

**BUDGET ESTIMATES 2019-2020**  
**Questions Taken on Notice**

**Portfolio Committee No. 5 – Legal Affairs**

**ATTORNEY GENERAL AND PREVENTION OF DOMESTIC VIOLENCE**

Hearing: Friday, 13 March 2020

**Answers due by: Friday, 10 April 2020**

**ANSWERS**

**Question 1 (page 9)**

**DCJ - Casual cleaning staff across the cluster**

**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.**

**ANSWER**

I am advised:

Cleaning services across all of the Department of Community and Justices' facilities are managed through the Whole-of-Government Facilities Management contract, which is managed by the Department of Planning, Industry and Environment on behalf of the Government. Under this contract, cleaners are directly employed by cleaning service providers (rather than by the Government) in permanent, part-time or casual roles. To ensure that suppliers maintain fair work standards, there is a specific requirement under the contract that suppliers protect workers' entitlements under the Fair Work Act and all relevant industrial relations legislation, and maintain appropriate health, safety and environmental requirements. Enquires about the specific terms of the contract should be referred to the Minister for Water, Property and Housing.

**Question 2 (page 9)**

**Coronial matters**

**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.**

**ANSWER**

I am advised:

The inquest into the deaths of John Edwards, Jack Edwards and Jennifer Edwards is scheduled to be conducted from 7 - 25 September 2020 by the State Coroner. The original inquest hearing dates were vacated to allow for further investigation into the deaths. The tragic death of the mother of Jack and Jennifer, Ms Olga Edwards, in December 2018 was another factor requiring the original inquest hearing dates to be vacated.

**Question 3 (page 13-4)**

**Coronial matters**

**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.

**ANSWER**

I am advised:

117 inquests were conducted in NSW in 2019.

Not all inquest findings are published on the NSW Coroners Court webpage. The webpage has been updated to note this.

**Question 4 (page 14)**

**Funding for Streetbeat program**

**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

**ANSWER**

I am advised:

Miyay Birray Youth Services was successful in the second round of the Government's Community Safety Fund (CSF) and received a grant of \$243,522.35 to run Street Beat, in Moree. The CSF was fully utilised and concluded in the 2018-19 financial year.

The Miyay Birray Youth Service was then granted a one-off non-recurrent grant for the Moree Street Beat program to continue operation from 1 January 2019 to 31 December 2019. It was made clear that this was one-off funding and not recurrent.

Miyay Birray Youth Service are encouraged to apply to the Safe Aboriginal Youth Program tender for funding from 1 July 2021. This tender will be advertised in October 2020.

**Question 5 (page 16)**  
**DV/Safe State Program**

**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.

**ANSWER**

I am advised:

The total cost of implementing the costed Safe State recommendations is in excess of \$1 billion over four years. This includes recommendations requiring one-off expenditure, as well as recommendations requiring up to four years of funding. This figure is not the full cost of implementing the platform, as there are also uncoded recommendations that would require additional resources to implement.

**Question 6 (page 21)**

**Community Legal Education program about 93Z of the Crimes Act 1900**

**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.

**ANSWER**

I am advised:

Legal Aid NSW has developed a website, videos and CLE packages about s 93Z of the *Crimes Act 1900*. NSW Police, agencies and community members provided input into the messaging of these materials. The package was delivered to the Department of Communities and Justice in late March 2020. The Department of Communities and Justice will distribute this material to the community.

Legal Aid NSW understands that NSW Police are developing their own training materials about this offence.

## Question 7 (page 25)

### Police operational matter

**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.

## ANSWER

I am advised:

The NSW Police Force works with local service providers.

Local service providers are aware of the NSW Police Force (NSWPF) Apprehended Domestic Violence Order (ADVO) compliance check program and the Domestic Violence Suspect Target Management Plan (STMP).

When the NSW Police Force plans a domestic violence operation targeting re-offending in a particular region, this is discussed at local Domestic Violence Steering Committees and Regional Strategy Groups, on which local service providers are represented.

The NSW Police Force also attends Safety Action Meetings, where police actions in relation to specific offenders and victims are discussed with NSW Government agencies and service providers.

## Question 8 (page 27)

### Bail

**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.

### ANSWER

I am advised:

This question was considered by the NSW Court of Appeal in March 2019 in *NSW v Dargin* [2019] NSWCA 47. The Court of Appeal held at [35] that there are "... plainly occasions when a police officer may lawfully enter into premises for the purpose of determining whether a bail condition is being complied with...".

It is the position of the NSW Police Force that the decision of the Court of Appeal removes any uncertainty that may have existed regarding police exercising common law implied license to attend premises to ensure persons on conditional bail are complying with their bail conditions.

In June 2019 an online learning module on bail compliance checks was made available to NSW Police Force officers. Requests to access a copy of the module should be directed to the Minister for Police.

## Question 9 (page 28)

### Aboriginal overrepresentation

**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.

### ANSWER

I am advised:

Aboriginal overrepresentation in the criminal justice system is a national tragedy for which there are no simple solutions. These issues require a whole-of-government response developed in close consultation with Aboriginal communities.

In NSW, the Reducing Aboriginal Overrepresentation in the Criminal Justice System Plan 2018-2020 sets out initiatives being undertaken by the Stronger Communities cluster to reduce Aboriginal overrepresentation. This is in addition to initiatives across government addressing the drivers of overrepresentation.

The plan has three main goals:

1. Helping Aboriginal people avoid coming into contact with the criminal justice system;
2. Reducing the length of time Aboriginal people spend in custody - either on remand or sentenced; and
3. Reducing the rate of Aboriginal reoffending.

The Plan and a list of its initiatives underway can be found at:  
<https://www.justice.nsw.gov.au/publications-research/strategies-frameworks>.

## **Question 10 (page 28-29)**

### **Privacy - Road Transport Amendment (National Facial Biometric Matching Capability) Bill**

**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.

## **ANSWER**

I am advised:

I introduced the Road Transport Amendment (National Facial Biometric Matching Capability) Bill 2018 (the Bill) into the NSW Legislative Assembly.

The NSW Information and Privacy Commissioners, and the former Department of Justice, were consulted on the development of the Bill.

The Bill's privacy implications and safeguards were examined by the NSW Legislative Council Standing Committee on Law and Justice in its inquiry into and report on that Bill, in 2018. The NSW Government submission to that inquiry sets out the privacy safeguards that are in place in NSW with respect to use of facial recognition technology and in the Bill.

During the Standing Committee's inquiry, both the NSW Information and Privacy Commissioners gave evidence noting that the Bill, and the Facial Matching Services (FMS) that the Bill is designed to support implementation of in NSW, had robust privacy and security safeguards.

**Question 11 (page 29)**

**DV / Lyn's Place Specialist Domestic Violence Service/Going home, Staying home**

**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.

**ANSWER**

I am advised:

The NSW Government provides funding to 84 women's refuges through specialist homelessness services (SHS), to deliver women's only crisis accommodation.

This includes funding for the Taree Women's refuge, previously known as Lyn's Place.

Following a competitive tender process, the Department of Communities and Justice funds Samaritans to operate Taree Women's refuge, which provides crisis accommodation and outreach to women and their children, who have experienced, or are experiencing domestic violence.

**Question 12 (page 29)**

**DV / Central West Women's Health Centre**

**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.

**ANSWER**

I am advised:

The positions that are indicated in the question are not funded by the Department of Communities and Justice and the Department is not able to comment further. This question should be directed to the Minister for Health and Medical Research.

### **Question 13 (page 31)**

#### **Privacy - National Facial Biometric Matching Capability Bill**

**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.

#### **ANSWER**

I am advised:

NSW, along with all Australian jurisdictions, is involved in the national working group for the development and implementation of the National Facial Biometric Matching Capability (Capability), and the Facial Matching Services (FMS) it provides. In that capacity, NSW was involved in the development of the Identity Matching Services Intergovernmental Agreement (IMS IGA), executed by all First Ministers in October 2017.

As part of the working group, NSW has also been involved in the development of the policy and use ('Participation') Agreements that will underpin the use of the FMS by authorised government agencies, and has had an opportunity to review the Identity-matching Services Bill 2019 (IMS Bill), currently before the Commonwealth Parliament.

The IMS Bill, in conjunction with a range of existing and new legislative and policy documents and safeguards, provide for protection of privacy, and appropriate transparency and oversight of the use of the FMS by authorised government agencies. These include, for example:

- The completion of several independent Privacy Impact Assessments of the Capability's scope and operation;
- Consultation with all Commonwealth, State and Territory Information and Privacy Commissioners about the development and operation of the Capability;
- Oversight by the National Identity Security Coordination Group (NISCG) and the Council of Australian Governments (COAG) Ministerial Council for Police and Emergency Management (MCPEM);
- Limitations on agencies authorised to access the Capability in the Intergovernmental Agreement on Identity Matching Services, executed by First Ministers in October 2017; and
- The requirement for government agencies to execute a binding Participation Agreement with the Commonwealth (as host of the Capability), and Participation Access Arrangements with each other authorised agency that it intends to share data with.

The Participation and Participation Access Agreements outline strict conditions for use of the Capability and data within it, including:

- what training, compliance, security and audit standards each agency must meet;
- the framework within which agencies must negotiate data sharing and access; and
- the requirement that agencies demonstrate how those arrangements comply with relevant Commonwealth, State and Territory privacy legislation.

The Capability, hosted by the Commonwealth, and the FMS it provides, are not yet fully implemented. NSW has not uploaded any data to the Capability at this stage.

**Question 14 (page 31)**

**s316(1) Crimes Act 1900 - Concealing serious indictable offence**

**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.

**ANSWER**

I am advised:

The Attorney General and representatives from the Department of Communities and Justice (the Department) have met with a representative of Rape and Domestic Violence Services Australia (RDVSA) to discuss section 316 of the *Crimes Act 1900*.

The Department is currently undertaking consultation with key legal and domestic violence sector stakeholders on potential amendments to section 316 to address the concerns expressed by RDVSA.

## Question 15 (page 32)

### Drug Court

**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.

**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.

### ANSWER

I am advised:

The NSW Government continues to consider options for expansion of the Drug Court of NSW, including locating a Drug Court in Dubbo.

**Question 16 (page 32 -33)**

**Efficiency Dividends**

**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.

## **ANSWER**

I am advised:

Examples of efficiency measures include the retirement of prison beds as safer beds become available, initiatives to reduce demand in the criminal justice system, and structural changes to the Department of Communities and Justice.

**Question 17 (page 33 - 34)**

**Walama Court**

**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.

**ANSWER**

I am advised:

The Walama Court Pilot Business Case was commissioned by the Walama Court Working Group, chaired by District Court Judge Yehia SC. Provision of the Business Case and the cost estimates it provides is a matter for the Working Group and the District Court of NSW.

**Question 18 (page 34)**

**District Court and the Auditor-General's report**

**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?

**ANSWER**

I am advised:

The Department of Community and Justice's approach is to replace IT equipment only as it nears the end of its useful life or comes into disrepair. It is not unusual for these types of devices to have a useful life well outside the manufacturer's warranty period.

**Question 19 (page 35)**

**BOCSAR data relating to Criminal infringement notice for possession and/or use of illicit drugs**

**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.

## **ANSWER**

I am advised:

The issuing of Criminal Infringement Notices (CIN) by NSW Police Force officers for possession of prohibited drugs is being trialled at high risk music festivals. Under the trial, police officers may issue a CIN to a music festival attendee in possession of a small quantity of prohibited drugs. This trial is part of the NSW Government's response to the recommendations from the expert panel on music festival safety. The trial is ongoing.

This trial was discussed in the report of the Special Commission of Inquiry into the Drug "Ice". As stated in the Government's interim response (available at: <https://www.dpc.nsw.gov.au/assets/dpc-nsw-gov-au/publications/The-Drug-ice-1546/01-Interim-NSW-Government-response-to-the-Special-Commission-of-Inquiry-into-the-Drug-ice.pdf>), the Government will consider the Inquiry's findings and recommendations in a final response.

**Question 20 (page 36)**

**Efficiency Dividends**

**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.

## **ANSWER**

I am advised:

The Department of Community and Justice's preferred approach is to actively seek opportunities to achieve additional savings across business areas other than courts and tribunals, so as to preserve the essential operations of court and tribunals.

## Question 21 (page 38)

### Premier's Priority - reducing reoffending

**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.

## ANSWER

I am advised:

Progress on the reducing adult reoffending from prison priority is updated on the Premier's Priority website annually at <https://www.nsw.gov.au/improving-nsw/premiers-priorities/reducing-recidivism-in-the-prison-population/>.

The data is available from the NSW Bureau of Crime Statistics and Research (BOCSAR) 18 months after the reference event (prison release). The reoffending rate for the 2018 cohort will be available from BOCSAR from June 2020 and will be updated on the Premier's Priority website accordingly.

**Question 22 (page 38-39)**

**Justice Reinvest NSW**

**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.

**ANSWER**

I am advised:

Just Reinvest NSW has submitted a proposal to the NSW Government of approximately \$11 million for four sites over four years. Just Reinvest NSW have indicated they are currently working with a number of communities on justice reinvestment initiatives, including Bourke, Moree and Mount Druitt.

The Department of Communities and Justice continues to consider how community driven initiatives like justice reinvestment can work to reduce overrepresentation of Aboriginal and Torres Strait Islander people in NSW.

**Question 23 (page 39)**

**COVID-19**

**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.

**ANSWER**

I am advised:

Details of the District Court operations in response to the coronavirus are available on the District Court Website at <http://www.districtcourt.justice.nsw.gov.au/>.

**Question 24 (page 39)**

**DV / Staying Home Leaving Violence**

**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.

**ANSWER**

I am advised:

Staying Home Leaving Violence (SHLV) currently operates in 33 locations across NSW. Several SHLV services operate in communities with a high CALD population, including Blacktown, Parramatta, Liverpool, Fairfield and Campbelltown.

Specific CALD programs funded through the Domestic Violence Innovation Fund are:

- From the Ground Up to Equality (Arab Council Australia);
- Finding Safety (Jesuit Refugee Service);
- Building Stronger Families (formerly Safety Without Borders) (Relationships Australia);  
and
- ReThink! Anti-violence project (2Connect Youth & Community).

**Question 25 (page 40-41)**

**DV / Safer Pathways**

**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.

**ANSWER**

I am advised:

The pilot to strengthen non-statutory referrals into Safer Pathway has been implemented in several metropolitan and regional locations across NSW. Phase one of the pilot was implemented in Blacktown; phase two in Fairfield and Newtown; and phase three took place in Nowra and Wagga Wagga.

Women NSW is conducting a review of phase three of the pilot, and the first draft is due to be finalised by May 2020. The report will seek feedback from Legal Aid NSW and the Safer Pathway steering committee before being finalised.

**Question 26 (page 40-41)**

**Criminal Matter Jonda Stephen**

**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.

**ANSWER**

I am advised:

Department of Communities and Justice (DCJ) Legal is assessing an application under the *Costs in Criminal Cases Act 1967* in respect of criminal proceedings involving Ms Jonda Stephen.

DCJ Legal sought further information from Ms Stephen's representatives, which was received on Friday, 28 March 2020. DCJ Legal will now finalise assessment of the application.

**Question 27 (page 42)**

**DV/ funding for the Wirrawee Gunya Indigenous women's and children's refuge facility**

**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.

**ANSWER**

I am advised:

The Department of Communities and Justice (DCJ) undertook a comprehensive analysis of the Specialist Homelessness Services (SHS) funding allocation, which showed West Connect Domestic Violence Service (WCDVS) receives a level of funding to deliver the Wirrawee Gunya refuge, which is comparable with other similar SHSs.

In 2017-18, WCDVS negotiated a new SHS contract with DCJ. The DCJ contract negotiation process provides an opportunity for funded service providers to resolve concerns regarding funding levels.

DCJ has offered to engage an independent consultant to support WCDVS review their service model to identify potential efficiencies in line with their existing funding level. This offer continues to be available.

**Question 28 (page 43)**

**South West Sydney Legal Precinct**

**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.**

## **ANSWER**

I am advised:

The NSW Government is in discussion with the Federal Government. The strategic business case is dependent on the finalisation of discussions with the Federal Government.

## Question 29 (page 44)

### Aboriginal children and young people in custody

**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.

### ANSWER

I am advised:

Financial year 2019-20 figures are not yet available. Custody statistics published by the NSW Bureau of Crime Statistics and Research (BOCSAR) show 275 young people in juvenile detention in December 2019. Of these, 121 (44%) identified as Aboriginal and/or Torres Strait Islander.

Courts statistics from BOCSAR show that 2,414 juveniles were sentenced to a community order the 12 months to September 2019. Of these, 1,035 (or 42.9%) identified as Aboriginal and/or Torres Strait Islander.

Recent data show a fall in the proportion of young people in custody and young people on community orders who are Aboriginal. Between 1 July 2019 and 31 December 2019, young Aboriginal people accounted for:

- 40% of young people in custody
- 40% of young people on community orders

Despite these improvements, this overrepresentation remains unacceptably high, given that Aboriginal young people aged 10 to 18 years make up only around 3% of the NSW population.

In 2018, Youth Justice launched its Youth Justice Aboriginal Strategic Plan 2018-2022 and accompanying Performance Framework. This is a four-year framework for Aboriginal engagement and a program of work to deliver better outcomes for Aboriginal young people in contact with Youth Justice, their families and communities. Youth Justice also runs Aboriginal-specific programs and interventions to support young Aboriginal people who come into contact with Youth Justice to fulfil their potential without offending.

In 2019-20, Youth Justice intensified efforts to reduce the overrepresentation of Aboriginal young people in custody. Youth Justice has increased Aboriginal recruitment in identified roles and promoted a renewed focus on connecting Aboriginal young people with culture and identity, including greater Aboriginal program development.

For more information about Youth Justice initiatives to reduce overrepresentation, please refer to the Minister for Families, Communities and Disability Services who has portfolio responsibility for Youth Justice.

**Question 30 (page 44 - 45)**

**Judicial Retirement**

**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

**ANSWER**

I am advised:

One District Court Judge is expected to retire in the next 24 months.

**Question 31 (page 45)**

**Cases / Costs Orders - Harley Bradley v Special Constable Chilby; and - Matter of Jenkins/Costs Orders**

**The Hon. ROSE JACKSON:** --- 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 SOEBRIDGE:** 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.

**ANSWER**

I am advised:

Prosecuting authorities in NSW have disclosure obligations in relation to criminal prosecutions. Questions concerning the conduct of police prosecutors, or costs orders made against the NSW Police Force, should be referred to the Minister for Police and Emergency Services or the NSW Police Force.