26 extra individuals employed in that Area Management Model. Those areas are going to be aligning to Albury, Tamworth, Cowra, Coffs Harbour, Moruya, Lake Macquarie and in western Sydney as well. A lot of those locations and the realignment was based on feedback from affected staff and members, access to transport, supporting districts and local areas, availability of either existing or appropriate infrastructure that might be around and the impact on staff compared with where their current base locations were.

As I indicated, the principal focus on that is to get a much better span of control for our districts because some of the old regions—one of four regions—might have been dealing with anything from 12 to 18 separate local district management offices. This is reducing that span of control enormously to provide assistance and support to district managers which will, in turn, provide district managers with the ability to get much greater focus and attention, more localised decision-making and support directly to the volunteers. It does not affect the structure of the district offices at all. They still stay the way they are. This is the layer between the head office environment, if you like, and the local district offices. It is a fluid situation but ultimately we are looking at improving the number of employees that are going to be employed across the State. I do have a note here that indicates that as at December 2019 there were 44 vacancies remaining as part of the internal placements. Twenty-six of those have been externally filled already and recruitment is still underway for some of the balance of the extra roles.

**The Hon. ANTHONY D'ADAM:** Can I ask about critical incident management teams? Did you have to deal with filling vacancies for those?

**Commissioner FITZSIMMONS:** Could you explain your question?

**The Hon. ANTHONY D'ADAM:** Critical incident management teams?

**Commissioner FITZSIMMONS:** No, what we have got, we have got Critical Incident Support Services right across New South Wales. We have one of the largest programs available. Throughout this season, given the enormity and scale of the season and the firefighting effort, we actually focused very much on strengthening those teams and utilising the existing critical incident teams and peer support personnel available. We also bolstered that under the arrangements with increasing the numbers of people on stand-by, available and deployed. We also tapped into our partner agencies through the State Emergency Service, the National Parks and Wildlife Service, Fire and Rescue and the Volunteer Rescue Association. We also talked to our colleagues interstate like the Country Fire Authority in Victoria and St John Ambulance. We actually increased those numbers throughout the season.

**The Hon. ANTHONY D'ADAM:** Were you scrambling to fill those positions in the bushfire season?

**Commissioner FITZSIMMONS:** Sorry, you have confused me. This was deliberately scaled up in response to the bushfire season. We were not scrambling; we were actually proactively responding to the increasing—

**The Hon. ANTHONY D'ADAM:** So those positions were not vacant—

**Commissioner FITZSIMMONS:** I beg your pardon?

**The Hon. ANTHONY D'ADAM:** Those positions were not vacant in the lead-up.

**Commissioner FITZSIMMONS:** Hold on. We are talking about two different things now. You have gone from employment rolls through to critical incident support teams. They are very different things. We have got a combination of staff and volunteers who do critical incident support. We reach into other agencies for critical incident support.

**The Hon. ANTHONY D'ADAM:** Can you explain the structure and the positions? Are there paid positions within those teams and they were all filled prior to the bushfire season?

**Commissioner FITZSIMMONS:** Yes, that is correct. We have people employed in our membership services section who have the principal carriage for coordinating critical incident support, chaplaincy of family support and those sorts of services that go to members. We then have staff who volunteer to be part of the critical incident support teams in addition to their employment role. We also have a significant cohort of volunteers who are part of the critical incident support teams.

In our organisation it is important to acknowledge that we are 99 per cent volunteer, 1 per cent staff, and even in our 1 per cent of staff, which are critical to the functioning and the performance of the organisation, more than 70 per cent of those staff also happen to volunteer. So the volunteer culture is extremely strong and prevalent throughout the agency. We do not have discrete business units or employment cells of critical incident people; we need them decentralised, we need them embedded, we need them available. The critical incident teams work in with the chaplaincy and family support network, who are also trained in critical incident and intervention and support and then we have access to professional referral services through 24-hour online services where they can ring up and get access to psychologists and other professional services as needed.

**The Hon. ROSE JACKSON:** I wanted to ask about the incident at Hames Road.

**Commissioner FITZSIMMONS:** Are you talking to me?

**The Hon. ROSE JACKSON:** I think this is probably to Commissioner Baxter, as I understand it was Fire and Rescue, although I will take some guidance.

**Commissioner FITZSIMMONS:** I will need a bit more than Hames Road.

**The Hon. ROSE JACKSON:** This is the investigation into the overrun of four fire trucks. I understand they were Fire and Rescue trucks that were sent down Hames Road.

**Commissioner BAXTER:** That is right.

**The Hon. ROSE JACKSON:** Is there an investigation into that incident?

**Commissioner BAXTER:** There are a couple of investigations. We are undertaking an internal workplace injury or ICAM investigation, as we call it. We have obviously, due to the nature of the incident, notified SafeWork, so they have an investigation underway as well, I understand. It is also of interest to the Premier's inquiry being undertaken at the moment as well.

**The Hon. ROSE JACKSON:** I understand, and I am sure you can provide me with more detailed information, that there is a difference between the types of appliances that are used in different settings or circumstances. For example, there is a difference between an urban pumper and a bushfire tanker; is that correct?

**Commissioner BAXTER:** Yes.

**The Hon. ROSE JACKSON:** Were the trucks that were involved in that incident at Hames Road urban pumpers or were they bushfire tankers?

**Commissioner BAXTER:** As far as I am aware, it was a class 2 urban pumper.

**The Hon. ROSE JACKSON:** How old were those appliances?

**Commissioner BAXTER:** I would need to take the actual age of that appliance on notice, but if you are inquiring with regard to whether it had the cannon protection systems, no it did not. It was an urban pumper and as such would not be fitted with that system.

**The Hon. ANTHONY D'ADAM:** Can you explain that for us?

**Commissioner BAXTER:** The cannon protection system is a system that was brought into effect for bushfire tankers or Fire and Rescue NSW has some. In fact, we employ exactly the same ones and buy off the same contract as RFS. I am not sure how many years back they have been supplied for now, but for a few years, and they are being brought into effect as all the new class 1 tankers and some other specified appliances that are deployed into those areas would require.

**The Hon. ANTHONY D'ADAM:** They would require that feature. Is that right?

**Commissioner BAXTER:** Yes, normally what we would refer to as a class 1, which is used more in rural and remote locations.

**The Hon. ANTHONY D'ADAM:** In the decision to deploy those trucks to that particular fireground, was that just a factor of necessity, that there were no other appliances available and so you had to use appliances that perhaps did not have the necessary safety features for that environment?

**Commissioner BAXTER:** Certainly that is a valid question and it is a question that the investigations are looking at closely, but the taskings are done by incident management teams very close to the field. So the individual tasking allocation would be made by the incident controller in consultation with, in this case, Fire and Rescue commanders to deploy those resources, and our Bush Fire Incident Co-ordination Centre, which is based

in the Rural Fire Service headquarters at Homebush. The best decisions are made by the people on the day, but we will certainly be looking to see the answers to those through the inquiries and the investigation into that incident.

**Mr DAVID SHOEBRIDGE:** We resolved earlier to have a short break in the middle of this session. It now seems like a convenient time. We will reconvene at 3.15 p.m..

**Commissioner FULLER:** Just a quick question. Did we finalise a finish time, Mr Shoebridge?

**Mr DAVID SHOEBRIDGE:** Yes, 4.30 p.m., unless we run out of questions before. My sense is that it will be 4.30.

**(Short adjournment)**

**The CHAIR:** Commissioner Fuller, regarding the Yenda police station and residence, the police station and residence has been left vacant for eight years since the property was flooded in 2012. Residents have reported a spike in crime in the town centre ever since they lost their police presence. Yenda is too small for Bureau of Crime Statistics and Research [BOCSAR] crime data to measure the trends. Why has the police residence at Yenda been left vacant for the past eight years?

**Commissioner FULLER:** I will take that on notice.

**The CHAIR:** Why is regular maintenance not carried out on that building to ensure that it does not deteriorate?

**Commissioner FULLER:** Again, I will take that on notice.

**The CHAIR:** Are there any plans to utilise the building in the future?

**Commissioner FULLER:** Again, I will have to take that on notice.

**The CHAIR:** By what date will the building be reused?

**Commissioner FULLER:** Again, I guess that is subject to the answer to the previous couple of questions.

**The CHAIR:** That is right. So you will take that on notice?

**Commissioner FULLER:** Yes.

**The CHAIR:** Why are two policemen renting in the private market when the New South Wales police own a perfectly located empty building that can be easily utilised?

**Commissioner FULLER:** At what location?

**The CHAIR:** We are talking about Yenda.

**Commissioner FULLER:** Still? Okay, I will take that on notice. I did not think there were any police there. However, I will still take that on notice.

**The CHAIR:** They are renting somewhere and obviously operating in Yenda. Can you guarantee that the building will not be sold to the private sector and will not be knocked down?

**Commissioner FULLER:** I cannot give any guarantees but I will give a guarantee to answer all of your questions.

**The CHAIR:** Thank you. Commissioner, when you were deputy commissioner in 2015—

**Commissioner FULLER:** I actually jumped that rank, but I was an assistant commissioner.

**Mr DAVID SHOEBRIDGE:** He hurdled in.

**Commissioner FULLER:** You might have missed the reporting on that.

**The CHAIR:** I did. I must admit, all these commissioners, deputy commissioners and assistant commissioners—superintendents I understand.

**Commissioner FULLER:** Here I thought I was special.

**The CHAIR:** You are special. We will pay special attention to you.

**Commissioner FULLER:** Thank you.



**The CHAIR:** You were the champion for the Domestic Violence Safety Assessment Tool, the DVSAT, when it was launched here by New South Wales police in 2015; is that correct?

**Commissioner FULLER:** It was developed under Assistant Commissioner Mark Murdoch. I took over from Mark in 2014 as the corporate sponsor for domestic and family violence, which is an additional portfolio to at that time being the commander of Central Metropolitan region. So whilst it was developed under Mark, I certainly was the champion for the rollout.

**The CHAIR:** In my reading of the tool, it says, "For use by non-government service providers and government agencies other than NSW Police Force". Why would that be the case? It specifically says not to be used by the New South Wales police.

**Commissioner FULLER:** I would have to take it notice, but the safety assessment tool is utilised by police. They are questions that we ask at every incident that we attend. If I could, Assistant Commissioner Mark Jones took over from myself as the corporate spokesman; could I possibly see if he can answer that question?

**The CHAIR:** Please.

**Mr JONES:** Thank you, sir.

**The CHAIR:** Is it just that this is wrong?

**Mr DAVID SHOEBRIDGE:** It does say it in black and white.

**The CHAIR:** It does say it in black and white—the police are not to use it.

**Mr JONES:** I am not aware of that document, but the commissioner rightly said that the tool is used by police officers at every domestic violence incident. It is part of our standard operating procedure.

**The CHAIR:** So the right hand does not know what the left hand is doing in government, then, by the sound of it.

**Commissioner FULLER:** No, the questions are used by all of government and the idea is the outcome to that will risk-assess victims in terms of their needs. If I could take on notice that document, review it for you and answer the question, if possible? I am not suggesting what you are saying is not true.

**The CHAIR:** No, I understand.

**Commissioner FULLER:** We will come back to you in terms of practically what has happened.

**The CHAIR:** The document is dated 2015—I would think, perhaps, around about the time of its launch. I think it is a good tool; that is why I am trying to clarify how it is meant to work.

**Mr JONES:** I see the document and I see what you say. I am not sure why it is worded that way, because it is not correct.

**Commissioner FULLER:** Could I do a couple of things, Chair, on notice: See what the current document says and then come back in terms of actually how this operates across New South Wales police and government?

**The CHAIR:** Yes, please. That would be good.

**Mr DAVID SHOEBRIDGE:** Commissioner Baxter, it was reported very recently that Fire and Rescue NSW were in the process of rolling out P3 masks. Is that right?

**Commissioner BAXTER:** Yes.

**Mr DAVID SHOEBRIDGE:** What was the decision-making that led to that—noting that a P3 mask is, I assume, more expensive but also far more rigorous than a P2 mask?

**Commissioner BAXTER:** Fire and Rescue NSW—one of our strategic programs for safety and wellbeing of firefighters has been around the exposure of firefighters to carcinogens and products that they might encounter in their work.

**Mr DAVID SHOEBRIDGE:** That is something that has cut across some of that reverse onus legislation.

**Commissioner BAXTER:** Yes.

**Mr DAVID SHOEBRIDGE:** There has been a lot of discussion about the carcinogens. Is that right?

**Commissioner BAXTER:** Yes, and so it was two pieces of work. There were the reactive measures, if you like, for if someone does unfortunately contract a cancer that is known to affect firefighters. However, we have got a program of work to address the positive side of that, and that is preventing the exposure in the workplace. There was a project undertaken last year to explore the benefits of different types of respiratory protection for firefighters, one of which was to look at P3 masks, which is in addition to what urban firefighters have in their arsenal—the highest protection obviously being the self-contained breathing apparatus, which you see sometimes on people's backs. The project was underway from around the middle of last year and concluded in December.

It is important to note that it was to look across the range of exposures that an urban firefighter might encounter, and it looked at things like working in structure fires and after structure fires, and what we call an overhaul stage where a person does not wear a full breathing apparatus but may be exposed to residual smokes. It actually looked at areas like body recovery and search, working in areas like clandestine laboratories and also in the identification of asbestos following fires and treating asbestos subsequent to fires as well. That piece of work wrapped up in December, as I said, and it was pretty positive about the utilisation of P3 masks in an urban fire service setting, particularly because it was able to be easily adopted and used by adaptation to our existing breathing apparatus sets, which are Draeger breathing apparatus sets—very easy on the existing mask that we have.

Particularly excluded from that piece of research was its suitability for bushfire applications. The recommendation from that report is that further work is needed to be done to assess its suitability for that application.

**Mr DAVID SHOEBRIDGE:** A spokesperson from Fire and Rescue NSW is quoted as saying this to the ABC:

Given some of the gases contained within bushfire smoke, the protection afforded by the new P3 masks is deemed to provide a significantly higher level of protection than the existing P2 masks.

Is that the position, as reported in the ABC, of Fire and Rescue NSW?

**Commissioner BAXTER:** Certainly it was reported that way. However, as I say, the scope of the investigation into the use of them did not include specific testing for that application, so we were not able to conclude that conclusively.

**Mr DAVID SHOEBRIDGE:** Commissioner, you say it was reported that way. Was that statement given to the ABC on behalf of Fire and Rescue NSW accurately reported by the ABC?

**Commissioner Mr BAXTER:** I would have to take on notice whether that was the verbatim commentary that was given to the ABC. But, certainly, when I have reviewed the scope of the project to determine the use, that was not within the scope.

**Mr DAVID SHOEBRIDGE:** Is it true that, given some of the gases contained within bushfire smoke, the new P3 masks will provide a significantly higher level of protection than the existing P2 masks? Is that true?

**Commissioner BAXTER:** I think, without doubt, anecdotally firefighters are telling us that they loved using them.

**Mr DAVID SHOEBRIDGE:** Including fighting the bushfires?

**Commissioner BAXTER:** In bushfire. They used them because we had a limited amount out in circulation for trial purposes. The report back to us from firefighters were that they greatly appreciated the different level of protection that they assumed that it gave them. However, it was not under test conditions; we were not able to assess some of the other things that we would need to around metabolic heat build-up et cetera.

**Mr DAVID SHOEBRIDGE:** Have you shared the data and the results of your research with your colleagues in the RFS?

**Commissioner BAXTER:** Only just very recently, yes.

**Mr DAVID SHOEBRIDGE:** Commissioner Fitzsimmons, given that the RFS is of the view that P3 masks provide substantially improved protection to their workforce, why is the RFS not providing the same level of protection to its workforce, including its volunteers?

**Commissioner FITZSIMMONS:** We just need to clarify something there. You are talking about Fire and Rescue NSW comments about P3 masks for their people, as opposed to RFS.



**The Hon. WES FANG:** You said RFS.

**Mr DAVID SHOEBRIDGE:** I am sorry, I misspoke.

**Commissioner FITZSIMMONS:** No, I am just clarifying so I understand where you are coming from. Fire and Rescue NSW and RFS this season did issue P2 masks as the bushfire fighting mask. As the Commissioner of Fire and Rescue NSW indicated, they were undertaking a review coming into this season and as part of that review they had a few crews wearing these P3 adaptation canisters on the end of their compressed air breathing apparatus [CABA] masks. The P2 mask has been provided—off the top of my head, there are about four different variations of the P2 mask, depending on the role of the mask and the preference for wearing that mask. But the P2 mask is focused on reducing exposure to airborne contaminants and delivering protection against, particularly, the mechanically and thermally generated particulates that come from bushfires. We did this through a fair bit of review and evaluation and aligned ourselves with the Australasian Fire and Emergency Service Authorities Council, or AFAC, which, in their publication issued only in 2018, identified that P2 masks remain the most practical control in bushfire smoke.

One of the misnomers around P3 masks is that you put the P3 mask on and it is better. The P3 mask still has to have a filter attached to it. For every P3 mask there is a variety of different filters, depending on the target audience. You have got to then identify what filter you are putting in the P3 mask to filter out any particular contaminant, whether it is a solvent, a particulate or what have you. The other thing about P3 masks is, generally speaking, they have got to be properly fitted and P3 masks vary in composition between a half-face P3 mask and a full-face P3 mask. Some P3 masks will only cover the nose and mouth; other P3 masks will cover the face and the eyes, a bit like a breathing apparatus face set.

But as we have said very publicly, coincidentally to this fire season the RFS had committed to a review of personal protective equipment [PPE] components, as opposed to personal protective clothing [PPC], because we have just recently upgraded all of our protective clothing to new standards and new generation. We are undertaking a PPE review effectively from the shoulders up, if you like—masks, goggles, helmet, flash hoods and those sorts of things—and P3 masks will be factored into that review. We will be leveraging off the information I got in the past 24 hours from Fire and Rescue NSW and we will also be partnering with our colleagues at the national level to ensure some consistency and standardisation.

**Mr DAVID SHOEBRIDGE:** So do I take from that you are going to review the data and the material provided by Fire and Rescue NSW and you will be actively considering whether or not P3 masks should be part of the standard kit for volunteer firefighters?

**Commissioner FITZSIMMONS:** Correct. It is even more than that, Mr Shoebridge. What we are looking at is we have had a lot of discussion internally about firefighters preferences for different helmets, different styles of helmets. So we are talking about helmets, we are talking about P3 masks, P2 masks. We have got to make sure that we have got the ensemble working together so when people are donning protective clothing and apparel, you have got to make sure that the interplay between the products actually works. So the review is a little more comprehensive than just the notoriety of the mask.

**Mr DAVID SHOEBRIDGE:** Are we going to get to a position very rapidly where active volunteer firefighters are going to be issued with two sets of ensemble if you like, two full kits?

**Commissioner FITZSIMMONS:** Most volunteers are already issued with two sets of PPC.

**Mr DAVID SHOEBRIDGE:** Including two uniforms?

**Commissioner FITZSIMMONS:** Yes.

**Mr DAVID SHOEBRIDGE:** Because there were repeated concerns—and you must have seen them—about volunteer firefighters having only one set of clothing.

**Commissioner FITZSIMMONS:** Are you talking about clothing? So depending on the individual, depending on the area, sometimes they do not seek to have second sets and sometimes people have got three or four sets depending on the nature of their role.

**Mr DAVID SHOEBRIDGE:** I am talking about providing—

**Commissioner FITZSIMMONS:** I am answering the question. We provide protective clothing to target a variety of roles. You have got your bushfire fighting ensemble or your wildfire kit, which is a jacket and pant ensemble with boots. Then you have got the structural firefighting side of things as well, where there is a different

ensemble of jacket and trousers. So depending on a member's role and level of activity, they may end up having two to four sets of supplied protective clothing.

**Mr DAVID SHOEBRIDGE:** Just to make this simpler, I am only asking about the bush firefighting equipment because that is the one that has raised repeatedly. Are you saying that volunteers are issued with more than one set of that bush firefighting kit as a standard practice?

**Commissioner FITZSIMMONS:** It depends on who you are and where you are. The simple answer is yes. Two sets of protective clothing is available to volunteers on issue.

**Mr DAVID SHOEBRIDGE:** Bushfire?

**Commissioner FITZSIMMONS:** Bush firefighting apparel. We did have, through this period, a spiking consumption of protective clothing and wear and tear on protective clothing. We have also had a supply issue in some sizings of the protective clothing, which was a delay, and we had to source from stores around the State. So there was some legitimate issues about a delay issue on manufactured supply for some sizes of the bushfire apparel.

**Mr DAVID SHOEBRIDGE:** Can we expect those to be resolved?

**Commissioner FITZSIMMONS:** They are being resolved right now.

**Mr DAVID SHOEBRIDGE:** By the start of the next fire season?

**Commissioner FITZSIMMONS:** Absolutely. I cannot remember how many thousands of sets are due to be delivered this month.

**Mr DAVID SHOEBRIDGE:** If there is more data, you can provide it on notice. You may or may not have heard of a woman called Celeste Barber?

**Commissioner FITZSIMMONS:** You will be pleased to know that I have heard of Celeste Barber.

**Mr DAVID SHOEBRIDGE:** She raised a bit of money for RFS. There are repeated reports of ongoing negotiations between Celeste Barber and the RFS about where that \$52 million or \$53 million can be directed. Can you update us on where those negotiations are and what your plans are for that \$53 million that was donated?

**Commissioner FITZSIMMONS:** Celeste Barber is known to us obviously. She did not just raise some money, she raised a remarkable amount of money as you indicated: over \$50 million. We have been in consultation and in discussions with her team for quite some time now, for several months. The publicity concerning the funds and the donation of the funds into the trust, centres around some public comments about, given the amount of money that grew so quickly, that it would be nice to divert some of that money into other charitable groups. The bottom line is the two bodies working together—the trust and Celeste's team—have identified, through a variety of independent legal advice, that a trust is bound by trust law and, indeed, by the trust deed. The trust deed that has been set up for the RFS brigade and donations trust was set up several years ago and, ironically, was set up with a type of trust deed to ensure that donations that came into the trust would actually be acquitted directly to the brigades in support of the members and not be dispersed elsewhere.

**Mr DAVID SHOEBRIDGE:** I have read it, Commissioner.

**Commissioner FITZSIMMONS:** So we have identified that at a certain point in time there was some notion that, given the amount of money, it might be nice to put money into some other charities. The bottom line is there appears to be absolutely no provision to do that under the trust deed and the trust law. We have worked with legal representatives, and we are seeking advice from the Supreme Court, about seeking a variation on the trust deed to make sure that we can, firstly, spend the money right down to individual members. At the moment it is tied very much to brigades, so we are looking at being able to allocate money into care, control and ongoing support for members but also set up funds around counselling and support. Also some sort of foundation element to support the families of our fallen firefighters and seriously injured firefighters on top of all the other entitlements. And also the potential for whether we can actually see this money dispersed into other charitable groups.

The challenge with the latter point is manifold. Firstly, our approaches to Facebook and PayPal that collected the funds, they will not either go directly to try and find out where donors may or may not have thought they were going into another trust, another charitable group, and nor are they in a position to provide us with the ability to do that, if we were to get a ruling that the trust or the trustees were able to disperse some money. So it is complicated, but we are working through with Celeste Barber and her team. The focus on the money is to go out to brigades. We have already started communicating with the brigades. We have already petitioned off

\$20 million for grants going out across the brigades at the moment—in the immediacy of what they need following the season that they have been through, top ups that would not otherwise be provided through Government funding—and we are surveying members to get their views and opinions on where their priorities are to see the funding actually being spent.

**Mr DAVID SHOEBRIDGE:** I will come back to this later but can I just ask you has the money moved from the PayPal trust?

**Commissioner FITZSIMMONS:** Yes, it has.

**Mr DAVID SHOEBRIDGE:** And it is now in the hands of the trustee?

**Commissioner FITZSIMMONS:** It is in the account. It is in the trust and that was done proportionally along the way. So there was a chunk initially and then there was—

**Mr DAVID SHOEBRIDGE:** But it is now all across?

**Commissioner FITZSIMMONS:** Correct.

**The Hon. ANTHONY D'ADAM:** Commissioner Baxter, on this question of the Hames Road incident, I just wanted to clarify your earlier testimony that the dispatch decision is not made by Fire and Rescue NSW. Was that what you said?

**Commissioner BAXTER:** Do you mean in regard to that specific incident?

**The Hon. ANTHONY D'ADAM:** That specific incident, yes.

**Commissioner BAXTER:** In regards to that specific incident, that appliance that was bent over was part of a strike team that was assigned to that location. As such they come under the direct control of the Incident Management Team for that specific location. Their tasking would come from that Incident Management Team through the Fire and Rescue representative or commander attached to that Incident Management Team.

**The Hon. ANTHONY D'ADAM:** Is the Incident Management Team a structure within RFS?

**Commissioner BAXTER:** It is a structure within RFS but for the most part Fire and Rescue NSW officers are part of those teams.

**The Hon. ANTHONY D'ADAM:** So RFS are obviously the lead agency in terms of—

**Commissioner FITZSIMMONS:** I can elaborate on that if you like?

**The Hon. ANTHONY D'ADAM:** Yes, if you could.

**Commissioner FITZSIMMONS:** In New South Wales we have the State Emergency and Rescue Management Act and under that same Act you identify specific hazard types or disaster types and the lead agency. In the case of bushfires or large-scale bushfires you have got the Rural Fire Service as the lead agency and under the provisions of the Rural Fires Act you have got a section known as coordinated firefighting. More specifically in the section of coordinated firefighting, you have got what we call section 44 provisions, which provide for coordinated firefighting and taking charge of fires in local areas and ensuring all the available resources beyond the normal capacity of that local area are provided to support the local operations.

We actually give effect to that through the coordinator firefighter provisions recognising RFS, Fire And Rescue NSW, National Parks and Wildlife Service, forestry and the broader emergency management structure of the Government, being some 30-odd functional areas. They are co-located in at the State Operation Centre and then the local IM] is appointed typically on a local government area basis, or a collection of local government areas or, where appropriate, we might define it through some other boundary given the fire spread or the boundary of a fire, which may transcend multiple government areas.

In that multi-agency environment at the State level and right through to the local incident management team level there are representatives from the different fire services and from the emergency services that take up the key roles of incident control and multi-agency command. Typically, under what we call the incident control system you have got an incident controller, you have got operations planning and logistics and there is a whole bunch of personnel that support that operation and determine the strategy and the deployment of resources in the field.

**The Hon. ANTHONY D'ADAM:** Was the actual dispatch decision in that particular incident made by an incident management team? Is that right? Is it a decision made by a committee or is it a decision that is made by an individual?

**Commissioner FITZSIMMONS:** As Mr Baxter said, you have got the incident controller and then you have got an operations arm. The tactical deployment of the operations arm is coordinated through that IMT and then the instruction goes out through line command of the respective agencies.

**The Hon. ANTHONY D'ADAM:** Talk me through this IMT structure. They are the ones who ultimately—

**Commissioner FITZSIMMONS:** How long have you got?

**The Hon. ANTHONY D'ADAM:** —made this decision. Ultimately there is the broad-scale overview of what is going on but then the deployment decisions depend on the local areas and those decisions are made at the IMT level by someone?

**Commissioner FITZSIMMONS:** No, the incident management team—the incident controller is the person with whom the overall control of the incident rests. In terms of executing strategy they have a—

**The Hon. ANTHONY D'ADAM:** Sorry, is that a particular fireground? The incident controller, when you talk about the overall incident, is that a particular fireground?

**Commissioner FITZSIMMONS:** It can be an overall incident or one IMT can have multiple incidents. The whole issue around the incident command system, or AIMS as it is called—it is often referred to as the Australasian Interagency Management System—is it is actually a scalable arrangement where for a fire truck attending an incidental fire call all the incident control, the planning, the operations and logistics rests with the one crew or the one commander of the crew. However, as you scale up the event and you get lots more resources coming in to deal with the effort you might actually put in charge a local sector boss or a divisional boss. Then, depending on the broader scale of the event, you will have a local area incident management team, a multi-agency incident management team that will be responsible for overseeing broad strategy across a fireground or a number of firegrounds within a defined area, particularly where those resources need to be complementary—

**The Hon. ANTHONY D'ADAM:** Can you just step me through how that process actually works in practice? This grouping is located at RFS headquarters, is that right? Even though the incidents might be localised the actual decision making is located at headquarters, is that right?

**Commissioner FITZSIMMONS:** No. Local incident management teams are based on a local area and they are the ones making decisions around what is needed in terms of resourcing, strategy—

**The Hon. ANTHONY D'ADAM:** Are they volunteers?

**Commissioner FITZSIMMONS:** I beg your pardon?

**The Hon. ANTHONY D'ADAM:** Are they volunteers?

**Commissioner FITZSIMMONS:** There will be a combination of volunteers and staff.

**The Hon. ANTHONY D'ADAM:** So volunteers might be making critical decisions about deployment of appliances—

**The Hon. WES FANG:** What are you implying?

**The Hon. ANTHONY D'ADAM:** I am just trying to understand—

**The Hon. ROSE JACKSON:** Point of order: Put a sock in it, Wes.

**The Hon. ANTHONY D'ADAM:** —the process for how a decision is made to deploy an appliance and whether that is—it is open for me—is this a point of order?

**The Hon. WES FANG:** Yes. The point of order is: What are you implying?

**Mr DAVID SHOEBRIDGE:** To the point of order: If there is a point of order, the best way of taking it is to start with the words "point of order". I cannot tell from just interjections.

**The Hon. WES FANG:** Okay, well in that case: Point of order: I ask the Deputy Chair to draw the Hon. Anthony D'Adam to the previous discussion about the procedural fairness resolution. For him to start drawing conclusions about whether a volunteer has made a call or whether it is a paid officer. To demean volunteers in that manner is disgraceful and I ask him to withdraw it.

**Mr DAVID SHOEBRIDGE:** I have heard the point of order. I do not need to hear any more. There is no point of order.

**Commissioner BAXTER:** There are multiple layers of decisions that get made on a daily basis about the taskings for various resources as they are sent in. Decisions about where resources might be required at a particular incident will get made at an incident management team level, but then there are several layers below that with our group captains, with our strike team leaders who are in charge of a group of appliances and even at the appliance level, at a station officer level. All of them are empowered to make decisions about safe ingress and egress from incidents. There are multiple layers, depending on how close people get to the actual incident face. It is probably not accurate to say that someone sitting in an incident control room tasks somebody to go in and they have to go in to that particular area, because at multiple levels people can make decisions about whether it is safe, with what they are confronted with, to undertake any tasking that they have been given. That needs to be continually reassessed on a dynamic basis as the conditions change for them.

**The Hon. ANTHONY D'ADAM:** I suppose that is where I am getting to. I am trying to understand the nature of the decision-making and I suppose the rigour or the safety systems that are in place to make sure that a decision that might lead to someone dispatching an appliance into a very dangerous situation, as clearly the Hames Road situation illustrates, and whether that decision has sufficient oversight to make sure that an appropriate decision has been made and people's lives are not being put at risk.

**Commissioner BAXTER:** Again, I think throughout the season we saw, as Commissioner Fitzsimmons has said, unprecedented situations and conditions that confronted our people. We made it a very strong priority to make sure that all of our crews that were being dispatched receiving briefings before they even left their home areas about the importance of placing safety first and for them to be able to make decisions necessary—

**The Hon. ANTHONY D'ADAM:** Can I just interrupt you there? Clearly a decision was made that was the wrong decision. What my question is trying to get to is how that decision came about.

**The Hon. WES FANG:** Point of order—

**The Hon. ANTHONY D'ADAM:** I still have not—

**The Hon. WES FANG:** I am drawing a point of order here.

**Mr DAVID SHOEBRIDGE:** I suggest that you will most likely have success if you allow the question to be finished.

**The Hon. WES FANG:** No, the question itself contained argument. The Hon. Anthony D'Adam is not qualified or experienced enough to draw conclusions as to what the situation was that firefighters may or may not have been sent into. I ask him to reframe the question without actually drawing a conclusion at the start of it.

**Mr DAVID SHOEBRIDGE:** I have heard the point of order. Absent any reference to any standing order or sessional order to support your argument I find there is no point of order.

**Commissioner FITZSIMMONS:** I would not mind clarifying: I do not think anyone can make a decision that a wrong decision was made. As a matter of fact, what I have seen—and we have just got to be mindful there is an investigation going on here that will make a conclusion one way or another—the crews that found themselves in a difficult position made the right decision to get themselves out safely. I would premise the question by saying that it is wrong to conclude that a wrong decision was made.

**Mr DAVID SHOEBRIDGE:** I indicate to all the witnesses that you are entitled to challenge any premise that is put in a question. All witnesses are entitled to challenge that.

**The Hon. ANTHONY D'ADAM:** Did a volunteer make that decision?

**Commissioner FITZSIMMONS:** To what? It was paid crews that got out—

**The Hon. ANTHONY D'ADAM:** In that particular incident?

**Commissioner BAXTER:** I think that would be subject to the inquiry. As described earlier, there would have been multiple decisions made about the resourcing that evening. I certainly do not have clarity at this point of who made which decisions.

**The Hon. ROSE JACKSON:** Commissioner Baxter, a quick follow-up question in relation to the average age of the spare emergency fleet. I asked you the average age of the primary fleet. Perhaps you do not have that information—I recall you took my initial question on notice.

**Commissioner BAXTER:** I do have some information on the fleet. The average age of what we refer to as our service exchange vehicle fleet is 18.59 years.

**The Hon. ROSE JACKSON:** Presumably the benchmark in relation to life expectancy or best practice life of that fleet is the same—is 16 years?

**Commissioner BAXTER:** They are still operational appliances so we do aim to have them under 16 years.

**The Hon. ROSE JACKSON:** But 18 is an average age, yes?

**Commissioner BAXTER:** That is average, yes.

**The Hon. ROSE JACKSON:** Have you put in any requests for additional resources in order to upgrade that fleet and try and bring that average age down closer to your target of 16 years?

**Commissioner BAXTER:** The average age has started to come down. However, obviously the sheer—we lost a number of appliances so we will have a particular replacement program for those vehicles. We have got an ongoing fleet replacement program and I think we have got something in the order of \$16.7 million this year allocated. It is an ongoing allocation and reallocation process. The average fleet numbers take into account a number of factors and obviously usage is the big one. We do not do a high mileage but some of our trucks get a lot of usage so the age thing is taken into account. Sometimes we might retire appliances much younger than an older one because the old one has not done as much use. The decisions are made on an ongoing basis by the fleet managers.

**The Hon. ROSE JACKSON:** Were the appliances that were lost over the recent season in general older appliances? Was the age of the appliance a contributing factor to its loss or was it merely dependent on the conditions?

**Commissioner BAXTER:** I would not want to pre-empt the outcome of the investigation because I think that will probably look at the suitability of the appliances used at the time. We are happy to provide information when that comes out. It will be an open investigation. I can say anecdotally though that all of the appliances that we lost were older in terms of the general age. That is for a number of factors, the main one being that we utilise appliances towards the end of their age before disposal. In fact, we stockpile those appliances specifically to be used for the surge requirements to support RFS in the bushfire season prior to them being disposed of.

**The Hon. ROSE JACKSON:** Again, I just want to specifically ask: Have you made any budgetary requests for the upcoming budget round for additional funding to try and upgrade the fleet?

**Commissioner BAXTER:** This is the time of year that we do all of our budget requests and a number of those are with the Minister and in the process at the moment, which obviously I cannot talk about because that is the 2020-21 budget process.

**The Hon. ROSE JACKSON:** Just a quick question for you, Commissioner Fuller. I understand that there is a police pay award up for negotiation in July this year. Is that correct?

**Commissioner FULLER:** That is correct.

**The Hon. ROSE JACKSON:** Could you just give me any information about who is going to be leading those negotiations?

**Commissioner FULLER:** From a New South Wales police perspective, our industrial relations area will lead the conversation with the key stakeholder, which is the Police Association of NSW. And then in terms of the parameters of the Government bargaining award we will come together and try and identify what the needs are of the workers versus what is in my remit. So 2.5 per cent is obviously still on the table, which I think is an important thing in terms of the workforce. Anything else outside of that I will either need to get Treasury's approval for or find efficiency savings to pay that above and beyond the 2.5 per cent.

**The Hon. ROSE JACKSON:** And the industrial relations unit—do they answer to you or do they answer to a deputy commissioner?

**Commissioner FULLER:** They answer through Deputy Commissioner Mal Lanyon but I certainly meet with them to make sure that they are on track in terms of delivering this on time, which is important as well.

**The Hon. ROSE JACKSON:** Thank you. Just a couple of quick questions probably to Commissioner Fitzsimmons about Project Guardian. Obviously after the bushfire season that we have had there is a renewed interest in making sure that all of the different elements of response, recovery and preparation are absolutely where they should be. I understand this project was announced in 2015. It was allocated \$5.2 million to develop a web

portal for landowners to access information about bushfire risk and mitigation, which obviously sounds like something that would be a useful portal for landowners to have access to. It was due to go live in June 2017. The RFS annual report notes unforeseen external delays. The release of phase one of Project Guardian, which is 80 per cent of the scope functionality—February 2019. In the NSW RFS annual report 2018-19 Guardian was now scheduled for September 2019. It still has not been launched, has it?

**Commissioner FITZSIMMONS:** I wish I knew you were going to ask this question. I would have a note with me. Guardian is a much more multifaceted project than the simplicity with which you describe.

**The Hon. ROSE JACKSON:** I apologise. I was just reading from the press release.

**Commissioner FITZSIMMONS:** No, no. There are a whole bunch of different modules that we have put under the umbrella of the brand of Guardian, which goes to a range of mitigation and resilience measures when it comes to fire management. There is everything from hazard reduction through to development control through to permits et cetera. We have got online the portal around hazard reduction for people to go on and they can do some assessments around their property—whether they are in bushfire-prone areas—and get an assessment and that sort of thing. We also table and list hazard reductions.

There have been some delays, absolutely. It is very unique project. It is a multi-agency software platform with which we are tying together all local governments, public land management agencies, requirements of private landholders and fire services et cetera around being able to look at hazard reduction mitigation, development control, planning and assessments arrangements, and all manner of things. I will need to take the question on notice and give you a more up-to-date answer in terms of where different aspects of the Project Guardian are up to.

**The Hon. ROSE JACKSON:** Yes, and obviously specifically when it might be—

**Commissioner FITZSIMMONS:** Well, there are already aspects delivered, so it depends on how we have prioritised the sub-elements of the Guardian project as to what time we will choose to deliver them or switch them on. Out of this season we are also going to need to review the relativity or the relevance of some of those modules and whether they ought not to be tweaked going forward, in any case. I will be able to take it on notice if you can give me something on notice and I will get an answer back to you. But it is not just a single thing; it is a multifaceted project that we have put under the umbrella of the word "Guardian".

**The Hon. ROSE JACKSON:** I wanted to ask a couple of questions about mental health. Obviously I asked the Minister this morning about—

**Commissioner FITZSIMMONS:** To me?

**The Hon. ROSE JACKSON:** I will ask you in the first instance, but Commissioners Fuller and Baxter may wish to add anything because I obviously know that members of the Police Force and Fire and Rescue were involved in the bushfire crisis as well. We are obviously concerned that people who were on the front line have access to the best and most comprehensive mental health support. The Minister mentioned peer-to-peer support, which I understand is one important element. However, talking to a mate is great but they are not professional mental health specialists.

**Commissioner FITZSIMMONS:** Correct.

**The Hon. ROSE JACKSON:** He also mentioned some access to chaplains or that people can see their GPs. I just wanted to get from you a sense of what you feel is necessary to ensure that the mental health of people involved in RFS, in the first instance, is being properly catered for after the summer that we have had?

**Commissioner FITZSIMMONS:** Absolutely. We have very much scaled up our critical incident support and peer support systems throughout the season, and promoted and bolstered the professional referral services available for members. In addition to all the peer support, which is so valuable and time and time again is where the bulk of the feedback comes from for peers today—compared to where I joined 30-odd years ago, we did not talk about it—today you have got leaders and you have got commissioners. You have got everybody talking about it, encouraging the conversation, reaching out and talking with one another, and sharing their own experiences or their own vulnerabilities through what we experienced. The reality is that working through this season people have been changed forever. People have been affected forever and we are very mindful about what has unfolded this season and what people have experienced, seen, witnessed, heard or what have you.

So we have bolstered up very proactively through the season already a range of those support services. At the tail end of last year we integrated our 24-hour telephone line system for the external professional services through psychologists and other professionals. We have got trauma-specific clinical care we have engaged where



we are required, particularly during some of the most tragic events this season and the most frightening or terrible events that have been experienced. We have also got a lot of referrals to GPs and additional referrals, particularly through the peer support officers that provide a pathway straight into the Australian psychology and the social workers. We have also got programs dedicated to targeting PTSD and we have got a multi-agency approach to that in terms of the work we have been doing in partnering with organisations such as the Black Dog Institute, Beyond Blue, Lifeline and what have you.

Notwithstanding the confidentiality and privacy, we have been getting some indications that so far accessing the referred services, the professional counselling and psychological services, independent through the number, there are about 100 members that have actually chosen that path already. We have also had several thousand that have chosen to take up the Specialised and Intensive Services program or the SIS and peer support program, they are actively looking at. We are also running a series of emotional wellbeing programs, critical incident support tying in with all our captains' debriefs and our multi-agency debriefs around the State at the moment. We are targeting hundreds of those locations proactively to get out and have the conversation as part of the normal operation fire service review.

We have also got the mental health framework and the strategy that we have launched internally and the key focus areas are around capacity, protection, promotion, intervention, review and continuous improvement. That is all underpinned by our health strategy and our health plan around mental health. There is a significant investment but we are also speaking with the Government as well about this is not just the here and now, it is not just retrospective, it is not the coming weeks and months but we are gearing up and preparing for the coming years in relation to services going forward.

**Commissioner FULLER:** I appreciate it is time, but from a New South Wales police perspective, it was a \$16.7 million investment over four years in wellbeing. If I can pass the document up to you, that clarifies all the things that are available. Mr Fitzsimmons spoke about many of the things that are mirrored across agencies. But for the first time that we will be providing this document to the family members of the next class that come out of the police academy because often family members are the first ones to see changes in people who do not know where to go. We are bringing families along the journey in relation to the things that we are doing for the wellbeing of our employees.

**Mr DAVID SHOEBRIDGE:** Commissioner Baxter, did you want to add anything before I go onto my next topic?

**Commissioner BAXTER:** I think it is probably fair to say for the majority of our firefighters, they are only just starting to realise now what they have dealt with because they have been very much in response mode to the crisis. We are seeing an upswing in the reporting of mental health directly attributable to the recent bushfire crisis. We have made significant inroads into holistic programs from recruitment to retirement for our people. Our peer supporters network is very strong and we are putting additional resources in, professional psychologists and also mental health wellbeing support officers.

**Commissioner FITZSIMMONS:** And some joint agency projects.

**Mr DAVID SHOEBRIDGE:** Ms York, I do not want you to feel left out, if there is something you want to add. What is happening in your agency?

**Commissioner YORK:** We are very similar as well. During the recent events, we shared chaplains in different areas so that we supported all the agencies and our members that were out there in the field. Similarly, we have got internal programs of peer support, chaplaincy and information that goes out to our members where they can seek independent and confidential advice on their psychological wellbeing as well. We certainly all work together and work within that framework.

**Mr DAVID SHOEBRIDGE:** Commissioner Fitzsimmons, I was asking some questions about the Celeste Barber directed donations. Have you had any advice on the likely prospects of success of a Supreme Court application given that none of the material provided to date seems to point to any failure of the trust?

**Commissioner FITZSIMMONS:** That question is multi-faceted. There are a number of things being asked of the Supreme Court. There is a higher degree of confidence with some of them and there is a low probability of success with others.

**Mr DAVID SHOEBRIDGE:** Did you want to provide any further information on notice about that?

**Commissioner FITZSIMMONS:** Without being a lawyer, of course, my understanding is there is optimism around the potential for being able to dedicate funds and distribute funds to services and programs to



support individual members as opposed to brigades more distinctly in the trust agreement. We are hopeful that we will be able to set up the equivalent of a welfare fund—do not hold me to the name of it—in order to provide support to families of the fallen and seriously injured. It is most unlikely that there is going to be any ability to see the trust move money to other charitable groups is my layperson's reading of the advice I have received.

**Mr DAVID SHOEBRIDGE:** Have you sought any legislative intervention or advice about legislative intervention to get around these legal strictures?

**Commissioner FITZSIMMONS:** My understanding is there are no avenues for legal intervention. The advice I have received through the lawyers—

**Mr DAVID SHOEBRIDGE:** Sorry, I meant legislative intervention, to actually change the law.

**Commissioner FITZSIMMONS:** Trust law?

**Mr DAVID SHOEBRIDGE:** Yes.

**Commissioner FITZSIMMONS:** I have not sought that.

**Mr DAVID SHOEBRIDGE:** Commissioner Fuller, the last financial year New South Wales police performed, according to their data, 238,923 personal searches and they were efforts they made to meet a target that had been given to New South Wales police, I assume by yourself or by commands, of 241,632 personal searches. How can you guarantee that those searches were not done in order to meet a target as opposed to dealing with the conditions on the ground?

**Commissioner FULLER:** A couple of points on that. It is not a target like a normal key performance indicator [KPI] may be in terms of budget. It is a three-year rolling average, which means the environment in itself dictates what the fourth year will be. Just to be clear, it is an average of the previous three years. If the community change in crime is down, then we would expect to see the target to continue to fall. That word "target" attached to it is probably not helpful from a scrutiny perspective and I have asked that we change the name of it, because it is not a target like a financial target would be where it is set by me for more equals better. Again, to be clear, it is based on a three-year rolling average.

**Mr DAVID SHOEBRIDGE:** Commissioner, your targets went up. I am using the word "targets" because that is how you describe them in answers to question on notice. The targets went up from 223,000 in financial year 2018 for personal searches to 241,000. They have not gone down, they have gone up. Do you not acknowledge that if police officers have to do a certain number of searches to meet KPIs, there is a very real risk, in fact, if they are doing a quarter of a million of them, an almost certainty is that rights will be abused and searches will be done when there is no lawful basis for them?

**Commissioner FULLER:** Apologies, I obviously did not explain how the target is reached. The target is reached by a three-year rolling average. It is not determined by the commissioner or by the executive that sit around this table today. By the nature of that, the fourth year would be a sum of the previous three years. Some areas they would have gone up and some areas they would have gone down. But I accept your statistics in saying that they have gone up. They have not gone up because Commissioner Mick Fuller has set the target of 241,000 or whatever that figure was; it is set by a rolling average of the previous three years.

**Mr DAVID SHOEBRIDGE:** But you set the policy which sets the target?

**Commissioner FULLER:** Again, if I am not explaining myself, I apologise.

**Mr DAVID SHOEBRIDGE:** I assume it just does not fall from the sky. You set that process?

**Commissioner FULLER:** The fourth year is a sum of the three previous years. It is not set by the Commissioner Mick Fuller or his executive.

**Mr DAVID SHOEBRIDGE:** That formula is set by you?

**Commissioner FULLER:** That is correct, the three-year average.

**Mr DAVID SHOEBRIDGE:** That did not fall from the gods, that is set by you?

**Commissioner FULLER:** The three-year average formula.

**Mr DAVID SHOEBRIDGE:** That provides a target and it provided a target last year of almost a quarter of a million personal searches. Do you accept that when you are requiring your officers to perform almost a quarter of a million personal searches across the State, you will be inevitably seeing search powers abused to meet the target rather than deal with the circumstances in front of police?

**Commissioner FULLER:** No, because there are other use of powers that drop. The use of strip searches on adults has decreased in that time. You cannot take one power in isolation and just suggest that the way we are administering it is unethical.

**Mr DAVID SHOEBRIDGE:** Even on your figures, strip searches have increased by some fourfold or fivefold in the last decade. Strip searches have gone up under your watch.

**Commissioner FULLER:** But the last 12 months they have dropped. You cannot just pick a—

**Mr DAVID SHOEBRIDGE:** I am anxious, given how often this data is revised by the police. Do you have the number of strip searches in the last 12 months?

**Commissioner FULLER:** My data is in 2019 there were 4,436 and the previous year there were 5,497, which is a significant decrease. You can certainly—

**Mr DAVID SHOEBRIDGE:** I am happy to celebrate a decrease. Was the 4,436 part of meeting the target of a quarter of a million personal searches? Strip searches made part of that target, did they not?

**Commissioner FULLER:** Absolutely they did, but I am not agreeing with your premise.

**Mr DAVID SHOEBRIDGE:** That by having a target you are inevitably going to see powers abused to meet the target rather than deal with the circumstances on the ground?

**Commissioner FULLER:** If over the three-year rolling average they continue to decrease, then they decrease. So it is set by the previous three years. It is not set by an initial target by the Commissioner of Police.

**Mr DAVID SHOEBRIDGE:** I think we are talking at cross-purposes here. I am putting to you the proposition that whether it is 223,000, 241,000 or 200,000, having a specific numerical target for the exercise of discretionary police powers is almost ensuring the abuse of discretionary police powers because they will be used to meet the target rather than deal with the circumstances in front of police.

**Commissioner FULLER:** There are two things in that. It is that no commander has ever been sacked for not achieving person searches—never. They have never been held to account on performance in relation to it—never. There is no correspondence from my office or from my mouth that says a certain amount of person searches should be done. Secondly, 2019 was a year when we recodified strip searches. We went back to seeing our base training, our supervision in relation to it, the way we were recording strip searches. So by the end of 2019 we have never been in a better position to make sure the scrutiny on strip searches is at what the public would expect and the safeguards for those individuals are in place.

**Mr DAVID SHOEBRIDGE:** This is well beyond strip searches. This is both strip searches and general searches. Do you understand that?

**Commissioner FULLER:** Yes.

**Mr DAVID SHOEBRIDGE:** If you say that you are no longer treating them as KPIs and you want to change the phrase from KPIs and targets, why have the numbers in the first place on the Command Performance Accountability System [COMPASS], database, which inevitably police commanders will be looking at to see if they are meeting those targets? Why have them there?

**Commissioner FULLER:** Because we often take an average of crime and other proactivity to measure activity versus crime. We know through the Bureau of Crime Statistics that police activity has a positive impact on public safety. That was in a report released last year from the Bureau of Crime and Statistics.

**Mr DAVID SHOEBRIDGE:** Less than 3 per cent on property average. You said that, commissioner.

**The Hon. WES FANG:** Point of order: The commissioner is answering the question in great detail to a question asked by Mr David Shoebridge which has multifaceted components to it. I ask that Mr David Shoebridge allow the commissioner to answer the question and finish his answer before he jumps in and interjects.

**The CHAIR:** I uphold the point of order.

**Commissioner FULLER:** From my perspective, there is a link between police activity and public safety. Police should never take their powers for granted and the public should never take the levels of public safety for granted in New South Wales either.

**Mr DAVID SHOEBRIDGE:** I refer to the BOCSAR report. Do you accept the final sentence of that report which states:

Move-on directions and person searches are intrusions on civil liberty whose value as crime control tools must be weighed against their costs.

**Commissioner FULLER:** I have never backed away from the fact that we should not have scrutiny on police powers. I have never turned down a media interview. I have never not turned up here and discussed that. We have talked about the Suspect Target Management Plan and young people and the positive things that we are doing in relation to that. From my perspective, I am absolutely happy to have the debate.

**Mr DAVID SHOEBRIDGE:** Do you accept that when your police are conducting almost 250,000 person searches a year that that is inevitably going to have a much more significant impact upon those parts of the population that are almost always the subject of greater scrutiny with discretionary powers? The First Nation People, homeless people and people of colour are the ones who face the brunt of this policing. Is that right?

**Commissioner FULLER:** I think what is important to put in the context is that a person search is not always, in terms of the volume, a type of power that is going to cause someone to take off pieces of their clothing. It could be simply the fact of asking for someone to empty their pockets, which I hardly think that people would see that as a breach of their civil liberties.

**Mr DAVID SHOEBRIDGE:** So you do not believe that a police officer directing somebody, under threat of arrest or penalty if they do not comply, to empty their pockets is a potential breach of that person's civil liberties? Is that really the position you are putting to this Committee?

**Commissioner FULLER:** My position was clear in an answer I gave earlier that police need to ensure that they are using their powers appropriately and the safeguards for the civilians of New South Wales and visitors are applied. I have said that today to you.

**Mr DAVID SHOEBRIDGE:** Talking about police powers, why are police officers routinely conducting bail compliance checks without an enforcement condition being imposed under, I think it is, section 30 of the Bail Act? Why are they doing it without enforcement conditions?

**Commissioner FULLER:** This matter has been tested in higher courts. I will take it on notice and give you a legal answer in relation to that, if that is okay.

**Mr DAVID SHOEBRIDGE:** All right. You are aware of the fact that there are civil actions against the police at the moment in relation to the police seeking to enforce bail conditions without a bail enforcement condition being imposed? Are you aware of that?

**Commissioner FULLER:** Yes.

**Mr DAVID SHOEBRIDGE:** Are you aware of a case in the District Court where the allegation is there were 55 bail compliance checks in 102 days upon a man who was living in his home with a two-year-old child and heavily pregnant wife and that on 13 occasions bail compliance checks were conducted twice in the one night?

**Commissioner FULLER:** I am not sure, is that a question or a statement?

**Mr DAVID SHOEBRIDGE:** Are you aware of those circumstances, those allegations?

**Commissioner FULLER:** Not all of those, no.

**Mr DAVID SHOEBRIDGE:** Are you aware that the allegation is on one occasion the bail compliance check was three times in the evening on this man and his young family?

**Commissioner FULLER:** No.

**Mr DAVID SHOEBRIDGE:** Do you accept that knocking on the door of somebody who has not been convicted to check on the bail conditions three times on the one night, waking up the occupant, pregnant wife and his young family is an inappropriate and abusive use of police powers?

**Commissioner FULLER:** I do not know the circumstances in that case but I certainly would not want police knocking of someone's door three times a night in using bail compliance checks as a general rule, no.

**Mr DAVID SHOEBRIDGE:** Does the NSW Police Force generally require officers to seek an enforcement condition in order to carry out bail compliance checks or do they just undertake enforcement practices without a condition?

**Commissioner FULLER:** I will take that on notice.

**Mr DAVID SHOEBRIDGE:** Does the NSW Police Force have proactive strategies in place for checking compliance with curfew conditions? Is there a policy or strategy in place?

**Commissioner FULLER:** Will you ask that again?

**Mr DAVID SHOEBRIDGE:** Is there a policy, strategy or direction in place about checking curfew conditions that have been imposed under bail?

**Commissioner FULLER:** I am not aware of any policy condition but I will check. We certainly use bail compliance checks as a strategy in terms of keeping the people of New South Wales safe.

**Mr DAVID SHOEBRIDGE:** Will you provide on notice whether those bail compliance checks are done either consequent upon a bail compliance order or as a matter of policy without a bail compliance order? Is that right, commissioner?

**Commissioner FULLER:** I will take that on notice.

**Mr DAVID SHOEBRIDGE:** Does the NSW Police Force have a policy to restrain police from undertaking multiple bail compliance checks through evening curfews? If not, why not?

**Commissioner FULLER:** We would not have a policy to restrain police from doing anything. We would have a policy that would hopefully provide good advice and guidance to police in using our powers to protect the people of New South Wales.

**Mr DAVID SHOEBRIDGE:** And to ensure that people who are on bail conditions are not having their rights abused, including their right to peacefully have a sleep at night without multiple knocks on the door from the police without a court-imposed bail enforcement condition. Does that include part of it?

**Commissioner FULLER:** I have accepted that previous question on notice.

**Mr DAVID SHOEBRIDGE:** There has been a change in which the way in which police are engaged at the academy level. Previously they were probationary police. They are now university students and they are not actually police officers, probationary or otherwise. Is that right?

**Commissioner FULLER:** No, there has not been a change in a sense. Post the New South Wales police royal commission, the NSW Police Force had a change in recruiting standards in terms of looking for officers who have tertiary qualifications. At a point in time we partnered with Charles Sturt University but at the end of the day for your period, for that initial period at the police academy, you are police recruit. You are not a probationary constable until you are sworn in, and that has not changed in my 32 years.

**Mr DAVID SHOEBRIDGE:** Sorry, I made the mistake about wanting a history lesson. But when recruits are at the police academy, are they not police officers or probationary police officers?

**Commissioner FULLER:** Not until they are sworn in or have taken an oath or affirmation.

**Mr DAVID SHOEBRIDGE:** You may not have noticed that some questions were asked about the way in which firearms handling is dealt with at firearms ranges. What is the strategy in place to ensure that the Firearms Act is complied with for those students at the academy, given they are not police officers and not probationers? I am specifically talking about the training on Glocks. What is the process in place?

**Commissioner FULLER:** I am certainly happy to take that on notice, but I would imagine there is a certain section within the Police Act that allows that to happen. But again, rather than guess, I will take that on notice, but probationary constables do not use long arms or other weapons in their initial training.

**Mr DAVID SHOEBRIDGE:** No, but there is Glock training at the academy.

**Commissioner FULLER:** I will take that on notice. It will be easily answered.

**Mr DAVID SHOEBRIDGE:** You said you will take it on notice whether there is something in the Firearms Act or the Police Act, as I understand it. If there is not, can you cover the field in your answer on those?

**Commissioner FULLER:** Yes.

**Mr DAVID SHOEBRIDGE:** Commissioner, you would be aware that the ice inquiry recommendations have been handed down relatively recently and made public even more recently.

**Commissioner FULLER:** Yes.

**Mr DAVID SHOEBRIDGE:** Have you read them?

**Commissioner FULLER:** No. I have read the high-level recommendations in relation to them, yes.

**Mr DAVID SHOEBRIDGE:** I am reading from paragraph 153 of the report:

The Inquiry recommends that the NSW Police Force employ detection methods other than the use of drug detection dogs to target illicit drug supply at music festivals (Recommendation 80). In the Inquiry's view, the risk to health and life caused by deploying drug detection dogs in this context is not justified.

Are you aware of that conclusion?

**Commissioner FULLER:** I am sure the ice commissioner is much smarter than I am, Mr Shoebridge, but given the fact that in seizures at music festivals only 2 per cent is ice, I am not sure how music festivals even came under their notice, to be honest with you. But I have not asked him that question.

**Mr DAVID SHOEBRIDGE:** Sorry, who is "him"?

**Commissioner FULLER:** The ice commissioner.

**Mr DAVID SHOEBRIDGE:** Commissioner, you would be aware that the ice inquiry took submissions that dealt with a range of drugs and addiction problems, well beyond ice. Are you aware of that?

**Commissioner FULLER:** I am not aware of what evidence was given down there, Mr Shoebridge, nor was I called as a witness. But I understand its primary focus was the impact that ice had on the people of New South Wales.

**Mr DAVID SHOEBRIDGE:** Given there is a direct recommendation focused upon one of the highly visible activities of the NSW Police Force, do think not you should have read the report and considered that recommendation fully, rather than dismiss in the flippant manner you have done here.

**Commissioner FULLER:** No, what I think I should do—

**The Hon. WES FANG:** Point of order: I accept that Mr David Shoebridge is able to ask questions but he asks questions and then he inserts his own commentary, which is deeply offensive to those witnesses who are here at the table today. I would ask the Chair to bring Mr David Shoebridge back to just asking questions without commentary and ask him to withdraw those inflammatory and insulting comments.

**Mr DAVID SHOEBRIDGE:** Given my time is limited, I withdraw the reference to being flippant. Commissioner, do you not think you should have read it?

**Commissioner FULLER:** I think what is important is that I look at the recommendations and then go back and overlay what evidence is available to support them so I can give the Government the best advice and guidance in relation to that. I would say, again, that on the request of the statistics, only 2 per cent of drugs seized at music festivals are ice. So I am failing to see the connection. Now, you can disagree with me, but that is my position.

**Mr DAVID SHOEBRIDGE:** Perhaps if you had read the report, Commissioner, and realised that the evidence canvassed a great deal more than just ice, you would be in a position to understand why the recommendations were concluded.

**Commissioner FULLER:** Perhaps it should have been called the special commission of inquiry into all drugs.

**Mr DAVID SHOEBRIDGE:** Commissioner, wouldn't be the sensible practice of a police commissioner, when an inquiry established by the Premier makes direct recommendations to your work—wouldn't it just be accepted good practice for you to read the report and consider the recommendations? This was an inquiry established by the Premier.

**Commissioner FULLER:** The Government remains committed to not supporting those recommendations. That is my understanding, Mr Shoebridge.

**The Hon. ANTHONY D'ADAM:** Commissioner Fitzsimmons, I just want to clarify is it your evidence that no single person was responsible for the decision to dispatch the four trucks down Hames Road?

**Commissioner FITZSIMMONS:** The investigation is going on. I do not know the specifics of Hames Road, if you do not mind. I think there were over 200,000 dispatches of firefighter deployments over this last season. I do not have at hand any specifics on the Hames Road incident you are referring to. Commissioner Baxter has indicated there is a review going on. I suggest we await the results of that.

**The Hon. ANTHONY D'ADAM:** Are you prepared to take the question on notice or are you just not prepared to answer that question?

**The Hon. WES FANG:** Point of order—

**Commissioner FITZSIMMONS:** I have answered.

**The Hon. WES FANG:** The commissioner has provided his answer. For the Hon. Anthony D'Adam to then subsequently say that—

**The CHAIR:** Your point of order is out of order. You are wasting your time.

**The Hon. WES FANG:** —the commissioner has refused to answer the question is inappropriate and I ask him to withdraw that as well.

**The CHAIR:** He did not say that.

**The Hon. ANTHONY D'ADAM:** I did not. I asked whether he was prepared to take it on notice.

**The Hon. WES FANG:** You then inserted whether he was going to refuse to answer the question.

**The CHAIR:** Order!

**Commissioner FITZSIMMONS:** What I can say is that the dispatch of any resource under the command and control arrangements—under incident control systems—is that of the agency itself—the operational tasking. So, the officer who would have dispatched the Fire and Rescue appliances would have been a Fire and Rescue officer and the decision to dispatch the individual units would have been the crew leader on board the particular fire truck.

**The Hon. ROSE JACKSON:** I just have a few questions in the minutes that we have left for Commissioner York. Thank you for coming today. We did get slightly derailed. These things happen but thank you so much for giving up your time. I just wanted to ask about changes in the way that funding is distributed and managed for individual units. Has there been any recent change in the way that that funding is managed?

**Commissioner YORK:** There has. That change was the centralisation of the accounts to ensure the efficiency and appropriate allocation of funds. It is still nominally for the units but we centrally manage it.

**The Hon. ROSE JACKSON:** Has that caused delays in units obtaining equipment? Are they able to obtain necessary equipment as quickly as they were before the change?

**Commissioner YORK:** I am not aware of any delays. There have been some other changes in relation to the way in which we provide equipment. It used to be going out to zones: we now deliver out to units. We have a number of post boxes across the State to make it easier for those units to collect their equipment and get direct access to some of that equipment. Some of it is centralised by us in the warehouse and others go direct. So, to say that one has led to a delay or not, there have been a number of changes but we are trying to make sure that all our members get their equipment in time as quickly as possible.

**The CHAIR:** Commissioner Fuller, are you familiar with the work health and safety legislation in this State?

**Commissioner FULLER:** Yes.

**The CHAIR:** Definitely. That is right. Are you aware that hearing impairment meets the definition of serious injury or illness as set out in the Work Health and Safety Act as it results in the loss of bodily function?

**Commissioner FULLER:** I would assume safely that is a yes, sir.

**The CHAIR:** Given the registry has issued only one suppressor permit to a recreational licence holder on medical grounds, why does the Firearms Registry continue to refuse to issue suppressor permits for hearing protection?

**Commissioner FULLER:** I know we have discussed this on many previous occasions, sir. I will take on notice that question and come back to you with a legal answer.

**Mr DAVID SHOEBRIDGE:** Commissioner Fuller, there was a very novel police operation undertaken by the West Midlands police in the United Kingdom, called Operation Close Pass, which has seen a 20 per cent reduction in the number of cyclists killed or injured since it began in September 2015. Two brave undercover police with cameras on them went up and down as cyclists and stopped, cautioned and, on occasion, sought to prosecute motorists who came within a metre. Given it led to a 20 per cent reduction in the number of cyclists killed or injured, will you review the work of Operation Close Pass?

**Commissioner FULLER:** I will, if you could provide any help in me finding that.

**Mr DAVID SHOEBRIDGE:** I will, happily.

**Commissioner FULLER:** I will certainly give you that undertaking that I will review it or have it reviewed by Assistant Commissioner Corboy.

**Mr DAVID SHOEBRIDGE:** Thank you, Commissioner. In the last estimates round, I asked some questions about jaywalking and you referred us to the revenue.nsw.gov.au website. Unfortunately, none of the information about jaywalking was available on that site. I will ask you more specifically: Could you please provide for each of the past five years how many fines have been issued for breaches of sections 230, 231, 232 and 234 of the road rules?

**Commissioner FULLER:** I will take that on notice.

**The Hon. ANTHONY D'ADAM:** Commissioner Fuller, last estimates I asked you a question about workers compensation for special constables. You undertook to raise the matter with the Minister. Can you report on what the outcome of those discussions was or if they even occurred?

**Commissioner FULLER:** They would have occurred because it was taken on notice. As you know, that is produced as an action for us. I would have to take on notice the outcome of it but if I took it on as an action, it would have come to me for resolution. I can only take it as a further action item to close the gap in terms of what that conversation was.

**The CHAIR:** At that point we will finalise today's questioning. Thank you all very much for coming today. I note that a number of questions were taken on notice. The secretariat will be in touch soon in relation to those questions taken on notice and any supplementary questions we may have for you.

**(The witnesses withdrew.)**

**The Committee proceeded to deliberate.**