

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

**Friday 13 March 2020**

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

## **ATTORNEY GENERAL AND PREVENTION OF DOMESTIC VIOLENCE**

**UNCORRECTED**

**The Committee met at 09:30**

### **MEMBERS**

The Hon. Robert Borsak (Chair)  
Ms Abigail Boyd  
The Hon. Scott Farlow  
The Hon. Rose Jackson  
The Hon. Trevor Khan  
The Hon. Natasha Maclaren-Jones  
The Hon. Daniel Mookhey  
The Hon. Shaoquett Moselmane  
The Hon. Penny Sharpe  
Mr David Shoebridge (Deputy Chair)

### **PRESENT**

**The Hon. Mark Speakman, Attorney General, and Minister for the Prevention of Domestic Violence**



## **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 2019-2020 further hearings. Before I commence, I acknowledge the Gadigal people who are the traditional custodians of this land. I would also like to pay respects to the Elders past and present of the Eora nation and extend that respect to other Aboriginals present. I welcome Attorney General Speakman and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolio areas of Attorney General and Prevention of Domestic Violence.

Today's hearing is open to the public and is being broadcast live via the Parliament's website. In accordance with the 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 the right to procedural fairness in accordance with 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 message from advisers or members' staff seated in the public gallery should be delivered through the Committee secretariat. Attorney General, I remind you and the officers accompanying you that you are free to pass notes and to refer directly to your advisers seated at the table behind you. The transcript of this hearing will be available on the web as soon as possible. I remind everybody to turn their mobile phones off or to turn them to silent for the duration of the hearing. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. Attorney General Speakman, 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 they do not need to be sworn as they have been sworn at an earlier budget estimates hearing before this Committee: Mr Michael Coutts-Trotter, Ms Catherine D'Elia, Ms Kathrina Lo, Ms Simone Walker and Mr Brendan Thomas. Ms Mann, I ask that you state your full name, position title and agency, and swear either an oath or an affirmation. The words of both the oath and the affirmation are on cards on the table in front of you.

**NATASHA MANN**, Executive Director, Justice Strategy and Programs, Department of Communities and Justice, affirmed and examined

**BRENDAN THOMAS**, Chief Executive Officer, Legal Aid NSW, on former oath

**KATHRINA LO**, Deputy Secretary, Law Reform and Legal Services, Department of Communities and Justice, on former affirmation

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

**CATHERINE D'ELIA**, Deputy Secretary, Courts, Tribunals and Service Delivery, Department of Communities and Justice, on former oath

**SIMONE WALKER**, Deputy Secretary, Strategy Policy and Commissioning, Department of Communities and Justice, on former oath

**The CHAIR:** Today's hearing will be conducted from 9.30 a.m. to 12.00 p.m. with the Attorney General, and from 1.30 p.m. to 5.00 p.m. with the departmental witnesses. There will be no Government questions. I declare the hearing for the proposed expenditure for the portfolio areas of the Attorney General and Prevention for Domestic Violence open for examination. There is no ability to make an opening statement—as much as I know you would like to, being an advocate, as you are. I am sure the question-and-answer session will show us your ability to answer questions.

**Mr MARK SPEAKMAN:** Thank you.

**The Hon. TREVOR KHAN:** As long as they are questions as opposed to lengthy statements.

**Mr DAVID SHOEBRIDGE:** Like that.

**The Hon. ROSE JACKSON:** Thanks, Minister and officials, for coming along. Minister, I just wanted to ask: You are obviously aware that Minister Elliott is presently under investigation by NSW Police Force for potential breaches of the Firearms Act?

**Mr MARK SPEAKMAN:** Yes.

**The Hon. ROSE JACKSON:** If he is found to have breached that Act, can you give us an assurance that he will be prosecuted as forcefully as any ordinary citizen who breaches our important gun laws?

**Mr MARK SPEAKMAN:** I can give you an assurance that I will not be playing any part in that prosecution. Prosecutions in New South Wales are run independently by the police or the Director of Public Prosecutions, his office. It is a matter in which Ministers of the Crown have no role and I have no role in that.

**The Hon. ROSE JACKSON:** But it would be your expectation that a Minister of the Crown would not be treated differently to an ordinary citizen by the DPP?

**Mr MARK SPEAKMAN:** In my view, no-one is above the law, no-one is entitled to special treatment and Ministers of the Crown comply with the law just like everyone else. It is a matter for the police and the DPP to bring prosecutions and pursue those prosecutions as they see fit.

**The Hon. ROSE JACKSON:** I would like to move on to the recent report of the Law Enforcement Conduct Commission [LECC] in relation to the power of NSW Police Force standard operating procedure for strip searches. Have you read the LECC report?

**Mr MARK SPEAKMAN:** Parts of it.

**The Hon. ROSE JACKSON:** You would be aware that it references at various points either inadequacies or areas in which the Law Enforcement (Powers and Responsibilities) Act 2002 [LEPRA] is not explicit about the way that police should conduct strip searches. Are you going to propose any amendments to LEPRA to clarify the law, or are you just going to continue to leave it up to the police to guess whether their actions are legal or not?

**Mr MARK SPEAKMAN:** Thank you. The Minister for Police and Emergency Services and I have joint responsibility for administering LEPRA. We do not yet have a final report from LECC and I will certainly be anticipating that with great interest. I do not anticipate any legislative reform this side of receiving a final report from LECC.

**The Hon. ROSE JACKSON:** But it is quite possible that, pending the release of the final report—I think you would accept there would be substantial elements that are similar to the report you have received—it is feasible that legislative amendments to LEPRa are proposed in response to the final report?

**Mr MARK SPEAKMAN:** Legislative reform is feasible, but I will not make a decision about what I will bring to Cabinet with the Minister for Police and Emergency Services until I have the final report.

**The Hon. ROSE JACKSON:** Is it your view, in general, that codifying police powers in LEPRa is preferable so that we do not leave police in a situation where the extent to which they can do things—for example, as was noted in the LECC report, whether they can ask a person to squat during a search, whether they can ask a person to lift their genitals or bend over. The LECC report that we have seen has indicated that none of those things are clear to police at the moment. Do you think it is preferable that it would be clear to police?

**Mr MARK SPEAKMAN:** It is always preferable that people clearly understand their powers and their responsibilities and I will await the final LECC report to make a determination about whether the law needs clarification.

**The Hon. SHAOQUETT MOSELMANE:** Thank you, Attorney, and thanks to the officials. Attorney, you are aware of the horrific deaths of Jacinta Rose Smith and Mona Lisa Smith in 1987?

**Mr MARK SPEAKMAN:** Yes.

**The Hon. SHAOQUETT MOSELMANE:** And the incessant call for a fresh inquest?

**Mr MARK SPEAKMAN:** Yes.

**The Hon. SHAOQUETT MOSELMANE:** Why won't you hold or apply for a new inquest?

**Mr MARK SPEAKMAN:** Give me a moment. Everything is falling apart physically, not metaphorically. I am aware of those calls for an inquest. We have had correspondence from the National Justice Project. I think in the last estimates hearing I reported to this Committee that I had written to the police commissioner asking him what action he was contemplating. I have received a letter from him dated 2 March, the bottom line of which is that he does not believe that an inquest into the deaths of Jacinta and Mona Lisa Smith will adduce new or additional information. He notes that the accused is now deceased, it was discharged by a jury, that all police involved in the original investigation are now discharged and that further investigation is not planned by police. I would be currently reluctant to direct an inquest and there are a number of reasons for that.

The first is that I am unaware of any instance of a Minister directing an inquest be held. The second is that decisions regarding the commencement of inquests are more appropriately determined by an independent State Coroner rather than me, as a politician. The third is that the only witness to the car accident, Grant, is now deceased, and therefore there would be limited efficacy in having an inquest to determine the circumstances of the girls' deaths or to lead to further prosecution, noting that he was previously acquitted of the girls' deaths. Matters that you would expect an inquest to determine—like the identities of the deceased, their date, their place, the medical cause of death—are all known. As I have said, I have that correspondence from the Commissioner of Police. The National Justice Project has requested the opportunity to respond to any matter that I consider militates against directing an inquest and what I intend to do is to write to the project in the coming days or weeks to invite them to set out those matters.

**The Hon. SHAOQUETT MOSELMANE:** Attorney, the various commentary that was made around this investigation was that there were significant incompetencies in the process. Is it not reasonable to expect that these incompetencies be investigated so that those failures that happened during the process are investigated and not repeated?

**Mr MARK SPEAKMAN:** My present view, subject to any further submissions the National Justice Project wishes to make, is that there should not be an inquest looking at those matters for the reasons I have identified.

**The Hon. SHAOQUETT MOSELMANE:** There should not be?

**Mr MARK SPEAKMAN:** There should not be an inquest. I withdraw that. I should not be directing an inquest. Whether the State Coroner wishes to direct one, that is a matter for her. Looking at the adequacy or otherwise of the police investigation is probably more a matter for LECC, the Law Enforcement Conduct Commission, rather than me directing an inquest to look at that.

**The Hon. SHAOQUETT MOSELMANE:** Attorney, this has been going on for almost 32 years and as the Attorney for the last two or three years you have been reporting that you will investigate this further. There

is a feeling amongst the family, who believe that answers should be given, that an inquest should be opened up to address their concerns. What do you say to that?

**Mr MARK SPEAKMAN:** Firstly, all of our sympathy will go out to the family, having these matters around for so long in such terrible circumstances. It has been across my desk maybe for 12 or 18 months, so I have asked the police commissioner what he proposes to do. I have got his response in recent days and I do not presently see utility in directing an inquest or that it would be appropriate for me as a politician to direct that when LECC can look at the adequacy of police investigations and you have an independent Coroner who can make a determination whether an inquest should be held.

**The Hon. SHAOQUETT MOSELMANE:** Attorney, when you read this case it immediately conjures up the Bowraville murders as well. There is the belief amongst the Indigenous community that there are injustices in our system. If you do not have a fresh inquest, are you not reinforcing that belief, the claim, that there are injustices in our system when it comes to Indigenous people?

**Mr MARK SPEAKMAN:** If that is the perception, that there is that injustice, that is a terrible thing. I have to confess it is not just a perception. In the past, at least, it is the reality.

**Mr DAVID SHOEBRIDGE:** It is the reality today.

**Mr MARK SPEAKMAN:** In terms of—

**Mr DAVID SHOEBRIDGE:** Outcomes.

**Mr MARK SPEAKMAN:** In terms of outcomes, yes, and over-representation in the criminal justice system, yes.

**The Hon. ROSE JACKSON:** I want to ask about legal aid rates. Subsequent to the new legal aid rate that was released in December last year the Bar Association pointed out that in some cases this will actually lead to a reduction in fees. Considering that the scale has not increased in 12 years, why did you reduce it?

**Mr MARK SPEAKMAN:** I will answer your question and then I will leave Mr Thomas to mop up the mess I might leave in trying to answer your question. The effect of that ramp-up of legal aid rates will be, by the time that ramp-up finishes I think in 2023, practitioners on the whole will have an increase in their real remuneration. We have doubled State spending on legal aid in the last eight years. There has been a reduction in the amount of funding for legal aid from the Public Purpose Fund because of the shrinking of its capital and the reduction in its return, but that reduction in Public Purpose Fund funding is far and away more than offset by the increase in State funding. We have basically doubled State funding. That is not just for private practitioners but across the whole range. Something like 35 per cent of the Legal Aid NSW budget goes to private lawyers' fees.

By the time we have finished this ramp-up their real fees will be higher than they were in 2007, which is the last time there has been an increase. The ramp-up will be an increase in what I call the headline rate, the hourly rate, for many services. There are also increases in fixed preparation fees; so fixed preparation fees for summary hearings, visiting jails, travel time and so on. It may be that in certain cases there have been a reduction, but overall there will be a 30 per cent increase over five years. By and large the hourly rates of remuneration and the preparation fees have increased very substantially. We are not doing this to line the pockets of private lawyers; we are doing this to make sure that legal aid services are available throughout New South Wales for the most needy, particularly in regional areas where often there is not the critical mass to do legal aid work in-house and have employed lawyers. Do you wish to add anything?

**Mr THOMAS:** Thanks, Attorney. The reduction I think you are referring to was an article in *The Sydney Morning Herald* from January. Just to explain what that is, in January we changed the rate at which we paid private solicitors for defended hearings in the Local Court. Prior to that change there was what we call a start up grant for \$230, solicitors were able to apply for another \$150 for mentions and a couple more times if the matter was extended for \$150 hourly rates. The average people were being paid for Local Court defended hearings was \$830. By far the bulk of people were getting \$830. What we did in January is we changed those piecemeal payments to a single up-front payment of \$1,100. So it is an actual increase in the rate people are being paid and it is a single payment. Previously people were coming back three or four times for approval for grants of aid in simple defended hearings in the Local Court.

This change means they apply once and they have that rate approved once. The vast bulk of people will be getting paid more for those defended hearings in the Local Court. There is the ability for people to come back for further payments in exceptional circumstances. We have recently established a private lawyers advisory committee, which I chair, which gives us advice on how we engage with private lawyers. The criminal lawyers

on that committee said pretty clearly the advice we have given on those exceptional circumstances is not clear enough and we need to be clear about that, so we have been working to produce some additional advice on that, which should be going out to private lawyers next week.

**The Hon. ROSE JACKSON:** I appreciate that you are trying to manage the issue of lawyers having to come back in a piecemeal way, but, as you have acknowledged, the reality is no two cases are the same and the Bar Association has pointed out that, excepting the most minor and uncontentious cases, this element of the change will potentially have the consequence of a reduction in the amount that lawyers are being paid for those cases. Considering the system is already at crisis point, surely that is something that is of concern, considering there is already an issue with the capacity to secure private practitioners for these matters?

**Mr MARK SPEAKMAN:** That is why we have injected an extra \$88 million into private practitioner fees for legal aid. It is why we are increasing what I called the headline rate from \$150 an hour to \$195 an hour gradually over a period of years, so that, by the time we reach \$195 an hour, the real rate will be higher than what it was in 2007.

**The Hon. ROSE JACKSON:** That is not saying much, though, is it, considering that is decades ago?

**Mr MARK SPEAKMAN:** Well, it is.

**The Hon. TREVOR KHAN:** Point of order—

**Mr MARK SPEAKMAN:** You may be able to point to an example here or there where remuneration has gone downwards, but overall this is a very dramatic increase in private practitioner remuneration and it is a configuration, in terms of headline rates and payments for piecework, that was recommended by the Law Society of New South Wales.

**The Hon. ROSE JACKSON:** Let us go to the \$88 million, because the business case that was prepared in the height of the legal aid funding crisis indicated—so this was prepared by Mr Thomas and his team, presumably—that \$236.8 million was required to address this. You have offered less than a third of that. How do you suppose that, when Legal Aid NSW has indicated it required over \$230 million and you have offered it \$88 million, how is that an adequate response?

**Mr MARK SPEAKMAN:** Agencies all the time put in bids for funding and, in the real world, where we have schools, hospitals, roads, railways and all sorts of things in government, we have to allocate scarce resources. The scarce resources we have allocated with an additional \$88 million for Legal Aid represents a record injection into private practitioner fees in the State. It is an injection that was welcomed by the Law Society and it is an injection that will lead to an increase in real terms in lawyer remuneration.

**The Hon. ROSE JACKSON:** The Law Society said, "The one-off investment staggered over four years will not go very far to meet the current unmet need or provide continued funding security for the system". They were not particularly enthusiastic about the injection. Yes, it was a record injection but only because you had not injected anything.

**Mr MARK SPEAKMAN:** Are you reading from the Law Society or the Bar Association?

**The Hon. ROSE JACKSON:** The Bar Association.

**Mr MARK SPEAKMAN:** The Law Society, as I said, welcomed this increase and it is an increase that leads to an increase in lawyer remuneration in real terms.

**The Hon. ROSE JACKSON:** Is there going to be any additional remuneration on top of the announcement that you have made?

**Mr MARK SPEAKMAN:** This represents a record injection of government funding into private practitioner services for legal aid and I am content to stand on that record.

**The Hon. ROSE JACKSON:** So this is it? The message to lawyers in New South Wales is, "That is it, no more, \$10"?

**Mr MARK SPEAKMAN:** The message to lawyers and to legal consumers in New South Wales is that we are increasing the headline rate from \$150 an hour to \$195 an hour. That is a 30 per cent increase. On top of that, we are increasing allowances for travel time. Not only is there an increase in the rate, there is an increase in the number of hours allowed for travel time. Further funding is always possible in budgets but at the moment I do not contemplate any further injection of funding to the Legal Aid board to cover private practitioner fees. The Legal Aid board sets those fees, not the Government. It is a matter for the board. If the board chooses to negotiate

higher or different fees that is a matter for them. Already the effect of this record government injection is to increase remuneration for all lawyers by 30 per cent to lead them by 2023 to having remuneration in real terms greater than in 2007. And we are not doing this to line lawyers' pockets. We are doing this so the neediest in the community have access to justice.

**The Hon. ROSE JACKSON:** Considering some lawyers are currently being paid below the minimum wage for legal aid work, there is no suggestion this is lining lawyers' pockets. What we are suggesting is that we are currently experiencing a crisis in private practitioners doing legal aid work that has been identified in the Supreme Court, by the Bar Association, by the Law Society, by you yourself and this is not an adequate response to that crisis and it is going to continue to get worse. That is the situation we are currently in.

**Mr MARK SPEAKMAN:** There was the risk of market failure. We had at least one case aborted because a Legal Aid lawyer could not be found. That is why I put this package together through the government process, through the budget process. It has been warmly welcomed by the Law Society and it will, I think, go a long way to solving the problem.

**The Hon. ROSE JACKSON:** If it does not go a long way to solving the problem—it is quite a new package—if we continue to see Legal Aid struggle to secure private practitioners for essential work, if we continue to see cases aborted, will you do more?

**Mr MARK SPEAKMAN:** It has been famously said that if the facts change opinions should change. I will not jump at hypotheticals but obviously a government has to respond to the circumstances at the time. If there is some ongoing crisis or failure or problem, then of course we will address it.

**The Hon. TREVOR KHAN:** I might be back in the market.

**The Hon. ROSE JACKSON:** Then you will be on my side.

**The Hon. TREVOR KHAN:** I have been accused of that before.

**Mr DAVID SHOEBRIDGE:** Minister, welcome, and welcome to all the senior staff from the department.

**Mr MARK SPEAKMAN:** Thank you.

**Mr DAVID SHOEBRIDGE:** This is the only estimates I can recall where we have had a majority of women.

**The Hon. ROSE JACKSON:** A bit of a turnaround from Police.

**Mr DAVID SHOEBRIDGE:** That is no disrespect to you, Attorney, or Mr Coutts-Trotter.

**The Hon. SHAOQUETT MOSELMANE:** He scratches his head.

**Mr DAVID SHOEBRIDGE:** That is his usual physical position.

**Mr COUTTS-TROTTER:** It is called the defensive crouch.

**Mr DAVID SHOEBRIDGE:** The Supreme Court has announced it will be implementing changes effective on 23 March to reduce face-to-face contact in courts and produce more social distancing in courts. What do you understand are the proposed arrangements for the Local and District courts?

**Mr MARK SPEAKMAN:** I understand that the Department of Communities and Justice is working with the courts on contingency plans if the coronavirus situation worsens. I will ask Ms D'Elia to address you on that.

**Ms D'ELIA:** Thank you, Attorney. As you would be aware, the sittings of the Local and District courts are a matter for the Chief Magistrate and the Chief Judge. However, we have been working very closely with them over the last few days in order to determine how we can ensure that we maintain access to justice and we ensure that there is ability to hear matters going forward through this COVID situation. The District Court and the Local Court are looking at very similar instances of leveraging things such as the online court and the audio visual links. Over the last two years we have put a lot of effort into digital and alternative channels to access the court. So how can we leverage those better in order to reduce the need for people to appear before the court? There has also been discussions with respect to using telephone connections or more administrative matters with the court.

The heads of jurisdiction have been extremely proactive in terms of how they want to make sure that they are able to hear the matters going forward and ensure that there is a minimised impact as can be on matters being heard but also the health and safety of the clients, the staff and the rest of the judiciary. One of the things you will

see is that the District Court will probably have very similar arrangements. They do today leverage audiovisual for some of their list matters in the Local Court. The Local Court is the largest jurisdiction in terms of the spread of where individuals come in. We are trying to make sure that we limit the number of people who attend our courthouses if they do not need to be there. We put notices on websites recommending that if individuals do not need or are not parties to matters that they reconsider their attendance. We have done a lot of work with respect to hand sanitiser, signage about washing hands, all of the similar things that are happening across the whole of government.

**Mr DAVID SHOEBRIDGE:** Attorney, in terms of the gathering of people, the Supreme Court is not really the issue. They are the ones who have come out first and given a statement. They have clearly got the resources. But it would be a fraction, 1 or 2 per cent of the people gathering at the Supreme Court than we would see gathering on a weekly basis at the Local Court.

**Mr MARK SPEAKMAN:** It may not be as low as 1 or 2 per cent. I accept the general proposition that the vast majority of the work is in the Local Court.

**Mr DAVID SHOEBRIDGE:** My focus is on the Local Court. Apart from hand sanitisers and some notes on the website, what is being proposed at the Local Court where we are going to see the largest gatherings of people?

**Mr MARK SPEAKMAN:** I think it is a work in progress, as Ms D'Elia foreshadowed. Is there anything you want to add to that?

**Ms D'ELIA:** The business continuity planning is dependent upon obviously how the situation evolves. As we anticipate more activity potentially being in the metropolitan areas, we are working on business continuity to take a look at where less affected areas can assist as well. It really depends on how the spread and the evolution of COVID happens.

**Mr DAVID SHOEBRIDGE:** What about as a matter of law if a notice is issued by the health authorities under the Public Health Act that gazumps the jurisdiction of the Chief Magistrate, of the Chief Judge of the District Court, of the Supreme Court? If a notice is issued, can the health authority shut down the courts?

**Mr MARK SPEAKMAN:** I cannot answer that question definitively. It would depend on the terms of the notice but my preliminary response would be yes?

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** Are there some agreed protocols that you are negotiating between the heads of jurisdiction and the health authorities for the circumstance on how that would happen? It would have a very, very significant impact and I am wondering if you have protocols in place or are planning for that?

**Ms D'ELIA:** At this point we do not have a protocol in place with Health but what we have done is we have identified what are the most critical types of matters that would have to continue if there were a situation where we could not bring the public into the courts. For example, bail hearings—we are putting in place opportunities to continue to hear bail.

**Mr DAVID SHOEBRIDGE:** Attorney, if you get, without a protocol, an agreement to carve out exclusions for things like bail and other court hearings, if you get a blanket notice issued under the Public Health Act to shut down the courts, the police are going to be in a terribly invidious situation unless you have those protocols and agreements in advance so that you know what the form of the notice will be?

**Mr MARK SPEAKMAN:** I accept that but the coronavirus situation is an evolving situation and that is why the Department of Communities and Justice is working with stakeholders to get processes and protocols in place.

**Mr DAVID SHOEBRIDGE:** Have you sat down with the Health authorities and said, "These are the core things that have to keep functioning regardless of where we are in terms of pandemic." We need to have bail hearings. We need a certain class of criminal jurisdiction, I would imagine, to continue. Can we talk about how that can continue to operate consistent with a positive response for public health because I would have thought those conversations would be very ripe by now and actually completed by now, and I am surprised they are not.

**Mr COUTTS-TROTTER:** There are actually three key pieces of legislation: There is the Public Health Act and the powers available through the health Minister to direct; there is the State emergency management Act, which has a set of powers that could be invoked by the relevant Ministers; and then there is the Commonwealth's own jurisdiction.

**Mr DAVID SHOEBRIDGE:** Biosecurity.

**Mr COUTTS-TROTTER:** We are working through the intersection of those three key pieces of legislation. We are meeting daily with senior Health officials to work through a range of scenarios, including the scenarios that you have described. It is complicated, of course, by the appropriate independence of the leaders of each jurisdiction but to your simple question: Is it likely that Health would issue an order that would throw the court system into chaos? The answer is clearly no. We have set up processes and we are discussing scenarios to make sure that is not the case, that while it is evolving, decisions have to be made based on an ever-changing scenario. We have processes and routines in place that mean that they are properly considered but the complication will be the interaction, potentially, between Commonwealth legislation and State legislation.

**Mr DAVID SHOEBRIDGE:** Is there a position that the Department of Communities and Justice has adopted, which you have communicated clearly to Health authorities, that states: "These are the core court functions that must continue to operate regardless of where we are on pandemics. We want to work with you about making those as safe as possible." If not, why not?

**Mr COUTTS-TROTTER:** I think the short answer is yes.

**Mr DAVID SHOEBRIDGE:** What are they?

**Mr COUTTS-TROTTER:** For bail, of course, we want to use as much audiovisual technology as possible. Bail, of course, is critical. It is the area of activity that can be best supported by audiovisual technology, meaning that decisions can be made without people coming into contact with one another. But some of this is profoundly difficult to solve. There are compromises between a whole range of public services and the objectives of the public health function that we will have to work through.

**Mr DAVID SHOEBRIDGE:** I am not asking these questions on the assumption that the answers are easy; I am asking these questions on the assumption that it is very difficult. That is why the greatest degree of advance planning is important. To be quite frank, I have not heard a clear statement that shows that those protocols are in place and this kind of pre-planning has been done. Attorney, is this going to be something that you direct your attention to in the coming days and weeks?

**Mr MARK SPEAKMAN:** It is, and I will. I will be, among others, meeting the Chief Justice early next week. I will be liaising with staff and others.

**Mr DAVID SHOEBRIDGE:** Have you had any further resource requests from the local court in particular about increasing access to audiovisual?

**Mr COUTTS-TROTTER:** I do not know.

**Mr DAVID SHOEBRIDGE:** Can I say to you, when you talk to information technology professionals, pretty much every major organisation now is looking to get IT professionals to increase their bandwidth and increase their audiovisual access. It is extremely hard to get the expertise, let alone the equipment, at the moment. Have you had any discussions with the Local Court about that?

**Ms D'ELIA:** The conversations have been more broad across all jurisdictions. It is not to increase the number of audiovisual equipment pieces that we have in each of our courthouses but one of the things that we are looking at is leveraging different technology to allow us to have virtual courts. We are taking a look at what we can potentially do to bring the parties in without bringing them into a physical building.

**Mr DAVID SHOEBRIDGE:** Do you have a set of recently formulated protocols for how those audiovisual facilities—where you will have, potentially, defendant after defendant coming into the one facility? Have you updated your protocols to ensure that those facilities are not going to be a problem for the spread of coronavirus?

**Ms D'ELIA:** The protocols are evolving but they are evolving even as early as yesterday. We are still discussing how that works in the environment that is changing.

**Mr COUTTS-TROTTER:** To give one practical example, where you have leased space, where the lease manager is Property NSW—they and their entity manage a range of cleaning contracts. So who do you prioritise for deep, preventative cleaning? Is it schools? Is it courtrooms? Is it common areas in heavily trafficked buildings? There is a lot of operational work to try to identify the availability of resources—cleaning, in this case—and work through what is an appropriate prioritisation of a scarce number of cleaners. They are really quite challenging questions. Do you compromise cleaning in schools to improve cleaning in courts? What are the circumstances in which you might do that if that is actually the choice available to you? It is tough.

**Mr DAVID SHOEBRIDGE:** Given the bulk of cleaning contracts are outsourced now, how can we be assured of the work health and safety of the cleaning staff? If we start losing cleaning staff through illness, how do we prevent that? Have you done a risk analysis to ensure that the health of cleaners is protected? Have you ensured that they have adequate sick leave so that if they are sick they do not come into work places?

**Mr COUTTS-TROTTER:** Have I done that? No.

**Mr DAVID SHOEBRIDGE:** Has the department? I am not asking you personally.

**Mr COUTTS-TROTTER:** We usually rely on a contractual relationship with cleaners that are held by other people. We are working through another department to do that. In terms of our direct relationships, there is a lot of work going on. They are quite legitimate questions but obviously we cannot reach into the industrial relations of third parties. We can be very clear about our expectations of the safety of cleaning staff but we cannot reach into their industrial relations.

**Mr DAVID SHOEBRIDGE:** Can you speak to those contractors and say, "We contracted on the assumption this would be casual labour. We understand that there is now an increased need to potentially provide sick leave for casual labour. We are happy to talk to you about having a supplement on your contract in order to provide that benefit for the cleaners because providing that benefit to the cleaners protects not only them but also the schools, hospitals and courts they clean." Have you had those conversations with contractors and have you been willing to offer some additional public supplement so that those rights can be given to the casual cleaning staff?

**Mr COUTTS-TROTTER:** We and other agencies are having commercial discussions with cleaning contractors to identify the additional level and intensity of cleaning that we need and the prioritisation of locations. All of that relies on cleaners feeling confident they can come to work, that their own—

**Mr DAVID SHOEBRIDGE:** And feeling confident not to come to work if they are sick, which is, I think one of the key things that we are missing.

**Mr COUTTS-TROTTER:** Sure but what you are identifying is the possibility that there are too few cleaners and, therefore, you may need to enter different commercial arrangements with cleaning companies. Of course, we will work it through. Our aim is to get cleaners to undertake proper cleaning of important public facilities.

**Mr DAVID SHOEBRIDGE:** Mr Coutts-Trotter, my concerns are twofold. One is that, yes, there may need to be additional cleaning staff, but the second aspect of it is ensuring the work health and safety of the cleaners who are cleaning our public buildings, not only for them, which, of course, is a priority, but also to prevent having people who are sick coming into our public hospitals and our public schools. The only way to do that is to ensure that they have sick leave entitlements. I do not understand anything has been progressed to ensure that they have sick leave entitlements, but I could be wrong. That is why I am asking you to clarify the record if I am wrong in that.

**Mr COUTTS-TROTTER:** I am happy to take on notice any discussions that other agencies with responsibility for industrial relations may be having and, indeed, the nature of our commercial discussions if that is helpful to you.

**The CHAIR:** Mr Coutts-Trotter, maybe you can help me with this. Are you aware of the John Edwards murder-suicide?

**Mr COUTTS-TROTTER:** Yes.

**The CHAIR:** You are obviously aware then that on 5 July 2018 Mr John Edwards shot his two children, Jack and Jennifer, and himself. When will the inquest into the deaths of Jack and Jennifer Edwards take place? I believe it was scheduled originally for sometime in November last year but was postponed.

**Mr COUTTS-TROTTER:** I am afraid I do not know the answer to that.

**The CHAIR:** Could you take that on notice?

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

**The CHAIR:** I am just keen to know why it was postponed and also when you think the Coroner will then have a hearing date set, if it is not already set, and what that date is.

**Mr COUTTS-TROTTER:** Okay, we will take that on notice.

**Mr DAVID SHOEBRIDGE:** Mr Attorney, what is the time line of the proposed reforms to allow historical settlements in child sexual abuse cases to be set aside? When will New South Wales victims of child sexual abuse have the same rights as victims in Victoria?

**Mr MARK SPEAKMAN:** We put out a discussion paper in the last couple of weeks on this topic. I think there is a six-week consultation period. The submissions we get on that will then be digested. I would anticipate very late this year or the beginning of next year we would have legislation if the decision is made to legislate.

**Mr DAVID SHOEBRIDGE:** Do you accept that the cohort of survivors of abuse who have had potentially deeply unfair deeds entered into under the previous legal regime are an elderly group of people and therefore speed in delivering these reforms should be an essential part of the reforms?

**Mr MARK SPEAKMAN:** Having taken advice, I think we are moving as quickly as we practically can post this discussion paper. There are a number of slightly different models. I think the model in WA is a little bit different from Queensland, Victoria and Tasmania. There is a question of whether it extends to physical abuse beyond sexual abuse. There will be a question of whether, as in other jurisdictions, it is the then presence of a limitation period that was basically the unfairness that created a power imbalance between survivors, on the one hand, and institutions, on the other hand, or whether we go beyond that. But, having taken departmental advice, that appears to be a reasonably practical course to take that we will have legislation, if any, by the end of this year or the beginning of next year.

**Mr DAVID SHOEBRIDGE:** Do you understand the frustration of survivors of abuse in New South Wales who look just across the Murray River and see potentially a two-year delay for them having their rights advanced in New South Wales compared to survivors of abuse in Victoria, and for them arguments about very fine legal niceties do not really cut much dice? Do you accept that?

**Mr MARK SPEAKMAN:** I go back one step. Removal of limitation periods, having a proper defendant, were follow-ons from recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. Setting aside unfair settlements were not recommendations of the royal commission, so we do not have that guidance from the royal commission. We have moved swiftly to implement the vast majority of the criminal justice and civil liability reforms of the royal commission. This is going beyond what the royal commission has recommended.

**The Hon. SHAOQUETT MOSELMANE:** Attorney, at last year's estimates hearing you were asked about section 293 of the Criminal Procedure Act. You said you had recently received a brief from your department about the issue. What did the department recommend?

**Mr MARK SPEAKMAN:** There has been and will be targeted consultation on the reform of section 293. There is a case at the moment where it is probably prudent for me not to express my own preliminary views on the fairness or otherwise of 293. Compared with other jurisdictions, it is the most stringent bar on evidence of sexual reputation or history on a complainant. On one view, it will be said you do not want to open up that area and subject complainants to humiliating and scandalous cross-examination that may be irrelevant, but, on the other hand, some would say that there is inherent unfairness if you do not have some modest ability in exceptional cases to waive the rule—for example, where the complainant has convictions for making false accusations. So that is a matter that is still in progress. My current anticipation is that legislation on that—if we legislate to amend 293—will be done this year. That, I anticipate, if we decide to amend 293, will be done not in this session but the spring session of Parliament.

**The Hon. SHAOQUETT MOSELMANE:** You say that in one respect it is appropriate to have this section and you also say that there is a moderate aspect of fairness about it, but the reality is a number of judges have described the current section as an affront to justice. There is a huge gap between what you just said and what the judges—

**Mr MARK SPEAKMAN:** The difficulty I have in going further is that there is a matter before the court at the moment where there has been a permanent stay sought on the basis that current section 293 is unfair—I am paraphrasing it in fairly inexact terms. I do not want to express an opinion one way or another that may be taken up in that case; so what I have done is identified arguments for and against reform. If I have understated the colour and vigour of the language of those who want 293 reformed, then I take your point, but at the moment I cannot jump on any band wagon one way or the other.

**The Hon. SHAOQUETT MOSELMANE:** I hear you and we will not debate or discuss the matter before the court, but justices have said, effectively, that they are forced to exclude evidence—in one instance,

from a man's trial—because it was caught by the strict State legislation. It is clearly tying the hands of judges to make decisions.

**Mr MARK SPEAKMAN:** I accept that is sort of a fair paraphrase of what some judicial comments are.

**The Hon. SHAOQUETT MOSELMANE:** Is the judge right?

**Mr MARK SPEAKMAN:** I cannot say that. I have just explained why I am not going to give a preliminary view other than to say that, in the light of those comments, there has been a departmental review of 293 and targeted stakeholder consultation occurring.

**The Hon. SHAOQUETT MOSELMANE:** There have been cases where it has been delayed, waiting for you to address this particular section. Are you aware of that?

**Mr MARK SPEAKMAN:** I am, but it has been an issue that has been around for 10 or 20 years; we have had Law Reform Commission recommendations to amend 293. So this is not an issue that has emerged for the first time under my stewardship. I think, not being critical of them, previous Labor governments have not acted on the matter.

**The Hon. SHAOQUETT MOSELMANE:** We cannot hide behind that. You have been there for nine years, Minister.

**Mr MARK SPEAKMAN:** I am just observing. I think we have got a Law Reform Commission report that is 20 years old. It is a deeply controversial provision because it is a provision on which views are polarised; there will be views that take affront at any suggestion that a woman—usually a woman—will be cross-examined on her sexual history or reputation; there will be others, like in the cases you cite, that say it is an affront to justice, that at least some evidence cannot get in. So we want to make sure that if there is any reform in this area it is sensitive and balanced.

**The Hon. SHAOQUETT MOSELMANE:** You said as a result of the brief you will conduct a targeted consultation process. Who will be involved in that consultation process?

**Mr MARK SPEAKMAN:** This will not be an exhaustive list, but people like the Law Society, the Bar Association, groups like women's groups, women's safety groups.

**The Hon. SHAOQUETT MOSELMANE:** And when will that happen? You said in the second—

**Mr MARK SPEAKMAN:** We have had some already and that will continue, but the aim is to make a decision one way or another so that if we do decide to amend 293 legislation will be brought in the next session of Parliament.

**The Hon. SHAOQUETT MOSELMANE:** When will the parameters of the terms of consultation be out for people to consider?

**Mr MARK SPEAKMAN:** I am not sure—there is an issues paper that was provided to stakeholders confidentially in November. We have had responses to that issues paper and we will take it from there.

**The Hon. ROSE JACKSON:** Attorney, I want to ask about the Coroner's Court because we have had the statutory review that I understand has been with you for some years. Last year I think you mentioned a new process, a Communities and Justice NSW Health taskforce that was looking at the future of the Coroner's Court. When will see a decision about the future of the court? Is that something we could anticipate before the next election?

**Mr MARK SPEAKMAN:** As you, sort of, identified there is an interagency taskforce looking at the coronial process at the moment, headed by the Department of Health and the Department of Communities and Justice with people like the Chief Magistrate and the Coroner on that looking not just at what happens in an inquest or at the end in the Coroner's Court but looking at the whole coronial process; looking at whether there has been an over-reporting of natural deaths that has slowed down the process. We have amended legislation to deal with that, getting rid of the requirement that you report to the Coroner if a deceased has not been to a medical practitioner in the last six months. Reforms to speed up post mortems if they happen by having a triaging process so that a forensic pathologist can make decisions prior to a Coroner ordering a post mortem. That taskforce is still working on other reforms. The reason the statutory review has not been completed is because we are awaiting the report of that taskforce.

**The Hon. ROSE JACKSON:** Can I just clarify? The statutory review is not complete?

**Mr MARK SPEAKMAN:** The statutory review is not complete.

**The Hon. ROSE JACKSON:** Has there not been information that has been sitting with you since December 2017 in relation to this issue?

**Mr MARK SPEAKMAN:** There are. There obviously has been a drafting process for the statutory review and there are iterations of reviews and so on.

**The Hon. ROSE JACKSON:** Right, okay. So preliminary statutory reviews?

**Mr MARK SPEAKMAN:** But I do not think it is appropriate to finalise that review until a holistic taskforce has undertaken its work because the primary problem, as I understand it, with any delays in the coronial process, the court process, has been the front end in releasing bodies to grieving families in over reporting of natural deaths. So we are looking at a whole-of-government approach with Health and Communities and Justice working on that and then the statutory review will be informed by that.

**The Hon. ROSE JACKSON:** Is there a timeframe on that? Can you give us any sense of when we might expect that process to be complete?

**Mr MARK SPEAKMAN:** Well the taskforce, I am told, has a work plan. It is looking at reducing the over-reporting of natural deaths, reducing delays in releasing deceased persons, reducing delays in finalising post-mortem reports and improving communication with families. There are the two amendments that I have mentioned to progress some of that. I am told that the taskforce expects to finalise the main elements of its work plans by the middle of this year and then there will be ongoing implementation after that date.

**The Hon. ROSE JACKSON:** Is that work plan something that you could table for the Committee?

**Mr MARK SPEAKMAN:** It is not something—

**The Hon. ROSE JACKSON:** I mean, this has been going on for some time, Attorney. I do not want to keep asking you at every single budget estimates about the review of the Coroner's Court. But because we do not have anything else from the department—

**Mr MARK SPEAKMAN:** There is no finished work plan that could be tabled at the moment. It is still a work in progress.

**The Hon. ROSE JACKSON:** I appreciate your comments around wanting to take a holistic approach to this but, as you have said, you have already started legislating in a piecemeal way to try to address this. I guess there is a concern that in fact, the entire statutory review process is to be hidden, shelved or deprioritised under this taskforce and we will continue to see bitty pieces of legislation that do not get to some of the fundamental questions that have been identified by former Coroner Barnes and former Deputy Coroner Dillon about the more fundamental structural issues with the Coroner's Court?

**Mr MARK SPEAKMAN:** One thing that is out of my control, and out of the control all of us, is what COVID-19 might do to this process. That may well divert health resources, justice resources and coronial resources into dealing with that pandemic. But I understand the taskforce is moving as quickly as it can. I think it is important to have a whole-of-government approach to this.

**The Hon. ROSE JACKSON:** Will the taskforce deal with those fundamental questions that have been raised about the structure of the Coroner's Court and should it have its own separate jurisdiction? Those questions remain unresolved. Is the taskforce now in the process to give an answer to those questions?

**Mr MARK SPEAKMAN:** No, there is a plurality of views about whether we should have a separate Coroner's Court like Victoria and Queensland or whether it should remain a jurisdiction of the Local Court.

**The Hon. ROSE JACKSON:** Indeed. I think there is an interest in knowing the Government's view on that.

**The Hon. TREVOR KHAN:** Let him answer.

**Mr MARK SPEAKMAN:** That will be dealt with in the statutory review. But those sorts of structural issues and court issues are best finalised in the light of the outcomes of the taskforce which is looking at the whole process. My understanding is that the main cause of delay in the whole coronial process is a world-wide shortage of forensic pathologists. We will form a position on the structure, but ultimately resolving issues like that are going to be more important in reducing delays.

**The Hon. ROSE JACKSON:** Delays is one issue but there are two others that I would like to bring to your attention. One is the particular challenge in regional and rural New South Wales and the current Chief Magistrate has indicated that the coronial role of country magistrates is an additional pressure that they face.

Where is that quite particular and serious challenge going to be resolved? Is that part of the taskforce? Is that part of the structural review? What other work are you doing to address that challenge?

**Mr MARK SPEAKMAN:** The total resources that the Chief Magistrate gets in terms of magistrates is a matter for government. We are given a budget and a number of magistrates. How those magistrates are allocated to the Children's Court, to the coronial jurisdiction, to the Tenterfield Local Court or the Wagga Wagga circuit are matters for how the Chief Magistrate determines the allocation of his magistrates. But what is important to note is not just the output in terms of numbers of magistrates or numbers of full-time Coroners. So there is five full-time Coroners, Deputy Coroners in Sydney, a part-time Coroner in Wollongong and one in Newcastle. As you say regional magistrates sit as well in this jurisdiction.

The latest report of government services figures for 2018-19 show that of all the eight States and Territories New South Wales is the second best jurisdiction in terms of a backlog of cases that are older than 12 months or 24 months and it has been improving over the past couple of years. For the myriad of people watching this on the webcast, or who will read the transcript, they can find that in Table 7A.21 at page 20. So we are doing well compared to other jurisdictions.

**The Hon. ROSE JACKSON:** I specifically asked about the issues in regional and rural New South Wales. In that same time period I quote to you from Chief Magistrate Henson who said that he is acutely aware of the pressures of the dual role on country magistrates, requiring them to sit in a coronial capacity as well as presiding over criminal matters, bail applications, numerous family law and property and parenting matters. He has identified in that same period a particular challenge. We and presumably you have heard many reports from grieving families in regional and rural New South Wales about the particular challenge on country magistrates' performing their workload. I am interested to know, rather than a quote from the report on government services, what the Government is doing to try to address that other than saying "It is not our problem. It is the Chief Magistrates' problem."

**Mr MARK SPEAKMAN:** What I said was, the total resources the Chief Magistrate gets—

**The Hon. ROSE JACKSON:** Does he need more resources?

**Mr MARK SPEAKMAN:** —is our responsibility and how he allocates what he is given is his discretion. We are blessed in New South Wales with judicial officers who on the whole work extremely hard. Often in criminal matters they are potentially the victims of precarious trauma with the sorts of cases they have to deal with. They have demanding lists, particularly on country circuits where magistrates have to be jacks or jills of all trade. I accept all that. The Chief Magistrate appropriately points out how hard they work and the enormous pressure they are under.

**The Hon. SHAOQUETT MOSELMANE:** But that is the point.

**Mr MARK SPEAKMAN:** They have done a very good job compared with other jurisdictions where our backlog indicators of more than 12 and 24 months are the second best in Australia and improving. If you look at on-time performance of how many matters are dealt with in less than 24 months we are the best jurisdiction in the country, and less than 12 months we are the second best in the country.

**The Hon. ROSE JACKSON:** You accept that there is a particular challenge in country New South Wales? You accept it is your responsibility but you are not planning on doing anything about it?

**Mr MARK SPEAKMAN:** I accept there is an ongoing resourcing challenge for the court system as a whole, in particular the Local Court, which is the engine room of the court system. The vast majority of criminal cases in New South Wales are performed in the Local Court. It continues to have the best on-time performance in the country of a local court or equivalent and it is first or second on the rankings for the coronial jurisdiction.

**The Hon. ROSE JACKSON:** One additional question about how many inquests the Coroners Court is doing. I appreciate you are going to quote the comparison to the other States, but I am more interested in the year-on-year comparisons in New South Wales, which is in 2017 there were 104 inquests, in 2018 there were 111. According to the website, in January this year the 2019 figure was 94—although I understand there was some confusion or dispute about that.

**Mr MARK SPEAKMAN:** I might have slightly different figures from you. My understanding is in the latest year it has gone up by six. Just give me a moment, I will give you the precise figure. In 2019 there were 117 inquests, which is an increase of six from the previous year.

**The Hon. ROSE JACKSON:** It would be good to know why there is a discrepancy between the figures that you have provided, the figures that are on the Coroners Court website and the figures that were provided by

your office. Astrid Pedersen indicated to the library that it was 113, although there was no indication of why there was a discrepancy. It would be good to know how this discrepancy has occurred.

**Mr MARK SPEAKMAN:** I will take that on notice. It might be a difference between inquests started or inquests in progress or inquests completed. That might explain any slight discrepancy you have. What was the number you had for 2019?

**The Hon. ROSE JACKSON:** On the Coroners Court website there are 94 listed.

**Mr MARK SPEAKMAN:** The figure I have been given is 117, but I will take that on notice.

**The Hon. ROSE JACKSON:** As you know—we have been through this before—in 2011 there were 290. That movement between 104 and 115, that is still a substantial drop from the work that was being done by the Coroners Court a decade ago. This is what has prompted people, in part, to be particularly interested in looking at the future of the Coroners Court. Is that something that is going to be included as part of the statutory review?

**Mr MARK SPEAKMAN:** The extent to which inquests are undertaken will be part of the statutory review. The fact that there were more inquests eight or nine years ago shows that maybe inquests are less likely to be ordered today. It does not show that is a good thing or a bad thing; it just shows a difference in the number of inquests.

**Ms ABIGAIL BOYD:** Are you aware of a program called Streetbeat?

**Mr MARK SPEAKMAN:** No, I am not.

**Ms ABIGAIL BOYD:** This is run by Miyay Birray Youth Services in Moree. It is a night control program called Streetbeat. This program provided transport to safe locations and to and from other activities coordinated through Miyay Birray three nights a week for 2,000 young people a year. It was proven to reduce the incidence of young people being involved in dangerous or antisocial behaviour. I understand that it was funded by the Department of Communities and Justice but that funding has now been discontinued. Although it has huge support they have had to discontinue that program.

**Mr MARK SPEAKMAN:** My understanding is that that program had one-off funding for a year or two, but maybe Ms Walker can speak to that?

**Ms WALKER:** Can you give us any information about what the funding program is?

**Ms ABIGAIL BOYD:** I actually do not have that information.

**Mr MARK SPEAKMAN:** There is an upcoming tender process; they can apply for funding.

**Ms ABIGAIL BOYD:** Are you happy to take on notice perhaps the details of the funding and whether you have any plans to look into funding again?

**Ms WALKER:** Absolutely.

**Mr MARK SPEAKMAN:** Yes.

**Ms ABIGAIL BOYD:** In relation to domestic family violence, I asked the Premier yesterday whether she thought that the current ministry structure was working. I expressed concerns that, although we have what is described as a whole-of-government approach, where we have multiple Ministers involved in issues to do with domestic violence, the Hon. Walt Secord was concerned that we do not have a central agency. Do you think that the current structure is working or do you feel frustrated that you do not have, for instance, more control over the funding of shelters and so on?

**Mr MARK SPEAKMAN:** I do not feel frustrated.

**Ms ABIGAIL BOYD:** You can choose a different adjective.

**Mr MARK SPEAKMAN:** I think the current structure works. Government is not a neat and tidy thing. There are not clear lines of demarcation between different functions. For instance, there will be a lot of domestic and family violence presentations in public hospitals, private hospitals perhaps as well. But it would be messy to carve out the Health response to domestic and family violence and put it in my portfolio. Likewise, with what happens in schools with the personal development, health and physical education, or PDHPE, curriculum, it would be odd to carve that out of Education and say, no, it is got to be in a Domestic Violence portfolio. If you did that, then you would be taking the sports syllabus out of schools and putting it with the sports Minister and so on.

**Ms ABIGAIL BOYD:** I totally acknowledge that.

**Mr MARK SPEAKMAN:** There are going to be overlaps. We know that the primary driver of homelessness for women is domestic and family violence. If that were put into my portfolio of responsibilities and taken out of housing, then you have the odd situation where the Minister responsible for social housing has a bit of it or homelessness has a bit of it on others. Does that mean, for instance, the corrections Minister should have that bit of homelessness that deals with people transitioning out of prison?

**Ms ABIGAIL BOYD:** That comes to the question: Given that, how is it coordinated so that you ensure that there is an actual whole-of-government response, that everybody has the right focus across all of those fronts? We have Education, Health, we have your department, we have Minister Ward's ministry and also the Minister for women. How is that coordinated to ensure that everybody is working together and has that focus?

**Mr MARK SPEAKMAN:** Within the Stronger Communities cluster we have ministerial meetings. We have probably had 21 meetings since the election for those within the cluster. That includes the Minister for women. It includes the Minister for Families, Communities and Disability Services, Corrections, Police. That meets as a cluster. With the Education Centre Against Violence [ECAV] being in the health Minister's portfolio, we have discussions with the health Minister. I meet with ECAV people. There is that level of coordination but the problem is you cannot have silos and really sharp lines of demarcation in government where functions and outcomes overlap.

**Ms ABIGAIL BOYD:** What I am trying to get at is whether there is sufficient coordination between those departments. What the stakeholders have been calling for is a separate unit or agency to ensure that coordination, to ensure that all of the different arms of government are working together.

**Mr MARK SPEAKMAN:** I think there is sufficient coordination. Stakeholders call for, and appropriately so, more attention to domestic and family violence, more resourcing. I do not know that there is any criticism that emphasises a lack of coordination, that we have got all the silos and we do not know what one arm of government is doing.

**Ms ABIGAIL BOYD:** Do you think then that the Government is doing enough on domestic and family violence?

**Mr MARK SPEAKMAN:** We can and always should do more. It is an epidemic right across Australia. We know from personal safety surveys—just from reporting to police and crime statistics and presentations in hospitals—we know for example that one in six women across Australia say they have been the victims of physical violence at the hands of a former or current intimate partner. I think there has been a general lack of focus and attention on domestic and family violence across governments across Australia.

**Ms ABIGAIL BOYD:** Do you think there has been a lack of funding from this Government in relation to frontline domestic and family violence services?

**Mr MARK SPEAKMAN:** My job, among many, as the Minister for the Prevention of Domestic Violence is to fight for more funding and that is what I am doing. We do have a record amount of funding for specialist domestic violence [DV] activity in New South Wales—

**Ms ABIGAIL BOYD:** It is like \$4 million above though, is it not?

**Mr MARK SPEAKMAN:** Well, it is \$431 million, which is way above what it has been in the past. That is on top of hundreds of millions of dollars we spend in the health system, in police, in specialist homelessness services.

**Ms ABIGAIL BOYD:** We talked about the A Safe State platform before that was put together by the NSW Women's Alliance. In that it calls—I think it is quite a modest recommendation—for an additional \$7½ million per annum over the next four years to fund adequately domestic and family violence services to ensure that women are not turned away. At the moment tens of thousands of women are turned away from the services, whether it is legal services or shelters, every year. When I asked you about that in our first budget estimates for this particular budget last year, you said to me you had not had the time to budget that Safe State platform and those funding requests because you were relatively new in the role. Have you now done that and how do you view those Safe State funding recommendations?

**Mr MARK SPEAKMAN:** My maths are a bit different from yours. I saw you pose the question to the Premier yesterday.

**Ms ABIGAIL BOYD:** Maths is not my strong point, sorry. Feel free to correct me.

**Mr MARK SPEAKMAN:** We went away and had a look at the Safe State platform. It was more like \$800 million to \$900 million. I can take on—

**Ms ABIGAIL BOYD:** Per year or over four years?

**Mr MARK SPEAKMAN:** Probably over four years. But I can take it on notice. If you want a breakdown of that, we can give you that breakdown.

**Ms ABIGAIL BOYD:** That would be good. I think there is recurring funding and then there was one-off funding.

**Mr MARK SPEAKMAN:** I know there is an enormous demand out there for homelessness services, for caseworkers, for counselling, and that is why I will be active and aggressive in the budget process. But I would point out, for example, with specialist homelessness services that our investment in that has increased by 52 per cent since 2013-14. The number of people we are helping has increased by 42 per cent since 2013-14. Some 38 per cent of those are escaping domestic and family violence.

**Ms ABIGAIL BOYD:** To be clear, I am not saying that your Government is not doing anything. I am saying your Government is not doing enough. When I look at the target that we have at the moment for reoffending, ideally I would like to see a target where no woman is turned away when they are fleeing an unsafe situation and we do not have that kind of target and I do not see us meeting that. If we are still having hundreds of women turned away from shelters in New South Wales every week that is a problem, is it not?

**Mr MARK SPEAKMAN:** Any unmet demand is a cause for concern. But as I have said, we have increased our investment in specialist homelessness services by 52 per cent over four or five years and increased the number of people we are assisting by 42 per cent in that period.

**Ms ABIGAIL BOYD:** But women are still being turned away.

**Mr MARK SPEAKMAN:** I am sure there is always plenty more we can do and it is my job to advocate for that in the budget process.

**Ms ABIGAIL BOYD:** Why is the highly successful Staying Home Leaving Violence program not being rolled out more widely?

**Mr MARK SPEAKMAN:** I think we have rolled it out to 33 locations. We have rolled it out pretty widely. Ms Walker might add to that.

**Ms WALKER:** Absolutely: Some 33 sites in New South Wales in 2019-20; that is a \$7.7 million investment in Staying Home Leaving Violence, which is what we consider a very successful program and is well supported by the NSW Police Force as well as Legal Aid NSW and—

**Ms ABIGAIL BOYD:** Is the intention to roll it out across the whole State?

**Ms WALKER:** We are always looking for what the right opportunity is. Staying Home Leaving Violence is quite a targeted program and targeted to specific areas depending on the evidence base, particularly the information we get from the Bureau of Crime Statistics and Research [BOCSAR] around that.

**Ms ABIGAIL BOYD:** What is the New South Wales Government doing to ensure that women from particular groups in particular are having services tailored to them? I am thinking of, for example, the LGBTIQ+ community and ensuring that people from that community who experience domestic and family violence can access support that they need. Again, this is something the Safe State platform recommended for so-called communities, women from migrant communities and women with disability who, of course, face particular challenges when it comes to being able to escape from a violent situation. What is being done by the Government in relation to those specific specialist services?

**Mr MARK SPEAKMAN:** For LGBTIQ we have invested \$200,000 to fund ACON's domestic violence and sexual assault project. We have funded the Safe Relationships Project with the Inner City Legal Centre. We have established for older Australians and those with a disability the Ageing and Disability Commission.

**Ms ABIGAIL BOYD:** Are these new—

**Mr MARK SPEAKMAN:** They are.

**Ms ABIGAIL BOYD:** In this budget?

**Mr MARK SPEAKMAN:** In this Government.

**Ms ABIGAIL BOYD:** Yes. When you say "this Government" do you mean from—

**Mr MARK SPEAKMAN:** Not "new" in the latest budget but new in the last two years or so.

**Ms ABIGAIL BOYD:** Two years, thank you.

**Mr MARK SPEAKMAN:** Certainly the Ageing and Disability Commissioner is fairly brand new. There is the domestic violence innovation fund. We have got Respectful Relationship Peers Educators to provide sex and relationship education for women and girls with an intellectual disability, building access for women with disability to improve the disability inclusion capability of domestic and family violence services. With housing, people with disability are given priority.

**Ms ABIGAIL BOYD:** I understand that KPMG did an evaluation of the Domestic and Family Violence Blueprint for Reform. Is that correct?

**Ms WALKER:** Yes.

**Ms ABIGAIL BOYD:** When will that be delivered?

**Ms WALKER:** We have received the draft from KPMG, so we are just in discussions with them about the draft and we expect to receive the final—I am thinking it will be early April at this stage.

**Ms ABIGAIL BOYD:** Early April. Will you be considering the Safe State platform and the recommendations in the new version of that blueprint?

**Mr MARK SPEAKMAN:** We will be considering all stakeholder input, of which that is some. We have a Domestic and Family Violence and Sexual Assault Council where stakeholders have expressed their views. Many of those stakeholders are also part of the alliance that put together Safe State NSW.

**Ms ABIGAIL BOYD:** New South Wales is the last State to allow perpetrators of domestic violence to directly cross-examine their victims in court, I understand. When will the Government join other jurisdictions in abolishing the practice?

**Mr MARK SPEAKMAN:** We have not made a decision on that but it is something that I am actively considering. It does have potential funding implications because if we are to prevent direct cross-examination we have to identify who will do the cross-examination. Do we fund Legal Aid NSW to do it? If it is funded, does the lawyer who does the cross examination represent the alleged perpetrator generally or are they just engaged for the purposes of the cross examination?

**Ms ABIGAIL BOYD:** Where are you in the process of making that consideration then? I can understand there are concerns. I know there is funding and there is implementation—

**Mr MARK SPEAKMAN:** No, I do not say there was funding. There are funding issues. It is tied up with the budget process.

**Ms ABIGAIL BOYD:** So we should maybe have some sort of response after the budget?

**Mr MARK SPEAKMAN:** You may do.

**Ms ABIGAIL BOYD:** In relation to domestic violence matters being heard in open court, given the obvious trauma of domestic violence and the need for victims to be able to access safety and justice through the courts, when will the Government mirror the practice of specialist domestic violence courts in other jurisdictions and provide that domestic violence matters be heard in a closed court?

**Mr MARK SPEAKMAN:** That is something that is also under consideration. It does not have the funding implications of preventing direct cross-examination or if there are any funding implications I cannot think of what they would be at the moment. We would probably make a decision on that at the same time as the cross-examination issue.

**Ms ABIGAIL BOYD:** I will come back to you the next time after the next budget. When will the Government amend part 6 division 4 of the Civil Procedure Act to provide a right of access to domestic violence complainants to give their evidence via CCTV?

**Mr MARK SPEAKMAN:** That is something that we are looking at as well, but that may have resourcing implications, so that is involved in the budget process as well.

**Ms ABIGAIL BOYD:** Okay. So we are expecting a response on all three of those things then around budget time.

**Mr MARK SPEAKMAN:** Well, if there is an outcome conducive in the budget you may not have an announcement on budget day, but I would expect that any announcements would be in a matter of months rather than years away.

**Ms ABIGAIL BOYD:** Okay. That is good. Thank you. It is our understanding that representations have been made to you in relation to New South Wales creating a Deputy Chief Magistrate for domestic violence and that that Deputy Chief Magistrate would lead a team of specialised DV magistrates sitting as permanent members of the circuit in regional areas to hear the high volume of DV matters across the State, not as a specialised domestic violence court but at least as specialised magistrates. What is your response to that proposal?

**Mr MARK SPEAKMAN:** Look, I do not anticipate taking up the idea of a Deputy Chief Magistrate (Domestic and Family Violence). My consultations within the Local Court do not think that is a great idea. As to specialisation of magistrates, something like 30 per cent of the work they do, as a ball park figure not an exact figure, would be domestic and family violence. So this is not something that magistrates come across occasionally. They are coming across it regularly and it is probably the biggest proportion of their work. So in dealing with that volume of—

**Ms ABIGAIL BOYD:** Sorry, but do you think, though, that presiding over a high volume of those matters makes you instantly an expert in domestic violence?

**Mr MARK SPEAKMAN:** No, but it means that you do not—the suggestion that what I will call general magistrates, because they are general magistrates are not equipped to deal with domestic and family violence cases, is not a suggestion that is apparent to me is a correct suggestion.

**Ms ABIGAIL BOYD:** I do not think that is the suggestion, though.

**Mr MARK SPEAKMAN:** There is a separate question as to what training they should have, even if they are general magistrates. That is a matter for the Judicial Commission. The Judicial Commission does training for judicial officers generally and all the things they do, and that would include handling domestic and family violence. That is not to say that I am not open to ways to improve the court process for those who are complainants and who are traumatised already and come to court and get re-traumatised by having to tell their story or in hostile surroundings but—

**Ms ABIGAIL BOYD:** But do you agree that the magistrate would have, depending on their understanding of domestic abuse, quite a marked impact on the outcome? We have magistrates who we know absolutely understand the dynamics of power in relationships and control, and others that simply do not and sometimes even condone the behaviour.

**Mr MARK SPEAKMAN:** Yes. Well, I would be horrified if they condone the behaviour. Legislators can try to be prescriptive with what a crime is, what the penalty is, rules of evidence and rules of procedure, but there are always going to be individual variations depending upon the personality, the knowledge and the identity of the judicial officer. Could individual magistrates, because of different backgrounds or personalities or views, have different approaches? Yes.

**Ms ABIGAIL BOYD:** No, but this is training and education.

**Mr MARK SPEAKMAN:** But my understanding is that they have training from the Judicial Commission in a whole range of things, which would include domestic and family violence.

**Ms ABIGAIL BOYD:** So you think that the amount of mandatory training for magistrates in domestic and family violence is adequate?

**Mr MARK SPEAKMAN:** I am always happy to look at suggestions for improved or more training, but I do not currently favour the idea that we need a separate body of magistrates who just do domestic and family violence and nothing else because their experience—

**Ms ABIGAIL BOYD:** I do not think that that is the suggestion. I think they are just experienced specialist magistrates.

**Mr MARK SPEAKMAN:** Well, look, if say 30 per cent of their time is being taken up with domestic and family violence cases, they are inevitably going to develop some expertise on the job greater than you or I could ever hope for.

**Ms ABIGAIL BOYD:** Expertise in the dynamics of domestic violence or expertise in hearing domestic violence cases? They are quite different things.

**Mr MARK SPEAKMAN:** Probably both. But if, for example, you are saying that the forerunner of coercive control and so on is something that should be brought to their attention more in terms of judicial training, then I am happy to take that on board.

**Ms ABIGAIL BOYD:** Thank you.

**The CHAIR:** We will take a break for 10 minutes.

**(Short adjournment)**

**The Hon. SHAOQUETT MOSELMANE:** Attorney, in your interaction with Ms Jackson earlier, you said that we are blessed in New South Wales as judicial officers work extremely hard and you have described the Local Court as best performing. My question is as a result of that. For how long, given the limited resources?

**Mr MARK SPEAKMAN:** Is that a question about the Local Court?

**The Hon. SHAOQUETT MOSELMANE:** Yes, the Local Court.

**Mr MARK SPEAKMAN:** The Local Court's on-time performance is the best in the country, according to the *Report on Government Services* data. It has consistently been the best in the country compared with similar jurisdictions and that is whether you measure it by the size of the backlog that is greater than 12 months, for example, or its on-time performance—cases done within 12 months. The magistrates work as a cohort. They are extremely hard working, with long lists, demanding schedules, demanding cases where there is often vicarious trauma and I am very grateful for the work that they do.

**The Hon. SHAOQUETT MOSELMANE:** But you do agree, Attorney, that there is a lot of pressure on the court given the limited financial resources given to them—physical pressure on them and the mental pressure on judges and the officers of the Local Court? Do you not agree with that?

**Mr MARK SPEAKMAN:** I agree that the life of a judicial officer is a pressured one because of the workload, because of the potential for vicarious trauma. I expect that is particularly acute for District Court judges where something like 30 per cent of their workload is sexual assault and 9 per cent or 10 per cent of their workload is child sexual assault, that would be particularly stressful. When you say limited, we are not giving the courts peanuts. There are many millions of dollars each year being invested there. What is important is that the outcomes we are getting in the Local Court are the best in the country in terms of throughput linked with criminal jurisdiction. The District Court, of course, we had significant delays there and we have addressed that with seven extra judges and we have seen the backlog of criminal trials there reduce from about 2,100 to about 1,600 or 1,700 as a result of that.

**The Hon. SHAOQUETT MOSELMANE:** Attorney, in response to that the Chief Justice—as you will have seen—in an annual review comment that he has made in 2018 wrote:

There is a limit to what may reasonably be expected of the Local Court.

He continues:

In my view that limit has been reached.

He is clearly making it known publicly, he is using a megaphone to tell you that their limit—their capacity—is now reached.

**Mr MARK SPEAKMAN:** You said the Chief Justice. Did you mean the Chief Magistrate?

**The Hon. SHAOQUETT MOSELMANE:** The Chief Magistrate, yes.

**Mr MARK SPEAKMAN:** He is a very fierce advocate on behalf of his court. He is someone who wants to see that court perform its role in the interests of all and to make sure that his magistrates have appropriate work, health and safety arrangements and are not overworked and are not overstressed, any more than that is part of being a judicial officer having that stress and pressure. As I said, any extra resourcing for the Local Court in terms of extra magistrates, for example, are part of the budget process. What is important to note is the great work that the Chief Magistrate is doing with his Local Court in giving us the fastest criminal justice in the country.

**The Hon. SHAOQUETT MOSELMANE:** He has been there for over a decade. He knows what he is talking about. He is clearly expressing the sentiment of the Local Court that they are under extreme pressure. What action are you taking to address those concerns?

**Mr MARK SPEAKMAN:** He is a strong and forthright advocate for the Local Court and for the magistrates.

**The Hon. SHAOQUETT MOSELMANE:** I know, I heard that.

**Mr MARK SPEAKMAN:** I have had a number of discussions with him about resourcing for the Local Court and additional resourcing is part of the budget process.

**The Hon. SHAOQUETT MOSELMANE:** Given the current pressure on the Local Court, how can it cope with a potential 3 per cent efficiency dividend?

**Mr MARK SPEAKMAN:** Those efficiency dividends have been around for some time and the court has clearly managed to cope every year because it has consistently had the fastest criminal justice outcomes in the country.

**Mr COUTTS-TROTTER:** And for many years the then Department of Justice, the now Department of Communities and Justice, to the extent some efficiency dividends are calculated on the cost of the local courts—which is at least 50 per cent judicial—obviously those savings cannot be made by those means so they have had to be worked through elsewhere in the department and that continues to be the case. To your question, is there any impact on important frontline services delivered through the Local Court as a result of efficiencies, the answer is no.

**The Hon. SHAOQUETT MOSELMANE:** Attorney, we know from the budget of the Legislature, that the 3 per cent efficiency dividend has really taken us to the bone. Is it not the same circumstances with the Local Court?

**Mr MARK SPEAKMAN:** The ultimate measure is the outcome and the outcome—

**The Hon. SHAOQUETT MOSELMANE:** Because they are working hard, that is what it is.

**Mr MARK SPEAKMAN:** They do work hard. They work very hard, and the Chief Magistrate appropriately and regularly points that out.

**The Hon. SHAOQUETT MOSELMANE:** So there is nothing you can add from here that would help the Chief Magistrate?

**Mr MARK SPEAKMAN:** As I said, additional resourcing. Obviously I have had discussions with the Chief Magistrate about that and that will be part of the budget process.

**The Hon. SHAOQUETT MOSELMANE:** With regard to the Local Court, the addition of strictly indictable offences to the list of table offences has led to fewer shorter trials in the District Court and an increase in lengthier matters in the Local Court. What are you doing there to increase the resources of the Local Court given there is more workload being passed on to them?

**Mr MARK SPEAKMAN:** Some of the reforms we have undertaken to increase the number of table offences, which means that an offence which is an indictable offence—with a maximum penalty of more than two years—

**The Hon. SHAOQUETT MOSELMANE:** Goes to the District Court.

**Mr MARK SPEAKMAN:** If it is a table 1 offence, it will go to the Local Court unless the prosecution or the defence elect to take it to the District Court. Having a case like that in the Local Court is going to be less resource intensive because you are not going to have a jury in the Local Court where typically on an indictable matter in the District Court you will, you have more complex and lengthy processes. That is a way to speed up criminal justice in circumstances where it is likely that the penalty that is imposed is within that jurisdiction of the Local Court.

That has involved shifting a number of cases from the District Court—where we had a backlog that peaked at 2,100 criminal trials now down to about 1,600 or 1,700—to the Local Court, which can deal with it more expeditiously and efficiently. Is the Local Court coping with that? The best indicator that it is coping is the consistent *Report on Government Services* outcomes, which showed that it remains the fastest jurisdiction in the country. But I accept that that requires magistrates to work very hard and that is why the Chief Magistrate appropriately and formidably puts his case and they are cases that will be taken into account in the budget process.

**The Hon. SHAOQUETT MOSELMANE:** Will you rule out further increases in the number of table offences passed on to the Local Court?

**Mr MARK SPEAKMAN:** I would not rule it out, but I do not have any in contemplation at the moment.

**The Hon. SHAOQUETT MOSELMANE:** Can I just ask you questions in regards to Section 93Z?

**Mr MARK SPEAKMAN:** Yes.

**The Hon. SHAOQUETT MOSELMANE:** How many people have been charged under Section 93Z of the Crimes Act?

**Mr MARK SPEAKMAN:** To my knowledge, none.

**The Hon. SHAOQUETT MOSELMANE:** None at all.

**Mr MARK SPEAKMAN:** None at all, to my knowledge.

**The Hon. SHAOQUETT MOSELMANE:** So since it was introduced in 2018?

**Mr MARK SPEAKMAN:** That is my understanding.

**The Hon. SHAOQUETT MOSELMANE:** So none charged. None convicted.

**The Hon. TREVOR KHAN:** If they are not charged, they are not going to be convicted.

**The Hon. SHAOQUETT MOSELMANE:** Sorry. None convicted, none charged. The reason I am raising this to the laughter of my colleagues is that there is limited—as far as I know as a member of the community—community education about the presence of this Act, of this section and the capacity to be able to press charges or take action. That is why I am raising this particular issue.

**Mr MARK SPEAKMAN:** Thank you for raising that. It is important that community awareness about the section be raised so that it is appropriately prosecuted and enforced in the right circumstances. In September Legal Aid NSW received a grant of \$200,000 to develop a Community Legal Education program about 93Z. Mr Thomas, are you able to talk about its delivery?

**Mr THOMAS:** Yes, the program is developed by our community legal education section and is in the process of being delivered. If you would like some data on the delivery, I can provide that on notice.

**The Hon. SHAOQUETT MOSELMANE:** Yes, if you would not mind.

**Mr MARK SPEAKMAN:** That will include a website, videos and community legal education package that the Office of Community Safety and Cohesion will deliver. At the moment, it is targeted for within the next month or two.

**The Hon. SHAOQUETT MOSELMANE:** Does it also provide training for local police?

**Mr THOMAS:** No, it is about community legal education.

**The Hon. SHAOQUETT MOSELMANE:** Yes, but police are also important in understanding this particular section.

**Mr MARK SPEAKMAN:** I will take the question of police on notice, if I may?

**The Hon. SHAOQUETT MOSELMANE:** Yes.

**Mr MARK SPEAKMAN:** But I have been talking about community awareness, particularly for potential victims.

**The Hon. ROSE JACKSON:** I wanted to ask a couple more questions in your capacity as Minister for the Prevention of Domestic Violence. We might start with the headline figures—which I think you would accept are not great—on the latest BOCSAR statistics.

**Mr MARK SPEAKMAN:** I agree.

**The Hon. ROSE JACKSON:** We have seen most categories—crimes, stable or falling, domestic violence, AVO breach, stalking and intimidation—all up?

**Mr MARK SPEAKMAN:** Yes.

**The Hon. ROSE JACKSON:** These figures are from late last year. What new initiatives has the Government invested in, because clearly what we are doing currently is not working?

**Mr MARK SPEAKMAN:** Since the figures were released or just generally?

**The Hon. ROSE JACKSON:** I suppose since the figures were released, since we saw the tragic murder of Hannah Clarke and her family—and I want to acknowledge that horrific incident and pay tribute to them. There

have been those recent moments that have drawn attention to this crisis and the fact that we are going backwards, not forward, and I want to know the Government's specific response to those crisis moments.

**Mr MARK SPEAKMAN:** I accept that the latest statistics are disappointing. They are bad. Are we going backwards? I do not think we are. Domestic and family violence, a bit like sexual assault, is notoriously under-reported. We do not know whether, when there is an increase in domestic violence assault, that reflects an increase in the underlying rate, whether it reflects victim survivors being more willing to come forward and to make a complaint, whether it reflects police being more aggressive in detecting and prosecuting domestic and family violence offences, or whether it is a combination of any one or more of those.

I am not going to pretend to be in any way definitive about this because I just do not think you can be, but possibly more reliable indicators might be DV homicide, because most DV assaults are not reported. A DV homicide will be reported and, over 15 years or so, that has trended downwards. It has not trended downwards anywhere near like the downward trend in non-DV homicide, but it has trended downwards a bit. Domestic violence occasioning grievous bodily harm is much harder to under-report and disguise than domestic violence assault generally. That has been stable over two years and falling over five years, so I do not think we are going backwards, but we are certainly not going forward at anywhere near a sufficient pace.

I think there is a greater willingness to report domestic and family violence because of the stigma that has been attached to it. The hiding in shadows is less and less because people just realise it is totally unacceptable. Police are much more aggressive in prosecuting domestic and family violence. I think, anecdotally, the way they deal with complainants has improved. I still hear stories of poor dealing, insensitive dealing, but on the whole I think it has improved. Figures like stalking and intimidation are often used by police to prosecute DV because that probably reflects greater policing activity. We know that police in the last year or so have increased their compliance checks on apprehended domestic violence orders by about 46 per cent, which is way above the increase in DV assaults. So it does suggest that a lot of this reflects increased police reporting.

We now have domestic violence liaison officers in every police area district or command. We have suspect target management plans for high-risk DV offenders, specialist squads, so the police effort has certainly ramped up enormously. So I do not think we are going backwards, but I accept that we are not going forward at anywhere near sufficient pace.

**The Hon. ROSE JACKSON:** I suppose part of the challenge here, and I reflect on this as well, is that it is quite easy, in a way, to quibble about the figures—what is contributing to what, why are we seeing things going up and going down—but we share a concern that we are still seeing far too much violence directed at women and children in our community.

**Mr MARK SPEAKMAN:** Absolutely.

**The Hon. ROSE JACKSON:** And whether it is going up or down at a particular rate in a particular way is sometimes difficult to definitively tell.

**Mr MARK SPEAKMAN:** As I said, it would not matter whether it is going up or down or sideways; one incident is one incident too many.

**The Hon. ROSE JACKSON:** That is right. The reason that I raise the figures is that the Premier has indicated that this is a priority. She has put a number—25 per cent—on the outcome that she wants to see and at the moment it seems as though we are not on track to meet that, or that is not something that is looking particularly achievable on the figures that we have seen. What is your response to that? Have you discussed this with the Premier? Has she brought this to your attention? What is the status of the Premier's priority and the seriousness with which it is being taken by government?

**Mr MARK SPEAKMAN:** The Premier does not need to bring this to my attention; I am acutely and painfully aware of it.

**The Hon. ROSE JACKSON:** Good.

**Mr MARK SPEAKMAN:** The Premier's priority is a 25 per cent reduction in the volume of DV reoffenders by 2023 with a 2015 baseline. As I understand it, the latest data suggest we are at about 2 or 3 per cent reduction in DV reoffending, so there is an enormous way to go. All the Premier's Priorities have been set as ambitious targets. There is no point in having a priority that is not going to stretch you, and it will stretch us to get to that priority by 2023. Of course, it is not the one and only way you measure DV offending, DV reoffending, but the statistics you cited—the DV assaults, DV occasioning grievous bodily harm and DV homicide—are all statistics we look at as well.

**The Hon. ROSE JACKSON:** It is a stretch target, we are not really on track to meet it, so I want to talk a little bit about some of the specific programs that the Government is and is not funding, and I want to go particularly to rural and regional New South Wales. On the BOCSAR statistics, there were some areas in Sydney that were increasing, but Newcastle and Lake Macquarie were up 10 per cent, Riverina was up 20 per cent and Monaro region was up 80 per cent. So I want to talk a little bit about services in rural and regional New South Wales, and I want to get specific because I think it is good to talk about specific services that are providing support to women as opposed to general dialogue about what is or is not being done. Why is Jenny's Place in Newcastle not being funded for women in the Newcastle region, considering we have seen a 10 per cent increase?

**Mr MARK SPEAKMAN:** The organisation that runs Jenny's Place already gets \$1.4 million every year in Government funding to deliver specialist homelessness services in the Newcastle area. So we are already funding Jenny's Place \$1.4 million a year, and that is part of millions of dollars we spend in the Hunter region generally. They had Port Waratah coal as a sponsor for an add-on counsellor caseworking service. That sponsorship failed. We are spending every dollar we have possible on homelessness, on caseworkers and on counselling, but I do not have spare cash to give Jenny's Place more money.

What we have done, though, is offer them \$25,000 to develop a business plan and a model where they can find the corporate sponsorship that they lost when Port Waratah said they were going to discontinue. Their ask from us was \$300,000 for this particular program. We have never funded that program, but the sponsor that disappeared was not at an amount of \$300,000—which, by the way, represented a ramp-up of the services that they were already providing. So they have not, for years and years and years, been providing \$300,000-worth of services. That ask represented a ramp-up of what they have done in the past.

**The Hon. ROSE JACKSON:** We have seen a 10 per cent increase—

**Mr MARK SPEAKMAN:** The sponsor that they no longer have is an \$80,000 sponsor and we are offering them \$25,000 to develop a business case and the expertise to go out and find philanthropic assistance. But we are not shirking our primary responsibility to fund these sorts of services because we are already funding them \$1.4 million a year in specialist homelessness services, which does involve an element of case working and counselling.

**The Hon. ROSE JACKSON:** The issue that we have is we have a conversation about how important it is to tackle domestic violence, how we are not on track to meet the Premier's priority of 25 per cent reduction in reoffending—in fact we are at 2 per cent and 3 per cent—and about how BOCSAR has just come out with increased figures, including 10 per cent in this region. We talk about how seriously we are taking it and how important it is, and yet when it gets to the rubber hitting the road, specific services providing support for women—mere hundreds of thousands of dollars. That is actually not a lot of money, Attorney, given the grand scheme of this Government's funding—mere hundreds and thousands of dollars to provide actual support for women in a domestic violence resource centre. Your answer is, "We are doing everything we can. We do not have those resources."

**Mr MARK SPEAKMAN:** When the rubber hits the road we are providing the organisation with \$1.4 million a year in funding in the Hunter region. That is part of many more millions of dollars we provide for DV services in the Hunter region and it is part of \$431 million we are providing right across New South Wales over four years, with specialist homelessness services, policing, health responses and education responses all on top of that.

**Mr DAVID SHOEBRIDGE:** Attorney, you acknowledged the difficulty in trying to work out what the causes are for the published rates of domestic violence in New South Wales that we see through the BOCSAR data.

**Mr MARK SPEAKMAN:** Yes.

**Mr DAVID SHOEBRIDGE:** Is there a process whereby the department speaks with police about the police setting targets under the Command Performance Accountability System, or COMPASS? In this regard I would specifically point to the police having targets for legal action rate for breach of DV AVO and also sexual assault.

**Mr MARK SPEAKMAN:** Ms Walker?

**Ms WALKER:** Certainly we have a governance structure called the domestic and family violence delivery board where we sit with police, legal aid, health, education and all of the partners across government where domestic and family violence, for a lot of us, is a core part of business. We look at a whole range of issues, particularly the issues that come up through the New South Wales blueprint, which is our coordination framework

for domestic and family violence across the State. Some of the things that we would cover in that group is looking at the results of the review from KPMG that was mentioned earlier, but also the reviews from the Coroner's Court, the domestic violence death reviews. The role and function of that group is to look at issues around domestic violence as a board and try to break down the silos that sit across government, which is the opportunity that we want to see. The conversations with police that I think you are referring to, or asking the question, "Does BOCSAR have a conversation with police about targets?" that is not the conversation that happens in that room.

**Mr DAVID SHOEBRIDGE:** My question is not just about BOCSAR. My question is about the various agencies in your cluster, Attorney, who all have an interest in reducing the rate of domestic violence in New South Wales. Do police consult with any other agency when they are setting targets like that, their target for legal action rate for breach of DV AVO, or does that just happen in a total silo within the police?

**Mr COUTTS-TROTTER:** I have never had that explicit discussion.

**Mr MARK SPEAKMAN:** Nor have I.

**Mr COUTTS-TROTTER:** I might turn to my colleague Mr Thomas—just the work of the justice transformation board over time. Has that ever been the subject of work or discussion through that mechanism?

**Mr THOMAS:** There have been lots of discussions about police targets in that area. Not only those targets, but there were some years ago very specific targets about police legal action rate for domestic violence as a whole and setting that at a 60 per cent level to try and bring up police legal actions in domestic violence call-outs from where they were previously. Some of them were 15 per cent and 12 per cent, up to about 60 per cent, but I have not been involved in those discussions since I left the department.

**Mr DAVID SHOEBRIDGE:** Do you know, first of all, what the police indicator, for which they have provided answers on notice, which is legal action rate breach DV AVO? Does anybody in the department know what the police target is for prosecution rates? And if you do not, given how that might be a very important driver of other data that you are looking at, do you not think you should?

**Mr MARK SPEAKMAN:** Certainly anecdotally we know from discussions with police that they are more aggressively targeting ADVO noncompliance and offences that are proxies for domestic and family violence. I think you will find that in BOCSAR reports as well, some BOCSAR reports I have read have talked about increased police activity in those areas.

**Mr DAVID SHOEBRIDGE:** But if you are trying to work out whether or not the various levers and policy decisions you are using to reduce domestic violence are working, if you do not have in front of you the core data, which is what targets are driving police activity, how can you tackle that obvious problem that you said at the beginning of working out what is working and what is not working and what is really happening on the ground if that core piece of data is not in front of you?

**Mr MARK SPEAKMAN:** We can know in hindsight what the police have done. They can report on the number of—we know, for example, about the number of compliance checks. I am certainly not involved and I am not aware of the department being involved proactively in working out policing targets, as distinct from getting historical reports on what they have done. But even if we know there has been police activity in a certain area, you cannot definitively tie it down. Take Sutherland, for example, my local area. That has seen a 49 per cent increase in reported DV assaults over two years. Now, that is an extraordinary increase. We know there has been greater policing in Sutherland. There is also, I have heard anecdotally—in a couple of months it was one repeat offender. But I do not know that it is capable of some precise correlation so you can say, "This much was policing, this much represented an underlying change in DV and this much was a change in victim survivor attitudes."

**Mr DAVID SHOEBRIDGE:** The police internally publish their targets for police commands like Sutherland. They publish their targets in advance. I have only followed the data on personal searches and move-ons to date. But from my observation of that, police activity follows those targets. So surely the service providers in the Sutherland region should be given advance notice that the police are upping their targets for prosecutions in the DV area and expect to see this kind of activity? There should be that kind of communication between the police and other government agencies, and the fact that it is not happening is troubling, is it not?

**Mr MARK SPEAKMAN:** No. My understanding is police would tell local agencies, "We are ramping up our DV efforts," but they are not—

**Mr DAVID SHOEBRIDGE:** You say that is your understanding but it sounds a bit like a guess.

**The Hon. TREVOR KHAN:** Let him answer.

**Mr MARK SPEAKMAN:** No, no. We know from reports where police have ramped up or what they have done, but we are not involved in setting targets for police activity.

**Mr DAVID SHOEBRIDGE:** But why are you not involved and why is this not—surely one of the benefits of setting up this new cluster was to have that multi-agency involvement on things like this?

**Mr MARK SPEAKMAN:** Ultimately all those matters are operational decisions for the commissioner.

**Mr DAVID SHOEBRIDGE:** Yes, but those operational decisions should be informed by the array of competence and community and expert knowledge that is found outside the police, which currently is not getting a look in when police are setting these targets or even working out what activities should be targeted.

**Mr MARK SPEAKMAN:** Look, I will take on notice the precise nature of any liaison police have with outside organisations, because we do not set their targets. They are operationally independent.

**Mr DAVID SHOEBRIDGE:** I understand they are operationally independent and that is where we started this whole conversation. What I am suggesting to you is that that is not a helpful way going forward because the police certainly do not have all the expertise when it comes to domestic violence and they should be setting their targets, both in terms of quantum and the activity they are targeting, with the benefit of the accumulated knowledge across your agencies. They are not doing that and that is not providing the best outcomes.

**Mr MARK SPEAKMAN:** I am not sure that is right at a local level with domestic violence liaison—

**Mr DAVID SHOEBRIDGE:** The targets are not set at a local level.

**Mr MARK SPEAKMAN:** No.

**Mr DAVID SHOEBRIDGE:** They are set at a commissioner—

**Mr MARK SPEAKMAN:** Except when you see dramatic regional variations. It cannot be that in Sutherland—it just does not seem credible that there is some dramatic underlying change in the rate of domestic violence, at 49 per cent, which has not been replicated in other police area commands. At the local level, domestic violence liaison officers are there not just to deal with individual complainants, but also with community groups more generally.

**Mr DAVID SHOEBRIDGE:** As one of the Ministers jointly responsible for LEPRAs, have you had any communications with the Commissioner of Police about the police practice of setting target numbers for the numbers of personal searches and move-on orders that police issue under LEPRAs?

**Mr MARK SPEAKMAN:** No, I have not.

**Mr DAVID SHOEBRIDGE:** Don't you think you should be having discussions with the Commissioner of Police about that practice—

**Mr MARK SPEAKMAN:** No.

**Mr DAVID SHOEBRIDGE:** —given that the setting of targets could clearly infringe upon people's civil liberties where we have police searching people to meet a target rather than circumstances on the ground?

**Mr MARK SPEAKMAN:** No. They are operational matters for police. That said, if there were any law reform contemplated in that area or any law reform contemplated to LEPRAs, it would be appropriate for me to put propositions to the police commissioner and have his response before we moved to that legislation. He regularly meets the police Minister—not giving him my advice or my views or getting him to explain day-to-day operational decisions or practices and procedures.

**Mr DAVID SHOEBRIDGE:** Yesterday the Premier gave evidence that she understood the police commissioner was engaged in reviewing police practices and reviewing the way in which those targets were set, or even the very existence of targets—acknowledging, as she did, that the targets may have an adverse effect in the use of police discretion. Why are you not part of that conversation?

**Mr MARK SPEAKMAN:** Because I do not think—they are operational matters that are within the police Minister's portfolio. The powers the police have under the Act, I have joint responsibility for. The operational exercise of those powers is a matter for the police commissioner, with the police Minister as the appropriate portfolio Minister.

**Mr DAVID SHOEBRIDGE:** But this is not just some kind of academic discussion. The police are being given targets of personal searches under the Act that you jointly administer in the order of 241,000 personal searches a year. Are you saying that you are just going to not consider that because you describe it as an operational

matter for police—the fact that they are, I would suggest to you, potentially abusing statutory powers for which you have joint responsibility?

**Mr MARK SPEAKMAN:** If they are exercising—by abuse, do you mean exercising them unlawfully—

**Mr DAVID SHOEBRIDGE:** Yes.

**Mr MARK SPEAKMAN:** —or exercising them lawfully but for an improper purpose?

**Mr DAVID SHOEBRIDGE:** Inappropriately using their discretion, not to deal with the circumstances on the ground but to meet targets they have been given.

**Mr MARK SPEAKMAN:** If they are using them inappropriately or unlawfully, it is a matter for LECC oversight, rather than me. If there are proposals for law reform to respond to that, as the Minister who is co-responsible for ADVO with the police Minister, then I would look at it. But it is not part of my portfolio to look at the day-to-day operational activities of the police and their commissioner.

**Mr DAVID SHOEBRIDGE:** Attorney, the Bail Act is due for a statutory review, I think to commence before the end of this year. Is that right?

**Mr MARK SPEAKMAN:** I think that is correct, yes.

**Mr DAVID SHOEBRIDGE:** Have you taken steps to initiate that Bail Act review?

**Mr MARK SPEAKMAN:** The previous review was tabled on 21 June 2018.

**Ms LO:** We have not commenced the review yet. The statutory review was tabled. This is a review that—it is not strictly a statutory review but it is a review that the Government has committed to, noting that it was too early after the previous reforms to get sufficient data to do a proper review.

**Mr DAVID SHOEBRIDGE:** The date I have—and, to be frank, I do not know if it is a statutory date or a policy date—

**Ms LO:** It is a policy date.

**Mr DAVID SHOEBRIDGE:** —is 6 December. It is to be commenced by 6 December 2020. Is that right?

**Ms LO:** That is correct.

**Mr DAVID SHOEBRIDGE:** Is it still your intention to undertake the review by no later than 6 December 2020?

**Ms LO:** Yes, the department will be doing that in the second half of the year.

**Mr DAVID SHOEBRIDGE:** Alright. Attorney, are you aware of the concerns that have been repeatedly raised, most recently a litigation against the State of New South Wales, about allegations that the police are abusing—sorry, I will start again—allegations that the police are undertaking bail compliance checks without court authority under section 30 of the Bail Act? Are you aware of those concerns?

**Mr MARK SPEAKMAN:** Yes, I am.

**Mr DAVID SHOEBRIDGE:** Are you aware that there is one case before the District Court at the moment—

**Mr MARK SPEAKMAN:** Drager or Droger or something like that?

**Mr DAVID SHOEBRIDGE:** The allegation is that the house was occupied by a couple and a two-year-old child. The young woman was heavily pregnant. The young man was on bail with a curfew condition. He had a minor criminal history. In a 3.5-month period he faced 55 bail compliance checks over 102 days. On 13 occasions bail compliance checks were conducted twice in one night. On one occasion bail compliance checks were conducted three times in one night. Four bail compliance checks occurred outside the curfew hours and 26 of the 54 bail compliance checks occurred after 11.30 p.m. It is alleged that some of the attendances involved loud banging on doors and windows and flashing lights into the property. I think that is the case we are talking about. That is one of many cases that have been raised. You would agree that that level of bail compliance checks without any kind of court authority is troubling—without you prejudging the case—if that was made out?

**Mr MARK SPEAKMAN:** I cannot prejudge the case. Just to be clear, when you say "without court authority", as I understand the position of the police they say they have an implied licence at common law to enter premises. Groups like Legal Aid, the Public Interest Advocacy Centre and maybe the Redfern Legal Centre contend that there is no such—that the common law licence does not allow that.

**Mr DAVID SHOEBRIDGE:** I would suggest that at some point in the course of that police activity, the implied licence would have been withdrawn. I would find it astounding if objection was not taken to the police attending somebody's private property without court authority. You cannot possibly defend that kind of conduct on the basis of an implied licence.

**Mr MARK SPEAKMAN:** I will not comment on this specific case, but the Law Enforcement Conduct Commission, I think, is in the process of doing a review of this area. They have provided an interim report and, certainly, it is something that I have asked the department—or my office has asked the department a couple of months ago to have a watching brief on what is happening in the court case that you have mentioned, and also what is happening in LECC. I will look at the LECC report very closely when it is finalised.

**Mr DAVID SHOEBRIDGE:** Do you accept that the purpose of section 30 of the Bail Act was to put some court oversight on police bail compliance checks? That was what the second reading speech said. Has something changed since then?

**Mr MARK SPEAKMAN:** I do not want to pre-empt what the Law Enforcement Conduct Commission may recommend in its final report, and I will await that.

**Mr DAVID SHOEBRIDGE:** Given what I could describe as, at best, the uncertainty around the concept of there being an implied licence at common law for police to undertake this kind of conduct, will you be speaking with the police Minister and/or the police commissioner to see whether the NSW Police Force has or will implement a bail check and compliance policy?

**Mr MARK SPEAKMAN:** My understanding is they were doing something operationally.

**Mr DAVID SHOEBRIDGE:** My understanding is that Assistant Commissioner Cassar appeared as a witness at the New South Wales Parliament's inquiry into the adequacy of youth diversion programs in May 2018. On 21 June 2018, Assistant Commissioner Cassar confirmed in writing that NSW Police Force does not have a bail check or compliance policy. It is fairly specific advice that I have.

**Mr MARK SPEAKMAN:** I am told—and I will take on notice the timing of this—but the impression I get is that this postdates that evidence, that the police force have an online training module on what is reasonable and proportionate conduct of bail compliance checks. I will take on notice whether that precedes or postdates the evidence you have described.

**Mr DAVID SHOEBRIDGE:** I may be asking you to go beyond your express ministerial powers but, if possible, could you provide a copy of that training module to the Committee on notice?

**Mr MARK SPEAKMAN:** I will take that request on notice.

**Mr DAVID SHOEBRIDGE:** Attorney, 40 per cent of the people arrested for a technical breach of bail in 2018 were Aboriginal. Do you know what the proportion was for 2019?

**Mr MARK SPEAKMAN:** Not offhand, no.

**Mr DAVID SHOEBRIDGE:** Do you agree with me that when 40 per cent of the people arrested for a technical breach of bail—and by a "technical" breach of bail I mean not further offending but a breach of a bail condition—if, as the answers you provided on notice on the last occasion show that is 40 per cent, we have a significant problem with the excessive targeting of Aboriginal people for a technical breach of bail?

**Mr MARK SPEAKMAN:** I accept that the 40 per cent figure is deeply troubling. Whether it represents an excessive targeting of Indigenous people, I do not know. Whether it is just yet another symptom of Aboriginal overrepresentation in our justice system, is probably what it is.

**Mr DAVID SHOEBRIDGE:** What is the difference between those two things?

**Mr MARK SPEAKMAN:** The difference between those two things is this: The greatest contributor to Aboriginal over-representation in the criminal justice system is not the criminal justice system itself; it is everything that precedes it. It is dysfunction. It is disadvantage. It is intergenerational trauma. It is housing. It is health. It is education. It is substance abuse. It is the legacy of colonisation. It is all of that.

**Mr DAVID SHOEBRIDGE:** No—

**Mr MARK SPEAKMAN:** Let me finish, because I am going to make a concession that you will agree with. It is a far greater contributor to Aboriginal over-representation in the criminal justice system than any failings of the justice system itself. But that said, we have to make sure that the criminal justice system is not exacerbating all that. We have to make sure that the 40 per cent rate of technical bail breaches by Indigenous people does not reflect some unfair practice or unjust practice, but is not just symptomatic of a whole range of societal problems.

**Mr DAVID SHOEBRIDGE:** But treating people the same when they are entering a criminal justice system with such gross systemic disadvantage produces systemic discrimination against those people I would suggest you. The concept that you can treat Aboriginal people the same as non-Aboriginal people, given that long list of systemic disadvantage that you have just read onto the record, which I agree with, is inevitably going to produce a negative bias and a deeply unfair outcome for Aboriginal people. Do you recognise that?

**Mr MARK SPEAKMAN:** That is something that we have to be alert to, which means that we have to make sure that there is no unintended bias in the system. My hope is that the figure you quote does not reflect what I call explicit racist targeting, but what we have to look at is whether it unintentionally has that sort of outcome because the police are targeting offences more likely to be committed by Indigenous people. For example, if an Indigenous offender or an Indigenous accused, I should say, does not have one place of residence but because of kinship arrangements might have a number of places of residence, or because of educational or language difficulties does not understand his or her bail conditions. That is why, for example, we have a bail project in Dubbo, which has among others the input of the Aboriginal Legal Service, to help those on bail understand their bail conditions and make it less likely that they will have committed technical bail breaches. I accept that is just a pilot but that is what we have got to be conscious of—that an already bad situation is not made worse by the criminal justice system because we are not conscious of these disadvantages.

**Mr DAVID SHOEBRIDGE:** My last question, because I have well and truly run out of time, I am more than happy for you to take this on notice. What active interventions are there on the books across the criminal justice systems, for which you are responsible, to try to correct that balance? To actually even up the playing field for Aboriginal and Torres Strait Islander people in this State so that we do not continue to see this entrenched disadvantage? I do not think it is fair that you to give us this now but I would ask you to take that on notice. You could give us the highlights now.

**Mr MARK SPEAKMAN:** I will start and then I will take the rest on notice, if I may. Among other things, the reforms to sentencing that started in September 2018, that will be evaluated by BOCSAR in the next year or so, it is too early to work out what effect they have had; a much greater use of intensive corrections orders rather than incarceration; and behavioural interventions. To some extent that will divert people away from good behaviour bonds, suspended sentences where there was no behavioural intervention, but it will have an effect too of diverting people away from prison. The reforms there are resourcing reforms and legal reforms.

The resourcing reforms include 200 corrections officers that have been employed to provide supervision and improve wraparound services in regional areas where these services were not available; reforming the structure of intensive correction orders so there is no compulsory work component, when a lot of offenders, particularly Indigenous offenders, cannot find that work or have mental health issues or substance abuse issues that prevents them getting that work. So that is one thing. The driver disqualification reforms we introduced in 2017, Indigenous offenders were about one-third of the prison population and something like 14 per cent or 15 per cent of the disqualified population. So that is having an effect. We have got the recommendations of the ice inquiry that makes a number of recommendations that we will look at. But I will take the rest of notice, if I may.

**The Hon. SHAOQUETT MOSELMANE:** Attorney, I will ask a couple of questions if I may and pass on. I am very conscious at the time that is available. Can I ask you some questions on the facial recognition technology? As the Minister for privacy in New South Wales, what representations did you make to your ministerial colleague on the Road Transport Amendment (National Facial Biometric Matching Capability) Bill concerning facial recognition technology?

**Mr MARK SPEAKMAN:** I will have to take that on notice. I know it came to Cabinet and I do not have portfolio responsibility for it. I would have to refresh my memory.

**The Hon. SHAOQUETT MOSELMANE:** My understanding is that as the Attorney General it is reasonably within your domain.

**Mr MARK SPEAKMAN:** I did not bring the submission to Cabinet but given my responsibility, now co-responsibility with Minister Dominello for privacy legislation, I would have looked at it at the time.

**The Hon. SHAOQUETT MOSELMANE:** Given that there is significant privacy concerns and issues of transparency and safeguards, as the Attorney General have you expressed any concerns?

**Mr MARK SPEAKMAN:** I was part of the Cabinet process that considered a Cabinet submission but that was at least 12 months ago.

**The Hon. ROSE JACKSON:** Jenny's Place we have discussed. Lyn's Place in Taree was another specialist women's domestic violence service that was defunded as part of Going Home, Staying Home. Have you had any consultation with that service? I understand that representations have been made to you by Restore Our Refuge in relation to the provision of support for that service.

**Mr MARK SPEAKMAN:** I do not recall that. My best recollection is that that has not come across my desk before but Ms Walker might be able to help you.

**Ms WALKER:** I do not have any information about the place, but we can follow-up.

**The Hon. ROSE JACKSON:** That would be useful. The Yacaaba Centre in Port Stephens is a specialist counselling service on the Tomaree Peninsular. They are funded to provide counselling support. Their funding is due to run out in June this year. Is there any specific information you can provide us about the continued provision of that service?

**Mr MARK SPEAKMAN:** I met with them and the local member, Ms Washington, and your spokesperson, Ms Doyle, about a month ago and we are looking at that at the moment.

**The Hon. ROSE JACKSON:** That is good. Central West Women's Health Centre I understand have recently lost funding for two positions. One of them provided some support for specific women's domestic violence casework support.

**Mr MARK SPEAKMAN:** Where are they based?

**The Hon. ROSE JACKSON:** They are in Bathurst.

**Mr MARK SPEAKMAN:** I do not think that has come across my desk. Ms Walker?

**Ms WALKER:** I do not know that one specifically, but again we can take that on notice.

**The Hon. ROSE JACKSON:** These are just a selection. Thank you for taking those specific instances on notice. I am trying to suggest that there is perhaps a disconnect between some of the rhetoric that we hear about prioritising action to reduce domestic violence and the fact that there are many, many local services who are providing this specific support on the ground and who are either being defunded or on short-term funding arrangements and unable to really deliver the kind of specific support that would be required if we are taking this as seriously as you are saying that you are taking it.

**Mr MARK SPEAKMAN:** Is that a comment or question?

**The Hon. ROSE JACKSON:** It is a question.

**The Hon. TREVOR KHAN:** Generally she makes comments.

**The Hon. ROSE JACKSON:** How do you explain the fact that you say that it is a high priority and you are taking it very seriously and yet there is a litany of local services who are being defunded or do not have secure funding into the future?

**Mr MARK SPEAKMAN:** As I have said, we are speaking of record amounts across the board in DV specialist services. Does every service that wishes to have funding get funding or the amount of funding they want? No. Overall, we are doing more than any other Government in the history of New South Wales, yes.

**The Hon. ROSE JACKSON:** Has there been any specific thought given to the internationally evidenced link between increase in domestic violence and disaster circumstances? One of the areas in which we have seen an increase is the Riverina. That was before the recent bushfire crisis. As I said, there is an internationally proven link between increase in domestic violence and natural disaster circumstances. Has there been any conversation about trying to manage that?

**Mr MARK SPEAKMAN:** My understanding, without being an expert or statistician, is that there have been studies and examples that show a link between rapid onset natural disasters on the one hand, like fires and floods, and a rise in domestic and family violence on the other hand. I do not think that link is established where it is not a rapid onset natural disaster, like drought.

**The Hon. ROSE JACKSON:** I was specifically in this instance referring to the bushfire crisis. That is what I was specifically referring to. There were a number of communities that experienced that over summer and has the Government been mindful of that?

**Mr MARK SPEAKMAN:** I am certainly mindful and I am certainly conscious that, with Hurricane Katrina, we saw a spike of 90 to 100 per cent. The Christchurch earthquake we saw a similar spike. Black Saturday in Victoria we saw a similar spike. To the extent that part of the provision of service to domestic and family violence survivors is Legal Aid, I will ask Mr Thomas what he has observed.

**Mr THOMAS:** In terms of the response since the bushfires, particularly on the South Coast, we have had a disaster legal assistance line. We have been tracking the types of issues that are coming through that line and we have not noticed increased requests for advice specifically around domestic violence. What we have noticed though is some increased complexity around family law matters where a person's house might have burnt down. That person is now moving interstate, taking the children with them and applying to the court for variations of orders. I suppose there is a concern it might lead to greater family tension and that we need to be cognisant of those clients and their safety in those kinds of circumstances. It is something that we are actively monitoring.

**The Hon. ROSE JACKSON:** Attorney, those examples that you provided were exactly the ones that were in my mind and have been discovered. Other than the work that Mr Thomas and his team are doing, has the Government considered any additional resources to support women in those communities who we know are at increased risk of domestic violence because of the trauma that those communities have recently been through.

**Mr MARK SPEAKMAN:** Particularly with the Stronger Communities cluster providing disaster services generally with recovery centres and outreach across a whole range of legal services, as Mr Thomas adverted to—homelessness, general mental health counselling.

**Ms WALKER:** I just wanted to go back a step. We did get the Bureau of Crime Statistics and Research to do a rapid review of the research, and that is something the Attorney was looking at. What we had not seen in the December data was any spikes around particularly DV assault—given particularly that new year's is the time, we will be watching that quite closely. We are also connecting with the sector, not just around the bushfires, but also around recent high-profile DV murders that you mentioned earlier about are our services getting victims coming forward? We have not had reports from the sector about that at this stage. We also know with our bushfire recovery that Health are putting together a health and wellbeing strategy and we expect DV to be looked at quite closely, as well as mental health. That has come up in a number of the other estimates.

**The Hon. ROSE JACKSON:** One other issue that might be worth turning your mind to is that if we do experience a relatively sudden period of self-isolation and social distancing in relation to coronavirus we might see increased prevalence and issues in relation to domestic violence, tension, as people are confined to home. Is that something the Government has given any thought to in relation to planning for coronavirus?

**Mr MARK SPEAKMAN:** That is a point very well made that will be taken on board.

**The Hon. ROSE JACKSON:** One last issue I want to bring to your attention is Women's Safety NSW. What is the relationship and dealings you have been having with them in relation to the expansion and provision of their services?

**Mr MARK SPEAKMAN:** Do you mean as a peak body for providers with DV cases?

**The Hon. ROSE JACKSON:** Yes.

**Mr MARK SPEAKMAN:** They did ask for an additional culturally and linguistically diverse [CALD] worker and they did ask for an additional Indigenous worker in the peak body. My preference is to prioritise in budget bids frontline services, the caseworkers, the counsellors, homelessness itself and I wrote to them to say that their proposals for officers within the peak body would not be funded.

**The CHAIR:** Thank you, Mr Speakman, for coming. I note you have taken a number of questions on notice. The secretariat will be in contact with you in relation to those to finalise them.

**(The Attorney General withdrew.)**

**(Luncheon adjournment)**

**The CHAIR:** We will recommence. Labor members?

**The Hon. SHAOQUETT MOSELMANE:** I will ask a couple of questions before I hand over. Mr Coutts-Trotter, just following up on questions about the Local Court sittings, has the Local Court made any

proposals to you to address the mismatch between the demand for services and the court resources in country New South Wales?

**Mr COUTTS-TROTTER:** Just to reiterate what the Attorney General put on the record, he said that the Chief Magistrate is—I think he described him as—a formidable advocate for resourcing for his jurisdiction through a variety of channels, including in discussions with me and my colleague Catherine D'Elia. The Chief Magistrate has argued for additional resources for his jurisdiction.

**The Hon. SHAOQUETT MOSELMANE:** What was your response to his request for additional resources?

**Mr COUTTS-TROTTER:** My response was that we make sure that Government is aware of his concerns and has an opportunity to consider it, along with a whole range of other priorities in the upcoming budget cycle.

**The Hon. SHAOQUETT MOSELMANE:** Do you agree with his position that there is a mismatch between demand for services and court resources?

**Mr COUTTS-TROTTER:** I have made sure that his arguments are well understood by Government.

**The Hon. SHAOQUETT MOSELMANE:** But in terms of your department, do you provide extra assistance to the magistrate's Local Court when it is in need of extra services?

**Mr COUTTS-TROTTER:** In terms of the administrative support for the Local Court, I would be happy to pass to my colleague Catherine D'Elia, if you want information about that. In terms of the number of magistrates themselves, I think it has been well canvassed by the Attorney General.

**Ms D'ELIA:** In terms of how we resource, we work very closely with the Chief Magistrate in order to track the trends in terms of where the volumes of work exist. We work with him with regard to any changes in circuits and the required staffing in order to accommodate those changes as he sees fit. It is a constant tracking of where the work is and where we need the resources to meet that demand.

**The Hon. SHAOQUETT MOSELMANE:** Thank you. I will move to the other item that I asked questions with regard to the facial recognition technology. Mr Coutts-Trotter, what representations or submissions did you, the Attorney or anyone in your department make to the Federal Government on its bill?

**Mr COUTTS-TROTTER:** I would need to take that on notice, unless my colleague Kathrina Lo has any information to hand. It does precede my time in the department but we are more than happy to take it on notice and provide information to the Committee.

**The Hon. SHAOQUETT MOSELMANE:** Has anyone in your department expressed concern with regard to the Federal Government's bill, particularly with facial recognition technology?

**Mr COUTTS-TROTTER:** I am happy to take that on notice.

**The Hon. ROSE JACKSON:** I just wanted to follow up on a couple of different issues. I will direct it to you, Mr Coutts-Trotter, but obviously you can indicate if someone else is best placed to answer.

**Mr COUTTS-TROTTER:** Thank you.

**The Hon. ROSE JACKSON:** At previous estimates hearings, questions were asked about potential amendments to section 316 (1) of the Crimes Act. Rape and Domestic Violence NSW had indicated that the current operation of that section may be acting as a disincentive to women disclosing instances of sexual abuse because particularly university campuses were adopting policies of requiring disclosure to the police in those circumstances. Has there been any follow-up or discussion about potential amendments?

**Mr COUTTS-TROTTER:** I will check with Ms Lo.

**Ms LO:** I am not aware. I will need to take that on notice.

**Mr COUTTS-TROTTER:** We will take it on notice.

**The Hon. ROSE JACKSON:** It was raised at the last budget estimates hearings and, as I said, Rape and Domestic Violence Services Australia, or RDVSA, have made a number of submissions in relation to it. It would be useful if we could follow up.

**Ms LO:** I will check the transcript.

**The Hon. ROSE JACKSON:** I wanted to ask in relation to the expansion of the Drug Court. Again, this was discussed at the previous estimates hearings. I wondered if there had been any further discussions or, indeed, decisions made about potential expansion of the Drug Court, considering its pretty obvious success.

**Mr COUTTS-TROTTER:** No, indeed, and, along with many of my colleagues, we have seen it firsthand and it is both impressive in seeing it but the data suggests that its impact on reoffending rates is really very significant. Obviously it is the subject of an explicit recommendation coming out of the ice inquiry. I think all I can say at this point is that an expansion of the Drug Court is one of a number of initiatives being considered by Government. I think there is the current budget cycle and then, indeed, there is the Government's response later in the year to the explicit recommendations of the ice inquiry. So by one means or another it will be considered.

**The Hon. ROSE JACKSON:** I think we have had discussions at previous estimates hearings in this round, Mr Coutts-Trotter, around election commitments that the Government has made and the department generally—and in the instance that is in my mind is the Office of Sport—has been required to deliver on those. The health Minister did indeed make a commitment prior to the last election around a pilot scheme for some kind of Drug Court and/or drug rehab facilities in Dubbo. As that was an election commitment prior to the last State election, has the department done any work advancing that election commitment?

**Mr COUTTS-TROTTER:** I do not doubt your description of it as an "election commitment" but I have not seen an explicit election commitment to expand the Drug Court to Dubbo. We have examined the feasibility of having a drug court operate in Dubbo. The Dubbo Courthouse and associated facilities are very, very well used—some would say overused—given their layout, age and design. We have done preparatory work to have a look at the operational feasibility of creating a Drug Court jurisdiction in Dubbo.

**The Hon. ROSE JACKSON:** Is that feasibility study available to the Committee?

**Mr COUTTS-TROTTER:** It is work within government processes. I am happy to take on notice what we could provide to the Committee. I have just had something handed to me with a piece of advice. I will invite Kathrina Lo.

**Ms LO:** I will just expand on the situation in Dubbo. There is not a feasibility report at the moment but we have sent court staff and experts out to Dubbo to have a look at the premises and what the options are for the infrastructure because the issue at the moment is: Where would we place them? You do not need only a courtroom. There are other attached facilities, your analysis testing, other things that are needed and health professionals who need to be nearby. It is really at the investigation stage. There is no report that we can provide at the moment.

**The Hon. ROSE JACKSON:** I have one more question and then I will hand back to my colleague. Mr Coutts-Trotter, I wanted to ask a little bit more about the 3 per cent efficiency dividend and the impact on the cluster. I appreciate we have discussed this before. If you are going to quote Søren Kierkegaard to me again—

**Mr COUTTS-TROTTER:** Sorry, that was a bit whimsical.

**The Hon. ROSE JACKSON:** I appreciate that, but, as we have discussed, the cluster is required to meet the efficiency dividend. Is it your understanding that that is going to continue into the next budget cycle?

**Mr COUTTS-TROTTER:** The 2019-20 budget, our current year budget, attached efficiency savings in the 2019-20 year and also attached efficiency savings in coming years. So without any change to our budget forward estimates, yes, we have additional efficiency savings to be found in the 2020-21 financial year and beyond—as do other agencies. But these things, of course, are always the subject of discussion and debate through every budget cycle. The budget is never really fixed; it is always a work in progress and, particularly in the last year, the broader social and economic backdrop within which every government is managing its budget has been thrown for a loop by bushfires, by COVID-19 and all of the economic and social consequences of those two things.

**The Hon. ROSE JACKSON:** So you are on track to meet that 3 per cent for 2019-20, is that the case?

**Mr COUTTS-TROTTER:** We have agreed measures in place, agreed with Ministers and agreed with the Expenditure Review Committee of Cabinet, and we are on track to deliver those.

**The Hon. ROSE JACKSON:** Are those agreed measures equal to the 3 per cent efficiency dividend or have you agreed to something else?

**Mr COUTTS-TROTTER:** Again, I do not mean to quibble, from memory, for our core department, the Department of Communities and Justice, the efficiency dividend calculates to about 2 per cent—that is, for

the Department of Communities and Justice, around \$174 million in savings this year. We have a range of initiatives in place to deliver currently about 90 per cent of that.

**The Hon. ROSE JACKSON:** On track for 90 per cent of the 2 per cent? Apologies, Mr Coutts-Trotter.

**Mr COUTTS-TROTTER:** Indeed, yes.

**The Hon. ROSE JACKSON:** Can you give me any more information about what specific reductions constitute that \$174 million? Where does that come from?

**Mr COUTTS-TROTTER:** I am happy to provide more detail to the Committee on notice, but, as I think we touched on in an earlier estimates, the constraints are really the Government's policy constraints of not compromising frontline service delivery and not reducing regional jobs.

**The Hon. ROSE JACKSON:** That would be useful if more information could be provided on notice, particularly any impact on the Local Court, District Court or Supreme Court.

**Mr COUTTS-TROTTER:** Okay.

**The Hon. ROSE JACKSON:** If there has been any impact on—

**Mr COUTTS-TROTTER:** I am happy to take it on notice and provide that information.

**The Hon. ROSE JACKSON:** Finally, have those planned savings measures been revised in light of some of the budgetary issues that you just mentioned, particularly the drought and the fires? I appreciate COVID-19 is coming online—

**Mr COUTTS-TROTTER:** It is emerging, yes.

**The Hon. ROSE JACKSON:** —I am just wondering if you had revised some of your budgetary thinking in relation to those, particularly the unexpected fires and the way that savings measures might have exacerbated difficult conditions in those areas.

**Mr COUTTS-TROTTER:** The short answer is yes. Our budget has been thrown for a loop. The department is home to the disaster relief accounts, so much of the additional expenditure and response to bushfires runs through our budget and it has completely, fundamentally upended everything. In terms of service delivery, obviously by opening and staffing evacuation centres, providing housing assistance and a range of other measures, we quite properly have been doing much more than we thought we would be doing during the course of the year, and that has cost more.

**The Hon. ROSE JACKSON:** So it has not been the case that you have, for example, workforce or service-delivery changes in bushfire-affected areas that you had planned as part of your savings that you have gone ahead with despite the—

**Mr COUTTS-TROTTER:** No.

**The Hon. ROSE JACKSON:** In fact, you are doing the opposite.

**Mr COUTTS-TROTTER:** I hope we have been very, very careful and thoughtful about that.

**The Hon. SHAOQUETT MOSELMANE:** Mr Coutts-Trotter, with regard to Walama Court, at the last estimates you were asked a question about Walama Court and particularly about the funding. Your exact response was, "The issue is simply one of funding", of the Walama Court. Is that still the case?

**Mr COUTTS-TROTTER:** Unfortunately, in government the issue is ultimately always one of funding. I do not mean to sound flippant about this, but there are a range of measures proposed from the Drug Court, the Walama Court, the extension of the Magistrates Early Referral Into Treatment, or MERIT, program, a whole range of further interventions, broadened interventions, that are proposed to try and divert more people from the back end of the justice system while maintaining community safety, and Walama Court is certainly one of them. But the judgement, of course, for government is to try within the available resources to identify which of the affordable measures offers the best likely return to the community, and Walama and those other measures have to be assessed not merely singularly but as potential alternatives for action.

**The Hon. SHAOQUETT MOSELMANE:** Was there an assessment of the costs for Walama Court?

**Mr COUTTS-TROTTER:** There has been a cost-benefit analysis done. I invite my colleague to speak on that.

**Ms LO:** A business case was commissioned. The Attorney General has been provided with that business case and, as you might be aware, Walama Court was a recommendation in the ice inquiry, so the Government will respond to that recommendation as part of the inquiry.

**The Hon. SHAOQUETT MOSELMANE:** What was the estimate? I was not aware of them, but what was the estimate for the Walama Court?

**Mr COUTTS-TROTTER:** I would need to take that on notice. I am afraid I cannot recall.

**Ms LO:** I am sorry, I do not have a copy of that with me. We can take that on notice.

**The Hon. SHAOQUETT MOSELMANE:** The Bar Association's estimate was it would cost around \$15 million. Was it near that, as far as you—

**Ms LO:** I would want to check the business case to get an accurate answer to the Committee.

**The Hon. SHAOQUETT MOSELMANE:** You will come back to us?

**Ms LO:** Yes.

**The Hon. SHAOQUETT MOSELMANE:** Mr Coutts-Trotter, in regard to the District Court and the Auditor-General's report, the Auditor-General has pointed out that the department is not measuring at all some of the benefits identified in the business case for the program. That means there is no adequate ongoing monitoring of benefits to see if the reform is on target. What has been done to rectify this very glaring gap in—

**Mr COUTTS-TROTTER:** If you read my slightly overlong response on behalf of the department to the Auditor-General's performance review you would know that we took issue with some of the analysis and the assertion. Indeed, we would say that seven-eighths of the identified benefits, areas of benefit from the work in the District Court, are in fact being very closely tracked and we really took issue with that. But I invite Ms D'Elia, if she wants to, to add anything to that response.

**Ms D'ELIA:** As the secretary mentioned, we did have some concerns with regards to it and we provided that in the secretary's response. The audit itself, while it did say what were the supports provided to the District Court and what were the benefits that were measured, the scope was quite limited. So there are significant benefits and supports provided to the District Court that were not even subject to the audit. So, as the secretary mentioned, not everything was captured by that audit report.

**The Hon. SHAOQUETT MOSELMANE:** What were those concerns that you have raised? Can you tell the Committee?

**Ms D'ELIA:** That we raised specifically?

**The Hon. SHAOQUETT MOSELMANE:** Yes.

**Mr COUTTS-TROTTER:** I am sorry this might be repetitious if you have got the report and our response there, but we, for example, said we are measuring eight of nine benefits identified in the early appropriate guilty plea business case. The benefit not measured is reduction in bed pressure on the corrections system due to reduced average time in custody, and I am happy to find out why we thought that was not easily measured, and on we go. It is quite lengthy. Is there any particular element of it you wanted us to focus on?

**The Hon. SHAOQUETT MOSELMANE:** The Auditor-General specifically focused, for example, on laptops, desktop computers and various printing devices that are outside their warranty period. Why did that happen? What is the explanation?

**Mr COUTTS-TROTTER:** I should allow Ms D'Elia who has operational responsibility for it to answer first.

**Ms D'ELIA:** As we had a conversation even with the auditors themselves we did say that there is a program whereby we refresh equipment and that that program does have some items that were in excess of the warranty but the equipment itself was functioning. It was not a question that there was not any equipment out there that at the time was causing the operation of the court to be affected. We actually pointed out to the auditors themselves that they may have laptops that were not within a warranty period. So as long as it was working it was not having an impact on efficiency. And there is a program of refresh, it just had not reached all of the equipment.

**The Hon. SHAOQUETT MOSELMANE:** Following the report has that equipment been refreshed?

**Ms D'ELIA:** As part of the program.

**The Hon. TREVOR KHAN:** If it is broken, I suspect.

**Ms D'ELIA:** You would assume that there are personal computers across over 160 locations and over 3,000 staff members of the court so that just is a process that happens every year that a certain number of them are affected.

**The Hon. SHAOQUETT MOSELMANE:** It is ongoing.

**Mr DAVID SHOEBRIDGE:** Some of the Parliament ones are over 106 years old.

**The Hon. TREVOR KHAN:** Do you change your car every time its warranty period finishes?

**Mr DAVID SHOEBRIDGE:** Ms D'Elia and Ms Mann, you have switched around just to do our head in. Through you, Mr Coutts-Trotter, but it may be echoed to Ms Walker, according to the latest data that my office has been able to obtain from BOCSAR for the data period from January to June last year, 300 people have been issued with a criminal infringement notice for possession and/or use of illicit drugs in that period. But for the same period, 7,346 people were issued a court attendance notice for possession and/or use of illicit drugs. Given this was touted as a significant reform can you explain why there was such little take up in that six months?

**Mr COUTTS-TROTTER:** I think the short answer is no we cannot. As I think the Attorney General touched, on BOCSAR's outcome evaluation of that package of reforms is yet to be done. You would expect that through that process of evaluation we will get some insight. But I am more than happy to take on notice any early opinion or insights we may have about that pattern of behaviour.

**Mr DAVID SHOEBRIDGE:** And any further data that you have that might post-date that 2019 data?

**Mr COUTTS-TROTTER:** Sure.

**Mr DAVID SHOEBRIDGE:** Do you agree that those raw numbers—300 criminal infringement notices, 7,346 court attendance notices for possession and/or use—suggest that in that period it has not had the kind of take up that was originally suggested, at least, by the media announcement?

**Mr COUTTS-TROTTER:** I would not necessarily agree with that because I am unfamiliar with the measures of success for the reforms that were articulated when they were begun.

**Mr DAVID SHOEBRIDGE:** Was there any modelling? Were there any numbers predicted? Were you predicting it to be substantially less than 5 per cent?

**Ms MILDWATER:** I think we are going to have to take that on notice. That predates my time in the role as well so I need to go back and look into it.

**Mr DAVID SHOEBRIDGE:** When we looked at the data a little more closely, of the 300 that were identified—300 persons of interest issued with a criminal infringement notice [CIN]—not one of them was identified as Aboriginal or Torres Strait Islander, according to BOCSAR. Will you take on notice whether that is a problem with the data?

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

**Mr DAVID SHOEBRIDGE:** And if it is not a problem with the data, what has gone on that will see not one of the 300 lesser infringement notices being issued to a person who is an Aboriginal or Torres Strait Islander?

**Mr COUTTS-TROTTER:** Certainly.

**Mr DAVID SHOEBRIDGE:** Do you agree with me on the face of it that what the data shows is that there is a problem?

**Mr COUTTS-TROTTER:** Without answering the question you have sensibly asked—is it a recording problem or does the data accurately reflect the fact that Aboriginal people are not getting the benefit of a CIN, I could not offer it.

**Mr DAVID SHOEBRIDGE:** Will you take on notice whether there had been any consideration about the extent to which this lesser criminal infringement notice route may have been directed to, or not directed to, Aboriginal and Torres Strait Islander people?

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** You talked about the efficiency dividend in answer to questions from my colleague the Hon. Shaoquett Moselmane. When it comes to the court you have indicated that 50 per cent of the court budget is—

**Mr COUTTS-TROTTER:** Judicial costs broadly.

**Mr DAVID SHOEBRIDGE:** Yes, judicial salaries and judicial support staff, I assume, taken together? Is that 50 per cent of the costs?

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** That is effectively a non-discretionary spend.

**Mr COUTTS-TROTTER:** That is right.

**Mr DAVID SHOEBRIDGE:** That is set by an independent tribunal and it ratchets invariably up in accordance with the tribunal's terms. Is that right?

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** Then I assume there are other non-discretionary costs the courts have; the buildings have to be maintained?

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** A significant number of the buildings are heritage buildings which adds to the cost of maintaining those buildings, I assume?

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** A fair chunk of that is non-discretionary as well; it just has to be spent regardless?

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** Which leaves only a very small proportion of the budget that could in any way be described as discretionary capable to be turned up or turned down in response to an efficiency dividend saving? Would that be a fair summary?

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** Will you give an indication of what proportion of that budget is available to meeting the efficiency dividend?

**Mr COUTTS-TROTTER:** Yes, I could attempt to respond on notice. Essentially as you are stepping through—the efficiency dividend is calculated by identifying those costs that are captured in scope and then applying a percentage to it. If we have costs that are captured in the scope on which a percentage saving is applied that we cannot reduce judicial expenses then we have to look elsewhere in the department to try to find some kind of offset because Ms D'Elia runs an extraordinarily lean operation in courts and tribunals so there are very few options that would be acceptable to government because to deliver the savings would inevitably compromise the operation of the courts, which we are not going to do.

**Mr DAVID SHOEBRIDGE:** I will run you through some of the maths that I have done and you can correct me on them.

**Mr COUTTS-TROTTER:** Sure.

**Mr DAVID SHOEBRIDGE:** Assume that 50 per cent of the budget is judicial salaries and you cannot find efficiencies there?

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** Again I do not have any reason to adopt this figure, but assume for the sake of the argument that 30 per cent of your other expenditure is either fixed capital expenditure or other expenditure that you cannot touch, which means if that is the case you have got 20 per cent where you are finding efficiencies from. If you need to make a 3 per cent budget savings across the portfolio in just that small area you end up having to cut, on that example, 15 per cent of that spend. That is not sustainable year in, year out, is it? I am not asking you to adopt my figures, but is my analysis that if you have got only one-fifth of the budget to

apply the efficiency dividend to, you have to find five times the savings in that one-fifth of the budget? Is that how it works in practice?

**Mr COUTTS-TROTTER:** Conceptually, yes, that is true, to the extent there are areas of our expenditure where we cannot or should not take savings, when we have a savings target we have got to fund it elsewhere and so in proportionate terms the depth of the scale of the savings rises. I guess the point I would make is that we would take the view that there are ways to improve the efficiency of the court system, but they all require a degree of investment in information and communications technology, together with the complex and often time-consuming and expensive process of redesigning processes, getting people who participate in the court system to agree to endorse and then help implement a set of changes. If you are to significantly reduce in the long run the growth and the operating cost of the court system, that is the change you have to make. We have to move from a court system that is only partially enabled by technology to one that is fundamentally enabled by technology.

**Mr DAVID SHOEBRIDGE:** The approach that is currently being taken with an efficiency dividend is going to, I would suggest, put unreasonable strain and unreasonable cuts on that small proportion of the budget that might be described as discretionary or however it is described. Where cuts can be achieved without the system actually shutting down, where are we on that cycle? Is it at the point where further efficiency dividends, because they are so concentrated, are going to be compromising the court system?

**Mr COUTTS-TROTTER:** We are at the point where we have to continue to have good discussions with government about the sustainable long run budget for the agency. But as I alluded to with my whimsical Soren Kierkegaard reference, that has been the case for some time now. Good colleagues running the operations continue to pull rabbits out of hats. But within the court system there are very, very few opportunities to deliver ongoing efficiency savings unless you fundamentally improve the information technology platforms that support the whole system. That is the only means by which you can achieve that.

**Mr DAVID SHOEBRIDGE:** If you make savings on judicial time, for instance, the allocation of judicial time without changing IT systems, it creates a very significant burden on society, who are hanging around for longer, increasing further legal costs while waiting to have their matters resolved?

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** I ask you again, are these kinds of efficiency dividends realistically achievable going forward, given it has been years of them to date? Are these kinds of efficiency dividends realistically able to be achieved in the court system using the current model?

**Mr COUTTS-TROTTER:** As I say, I think the answer to that, using the current model is no within the court system, but the court system is but one part of a large department and an even larger cluster. We have not completely exhausted opportunities to deliver moderated annual growth in our expenses. But I do not pretend that it is easy. It is not easy.

**Mr DAVID SHOEBRIDGE:** I am suggesting to you that going forward it is not a question of not being easy, I am suggesting to you it is going to be not achievable.

**Mr COUTTS-TROTTER:** I will tender that to the ERC in support of a budget argument.

**Mr DAVID SHOEBRIDGE:** Is it achievable? The maths that I was putting to you is, across the portfolio savings, narrowed down—

**The Hon. TREVOR KHAN:** Which you asked him not to have to adopt.

**Mr DAVID SHOEBRIDGE:** —I am not asking you to drop the final number, but the basic concept means that the scale of the efficiency that you have to keep achieving from this small part of your expenditure is unsustainable. When will it become utterly unsustainable?

**Mr COUTTS-TROTTER:** In the long run it is unsustainable. When it becomes utterly unsustainable I simply do not know.

**Mr DAVID SHOEBRIDGE:** Mr Coutts-Trotter, have any additional funds been allocated to community legal centres [CLCs] in bushfire-affected areas to deal with what was expected to be increased access need for their services in bushfire-affected areas?

**Mr COUTTS-TROTTER:** I invite my colleague Brendan Thomas to comment on that.

**Mr THOMAS:** No, there has not been any additional funds allocated to CLCs in those areas.

**Mr DAVID SHOEBRIDGE:** Has there been any consideration of the provision of additional funds? Have any of them sought additional funding?

**Mr THOMAS:** None of them have approached us about additional funding. That does not mean that they have not approached the Attorney General or government about that additional funding; that I would not know. We are working in partnership with the Shoalcoast Community Legal Centre on the disaster recovery centres at Ulladulla and Narooma. I have agreed to pay for some of their costs down there, which are operational costs for some of their staff, to help us do that. But we do not have plans to provide any further additional funds to those services. I do not have any further additional funds to provide.

**Mr DAVID SHOEBRIDGE:** That is a fairly comprehensive answer. There is no money. Is that a true answer?

**Mr THOMAS:** I do not have any money. Somebody else may have some money.

**Mr DAVID SHOEBRIDGE:** I appreciate the distinction. Mr Coutts-Trotter, what is the current progress on the Premier's priority of reducing adult reoffending by 5 per cent by 2023? I ask this in a neutral way, but I have looked at the data on it and it suggests that it is going the wrong way.

**Mr COUTTS-TROTTER:** The data is there on the public record. The answer is to this point the reoffending rate on that measure has modestly increased over the last three years. At this point we would rate achievement of that target as very challenging but not impossible.

**Mr DAVID SHOEBRIDGE:** Given that the latest round of data is in relation to inmates who left in 2017 and have reoffended by 2019—and 2017 is the first full year into a very extensive change in prison education and expenditure—do you accept that the initial indicators are that those changes are not working?

**Mr COUTTS-TROTTER:** No, I would not accept that. In that I am reflecting the views of the people who put a lot of work into developing the strategy and are closely involved in its implementation. They would say it is simply too early to tell.

**Mr DAVID SHOEBRIDGE:** Do you know when the data will be released for the 2018 cohort? This might be a question for Ms Walker.

**Ms WALKER:** I will take it on notice and we can give you the information about when the next release is.

**Mr DAVID SHOEBRIDGE:** And if there is any data, to provide that as well.

**Ms WALKER:** Yes, absolutely. There will be data.

**Mr DAVID SHOEBRIDGE:** If that data does not show a positive change, is there a system in place to re-assess the direction of those very expensive reforms?

**Mr COUTTS-TROTTER:** Well, yes, there is. We have to account for performance to Ministers and through Ministers to Cabinet as a whole. Of course the elements are, as you pointed out, work, education and programs to try and reduce the criminogenic factors that sit around and behind people's risk of reoffending. The challenge for us is to up the dose for people assessed at medium or high risk of reoffending to ensure that the dose they receive of evidence-based programs is in line with the evidence of the level necessary to affect reoffending, which has been bedevilled by an overcrowded prison system, which of course the building program over the last few years is beginning to mitigate. It really is about discipline in implementation and if the international evidence base is as strong as we think it is, we would expect to see that having an impact on reoffending rates.

**Mr DAVID SHOEBRIDGE:** We were advised in the last session of estimates that Just Reinvest NSW had requested the Government to allocate funding for new community-led justice reinvestment initiatives across New South Wales and to also establish a New South Wales justice reinvestment body.

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** Have you got an update on the progress of that?

**Mr COUTTS-TROTTER:** The proposal has been received and I think it is the subject of a business case. I am just querying my colleagues. It is being considered by government.

**Mr DAVID SHOEBRIDGE:** Is that in the current budget mix? Is that where it is, or has it got a separate consideration path?

**Mr COUTTS-TROTTER:** It is in the current budget mix. It is also, from memory, an express recommendation of the "ice" inquiry.

**Mr DAVID SHOEBRIDGE:** So it is in—

**Mr COUTTS-TROTTER:** So there will be a Government response to it.

**Mr DAVID SHOEBRIDGE:** Do you know what the funding request was?

**Mr COUTTS-TROTTER:** I will take it on notice. From memory it was \$11 million.

**Mr DAVID SHOEBRIDGE:** Do you know where the—

**Mr COUTTS-TROTTER:** Other sites?

**Mr DAVID SHOEBRIDGE:** The other sites, yes.

**Mr COUTTS-TROTTER:** I am happy to provide that on notice.

**Mr DAVID SHOEBRIDGE:** Someone has just told me that the District Court has just become the second court in the State to issue a detailed policy in response to the coronavirus.

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** Were you aware that was about to happen?

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** What does it involve, Mr Coutts-Trotter?

**Mr COUTTS-TROTTER:** I will take it on advice. To your earlier question, obviously in our part of the work in preparing for the impact of coronavirus on the court system we would prioritise questions of people's liberty—so bail and criminal matters, particularly criminal matters that are on foot where complainants and witnesses and others are engaged in—and defendants—in a highly stressful process. Our best-laid plans will undoubtedly be confounded in many cases by what happens.

**Mr DAVID SHOEBRIDGE:** Do you have a similar list being developed for the civil court system that may be injunctions and stays and essential applications like that?

**Mr COUTTS-TROTTER:** That will be, I think it would be fair to say, fundamentally the leadership of the jurisdictional heads. But you are right: There is a level of priorities within that to try to apply a scarce resource—court time—to the things that are highest priority for the community.

**The Hon. ROSE JACKSON:** I wanted to ask a couple of questions in relation to the prevention of domestic violence. Obviously at the end of the morning session the Minister indicated that it was the Government's position not to fund Women's Safety NSW for specific project officers in relation to indigenous women and CALD women and that the Government preferred to fund frontline services. Ms Walker, are you able to give us any information as to what frontline services for those two groups the Government is funding in alternative to the proposal for Women's Safety NSW?

**Ms WALKER:** I am not sure at what stage Women's Safety NSW approached the Attorney General's office, but we have a number of projects that sit in the innovation fund that work with both the CALD groups and also Aboriginal groups. I can take you through those if you would like.

**The Hon. ROSE JACKSON:** If those are the pre-existing programs—

**Mr COUTTS-TROTTER:** They are.

**Ms WALKER:** They are published on the website.

**The Hon. ROSE JACKSON:** Yes, okay, that is not necessary. I wondered—thank you for that. Are there any new programs afoot or have there been any recent announcements in relation to additional funding for frontline services in those areas that you are aware of?

**Ms WALKER:** The one thing that we did not get to canvass this morning was about Staying Home Leaving Violence—again, this is in the 2018-19 period that we are reporting on now. There were six new sites for the Staying Home Leaving Violence program. If you look at those sites, which I can pull out for you, particularly in rural and regional areas, I am thinking rural and regional and also Aboriginal clients would be the clients that would be highlighted through those programs. But I can get you additional information about any CALD programs specifically that we have been looking at.

**The Hon. ROSE JACKSON:** That would be useful. In relation to the Women's Domestic Violence Court Advocacy Service [WDVCAS], can you provide any information or assurances that in relation to the tendering of those that the department ensures that staff who are successful as part of the process are actually specialist and have relevant experience and qualifications working with women and children experiencing domestic violence?

**Mr COUTTS-TROTTER:** I might direct you to Mr Thomas.

**Mr THOMAS:** We fund those services and are managing that tender process at the moment. There are requirements in a tender process for levels of expertise for services that are provided, not just in terms of the actual staff employed but the overall management of the service, so that there is a quality assurance process to make sure that services are being managed at a very high level. The tender that is going on at the moment—we are in the midst of that tender process—is re-tendering for some of those services and re-contracting others. There is a process where the NSW Police Force changed its administrative boundaries about 18 months ago. The WDVCAS service works very closely through the Safer Pathway scheme with local police. This re-tendering process is re-managing or reshaping the boundaries of those WDVCAS services to match those police boundaries.

For about 15 of those areas there is not a significant change and we are looking at recontracting with the existing providers. For 12 of those other areas there is a significant change and there is an open tender process for those. Through both of those processes there are quality assurance measures in place to ensure that the service that we are contracting for meets certain standards, both in terms of the actual performance—so very strict performance standards about how quickly they need to contact clients and so forth—as well some quality measures. Each of those court advocacy services will be required to demonstrate specific expertise in providing services to Aboriginal and CALD women, for example.

**The Hon. ROSE JACKSON:** Just to be clear, as part of presumably the second group of quality assurance measures you have there, specialist knowledge working with victims of domestic violence is foundational to that?

**Mr THOMAS:** It is absolutely fundamental. It is not only in the tendering process; we have a quality assurance method that we then manage those contracts to. We have a team internally and if a service is dropping below an acceptable standard of service we take proactive action to try to bring it back up. In the rare case where we cannot do that we will actually re-contract at tender to somebody else who can provide a better service.

**The Hon. ROSE JACKSON:** There was a bit of discussion about Safer Pathways this morning but I just wanted to get—obviously the department would be aware that there are quite long waiting lists, there are perhaps not as many referral points as there could be and that, excellent as that program is, actually accessing it is not as easy as it could be. I wondered if the Government is doing any work to ensure that women who need help are getting help. I think we can all agree that domestic violence is under-reported. We know when a woman and her children come forward and ask for help and support just how essential it is that they actually receive it. What is the department doing to ensure that Safer Pathways is indeed accessible for all women who want to access it?

**Ms WALKER:** Absolutely, access to the service is our primary concern. We have got a pilot project that has been looking at expanded access so that there are other referral points that you could use to refer into Safer Pathway and also into the safety action meetings, SAMs, process as well. That pilot will be evaluated.

**The Hon. ROSE JACKSON:** Where was that pilot?

**Ms WALKER:** I can get you the details. It is only for a period of time.

**The Hon. ROSE JACKSON:** That would be great. When is the evaluation on that due to hit?

**Ms WALKER:** We might even be able to find that out for you before we finish off this afternoon so that we do not have to take it on notice. Even though we have got central referral points that the police have automated, what we are looking at is what about those other services that really need to refer women and children into them, particularly women and children who have not or do not want to make contact with police. Those are some of the other elements of the pilot.

**The Hon. ROSE JACKSON:** Fantastic. Yes, it will be useful to get some more information on that. I understand the department is reviewing costs in criminal matters for a woman called Jonda Stephen, who was the victim of—the case has been completed so we are not sub judice here—the victim of domestic violence who achieved a self-defence defence for the death of her former partner. The case has been resolved and there is now

a costs matter that I understand is under review by the department. I just wondered if anyone was aware of that or was able to provide any information on it?

**Ms LO:** I am not aware but I will check with our legal branch. It handles those matters. I will take it on notice.

**The Hon. ROSE JACKSON:** If you could take it on notice that would be great. I understand it is been going on for some time so it would be good—

**Mr COUTTS-TROTTER:** We are happy to.

**The Hon. ROSE JACKSON:** —if it was completed. I just wondered if there had been any work in the department in relation to suggestions that have recently come up around the criminalisation of coercive control? I know that this is something that some jurisdictions in Australia have looked at and also internationally.

**The Hon. ROSE JACKSON:** I would have asked the Attorney this morning but we ran out of time, but he made some suggestions that he is open to looking at criminalising some elements of coercive control. I wonder whether you could provide any updates on where that was up to.

**Mr COUTTS-TROTTER:** I might turn to my colleague.

**Ms WALKER:** Absolutely. Certainly as you mentioned in other jurisdictions, Scotland, UK and a couple of other places dealing with coercive control like Tasmania as well.

**Mr COUTTS-TROTTER:** Elements in Tasmania.

**Ms WALKER:** Yes, elements in Tasmania. We are looking at the legislation and the other responses, knowing as well that there are some protections already in New South Wales against coercive control under section 13 of the Crimes Act that you would be aware of. At the moment we are watching to see what happens in those other jurisdictions. Anything else?

**Ms MANN:** No. I think, Ms Walker, that is right. We are really actively monitoring what is going on in Scotland in particular as the best practice rule. We know that previous reports—the ARC reports and things—have come out and recommended against criminalising it and there are complexities with criminalising it, as you would be aware. But we are as a department monitoring Scotland to see how successful the prosecutions are and the experiences for victims.

**The Hon. ROSE JACKSON:** Yes. I am aware that it is a complex issue and that there have been those recommendations but obviously they were made prior to the direct experience that we now have and can monitor of criminalisation and how that is in operation. Those recommendations were made in a more sort of theoretical setting than the ability to assess a practical application. So it is good to know that you have a sort of watching brief on it. Is there a process that the Attorney has asked in terms of reporting back on that? Is there a time frame? Are we looking at after a year or after two years? How do we bring this question to a head in New South Wales as to whether or not we should have stronger laws that go to controlling behaviour which, as we know from that in a DV space is one of the most pernicious elements of domestic violence?

**Ms MANN:** Just to your earlier point about those recommendations being made in a theoretical environment, the Victorian royal commission actually did broach the issue and that was in an environment where the laws in the UK had already been enacted or were in operation. To the question around the time frames, we would expect that by the end of this year to be able to have monitored it sufficiently. We are keeping it under close watch to monitor it sufficiently. The Attorney also has his domestic violence and sexual assault council, of which members are also very interested in coercive control. So when we are seeing things from Scotland we will be taking that back to the council and I am sure those members would be bringing that to us as well. But I would say by the end of the 12 months we will have something for the Attorney to consider.

**The Hon. ROSE JACKSON:** Great. I just want to ask a little bit about Our Watch, which I know New South Wales has signed up to now, and *Time to Change the Story*. As we know, Our Watch is primarily about some of the gender drivers of violence. What programs is the Government running that specifically touch on that element of the domestic violence challenge and New South Wales' participation in Our Watch?

**Ms WALKER:** In a meeting late last year with Our Watch, we certainly talked to them about what our priorities were, what was sitting in our blueprint, what we were thinking about post blueprint and asking them to think with us, particularly about children's experience of domestic and family violence, interventions for children and therapeutic interventions particularly, and also Aboriginal communities and, as you mentioned earlier, culturally and linguistically diverse [CALD] communities because we really see that there is a lack of research in

the Australian context for culturally and linguistically diverse communities. But there is a positive relationship. Ms Mann has attended some meetings.

**Ms MANN:** Yes. I have attended two meetings. I teleconference and I am hoping to meet the Our Watch members in South Australia shortly. It has been fantastic to join with other jurisdictions and really see what has been happening. Our hope is really to leverage some of the good work that has been piloted in, for example, Victoria and Queensland in our own jurisdiction. I have spoken to Our Watch about trying to do that and also to the Attorney about trying to do that. They offer some really good services in terms of when we are developing our strategies. Our Watch has offered to review the strategies from their perspective and from that primary prevention/early intervention perspective, and we will take them up on that offer. They also offer some really good training for journalists which we are looking at around when there is reporting of the things like the Hannah Clarke tragedy and making sure that people are reporting that in a sensible, responsible way. There is a lot of opportunity for New South Wales there.

**The Hon. ROSE JACKSON:** Is there any particular funding for research programs around gender drivers of violence? Is there a research element that that is part of?

**Ms WALKER:** That has certainly been part of the conversation. None at the moment but we have said that New South Wales is really keen to step into this space, especially in the research capacity, and be considered as a site that Our Watch wants to pilot in.

**The Hon. ROSE JACKSON:** So the prospect is there.

**Ms WALKER:** Absolutely.

**The Hon. ROSE JACKSON:** Okay. I know that you said the final report from KPMG in relation to the blueprint was due in early April. In terms of the next phase of that, are the New South Wales Women's Alliance and other peak women's groups going to be involved in the development of that? Is that something that we can get assurance on?

**Ms WALKER:** For the next stage?

**The Hon. ROSE JACKSON:** Yes.

**Ms WALKER:** Certainly what we would want to do is make sure that our Domestic and Family Violence and Sexual Assault Council is privy to the outcomes of the evaluation. I think that is what is going to really guide our work at this stage. But the Attorney and the department are very committed to making sure that there is a strong stakeholder engagement.

**The Hon. ROSE JACKSON:** Great. I just wanted to ask specifically about the funding for the Wirrawee Gunya Indigenous women's and children's refuge facility in western Sydney. I think there are more in New South Wales; I think this is the only one that exists in western Sydney. Originally when the tender was won after Going Home, Staying Home, the West Connect Domestic Violence Service received that tender and they were contacted by the department to say there had been an administrative error in the tender documents and that \$700,000 specifically for the Indigenous women's program had not been included but that that was an error and it was going to be rectified. That was a number of years ago. It has never been addressed and now I understand that the service is being told, "You need to make provision for that within your existing funding envelope." That funding, which was not provided in error initially when the reforms were made, despite their being told for a number of years that it would be rectified, has now disappeared from the table. Are you able to provide any information on that?

**Ms WALKER:** No, but it is quite specific. I will definitely take that on notice.

**The Hon. ROSE JACKSON:** Apologies.

**Ms WALKER:** No, no.

**The Hon. ROSE JACKSON:** But it is a specifically important service—

**Ms WALKER:** Yes.

**The Hon. ROSE JACKSON:** —considering our conversation about prioritising frontline services and particularly for Indigenous people.

**Ms WALKER:** And there is a significant size of the Aboriginal population in western Sydney. And on that, some of the services that you mentioned in the morning session, we are going to try to get the information on them before we finish up today so that we can give you some answers on the record.

**The Hon. ROSE JACKSON:** That would be useful, thank you. It particularly interests me because the department accepted that there was an error in relation to funding for a number of years but is now suggesting that no additional funding will be available and that is a change in position from the department that is significantly affecting this service.

**The Hon. SHAOQUETT MOSELMANE:** Mr Coutts-Trotter, can I ask questions in relation to the south-west Sydney legal precinct. What is the status of the proposal by the Campbelltown City Council to develop a justice precinct in the area?

**Mr COUTTS-TROTTER:** I will reach for my notes. I have some information that is accurate but in the interim I might invite Ms D'Elia to provide you with a response, Mr Moselmane.

**Ms D'ELIA:** We have signed a memorandum of understanding with the Campbelltown council to explore the possibility of a precinct in the Campbelltown area.

**The Hon. SHAOQUETT MOSELMANE:** At the last estimates hearing you indicated the cost-benefit analysis would have been conducted. Is that complete? Can you tell us a little bit about it?

**Ms D'ELIA:** We did conduct a feasibility study and took a look at was Campbelltown—amongst other options—feasible for a justice precinct? It has a positive result, as do other locations. What we have taken a look at is whether—that feasibility study said what would we need into the future, what potential growth in the area and would Campbelltown be a suitable location? It would. We also looked at eight other options in that study.

**The Hon. SHAOQUETT MOSELMANE:** Was south Oran Park one of those?

**Ms D'ELIA:** Not to my—

**The Hon. SHAOQUETT MOSELMANE:** Or Badgerys Creek?

**Ms D'ELIA:** Not to my knowledge. My understanding is that we modelled a greenfield site, as well as various other options, even within Campbelltown itself, what would it look like if we did different models.

**The Hon. SHAOQUETT MOSELMANE:** Were there discussions with Federal counterparts?

**Ms D'ELIA:** In the feasibility study?

**The Hon. SHAOQUETT MOSELMANE:** Yes.

**Ms D'ELIA:** As part of the feasibility study itself, no.

**Mr COUTTS-TROTTER:** Did we get Commonwealth involvement through their infrastructure department in the business case work?

**Ms D'ELIA:** There have been discussions with the Commonwealth.

**Mr COUTTS-TROTTER:** Right. We have not landed it yet?

**Ms D'ELIA:** As to the actual position of where it is today with the Commonwealth, I would need to take as a question on notice.

**Mr COUTTS-TROTTER:** There was discussion under the aegis of the City Deals to seek Commonwealth involvement in the next level of analysis about Campbelltown as a potential precinct.

**The Hon. SHAOQUETT MOSELMANE:** In that feasibility study, is there a time line as to when there will be a conclusion as to the decision to be made?

**Ms D'ELIA:** The feasibility study really was to determine whether or not that was a valid location to put a precinct. What would have to happen is that we actually will have to do a strategic business case. That strategic business case would take us to the next step to say whether or not Campbelltown is something that government would like—

**The Hon. SHAOQUETT MOSELMANE:** So the feasibility study is complete?

**Ms D'ELIA:** The feasibility study is complete but the strategic business case is not.

**The Hon. SHAOQUETT MOSELMANE:** Do you know when it is likely to—

**Mr COUTTS-TROTTER:** No. We are happy to take that on notice because we are seeking the involvement of the Commonwealth in that work.

**The Hon. SHAOQUETT MOSELMANE:** I have a couple more questions with regards to the Guardianship Act, Mr Coutts-Trotter. Two years ago the NSW Law Reform Commission completed its review of the Guardianship Act and made 50 pages of recommendations. Have any of those recommendations been implemented?

**Ms LO:** The Ageing and Disability Commission has been established. We are still considering the other recommendations in the report. As you know, there is some really significant reform proposed by that report, including moving to an assisted decision-making model from a substituted decision-making model. There is some very significant impacts on that in terms of NSW Trustee & Guardian operations and NSW Civil and Administrative Tribunal operations. At the moment we are working through with those two bodies what it would mean for them if those recommendations were implemented.

**The Hon. SHAOQUETT MOSELMANE:** Is there a time line in terms of addressing those recommendations?

**Ms LO:** Not a specific time line at the moment. We are looking at what it would look like in practice, what are the resource impacts on those agencies? What we would like to do down the track is have some broader consultation.

**Mr DAVID SHOEBRIDGE:** Mr Coutts-Trotter, in 2017-18 Aboriginal children and young people accounted for 47 per cent of children and young people in custody and 43 per cent of children and young people on community orders. In supplementary answers you gave at the last hearing, you advised that in 2018 those figures had increased to 48 per cent and almost 44 per cent respectively in the financial year 2018-19. Do you have an explanation for that deeply worrying trend and do you have any updated figures?

**Mr COUTTS-TROTTER:** I will take both of those questions on notice to give you a considered response.

**Mr DAVID SHOEBRIDGE:** I have a number of questions here but it would be useful if you could take them on notice so I will provide them on notice.

**Mr COUTTS-TROTTER:** Thank you, Mr Shoebridge.

**The Hon. ROSE JACKSON:** We are, believably, approaching the end. I have a few more questions.

**The Hon. TREVOR KHAN:** I would almost say that is unbelievable.

**The Hon. ROSE JACKSON:** I have a lot of issues, we all know that. I readily admit that. I just want to ask about the number of District Court judges so perhaps this is for you, Ms D'Elia? What is the current strength of the District Court judges sitting in the District Court as opposed to District Court judges that sit primarily in other jurisdictions?

**Ms D'ELIA:** There are 74. We just had one leave recently so that is a vacancy that needs to be filled. That is inclusive of the Chief Judge.

**The Hon. ROSE JACKSON:** In relation to that vacancy, we have seen advertisements recently seeking application for people to be appointed to the District Court bench. How many judges are you proposing to appoint as part of that request for applications?

**Ms D'ELIA:** That is actually a question for the Attorney in terms of how many he would choose to appoint.

**The Hon. ROSE JACKSON:** You are aware of the advertisements?

**Ms D'ELIA:** I am aware there are some advertisements and I am aware there will be a recruitment for District Court judges.

**The Hon. ROSE JACKSON:** So the Attorney has not given you a specific direction at this point as to how many are going to be appointed?

**Ms D'ELIA:** He has not given me anything.

**The Hon. ROSE JACKSON:** Mr Coutts-Trotter?

**Mr COUTTS-TROTTER:** No.

**The Hon. ROSE JACKSON:** Are any of the current serving judges expected to retire within the next 12 or 24 months?

**Ms D'ELIA:** I would have to take that on notice.

**The Hon. ROSE JACKSON:** I also have a question about the age cohort of the bench but I think I will put that on notice for the purposes of saving time and because you will just take it on notice. I want to ask briefly about whether the department was aware of the issues raised in the matter of *Harley Bradley v Special Constable Chilby*, which speaks to the issue of police not disclosing relevant material to the accused. I understand this has come up in a couple of different cases. There was also the matter of Jenkins.

**Mr COUTTS-TROTTER:** I am not aware.

**Ms LO:** I am not aware. I think we will take both cases on notice.

**The Hon. ROSE JACKSON:** The issue is there has been a number of cases in which the justices have been critical of New South Wales police for non-provision of essential material that an accused would need to make a defence. In fact, in the case of Harley Bradley costs were awarded in favour of the accused. It would be useful just to get a response to that.

**Ms LO:** Sure.

**Mr DAVID SHOEBRIDGE:** Do you know on how many occasions cost orders have been made for the benefit of the accused in similar circumstances?

**Ms LO:** Not off the top of my head but I am happy to take it on notice.

**Mr DAVID SHOEBRIDGE:** I was not expecting that.

**The Hon. ROSE JACKSON:** I suppose this is a more general question but if there is a pattern in which police are not providing evidence to the accused which should be included in the evidence brief but is not, is that something—as I have said I have mentioned two cases but I think that from my understanding it is a little bit of a pattern of behaviour—that the department might want to try to address?

**Ms LO:** We will see what data we have on that. I will take that on notice to see what sort of trend there is.

**The Hon. ROSE JACKSON:** Lastly, as part of the recent women's safety Ministers meeting, one of the only things to come out of that was this provision of a \$2,000 loan to domestic violence victims. There has been some criticism of that so I wondered if the department is across that or are there any other measures that the department has been advocating for perhaps as an alternative to the loan?

**Mr COUTTS-TROTTER:** I will turn to Ms Walker or Ms Mann on that.

**Ms WALKER:** Not advocating so much in competition with the loan but certainly the Attorney, who attends the women's safety meeting, is a strong advocate for New South Wales issues in that space and knowing that the Council of Australian Governments will be looking at issues of domestic violence.

**The Hon. ROSE JACKSON:** Are you aware that there has been some criticism of loans as a policy response?

**Ms WALKER:** Certainly in a couple of different settings there has been criticism of loans and also low take-up.

**The Hon. ROSE JACKSON:** Low take-up, exactly, so I am wanting to make sure that New South Wales has, perhaps no alternative to, but a comprehensive response and is not reliant on this measure that came out of that meeting, because it is my view that that is not an adequate response.

**Ms WALKER:** One of the things that I would suggest is worth looking at and that I am sure you know about is the Start Safely rental program, which supports women and children leaving domestic violence, or primarily women and children leaving domestic violence, to set up in the private rental market. They are supported with a considerable part of their rent over a three-year period. The rent that they pay increases over time as they get more stable and we can also support them with start-up costs for new rentals and that sort of thing as well. For us, that is a productive way to support women who are leaving domestic violence circumstances. There is also support for education and training through that package, which we think is actually a constructive and supportive way—

**Mr COUTTS-TROTTER:** And also the immediate needs payment through Victims Services, which is now, thanks to the good work of Catherine D'Elia and her team, being dealt with I think on an average of 12 days, so there is a real focus on trying to provide an effective response.

**The Hon. ROSE JACKSON:** Thank you, those are much more in the vein of responses that I would anticipate.

**Mr COUTTS-TROTTER:** Yes. Mr Chair, I have a response to your question about the scheduling of the coronial inquest, Jack and Jennifer Edwards. It is listed at the Lidcombe Coroner's Court for 7 to 25 September.

**The CHAIR:** Is there any reason why it was delayed from last year?

**Mr COUTTS-TROTTER:** I am sorry, I do not know.

**Ms D'ELIA:** The advice from the Coroner's Court was that it was due to the complexity of the matter. I believe that Mrs Edwards proceeded to kill herself shortly thereafter and that was adding some complexity to the matter.

**The CHAIR:** I was just wondering whether someone put submissions to the court that it should not go ahead.

**Ms D'ELIA:** No, my understanding is that the Coroner decided, due to the complexity of the matter. That is the advice I received this morning.

**Mr DAVID SHOEBRIDGE:** That is a very long delay. Could we get some updated data on delays in the coronial court?

**The Hon. TREVOR KHAN:** Yes, but I think you are going to find that the length of delay is because of the amount of time that this matter is going to take. There would not be a block available for the matter.

**Mr DAVID SHOEBRIDGE:** Could we get some data on what the current delays are in the coronial court?

**Mr COUTTS-TROTTER:** Sure.

**The CHAIR:** Whether this is indicative of all delays, or whether this is just for this particular matter.

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

**Ms D'ELIA:** The advice I had was that it was this particular matter, but I can get more advice.

**The CHAIR:** Yes, could you elucidate on that, please?

**Ms D'ELIA:** Yes.

**Mr DAVID SHOEBRIDGE:** Did you say 7 September?

**Mr COUTTS-TROTTER:** Yes, 7 to 25 September.

**The CHAIR:** I notice you have taken a number of questions on notice. The Committee will be in touch soon regarding those questions taken on notice and any supplementary questions, which I think the members here have for you. Thank you very much for coming today.

**(The witnesses withdrew.)**

**The Committee proceeded to deliberate.**