

# **GENERAL PURPOSE STANDING COMMITTEE NO. 4**

**Wednesday 14 August 2013**

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

## **ATTORNEY GENERAL, JUSTICE**

**The Committee met at 9.00 a.m.**

### **MEMBERS**

The Hon. R. Borsak (Acting Chair)

The Hon. A. R. Fazio  
The Hon. T. Khan (Acting Deputy Chair)  
The Hon. C. J. S. Lynn  
The Hon. N. Maclaren-Jones

The Hon. S. Moselmane  
The Hon. A. Searle  
Mr D. M. Shoebridge

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### **PRESENT**

**The Hon. Greg Smith**, *Attorney General, and Minister for Justice*

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## **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**

**ACTING CHAIR:** I declare the hearing for the inquiry into budget estimates 2013-14 open to the public. I acknowledge the Gadigal clan of the Eora nation, who are the traditional custodians of this land. I pay respect also to the elders past and present of the Eora nation and extend that respect to Aboriginal people present. I welcome Attorney General Greg Smith and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolio of Attorney General and Justice. In accordance with the Legislative Council's guidelines for the broadcast of proceedings, only Committee members and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photographs. In reporting the proceedings of the Committee, you must take responsibility for what you publish and what interpretation you place on anything that is said before the Committee. The guidelines for the broadcast of proceedings are available on the table by the door.

I note that today's hearing is open to the public and is being webcast live via the Parliament's website. Before we commence, I will make some comments about procedural matters. Any messages from advisers or members' staff seated in the public gallery should be delivered through the Chamber and support staff or the Committee clerks. I remind the Attorney General and the officers accompanying him that he is free to pass notes and refer directly to his advisers seated behind him. Transcripts of this hearing will be available on the web from tomorrow morning. Attorney General, the House has resolved that answers to questions on notice must be provided within 21 days. I remind everyone to turn off their mobile phones. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. I remind the Attorney General that he does not need to be sworn in as he has already sworn an oath to his office as a member of Parliament. I ask all other witnesses in turn to state their full name, job title and agency and, second, to swear either an oath or an affirmation. The words of the oath and affirmation are on a card in front of you.

**BRENDAN THOMAS**, Acting Director General, Department of Attorney General and Justice, and

**WILLIAM GRANT**, Chief Executive Officer, Legal Aid Commission, sworn and examined:

**ACTING CHAIR:** Before we commence, I ask everyone to note that Government members will not be asking any questions. Therefore, the time allocated for questions will be shortened and the examination of the Attorney General portfolio will conclude at 10.20 a.m. Questioning for the Justice portfolio will commence at 10.35 a.m. and conclude at 11.40 a.m. As there is no provision for the Attorney General to make an opening statement before the Committee commences questions, we will commence with questions from the Opposition.

**The Hon. ADAM SEARLE:** Attorney, Magistrate Henson said that the Local Court is carrying two unfilled magistrates' positions for the 2012-13 financial year and that over the next three years there will be a gap of eight full-time magistrates. What estimates have you done on the impact of this on delays in that court?

**Mr GREG SMITH:** The actual reduction in the number of magistrates was not something I mandated. I advised the Chief Magistrate that the reduction could be a necessary last resort if further savings elsewhere within the justice system cannot be identified. This Government has to live within its means; however, judicial remuneration now constitutes more than 60 per cent of the salary costs of the Department of Attorney General and Justice. The Government recognises the fine work and dedication of the New South Wales magistrates. That remuneration is fiscally unsustainable unless savings can be found elsewhere in the system. I have said that I am willing to consider any innovative suggestions for the operation of the Local Court that would result in the savings target being met by other means.

I have invited the Chief Magistrate to work with my department to identify such opportunities. However, in the absence of viable proposals for finding the required savings from the courts the only alternative is to procure savings by reducing the number of magistrate positions over the next three years. I am aware that the Chief Magistrate has proposed a staged implementation plan to reduce sittings. If further savings cannot be achieved through system changes, as you say, two magistrates a year will result in eight positions. The Government is committed to providing quality public services as well as meeting its expenditure targets. The workload of the court has dropped 10 per cent since 2008. In that way and with the use of acting magistrates we make up the difference. Mr Thomas may be able to assist further on this.

**Mr THOMAS:** As the Attorney said, the volume of matters coming before the Local Court has dropped by 10 per cent over the past two years, corresponding with the reductions in crime in New South Wales. The Chief Magistrate has provided some proposals to the department to explore further the efficiencies in his jurisdiction. We are working closely with him on those proposals.

**The Hon. ADAM SEARLE:** You say there has been a drop in cases before the Local Court. Is that a drop in filings? Budget Paper No. 3, page 2-9, notes a drop in cases finalised by the court. Are you saying there also is a 10 per cent drop in filings?

**Mr GREG SMITH:** Yes, that is what I am instructed.

**Mr THOMAS:** That is right.

**Mr DAVID SHOEBRIDGE:** That is hearing dates, is it not?

**The Hon. ADAM SEARLE:** As Mr Shoebridge says, surely it is a question of hearing dates, which turns on the availability of magistrates rather than there being less business for the court?

**Mr GREG SMITH:** The crime rate is dropping. It has been shown over the past 10 years in most areas that the crime rate has dropped. This might be because of ageing population; it might be because of a lesser use of heroin. It appears to be the situation that the use of heroin has dropped in recent years. It might be better policing or more deterrents—matters of that sort. Those are the figures I have been given and I accept them.

**The Hon. ADAM SEARLE:** Are you saying that your agency has not done any analysis of the consequences of delays in the Local Court occasioned by the reduction of eight positions in the magistracy?

**Mr GREG SMITH:** As to its consequences, there is a 16.9 per cent drop in adults charged—this is over the 10 years up to 2012, according to the Bureau of Crime Statistics and Research, and a 7.3 per cent drop in children charged with criminal offences. Since 2008-09 Local Court workload volumes have seen a decline in matters of around 10 per cent. We are working on a number of initiatives, including Youth on Track, by having caseworkers look after young people who look like they might get into trouble and by having case managers work with their families, schools, police and Family and Community Services to try to reduce the likelihood of them ending up before the Children's Court or in detention. We are doing that with Life on Track as well, which applies to adults. We are aiming to reduce numbers. As to magistrates, I want to appoint more magistrates and if money becomes available as the economy improves then we will as long as there is the workload for them.

**The Hon. ADAM SEARLE:** So you are saying there will be no impact in the form of court delays?

**Mr THOMAS:** We take court efficiency very seriously in New South Wales. You are probably aware that we report publicly on court efficiency every year in the Report on Government Services.

**The Hon. ADAM SEARLE:** Yes.

**Mr THOMAS:** And we do measure the court efficiency of all our court jurisdictions. It is something that we monitor very closely and we take quite seriously. The Chief Magistrate is constantly in contact with the department on issues relating to the performance and the efficiency in his courts so it is something that we monitor.

**Mr DAVID SHOEBRIDGE:** It is quality too?

**Mr THOMAS:** That is right.

**The Hon. ADAM SEARLE:** These reductions apparently will also occasion the reduction of up to 100 administrative staff in court services across the State which would presumably have a consequential effect of a number of court registries closing or at least operating on shorter hours. Are you able to identify which court registries would be closed or have their hours of operation reduced?

**Mr THOMAS:** There are no plans to close any court registries in New South Wales or reduce opening hours of court registries.

**The Hon. ADAM SEARLE:** Courts will no longer sit at Camden, Balmain, Kogarah or Windsor. Are you aware of any other courts that are identified as no longer having sittings?

**Mr GREG SMITH:** No, but that is staggered. For example, Ryde sittings—and you may not have mentioned Ryde—will be directed to Parramatta and Burwood from December 2013. Camden will close in July 2014, I hope temporarily, and the sittings will be redirected to Picton. Balmain will close in July 2015, Kogarah in July 2015 and Windsor in July 2015 and sittings will be redirected to Penrith.

**Mr THOMAS:** I just want to clarify that the courts will not close but the sittings will be redirected to other local—

**Mr GREG SMITH:** Yes, the registries will still be open.

**Mr THOMAS:** Yes, that is right.

**The Hon. ADAM SEARLE:** So there will not be judicial officers sitting in the court room?

**Mr THOMAS:** That is pending other savings not being found and other arrangements.

**Mr DAVID SHOEBRIDGE:** A court without a court. It will not close; it will just be a court without a court.

**The Hon. ADAM SEARLE:** It is not a court. Which courts will be converted simply to list courts, that is, from hearings simply to running lists?

**Mr GREG SMITH:** I will have to take that question on notice.

**Mr THOMAS:** None. There are no plans.

**The Hon. ADAM SEARLE:** There is no need then, Mr Attorney. Is it the case that magistrates are having their access to loose-leaf legislation services reduced or cut due to budget constraints?

**Mr GREG SMITH:** I certainly have not heard of that. I know they have been issued with laptops in recent times so they have access to the legislation that way through AustLII and other services that may be given to them. I have not heard of the other.

**The Hon. ADAM SEARLE:** Are judicial officers being given training in the operation of those extra systems?

**Mr GREG SMITH:** I am sure they are.

**The Hon. ADAM SEARLE:** Can you take that question on notice as well?

**Mr GREG SMITH:** Yes.

**Mr THOMAS:** They are being provided through online access to those services.

**The Hon. ADAM SEARLE:** Some people prefer paper though. Are these cuts to the magistracy being repeated in other courts such as the District Court and the Supreme Court?

**Mr GREG SMITH:** There are also some cuts in the District Court and the Supreme Court, but not to the same extent. They do not have the same number of judicial officers and they, too, are looking at other ways of improving their budgetary situation without cutting services to the public. I am in the process of filling a judicial position on the Supreme Court which has been vacant since the end of June. There will be an announcement made this week about that one. There may even be a swearing in this week.

**The Hon. ADAM SEARLE:** That is fast.

**Mr GREG SMITH:** As to the District Court, there are two vacancies at the moment. I have filled two positions this year. There will be other vacancies coming up and we will look at the question of filling them but we are also looking at whether they are able to meet their savings in other ways.

**The Hon. ADAM SEARLE:** So just to be clear, at present there are two District Court vacancies but you plan to fill those?

**Mr GREG SMITH:** I have filled two positions but there are currently two vacancies and I am looking at that at the moment.

**The Hon. ADAM SEARLE:** What about the Supreme Court?

**Mr GREG SMITH:** After this appointment I have just mentioned there will be no vacancies. We have upgraded several assistant associate justices to full-time judges of the court in the past year.

**The Hon. ADAM SEARLE:** That is existing personnel; as you say, you have upgraded their appointment?

**Mr GREG SMITH:** We have given them judicial power.

**The Hon. ADAM SEARLE:** That is right but they have not been replaced as associate justices?

**Mr GREG SMITH:** No.

**The Hon. ADAM SEARLE:** So there are no new bodies, as it were, determining matters?

**Mr GREG SMITH:** That is right.

**The Hon. ADAM SEARLE:** They just have a wider jurisdiction?

**Mr GREG SMITH:** And bearing in mind that all our major courts, Supreme, District and Local, are performing very well in the national scene. The Local Court is the most efficient court in the country and has been for some years, and the District Court and Supreme Court are also very high up in the efficiency rate.

**The Hon. ADAM SEARLE:** How many vacancies have been carried amongst the Crown prosecutors and public defenders, if any?

**Mr GREG SMITH:** I will take that question on notice.

**The Hon. ADAM SEARLE:** Your Government's wages policy of limiting increases in public sector remuneration to 2.5 per cent has now been extended to the judiciary?

**Mr GREG SMITH:** Yes.

**The Hon. ADAM SEARLE:** What plans have you prepared in case of any constitutional challenge to your new salary fixing for judges?

**Mr GREG SMITH:** I do not anticipate that there will be such a challenge. I heard rumblings about it early on but it has not eventuated. The difference between the judicial salaries and the Federal judge salaries is only about 0.5 per cent, as I understand it, and hopefully in the future when the economy improves we will be able to get back to the previous relativity that existed.

**The Hon. ADAM SEARLE:** It is not just about the level of remuneration; the executive now has the power to cap judges' pay by making a regulation. Does that not give rise to some constitutional considerations?

**Mr GREG SMITH:** There has not been any threat to me in writing. There has not been any application made and we have no trouble filling vacancies on those courts.

**The Hon. ADAM SEARLE:** So you have dismissed the concerns raised by the Chief Justice in the media?

**Mr GREG SMITH:** I do not dismiss the concerns; I understand them but I have also made it clear to the Chief Justice that just as the Governor has accepted the 2.5 per cent, the Government expects that every other person who is working for the community will accept that as well.

**The Hon. ADAM SEARLE:** So you have made no plans in case there is any challenge?

**Mr GREG SMITH:** No.

**The Hon. ADAM SEARLE:** Your Government's recent changes to victims compensation had a retrospective effect and disadvantaged many victims of crime. What is the amount of money that your Government has calculated that will no longer be paid to victims of historic sexual child abuse as a result of those changes?

**Mr GREG SMITH:** I do not have a figure on that.

**The Hon. ADAM SEARLE:** I am happy for you to take that question on notice.

**Mr GREG SMITH:** Let me make it clear that there has been no reduction in the amount of money the Government is putting into victims compensation. It is \$72 million and undoubtedly that figure will go up as time goes on. But that is the figure that was being put in—a figure reduced by any cost of living increase for some years. We have improved a failed system which was nearly three years in backlog. I am told that half the applicants did not get anything and if they did get something they had to wait for three years. So they had to carry all the costs, the loss of salary and matters of that sort. After PricewaterhouseCoopers did a review of the best way to spend that money we brought in a system that gives upfront assistance, including counselling up to 22 sessions. I believe it is a much fairer system.

**The Hon. ADAM SEARLE:** Counselling was already available under the previous system though.

**Mr GREG SMITH:** Yes, but it is more readily available now. The former Labor Government was told by the Auditor-General on several occasions that the Victims Compensation Scheme was not serving the needs of victims. It was quite clear to the former Government that the backlog was getting bigger and bigger. Representatives of victims and members of the Victims Advisory Board told us that we needed a better scheme and so did the Auditor-General. So we called for an independent review which made suggestions about how we could provide faster and more effective support to victims of violent crime. We consulted with stakeholders who told us about the importance of counselling and of helping victims as soon as possible after an act of violence. The review established that the old scheme did not meet victims' needs in a timely manner and that it was financially unsustainable.

In response the Government introduced the new Victims Support Scheme, the primary purpose of which is to deliver faster and more effective practical and financial assistance to victims at a time when they need it most. The variety of support measures include up to 22 hours of counselling, which can be increased where appropriate; a tailored package of support of up to \$5,000 to meet victims urgent and immediate needs, including emergency medical and dental treatment; home security measures and/or relocation costs from a situation of continuing or potential violence and crime scene clean up; funeral costs of up to \$8,000 for family members of homicide victims; financial assistance of up to \$30,000 for longer-term expenses, including ongoing medical and dental treatment; costs associated with criminal or coronial proceedings, loss of earnings and out of pocket expenses; and a modest lump sum of between \$1,500 and \$15,000 to acknowledge victim trauma.

**The Hon. ADAM SEARLE:** Just take the Quakers Hill tragedy. Because of your Government's new time limits I am told that nearly half the families of the victims in that situation will receive something as a result of your changes but the other half or thereabouts simply will not because of the operation of your time limits. Those arbitrary time limits that your Government has imposed are just harsh and unfair, are they not?

**Mr GREG SMITH:** No-one wants to play down the tragedy of that fire which resulted in the death of many residents and serious injury to many others. We know that Roger Kingsley Dean was sentenced to life without parole for 11 counts of murder and eight counts of recklessly causing grievous bodily harm in respect the fire. We welcome that. We cannot comment on individual compensation cases. Generally in relation to family victim claims, under the old scheme there was a total pool of \$50,000 that could be awarded to all eligible family victims. Victims Services had to ensure that all eligible claims had been received prior to claims being finalised. In some cases eligible people did not make the application that the other members of the family made and that caused the delay.

Claimants had two years from the date of the homicide to lodge an application. Where all eligible family victims had not lodged claims the matters could not be finalised, given there was only one pool from which all eligible claimants could be paid. Under the new scheme there is no such pool. Each eligible family victim will be entitled to a recognition payment of up to \$15,000 in his or her own right without having to wait for all other eligible family members to have lodged their application. The funeral expenses are covered separately by an additional category for assistance whereas they were previously reimbursed from the \$50,000 pool.

**The Hon. ADAM SEARLE:** Women are disproportionately represented amongst the pool of domestic violence victims. What analysis of the impact of your changes to victims compensation have you done to identify the impact on women in this State as a result of those changes, or have you not done that analysis?

**Mr THOMAS:** There has not been a specific analysis of the impact on women per se of the changes to the Victims Compensation Scheme. There has been a range of analyses across a number of different crime types. Part of the development of the new Victims Compensation Scheme was quite an extensive consultation process with actual victims of crime—people receiving support under the old Victims Compensation Scheme about the type of support that they needed. In particular, victims of domestic violence were very clear in saying that they wanted practical assistance early as opposed to waiting almost three years for some kind of response. So the new scheme has been designed specifically to respond to people with assistance when they need it, as they need it and how they need it rather than asking them to fit a specific box of compensable injuries and waiting three years for some type of response from the scheme.

**Mr GREG SMITH:** Under the old scheme a domestic violence victim might have been eligible for between \$7,500 and \$10,000; however, it took an average of 31 months for the matter to be finalised. Under the new scheme the victims will be eligible for up to \$5,000 financial assistance for their immediate needs. It could



be used for relocation to ensure the safety, wellbeing and health of the victim; changing of locks or putting in other safety measures; or payment of medical expenses for injuries sustained. The victim may also be eligible for up to \$30,000 under the financial assistance for economic loss category. That could be used for costs of living expenses where the applicant cannot establish loss of actual earning up to \$5,000. If victims have sustained actual loss of earnings they could receive up to \$20,000 towards this; up to \$5,000 for justice-related expenses which could be used to attend criminal proceedings or, if they are a witness, could be used to take a support person along; and up to \$1,500 for loss of personal effects which could be used to purchase clothing for the children and the victim if they had to leave the violent environment in a hurry. A domestic violence victim may also be eligible for between \$1,500 and \$5,000 for recognition payment. So they are in a much better position under our new program than they were under the old one.

**Mr DAVID SHOEBRIDGE:** I refer to the Victims Compensation Scheme. What monitoring are you doing of the fact that there is now no discretion to extend time beyond two years for the great bulk of victims of crime? Are you monitoring the effect of that at all?

**Mr GREG SMITH:** I am not personally monitoring the effect.

**Mr DAVID SHOEBRIDGE:** Is the department?

**Mr GREG SMITH:** From time to time I receive reports from my Victims Commissioner. We are still getting the new system going. As you know, we have extended it indefinitely for child sexual assault victims as a result—

**Mr DAVID SHOEBRIDGE:** Following pressure.

**Mr DAVID SHOEBRIDGE:** Following pressure.

**Mr GREG SMITH:** Resulting from a sensible amendment by the Christian Democratic Party, we are making sure that there is a much more receptive group to applications and questions from the public.

**Mr DAVID SHOEBRIDGE:** Do you think it is fair that a victim of a potentially horrific crime who is one day late submitting an application for victim's compensation—perhaps because they were in hospital or otherwise unable to present the claim—should be denied compensation?

**Mr GREG SMITH:** Whether I think it is fair is not relevant; the question is whether it is fair. A person has two years to submit an application and if they are comatose or something like that somebody else can submit it on their behalf. If that does not occur there is something wrong with the system.

**Mr DAVID SHOEBRIDGE:** That is your system and there is something wrong with it.

**Mr GREG SMITH:** Mr Shoebridge, it is the legal system that you were part of before you came to Parliament.

**The Hon. ADAM SEARLE:** So were you, Mr Smith.

**Mr DAVID SHOEBRIDGE:** You are blaming the legal system that you are the notional head of in New South Wales for the unfair operation of your laws. You say that it is the lawyer's fault and not your fault for changing the law so that if a comatose victim submits a claim a day late they will be denied compensation?

**Mr GREG SMITH:** I do not say that. Your original question stated that two years was not sufficient time for a person with a serious injury to submit an application and that is absurd.

**Mr DAVID SHOEBRIDGE:** Let's use the scenario of a victim of crime that has not been hospitalised because they are comatose but they have a terrible medical condition that causes them to be hospitalised for a period of time and they cannot get their affairs in order to submit the victim's compensation claim: Is that fair?

**Mr GREG SMITH:** Mr Shoebridge, what is fair—

**Mr DAVID SHOEBRIDGE:** Your scheme is not fair, is it?

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

**Mr GREG SMITH:** Let me answer the question. You know that the previous system was out of control with a delay of 31 months. Under that system many victims of crime did not get anything after waiting 31 months. Our system is much fairer in that as soon as people apply their application is considered and they get up-front payments for needs such as funeral costs and counselling and they are entitled to money for loss of earnings. This all occurs in a quick time rather than the previous long-dragged-out time that was extending rapidly. This is a much fairer system and I ask you to make that concession.

**Mr DAVID SHOEBRIDGE:** Mr Smith, have you received reports on the extant claims filed prior to the law being enacted that have been denied because of the retrospective time limits?

**Mr GREG SMITH:** I will be receiving reports on it.

**Mr DAVID SHOEBRIDGE:** When will you be publicly tabling that data?

**Mr GREG SMITH:** I do not know whether I will be. It might be there are none.

**Mr DAVID SHOEBRIDGE:** Is that seriously your position?

**Mr GREG SMITH:** Until I get the reports it is speculation. I do not operate on mere speculation like you may wish to; I just get on with it.

**Mr DAVID SHOEBRIDGE:** Will you be making some commitment to putting on the public record the impact of your changes to victim's compensation laws? You say they are wonderful and produce fairness. When will you place on the public record the number of claims that have been dismissed because of the retrospectivity of the laws?

**Mr GREG SMITH:** Those two aspects of your question conflict. You asked when I would table the successful results of my new scheme and then you asked me to talk about the failures: What do you want, the failures or successes?

**Mr DAVID SHOEBRIDGE:** When are you going to table both of them? When will you inform the public of the full impact of the changes? Do not be trite about this.

**Mr GREG SMITH:** A review is embedded in the legislation, as you would know if you read it. We will—

**Mr DAVID SHOEBRIDGE:** I read it but I do not think that you read it because you do not understand the impact.

**The Hon. TREVOR KHAN:** Point of order: Again Mr Shoebridge is becoming excitable. Mr Shoebridge should allow the Attorney General to answer the question he asked before attempting to jump down his throat again.

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

**Mr DAVID SHOEBRIDGE:** When will you be providing the public with a full picture of the impact of the changes to the victim's compensation laws?

**Mr GREG SMITH:** The commissioner will make an annual report and that will contain the details of how the system is progressing. The system has only been operating for just over a month, which is a little bit early for assessment.

**Mr DAVID SHOEBRIDGE:** Do you know how many complaints were received by the Anti-Discrimination Board in 2013?

**Mr GREG SMITH:** Do you mean 2012-13?

**Mr DAVID SHOEBRIDGE:** Yes, 2012-13. How does that differ from the previous year?

**Mr GREG SMITH:** Initially I will say that during the period 2012-13 there were 1,059 complaints received, 1,046 were finalised and 5,030 inquiries were received. The board delivered education and community outreach to over 10,500 individuals. I do not have the figures for the previous year but I will take that on notice.

**Mr DAVID SHOEBRIDGE:** Have you been analysing the impact of the funding cuts on the Anti-Discrimination Board in terms of its ability to respond to complaints and the timeliness of those responses?

**Mr THOMAS:** Yes, we have. The number of inquiries received by the Anti-Discrimination Board in the last financial year is commensurate with those received the year before. The number of matters they finalise each year is approximately 1,100 to 1,300 and the number of matters finalised in the last financial year was within that range. The budget of the Anti-Discrimination Board is structured in such a way that it gets an amount from the Consolidated Fund and it needs to raise a certain amount of revenue, around \$600,000, itself through training and education programs. In the last financial years it was falling short in raising that revenue.

We have done a review of the educational program and we are in the process of restructuring that educational program. The department is providing additional resources this financial year to improve the educational program and its professionalism and make changes in the information technology system to provide a greater amount of education services to a wider range of people. The department recognises that this financial year it will not meet that revenue target and it is providing supplementation to reach that target.

**Mr DAVID SHOEBRIDGE:** How much supplementation are you providing this year?

**Mr THOMAS:** Enough for it to meet the revenue target. That target is around \$600,000 and we will supplement the shortfall.

**Mr DAVID SHOEBRIDGE:** When are the negotiations for the new community legal services three-year funding agreement going to begin?

**Mr GREG SMITH:** When will they finish?

**Mr DAVID SHOEBRIDGE:** If they have formally begun when will they finish?

**Mr GREG SMITH:** I will have to take that on notice?

**Mr GRANT:** Are you speaking of the community legal service agreements?

**Mr DAVID SHOEBRIDGE:** Yes.

**Mr GRANT:** They have been stood over to the 2013-14 financial year. Presently there is a joint agreement between the State, the Commonwealth and the community legal services. Those agreements were three-year agreements. They expired and have been rolled over for the current financial year and they are due for renegotiation the following year.

**Mr DAVID SHOEBRIDGE:** Is it the Government's intention to reinstate three-year funding programs so the community legal service has some certainty?

**Mr GREG SMITH:** I know of no other intention.

**Mr DAVID SHOEBRIDGE:** I address my next question to Mr Grant. What consideration did you give to the harsh impact of Legal Aid's decision to not fund historic sexual abuse claims that arise out of the Federal royal commission, given there are so many more victims now coming forward?

**Mr GRANT:** We gave a lot of thought to that. There are no easy cuts in Legal Aid. This is not an area where I consider it a cut. We gave advance notice that we were not going to fund a swag of cases coming out of the royal commission. The commission was set up to run over a three-year period and it will obviously uncover a lot of cases where people will be looking for some form of compensation. No arrangement has currently been made to meet those expectations and what Legal Aid New South Wales has done is state that beyond providing its usual advice and minor assistance services to these people—and we will—we cannot afford, nor do we have the expertise, to run the compensation cases. Legal Aid is not equipped to do that and it does not do that type of

civil law any more. It focusses on what I will call poverty law or everyday problems for people. It does not focus on compensation cases and to be frank we are not experts in that, the private profession is.

**ACTING CHAIR:** Attorney, how are you dealing with the challenges posed by social media for the justice system, especially in relation to pre-exposure and discussion in relation to criminal matters and how that may, in turn, affect the courts?

**Mr GREG SMITH:** Social media has the power to transform business processes and bring together friends and family across the globe. It also brings with it some unique legal challenges. These include the potential to undermine the integrity of the criminal trial process through pre-trial social media commentary and during the trial itself, the sexualisation of youth culture and the vulnerability of young people, the exploitation through the practice of sexting, and the link between social media and workplace and social bullying and harassment. At its meeting on 5 October 2012, the Standing Council on Law and Justice, of which I am a member, noted the particular potential for social media to compromise a jury trial and agreed to seek a coordinated national approach.

A national working group has been established and consultants from Bond University were engaged to prepare a research paper to assist in the deliberative process. The consultants produced a report, which is available on the standing council's website, which recommended that specific "do not research jury directions" should be included in the judge's address to the jury. These should be clear, detailed, repetitive and include visual aids, if possible. Secondly, focus groups should be used to determine what form of written guidelines and judicial directions are most comprehensible and most likely to be taken seriously by jurors. Thirdly, jurors should be required to complete a brief pre-trial training module on their role and responsibilities once they have been empanelled. These recommendations are currently being considered by the working group. We have made amendments to the Court Security Act 2005 to restrict the use of electronic devices in courts.

**ACTING CHAIR:** Does that extend to blocking?

**Mr GREG SMITH:** No, it is to forbid it and prohibit use of any electronic device to transmit sounds, images or information of court proceedings from a courtroom to a place outside without authorisation. This includes posting the sounds, images or information on social media or other websites. The prohibition does not apply to people prescribed in the Act or regulations, including journalists who are making a media report on the proceedings, any transmission that a judicial officer expressly approves, transmissions by lawyers appearing in the proceedings, or any transmission authorised by a court practice note or court policy.

**The Hon. ADAM SEARLE:** The current legislation of the new super tribunal that your Government is in the process of constructing provides that the president be a Supreme Court judge. The recent advertisement that was placed seeking people to express interest in appointment as president made no mention of the position being a judicial appointment. Does that mean you are only looking at existing judicial officers for that post?

**Mr GREG SMITH:** No. Those people who would be the most attractive candidates would be those who had the background to be eligible for appointment as a Supreme Court judge, but I am certainly open to Supreme Court judges and retired Supreme Court judges, but the application does not require them to be.

**The Hon. ADAM SEARLE:** Understood. Why was there no mention of that in the advertisement? That being the case, it is somewhat misleading.

**Mr GREG SMITH:** I do not think it was misleading. I think we are seeking a high-quality applicant.

**The Hon. ADAM SEARLE:** That goes without saying, Mr Attorney General.

**Mr GREG SMITH:** The ad made that pretty clear.

**The Hon. ADAM SEARLE:** As I said, that goes without saying. You are happy to take that on notice?

**Mr GREG SMITH:** Yes.

**The Hon. ADAM SEARLE:** The previous Government invested approximately \$330 million in the Parramatta justice precinct and nearly \$50 million on improving courts in western Sydney. There is now a

campaign by the western Sydney Business Chamber and local Law Society to have the Supreme Court sit at Parramatta and have increased sittings of the District Court in Parramatta. Do you support that campaign?

**Mr GREG SMITH:** I want to make sure that access to justice is available all around Sydney and in the west, particularly, where the crimes are committed. At least half the murders, as I understand it, which is likely to be the work of the Supreme Court, are being committed in what is called Sydney west, an area that seems to be growing all the time in public discussion.

**The Hon. ADAM SEARLE:** It is.

**Mr GREG SMITH:** I would like to see the Supreme Court having a regular presence in Parramatta.

**The Hon. ADAM SEARLE:** You accept that it would be desirable to have courts, whether the Supreme Court or the District Court, sit closer to where litigants live, and even civil matters, for example—to use your terminology—are from greater western Sydney?

**Mr DAVID SHOEBRIDGE:** They have businesses in Parramatta, not just crime as the Attorney would suggest.

**The Hon. ADAM SEARLE:** Indeed. I note the interjection from Mr Shoebridge. There are businesses in western Sydney, but now there is a justice precinct you would be committed to making full utilisation of all the court facilities in Parramatta?

**Mr GREG SMITH:** They are fully utilised.

**The Hon. ADAM SEARLE:** The President of the local Law Society, when speaking on the radio a week or two ago, indicated that there were vacancies in the courtrooms of the District Court in Parramatta. Do you have different information to that?

**Mr GREG SMITH:** No, I do not have that information.

**The Hon. ADAM SEARLE:** Will you take that on notice?

**Mr GREG SMITH:** You must understand I do not determine the sittings of courts. The Chief Judge of the District Court and the Chief Justice and the Chief Magistrate determine those things. I do not interfere, but naturally I make my views heard and I think they want to ensure that there is maximum access to their facilities at the courts.

**The Hon. ADAM SEARLE:** You support the greater sittings of courts in Parramatta?

**Mr GREG SMITH:** As I said, I would like to see a Supreme Court presence in Parramatta, and it does not necessarily limit it to criminal work. The head office of our department is in Parramatta, so we are supporting the west in that regard. I am sure many of the employees live in the west, but there is the west and the west, and there are people in Penrith who feel they should have another District Court. They had three; they are now down to one.

**The Hon. ADAM SEARLE:** Mr Attorney, your agency has responsibility for the Industrial Relations Commission organisation; is that right?

**Mr GREG SMITH:** We have responsibility for the judges of the court.

**The Hon. ADAM SEARLE:** The commission's registry is also in your agency?

**Mr GREG SMITH:** The registry staff, yes.

**The Hon. ADAM SEARLE:** Has the possibility of redundancies been flagged with the staff of the industrial registry in recent times and, if so, what are those details?

**Mr GREG SMITH:** I will just get some information.

**Mr THOMAS:** There were 11 redundancies given in the Industrial Relations Court registry last year.

**The Hon. ADAM SEARLE:** Out of how many staff?

**Mr THOMAS:** About 30 staff.

**The Hon. ADAM SEARLE:** That is in the previous financial year?

**Mr THOMAS:** Previous financial year.

**The Hon. ADAM SEARLE:** Do you have any flagged for the current financial year?

**Mr THOMAS:** Not that we have determined.

**The Hon. ADAM SEARLE:** Do you have any redundancies planned for the judicial officers of the Industrial Court?

**Mr GREG SMITH:** We are constantly examining those issues because of the drop in workload.

**The Hon. ADAM SEARLE:** Do you have any plans to change the level of resourcing of the Industrial Court in this financial year?

**Mr GREG SMITH:** The Government is aware that the workload of the Industrial Relations Commission has declined significantly over the past decade. The Government has considered a number of options to address this in consultation with the President of the commission. In the event of a decision to alter the structure or constitution of the commission, the Government would of course comply with any constitutional obligations it owes to judges of the Industrial Court of New South Wales. Any decision must take into account also the court status as a superior court of record equivalent in status to the Supreme Court and also its specialist jurisdiction.

The Government will consider any reasonable proposal put to it in relation to the future of the Industrial Relations Commission. For example, the Supreme Court hears some common law employment and restraint of trade matters; however, court records indicate that an average of only six matters are filed in that jurisdiction each year. Transferring those cases to the Industrial Court would not significantly increase the District Court's workload. The District Court, Local Court and other tribunals also hear employment-related cases; however, that work is not commensurate with the Industrial Court's status as a court of superior record. It would not be appropriate to transfer any jurisdiction from the Supreme Court unless the work fits within the specialist expertise of the Industrial Court and the Chief Judge consents.

**The Hon. ADAM SEARLE:** A recent case—and I am not asking for the details of it—in the Court of Appeal, *Empire Waste v The District Court of New South Wales*, involved an application to quash a decision of Judge Curtis in the District Court. This arose from the transfer of cases filed in the Industrial Court but transferred to the District Court by regulation when the Work, Health and Safety legislation came in. The basis of the challenge was that the conferral of jurisdiction on the District Court by regulation was invalid. If that regulation is held to be invalid by the Court of Appeal a significant body of cases—some estimates say up to 140 or 150—may then, as it were, snap back to the Industrial Court of New South Wales. That would have a resourcing implication. Have you made any contingency plans for that eventuality?

**Mr GREG SMITH:** No, the case is still reserved. We will deal with the outcome if it is what you predict, but it may not be.

**The Hon. ADAM SEARLE:** Just to be clear, there are no plans yet; you will see what happens?

**Mr GREG SMITH:** No plans that I have.

**The Hon. ADAM SEARLE:** Or your agency.

**Mr GREG SMITH:** This is a matter primarily for the Department of Finance and Services. It is its prosecution as I understand it, or it supervises that aspect.

**The Hon. ADAM SEARLE:** It is WorkCover's prosecution but it is your agency's call.

**Mr GREG SMITH:** WorkCover, yes.

**The Hon. ADAM SEARLE:** I am just interested in the resourcing of the court to deal with matters.

**Mr GREG SMITH:** Yes.

**The Hon. ADAM SEARLE:** As at May this year the Toronto Drug Court had 320 referrals and the Parramatta Drug Court had 501 referrals but the Sydney Drug Court only had 61 referrals. Are you able to explain the differential? Is it because you were unable to secure the resources in the budget to expand the Sydney Drug Court's operation?

**Mr GREG SMITH:** The Sydney Drug Court has only started this year; it will build up I expect, and that is the reason.

**The Hon. ADAM SEARLE:** So you do plan for it to have a much greater level of referrals?

**Mr GREG SMITH:** Mr Thomas might have something to add.

**Mr THOMAS:** People spend a fair amount of time on the Drug Court program, so there is a cumulative build-up of people in the court over a period of time. All of the clients of the Parramatta Drug Court today, for instance, have not necessarily just been recently referred to that court—some of them have been on it for a period of time. There are plans to ramp up the operations of the Sydney Drug Court as it increases its volume of referrals and intake.

**The Hon. ADAM SEARLE:** Is that potential expansion already provided for in this year's budget? If so, at what level do you expect it to operate at by the year's end?

**Mr THOMAS:** We will need about six more months before we can get a full understanding of the level of referrals to that specific Drug Court in the catchment area it is covering.

**The Hon. ADAM SEARLE:** I refer you to the list of closed anti-discrimination complaints appearing in Budget Paper No. 3, page 2-11. Do they relate to matters in the tribunal? What is encompassed in those complaints?

**Mr THOMAS:** My understanding is that it is all complaints that have been finalised—so in the tribunal or finalised in another way.

**The Hon. ADAM SEARLE:** Last year there were 1,396 and in the year just gone it is anticipated that only 884 will be finalised. Is that because there were fewer complaints filed or is it that the level of resourcing is such that fewer fines can be finalised?

**Mr THOMAS:** That figure is the early prediction of the Anti-Discrimination Board. My understanding is that the figure at the close of the year was closer to 1,100 matters finalised.

**The Hon. ADAM SEARLE:** Can you take that on notice and come back to us with the precise figures?

**Mr THOMAS:** Certainly can.

**The Hon. ADAM SEARLE:** And that would be reflective of your prediction for the following year, is that correct?

**Mr THOMAS:** That is right.

**The Hon. ADAM SEARLE:** As I understand it, there have been some changes to Legal Aid recently. For example, there will be no Legal Aid for criminal matters where prison is not a possibility. How much is estimated to be saved by refusing legal assistance in these criminal matters where prison is not a possibility?

**Mr GREG SMITH:** Mr Grant will answer that.

**Mr GRANT:** We are expecting savings of around \$1 million once fully implemented over a year. This current financial year we are expecting it to be a little below that. To be honest that is our best expectation; we really do not have an exact figure on that.

**The Hon. ADAM SEARLE:** It is estimated as \$1 million, is that correct?

**Mr GRANT:** Estimated.

**The Hon. ADAM SEARLE:** I note that there was a question on notice along these lines from the shadow Attorney General and the answer given to that question was that Legal Aid NSW does not collect data regarding grants of legal assistance for criminal matters based on the possibility of a prison sentence.

**Mr GRANT:** Yes.

**The Hon. ADAM SEARLE:** That being so, how have you reached the \$1 million estimate of savings?

**Mr GRANT:** We do not collect data on something that we are not yet doing. What we are doing at the moment is changing the rules. We will monitor that. Our board has asked us to monitor that and to report back to it within six months of implementing it. We will be able to ascertain how many matters fall into that category and we will be able to cost those.

**The Hon. ADAM SEARLE:** So it is kind of make it up as you go along?

**Mr GRANT:** No, it is a matter of using your best judgment to come up with a figure that you can satisfy your board before you get them to agree to a change of your policies.

**The Hon. ADAM SEARLE:** Your best guess, you mean?

**Mr GRANT:** No, your judgement.

**The Hon. ADAM SEARLE:** I guess we will have to agree to disagree. Minister, in 2012 the first person convicted under your new consorting laws was an intellectually disabled man. You argued at the time that your consorting laws were intended to catch serious organised crime figures.

**Mr GREG SMITH:** Yes.

**The Hon. ADAM SEARLE:** Can you tell us how many serious organised crime figures have been snared by your consorting laws? I am not asking for details of particular cases, just the number.

**Mr GREG SMITH:** Over 130 people have been warned under the new consorting laws to date and six people have been charged—five of them associated with outlaw motorcycle gangs. Members of the Nomads outlaw motorcycle gang were the first to be charged with the new consorting offence.

**The Hon. ADAM SEARLE:** How many actually convicted?

**Mr GREG SMITH:** None. There is a challenge—well, there was one. He appealed and his appeal was allowed and he was sent back—

**The Hon. ADAM SEARLE:** Was that the intellectually disabled individual?

**Mr GREG SMITH:** Yes. He has joined in the appeal or the challenge that the members of the Nomads group have brought, which is listed for hearing in the Court of Appeal on 5 November 2013, and until that is resolved other people will not be charged as I understand it.

**The Hon. ADAM SEARLE:** What actions have you taken to ensure that people who are intellectually disabled such as this individual are not made victims of these consorting laws?



**Mr GREG SMITH:** That was a decision by police officers. I have faith in police. Police deal with people of all types, including people with disabilities. I am not sure that the extent of his disability was known before his arrest.

**The Hon. ADAM SEARLE:** Does that speak to the need for more diligence on the part of the constabulary before they charge persons?

**Mr GREG SMITH:** It depends. I mean, sadly, disabled people commit crime too. It does not give them immunity because they have a disability.

**The Hon. ADAM SEARLE:** I understand that, but you would agree that particular training and sensitivity needs to be brought to bear when dealing with persons with particular vulnerabilities?

**Mr GREG SMITH:** I agree, yes.

**The Hon. ADAM SEARLE:** The Armidale courthouse was supposed to be operational by early this year but was caught up in the National Buildplan liquidation situation. I believe that the Department of Finance and Services has taken over the project and construction was supposed to resume in late July. Can you tell us whether construction has commenced and when the new courthouse will be operational?

**Mr GREG SMITH:** Work has recommenced. A construction contract was awarded to a local building firm in December 2011, and construction commenced in January 2012. The head contractor entered into voluntary liquidation in April 2013 and all work at the courthouse was stopped. The project has less than 10 per cent of its total scope left to be completed. New South Wales Public Works was appointed to take over as head contractor, and work recommenced on 24 July. The expected completion date for all works is late November or early December. A total of \$6.9 million has been allocated for the completion of the new courthouse.

**The Hon. ADAM SEARLE:** Can you tell us why it took so long for the Department of Finance and Services to get involved given that where there were other difficulties with the National Buildplan Group they acted a lot sooner than they did in Armidale?

**Mr GREG SMITH:** No, I do not. We will have to take that question on notice.

**The Hon. ADAM SEARLE:** In the original proposals for a new Wagga Wagga courthouse, we were told that it was going to be a building of three storeys and that it would contain five courts at a cost of about \$26 million. When the development application was lodged, we found that it was for a building of two storeys and four courts and would cost an estimated \$17 million. Can you tell us why the project was scaled back? Or were the original estimates just incorrect?

**Mr GREG SMITH:** I intervened to make sure that there was a rethink of what was actually going to be done because I was concerned that Wagga Wagga was not receiving what it needed—and that has happened. As I understand it, the stakeholders involved, the solicitors and others interested in the court, are very happy with the new proposal. Perhaps Mr Thomas knows a bit more about that.

**Mr THOMAS:** My understanding is that there was a meeting last week of the Assistant Director General who is in charge of General Courts and Tribunal Services with the local stakeholders about the works occurring at the Wagga Wagga courthouse to make sure that people were happy with the progress of those works. My understanding is that they are happy with the progress.

**The Hon. ADAM SEARLE:** Sure, but none of that explains why the development is now on a significantly lower scale than what was originally proposed. Is it the case that the original estimate was just wrong or has the Government now diverted those resources to other priorities, such as, for example, the North West Rail Link or other perceived higher priority political issues?

**Mr THOMAS:** My understanding is that there were some challenges with the original planning, but we can take that on notice and get you a full response.

**The Hon. ADAM SEARLE:** "Challenges" is an interesting word to use. Please identify what those challenges may be. I will be very interested to read of those. At the end of December last year 39 persons were on extended supervision orders. Only 10 of those persons were placed on those orders under the current

Government. All the rest were placed on orders by applications made previously. If these orders are as important as I think you have stressed in the past, why has there been only that level of applications?

**Mr GREG SMITH:** Certainly we want to protect the community. We want to make sure that serious offenders are kept under scrutiny, particularly when they are released, if they may be seen as a possible danger to the community. I think there are 40 offenders subject to an extended supervision order. I think we made an application last week for another one. We have another one coming in and I think there is going to be an application for another person for extended detention as a result of concerns about his behaviour whilst under extended supervision. The analysis of people fitting the categories that are required to be proved under the legislation does not warrant more applications being made at the moment.

**Mr THOMAS:** My understanding is that Corrective Services NSW does a regular assessment of levels of risk of inmates and provides advice based on those levels of risk, as they did for the original levels of application. So applications are made as they are warranted.

**Mr GREG SMITH:** And there is improved access to programs whilst in custody, which means that fewer prisoners remain untreated before their release.

**The Hon. ADAM SEARLE:** Minister, as Attorney General your position is often regarded as being the leader of the bar in New South Wales. There is a controversy at the moment about whether barristers should be allowed to incorporate, and the leadership of the NSW Bar Association has indicated that it is very concerned about the ethical dimensions associated with such a proposal. What is your personal view on whether the bar should be allowed to incorporate?

**Mr GREG SMITH:** I must say that I have not given it a great deal of thought.

**The Hon. ADAM SEARLE:** I am happy for you to take that on notice.

**Mr DAVID SHOEBRIDGE:** You are not going to give Mr Hyde your proxy, are you?

**The Hon. ADAM SEARLE:** I acknowledge that interjection so we get it on the record. I am happy for you to take that on notice as well. The submission from the Office of the Director of Public Prosecutions to the review of sentencing by the NSW Law Reform Commission argues that section 21A of the Crimes (Sentencing Procedure) Act should be abolished. That section includes aggravating factors which courts must take into account when imposing sentences, including the crime being racially motivated, the victim being a police officer or the victim being particularly vulnerable. Do you agree with the Director of Public Prosecutions as a public policy matter?

**Mr GREG SMITH:** We have received the report of the NSW Law Reform Commission, and it will be tabled fairly soon in Parliament. It is an issue that I have been concerned about for a long time—the confusion caused to courts by sometimes double-dipping in relation to sentencing. It might be an element of an offence that an offender does something, such as leaving the scene of an accident after causing grievous bodily harm or a death, and whether that is an element in section 21A as well as an aggravating circumstance. But the person might be charged with that specific offence. They really should not be punished twice. That is only one example.

There are many other examples where appeals have been allowed because of an error made by the judge, and probably contributed to by counsel on both sides. So it is an area that needed close review. I have not read lately the submission from the Director of Public Prosecutions. I do not know if I have ever read it in full. I have read parts of it and I have certainly read what the NSW Law Reform Commission has said. I think this is something on which to watch this space.

**The Hon. ADAM SEARLE:** When do you think you might respond to the report of the commission? I know you have until 18 September.

**Mr GREG SMITH:** That could take months. It is a very long report and it covers a great number of issues. Its main thrust is to simplify the system so as to reduce error and to make more options available for sentencing courts.

**Mr DAVID SHOEBRIDGE:** Whilst we are on the issue of sentencing, Attorney, are you considering reviewing the principle that applies in cases, such as historic child sexual offences, where the offender gets the benefit of more lenient sentencing principles that were applied at the time of the offence? This may be part of the explanation for the relatively leniently sentencing on child sexual offences, particularly historical ones.

**Mr GREG SMITH:** It is an interesting question. Of course the Government has announced the establishment of a joint parliamentary committee to look at child sexual assault issues, particularly sentencing. The Government will wait until we see the response to that. The historical matters are not always given the scrutiny that they deserve in the sense that the penalties were much lower years ago and so the levels of sentencing for historical matters are lower accordingly. I am not considering any retrospective activity there.

**Mr DAVID SHOEBRIDGE:** Are you considering reviewing that principle so that someone who, on one view, has had the benefit of escaping conviction for a couple of decades for a child sexual offence then also gets the further benefit of having a lesser penalty if they are convicted now? Are you considering reviewing that?

**Mr GREG SMITH:** It is something I will take on notice.

**Mr DAVID SHOEBRIDGE:** Mr Grant, in the Legal Aid decision to cease funding of those cases where incarceration is not considered likely, did Legal Aid consider the other serious impacts on claimants for aid such as loss of employment opportunities and restrictions on travel which arise from a criminal conviction even when there is no incarceration?

**Mr GRANT:** We considered all of those matters. The bottom line for Legal Aid is that there are no easy cuts; we have to meet our budget requirements. We cannot meet those budget requirements without looking at our criminal law activity, because it is just such a large part of our expenditure. In looking at that we formed a view that we had to look at the test in local courts, because there is very little we can do in either the District Court or Supreme Court because of the Dietrich decision. Following that, we had to look very closely at Local Court summary defended hearings. We came to the conclusion that that was an area where we could tighten up.

Of course we are concerned about the effect on our clients. All Legal Aid lawyers want to act for many more clients than we do at the moment. One particular group that we are concerned about are the people who fail our means tests in those areas. Some of those we know will go to jail. That is another group that we would be concerned about, as well as the clients that you are talking about. All we can do is to manage with the funding we have. We still will have the most beneficial test of any Legal Aid Commission in the country even with this reduced test. We took all of those matters into consideration when that decision was made by our board.

**Mr DAVID SHOEBRIDGE:** Given that, as you say, there are no easy cuts and that any cut is going to leave people you would want to service seriously disadvantaged, have you made submissions to the Attorney and the Government seeking some additional funds so that you can provide those necessary services?

**Mr GRANT:** I am talking to the Attorney about our funding position continuously. The Attorney was actually successful in getting for Legal Aid in this State an additional \$4 million, which was the amount that was cut from our public purpose funding because of the difficulty that fund is in. So, yes, we did and the Attorney responded with \$4 million for Legal Aid. Otherwise our cuts might have been a lot more drastic.

**Mr DAVID SHOEBRIDGE:** Given that your judgement call is that there will only be a \$1 million saving from not providing Legal Aid to those people before the Local Court solely on the basis that they may not get a custodial sentence, has the Government considered a review of Legal Aid funding to provide the additional \$1 million so that those people do not lose representation?

**Mr GREG SMITH:** Not at this stage, no.

**Mr DAVID SHOEBRIDGE:** Will you be reviewing the impact of those laws?

**Mr GREG SMITH:** I am constantly looking at ways of trying to give more support to both the Legal Aid Commission and the Director of Public Prosecutions. I think they are under great pressure.

**Mr DAVID SHOEBRIDGE:** In response to a request to your office and department for the submissions that were presented to your exposure bill on the removal of the right to silence the department refused to provide copies of the police submission. Do you know why that was?

**Mr GREG SMITH:** No, I do not.

**Mr DAVID SHOEBRIDGE:** Will you take that on notice?

**Mr THOMAS:** We will take that on notice.

**Mr DAVID SHOEBRIDGE:** It was not just because the contents were embarrassing for the Government?

**Mr THOMAS:** I do not know the reason. I will take that on notice.

**Mr DAVID SHOEBRIDGE:** Since the changes to increase police powers for move-on orders, has there been any monitoring of the impact of those laws by your department?

**Mr THOMAS:** Sorry, can you repeat that?

**Mr DAVID SHOEBRIDGE:** What monitoring have you undertaken of the impact of the increased move-on powers that were granted to police?

**Mr THOMAS:** I will have to take that question on notice.

**Mr DAVID SHOEBRIDGE:** In particular, could you advise whether there has been any monitoring or assessment of the number of move-on orders that are given to vulnerable groups such as Aboriginal people and homeless people, and the prosecutions and convictions for those groups?

**Mr THOMAS:** Yes.

**Mr DAVID SHOEBRIDGE:** What attention does your department give to public transport access to local courts when making its decisions to allocate or close local courts?

**Mr GREG SMITH:** I would have to ask Mr Thomas.

**Mr THOMAS:** Listings in the Local Court are set by the Chief Magistrate, so we do not determine where courts sit and where matters get listed. Those are decisions made by the Chief Magistrate. When we construct and manage our court facilities we try to make sure that there is full access by public transport and other means to court facilities. The challenge is that some of our court facilities are in remote locations where access is quite difficult in general.

**Mr DAVID SHOEBRIDGE:** Some of them are in places such as Windsor, to which people have ready access. Have you considered how on earth people will get public transport from places such as Bilpin, Kurrajong and Colo to Penrith? How will it affect, for example, women facing domestic violence issues?

**Mr THOMAS:** Certainly there are transport issues across greater Sydney and greater western Sydney that affect everybody's access to services, not just those needing to attend court.

**Mr DAVID SHOEBRIDGE:** But you are closing the Windsor court down, so that problem is being created by a decision of your Government. Have you looked at those public transport issues?

**Mr GREG SMITH:** It is not a decision of our Government; it is a decision of the Chief Magistrate.

**Mr DAVID SHOEBRIDGE:** It is a decision of the Chief Magistrate under your Government.

**Mr GREG SMITH:** He is an independent officer who makes decisions about where courts should sit. I understand one of the factors is that the courts have been chosen because they do not have the volume of work that other courts have.

**Mr DAVID SHOEBRIDGE:** Are you concerned about the public transport difficulties faced by many people who get to the Local Court by public transport? Have you considered that or asked the Chief Magistrate to consider those issues when closing the courts?

**Mr GREG SMITH:** It is certainly a matter that I have considered in relation to Parramatta court for people that have to come from Penrith or Campbelltown. If they get public transport they have a long walk from the station, unless they get a cab. They may not be able to afford a cab or there may not be any. It is a long walk and a lot of it is not under cover. It is a very good facility, but it is a long way away from the station. There are buses in the area, but it was a decision made by the previous Government to set up a precinct.

**Mr DAVID SHOEBRIDGE:** It is about a 10-minute walk.

**Mr GREG SMITH:** Yes, but you might be walking with the accused or his family or her family nearby. I do not know. You might be on the train with them too. But the decision was made to set up a great court at Parramatta and it is a great court. You cannot just keep every other court open when you set up a precinct like Parramatta where there are eight or nine courts.

**Mr DAVID SHOEBRIDGE:** But particularly for Windsor and those communities around Windsor in north-western Sydney, how do you envisage that people will get public transport from places like Bilpin, Kurrajong and Colo down to Penrith?

**Mr GREG SMITH:** It will be difficult.

**Mr DAVID SHOEBRIDGE:** That is the point. It will be very difficult. Have you approached the Chief Magistrate and asked him to review those decisions so people do not face that very difficult challenge?

**Mr GREG SMITH:** It is certainly an issue that I will raise with him.

**Mr DAVID SHOEBRIDGE:** Thank you. Other States have laws that prevent employment discrimination, with some exceptions, for persons who have a criminal record. Those laws allow anyone who has been convicted and done their time more access to the employment market in order to get on, have a normal life and avoid re-offending. Is the New South Wales Government looking at those other State jurisdictions and considering amending our laws in that regard?

**Mr GREG SMITH:** I am not conscious of that. We will take that on notice.

**Mr DAVID SHOEBRIDGE:** Do you know if there is any monitoring of the number of people who have legal assistance when seeking compensation under the new Victims Support Scheme? Has that been monitored?

**Mr THOMAS:** Do you mean those people who are applying through a solicitor?

**Mr DAVID SHOEBRIDGE:** In terms of all people applying, are you monitoring what proportion are legally represented?

**Mr THOMAS:** We will certainly gather that information, but one of the big changes to the new Victims Support Scheme is that people do not need a legal representative to access the scheme. One of the great structural challenges of the previous scheme was that it was so complicated people often needed a lawyer to negotiate it. Indeed, since 1994 the scheme paid out more than \$104 million just in legal fees to solicitors. One of the great benefits of the changes to this current scheme is its simplicity and that it treats people as people, responding to their needs as they see them. We have changed internally the way we manage those claims so that we will have case managers working directly with individuals to get a better understanding of their needs so that we can then create a package of support around that person. People are not required to have a solicitor to have access to the new Victims Support Scheme at all, but we will monitor the level of contact we do have with solicitors.

**Mr DAVID SHOEBRIDGE:** Attorney, given those well-known barriers, particularly for victims of domestic and family violence or sexual assault, in reporting to police and government agencies, why does your new law require victims of those crimes to report the crime to police and get a report from the police or a government agency in order to receive financial assistance?

**Mr GREG SMITH:** I think it is one way of establishing the bona fides of the claim. Interrogation by the police might indicate that it is not a valid claim. I am not saying there are many of those, but there have been cases of people making claims of sexual assault. I understand in the family law context it is not an uncommon situation where somebody claims that the father has molested the children, and it is found to be quite untrue. That would be one reason. You have to have a monitor, in a sense, to make sure that there is credibility.

**Mr DAVID SHOEBRIDGE:** Attorney, is there any systemic evidence of that kind of reporting of the system?

**The Hon. TREVOR KHAN:** Point of order: I think what Mr Shoebridge is asking is with regard to a specific provision of a bill that went through the House. If that is the case, then essentially he is asking the Attorney to traverse an area that has been a decision of the House, and that is inappropriate in my view.

**Mr DAVID SHOEBRIDGE:** To the point of order: That is no point of order.

**The Hon. TREVOR KHAN:** It is, actually.

**Mr DAVID SHOEBRIDGE:** It is not based on any standing order.

**The Hon. TREVOR KHAN:** It is.

**Mr DAVID SHOEBRIDGE:** I am asking the Attorney to address those well-known barriers.

**ACTING CHAIR:** Yes, I think that is in order. Once it has been through the House, you can definitely discuss it.

**Mr GREG SMITH:** Perhaps Mr Thomas could say.

**Mr THOMAS:** Under the previous scheme in relation to victims of those offences, 80 per cent had reported the offence to the police. There is a common amount of reporting to the police, but the new scheme is quite flexible in the evidence that it needs. It is not just a police report, but a report from a medical practitioner or a counsellor.

**Mr DAVID SHOEBRIDGE:** Section 26 and section 27 support requires a report from the police, a government agency or service. That reporting you are talking about now would not satisfy your new scheme.

**Mr THOMAS:** We need some evidence that a violent crime has occurred and that a person has suffered as a result of that violent crime. We need a level of evidence to be sure that that has actually occurred. We are happy to work directly with victims to assist them in getting that kind of evidence together. We certainly did that under the previous scheme and we will be doing it under this current scheme. We have direct access to the police system, so we are not requiring people to seek police reports directly themselves. We will seek that for them to make the process easier and quicker for victims of violent crime. But we do need a level of evidence that a violent crime has occurred.

**Mr DAVID SHOEBRIDGE:** I will give you one very specific case that has been presented to me, or a class of cases. In remote areas, particularly in remote parts of New South Wales there have been no safe houses for women escaping domestic violence. As a result, those women often present to hospitals and are given what is called a duty of care admission in those situations. But prior to section 19 (6), there was no recording by the health system of those visits by women so they do not have the records to support their claims. If they have not gone to the police, they have no report. Those claims will fail your new test. Are you concerned about that kind of hole, if you like, that claimants can fall through?

**Mr THOMAS:** I would be concerned if there was a hole in the scheme, but we have worked quite strenuously in the last few years, particularly in far-western New South Wales, to promote victim support schemes generally. We have a specific plan in particular to increase access for Aboriginal people to the scheme. We have specific staff dedicated to doing that. We have seen an increase in the number of Aboriginal people accessing the scheme, particularly from western New South Wales. We have increased the amount of money that we have paid to counsellors and changed the payment system to counsellors to be more flexible so that they can get to those remote areas where previously there was a big hole in that type of service under the scheme so

that we can specifically provide a greater level of service to those people in remote areas. But as I said earlier, the scheme is designed in such a way for us to work directly with victims to help them get the level of evidence they need to qualify for support.

**ACTING CHAIR:** In relation to a matter that I take a little interest in, Attorney, whatever happened to your complaint to the Judicial Commission in relation to Magistrate O'Shane? It did not seem to hit the public record anywhere.

**Mr GREG SMITH:** I think it has had some scant mention, but I will just get some of the detail of that. I referred the conduct of Magistrate O'Shane in her dismissal of a charge of alleged assault against a paramedic in the matter of the prosecution of Kasian Wililo to the Judicial Commission, which examines complaints against judicial officers. I also referred Magistrate O'Shane's conduct in the matter of Bilal Skaf, a traffic infringement matter, which was overturned on appeal in the Supreme Court to the commission. But she was due to retire. She went on long service leave. She is now retired. She was not referred to Parliament, but the conduct division referred her back to the Chief Magistrate for counselling.

**ACTING CHAIR:** I thought that might have been the case—that she actually retired before anything further was said or done. I will close this section of the hearing in relation to Attorney General. We will resume in 15 minutes to commence the Justice hearing.

**(Short adjournment)**

**VALDA JUDITH RUSIS**, Chief Executive, NSW Juvenile Justice, affirmed and examined; and

**PETER SEVERIN**, Commissioner, Corrective Services NSW, sworn and examined:

**ACTING CHAIR:** The Committee will now examine the Justice portfolio.

**The Hon. SHAOQUETT MOSELMANE:** On 23 May 2012 you introduced the Inspector of Custodial Services Bill, which was a Liberal Party election promise. So far no-one has been appointed. Why not?

**Mr GREG SMITH:** The recruitment process is currently underway. There have been several processes to get an appropriate person.

**The Hon. SHAOQUETT MOSELMANE:** It has been almost 12 months.

**Mr GREG SMITH:** I know, but it is a key role to rebuild and restore public confidence in the judicial system. It was decided to explore a broader field of potential candidates after the first lot. Final interviews were conducted on 9 August. I expect to make a recommendation to Cabinet very soon. Of course, the process is that the appointment has to be approved by the joint parliamentary committee on the Police Integrity Commission and Ombudsman.

**The Hon. SHAOQUETT MOSELMANE:** When you say "very soon", how soon?

**Mr GREG SMITH:** I would expect this month.

**The Hon. SHAOQUETT MOSELMANE:** In relation to parole offenders in the community, the Government merged the Community Compliance and Monitoring Group [CCMG] into Probation and Parole and employees are now called Community Corrections Officers [CCOs]. How many employees were there in the Community Compliance and Monitoring Group before it was disbanded?

**Mr GREG SMITH:** I am not sure of the exact number. Perhaps I can ask the Commissioner to answer that.

**Mr SEVERIN:** The Community Compliance and Monitoring Group had 269 positions. Obviously, those 269 positions have been merged into the new community corrections group. The net reduction in positions overall between both services is 200. However, 69 positions were established to augment what was previously Probation and Parole and to ensure that we continue to provide the required services and, indeed, to enhance those services.

**The Hon. SHAOQUETT MOSELMANE:** Do those figures include voluntary redundancies?

**Mr SEVERIN:** There certainly have been voluntary redundancies. The number of staff who have taken voluntary redundancies I have not got right in front of me. I can get that information in a minute.

**The Hon. SHAOQUETT MOSELMANE:** Yes, if you would, and at what cost?

**Mr SEVERIN:** There were a lot of redeployments of existing vacancies. There were 65 voluntary redundancies in 2012-13 and the remainder of the staff have been redeployed into existing vacancies within the agency.

**The Hon. SHAOQUETT MOSELMANE:** How many former CCMG employees now continue supervision of work as Community Corrections Officers?

**Mr SEVERIN:** I would have to take that question on notice regarding the total number of staff still with the agency—obviously, the ones that remained after the 65 voluntary redundancies were taken up.

**The Hon. SHAOQUETT MOSELMANE:** What is the net loss of supervising positions since CCMG was discarded? Do you have figures?



**Mr SEVERIN:** As I mentioned before, the net loss was established positions. That was not actually filled positions because CCMG, as did the community corrections group, had quite a substantial number of vacancies at the time the merger occurred. The net loss was 200 positions as a result of the services essentially duplicating what they were doing and operating quite inefficiently in that context.

**The Hon. SHAOQUETT MOSELMANE:** Was the net loss in excess of what you expected?

**Mr SEVERIN:** No, it certainly was not. It was actually less than we originally expected. A lot of staff consultation occurred. As a result of that, a whole range of changes was made. The final number of positions we reduced by was less than we originally anticipated.

**The Hon. ADAM SEARLE:** Does that include established positions? I know that you said a number of them were vacant, but what was the number of established positions that were deleted?

**Mr SEVERIN:** I was just simply referring to established positions, not to the number of staff who actually occupied those positions. That was significantly less.

**The Hon. SHAOQUETT MOSELMANE:** Attorney, how many unannounced home visits have been carried out by CCOs since the CCMG was abolished?

**Mr GREG SMITH:** I do not know that. I will have to take that on notice.

**The Hon. SHAOQUETT MOSELMANE:** You have abolished the Cedar Cottage Program without replacing it with an alternative?

**Mr GREG SMITH:** Yes.

**The Hon. SHAOQUETT MOSELMANE:** The program has declined in participation rates. Why are you turning your back on rehabilitation?

**Mr GREG SMITH:** Why am I turning my back on—?

**The Hon. SHAOQUETT MOSELMANE:** Rehabilitation.

**Mr GREG SMITH:** I am not turning my back on rehabilitation. The fact is that it was the Government's decision. Whilst the Cedar Cottage Program may have produced a report that indicated some rehabilitation of the offenders, there was no evidence it was fulfilling the reasons for sentencing in itself. For example, no deterrent effect was given to future offenders from the Cedar Cottage Program. The fact is that there was a massive breach of trust involved where a father sexually interferes with his children—probably the worst breach of trust our community would recognise—yet they seemed to be getting off with a program that did not involve incarceration. The Government took these matters into account. A number of the aspects of sentencing were not satisfied and the fact that the massive breach of trust brought a drop in community confidence towards dealing with offenders in that way.

**The Hon. SHAOQUETT MOSELMANE:** Since being elected you have made no applications at all to continue a detention order for sex offenders. Why is that?

**Mr GREG SMITH:** I have made an application recently and another one is in the pipeline, as it were. So there are two at the moment. We make those applications only when we feel the conditions are appropriate and that the person will be a risk to the community. Improved programs in the jail system have meant there seem to be fewer people fitting into those criteria that would justify making an application. I will ask the Commissioner whether he has anything further to say on that.

**Mr SEVERIN:** The process by which we make recommendations to the Attorney to make applications is very rigorous and involves quite substantial assessments. The committee is chaired by me and has two other assistant commissioners on it. I am very confident that the rigour applied to identifying the adequate response to the assessed risk is standing up to any level of scrutiny. I endorse the comments the Attorney made. Obviously, with the focus on earlier treatment and targeted treatment, we are capturing more people now than we were before. Hopefully that will continue to improve further so that the position of having to make submissions—or recommendations in my case—to the Attorney have been fewer, certainly, since I started in September last year.

**Mr GREG SMITH:** I am informed, so far as sex offender programs in prison are concerned, that participation across all programs has increased by 12 per cent in 2012-13.

**The Hon. AMANDA FAZIO:** What is the current participation rate?

**Mr GREG SMITH:** I do not know what the current participation rate is. I do not know if the Commissioner does.

**The Hon. AMANDA FAZIO:** Could you take that on notice?

**Mr GREG SMITH:** We will.

**The Hon. SHAOQUETT MOSELMANE:** Before I pass on to my colleague, I have one final question in this area. Mr Ian Pike, Chairman of the New South Wales State Parole Authority, argued in his report that there should be more resources provided for post-release supervision. What is your response to that?

**Mr GREG SMITH:** We have provided person-based resources, looking at the nature of the offence committed by the particular parolee, the amount of progress he or she has shown during incarceration and on parole. Back in March this year I referred to the Law Reform Commission the issue of parole in an effort to find better ways of doing things, if possible. Also we have had a review by former Justice Wood under a Special Commissions of Inquiry Act into the parole of the man Leary, so we are looking at certain recommendations. We are looking at whatever we can to improve things. What Mr Pike says will be taken into account.

**The Hon. SHAOQUETT MOSELMANE:** So there is a potential for extra resources to be put in?

**Mr GREG SMITH:** There would be, yes.

**The Hon. SHAOQUETT MOSELMANE:** Thank you.

**The Hon. AMANDA FAZIO:** Mr Smith, are you aware of the Story Time Dad program that is run in English jails? Under that program the prison officers assist inmates to record story times for their children, and then they are played at home to try to maintain a family bond.

**Mr GREG SMITH:** Yes, we have similar programs, certainly at the South Coast Correctional Centre. I have been there to launch that program. I think it exists in several other of our prisons: Mid North Coast, Cessnock and Lithgow.

**The Hon. AMANDA FAZIO:** Thank you. I want to ask you a little bit about Grafton jail. Have all of the staff who were displaced at Grafton now been redeployed?

**Mr GREG SMITH:** I think there were some voluntary redundancies there. Yes, there were 114 staff affected by reducing the Grafton Correctional Centre from a capacity of 243 beds to 60. Thirty-eight staff remain at Grafton; 72 staff accepted voluntary redundancies and were relocated; four staff are on secondment or leave and two of those were on suspension from duties.

**The Hon. AMANDA FAZIO:** Will areas other than the maximum security area be kept operationally ready at Grafton?

**Mr GREG SMITH:** Well, there are no plans to change what we have at Grafton at the moment.

**The Hon. AMANDA FAZIO:** But there is an unused minimum security area?

**Mr GREG SMITH:** I will ask Mr Severin.

**Mr SEVERIN:** The minimum security area will continue to be available if the demand increases and we have to have minimum security capacity in that geographical area of the State. The answer is, yes, we will maintain that asset and obviously, depending on the developments in prison numbers, that will be available for future use.

**The Hon. AMANDA FAZIO:** If the need should arise for a new correctional facility on the North Coast, further north than Kempsey, would you give a commitment that that facility will be placed in Grafton?

**Mr GREG SMITH:** We would certainly seek to do that, if there were such a need.

**The Hon. AMANDA FAZIO:** I will now ask you some questions about Juvenile Justice. Since 1 July 2012, how many escapes have there been?

**Mr GREG SMITH:** The Chief Executive, sotto voce, said "none", and I say none too.

**The Hon. AMANDA FAZIO:** How many incorrect releases have there been?

**Ms RUSIS:** I will take the exact number on notice but, from my memory, it was certainly less than four and, in all cases, the young person was returned to custody straightaway. It was because there was an administrative oversight. From memory, I think it is two but it could have been four.

**The Hon. AMANDA FAZIO:** When you are answering that, could you also tell us which centres they were inadvertently released from? Since 1 July 2012, how many wrongful detentions and at which juvenile justice centres have these occurred, and for how long were people wrongly detained?

**Ms RUSIS:** I will take that on notice.

**The Hon. AMANDA FAZIO:** Since 1 July 2012, how many young offenders have been detained in juvenile justice centres?

**Ms RUSIS:** There has actually been a decline in the juvenile population. Recently the Bureau of Crime Statistics and Research released their quarterly stats, which show that since 2011 to now there has been a decrease of more than 13 per cent. Average daily numbers obviously fluctuate. Were you asking for the daily statistic or the average admissions, because I can tell you how many are in custody today; or are you asking for the cumulative number?

**The Hon. AMANDA FAZIO:** The cumulative number and the number in custody today.

**Ms RUSIS:** When I left this morning the number in custody was 302, but that may well have changed by now. The average daily number for 2013 has been 324, and the total of admissions between 2012-13 is 4,037. That includes all admissions.

**The Hon. AMANDA FAZIO:** Since 1 July 2012, how many new staff have been employed by juvenile justice centres?

**Ms RUSIS:** You mean new positions created or new staff coming into existing positions?

**The Hon. AMANDA FAZIO:** New staff coming in.

**Ms RUSIS:** I would have to take that on notice.

**The Hon. AMANDA FAZIO:** Since 1 July 2012, how many times and for how long and at which centre have detainees been segregated or separated?

**Ms RUSIS:** Segregation numbers are reported directly to the Ombudsman, but I will take that on notice to give you the exact number. Segregation is now captured electronically, and when an instance occurs we report it daily to the Ombudsman, but we can retrieve that.

**The Hon. AMANDA FAZIO:** Since 1 July 2012, how many instances have there been of the discovery of contraband at juvenile justice centres, and can you tell us the nature of the contraband and the centres where it was found?

**Ms RUSIS:** I should take that on notice. What I would like to qualify about contraband is that we have a very broad definition of what contraband is, particularly being a juvenile centre. We would consider a

magazine contraband, and obviously people normally think of contraband as drugs or mobile phones. However, we spend a lot of time and energy eliminating contraband entry, but I will take the exact figures on notice.

**The Hon. AMANDA FAZIO:** Since 1 July 2012, how many detainees have been enrolled in Education and Training Units or placed in a TAFE course?

**Ms RUSIS:** All of our young people who have been assessed as suitable, which is the vast majority, attend an Education and Training Unit [ETU], as they are called, in the centres. All of our centres have an ETU. If their age precludes them from attending the ETU, they would be attending TAFE. What I can say confidently is that the ETU attendance that we report for young people in custody who are eligible to attend the ETU is 100 per cent: they attend school every day.

**The Hon. AMANDA FAZIO:** What is the current level of aboriginal employment with juvenile justice in detention and the community sector?

**Ms RUSIS:** As you would be aware, the Government goal or standard is approximately 2.6 per cent. It is a floating number—it is varied between 6.6 per cent up to 9 per cent depending on the number of staff that identify, and also our record collection. We have always been over the Government goal. We actually have made concerted efforts to not only attract Aboriginal staff but also to retain them. We have always had a high proportional figure.

**The Hon. AMANDA FAZIO:** Will you take on notice how those figures have changed in the past 12 months and what programs you have introduced to alter the level of Aboriginal employment within Juvenile Justice in the last 12 months?

**Ms RUSIS:** I do not need to take on notice what we have done to attract and retain staff. We have a very clear recruitment strategy on how to attract and retain staff. Last year we commenced an Aboriginal mentoring program for our staff where the Aboriginal staff who elect and are suitable for the program are mentored by very senior staff—I am talking about regional director levels in some cases—and the mentoring has proved to be very beneficial for the staff. They are also actively encouraged to apply for promotional positions and to identify new barriers to that. We also have a series of identified positions, not just at base grade entry but managerial positions too, which are identified for ATSSIS staff. We also just recently renewed placement of selected staff to Tranbie College—Aboriginal staff only—to further expand their potential and to remain with our department as a career. I am very confident about our strategies. I will take on board the first part of your question—the numerical question about how many Aboriginal staff.

**The Hon. AMANDA FAZIO:** Yes, how the levels of Aboriginal employment have changed over the past 12 months.

**Ms RUSIS:** I will take that one on notice. The second part I think I have answered, as to what we do with Aboriginal staff.

**The Hon. AMANDA FAZIO:** How many sexual assaults have occurred within juvenile justice centres since 1 July 2012, and at which centres did these assaults occur?

**Ms RUSIS:** There were four. The centres I am not aware of off the top of my head, but there were four.

**The Hon. AMANDA FAZIO:** How many assaults on staff by detainees have taken place in the past 12 months and at which juvenile justice centres did they take place?

**Ms RUSIS:** Our safety statistics are actually very good and they are continuing to improve. Since 2007-08 there has been a 42 per cent decrease in assaults by young people on staff and there are lots of reasons for that. The reason our assault levels have gone down so much is that we have introduced protective training for our staff who work in the centres. We have an objective classification system, which we did not have before, which enables us to classify people to the right areas. We also introduced the Detainee Behaviour Intervention Framework, which was a really simple and robust method for all staff working with young people to try and de-escalate situations before they arise.

We have taken great care to not just focus on what you do once there is an incident; we have tried to focus back on de-escalating the situation so the incident does not occur. The DBIF, as it is termed, is also

currently being evaluated by University of Western Sydney to see how it is. The other big factor in the reduction of our assaults is the introduction of our incentive scheme for young people throughout the centres—it is consistent across the board. Young people quickly learn that good behaviour is rewarded and it has been very constructive for young people also. As expressed by 1,000 admissions, assaults on staff is four, which is the same as last year and less than previous years.

**The Hon. ADAM SEARLE:** Corrective Services NSW has a fleet of 956 vehicles. Were any of them unregistered during October last year or at any other time during the year?

**Mr GREG SMITH:** I do not know. Mr Severin will answer that.

**Mr SEVERIN:** I am aware of once instance where, due to a technical issue, one of the escort vehicles was unregistered for a short period of time after it came out of a service. The registration was part of that service but the service provider did not register that car, and it was reported in the media. I am not aware of any other instance where a vehicle that we run was not lawfully registered. We have actually reduced our fleet as a result of the efficiency strategies that we have employed by about 125 vehicles last financial year. So we are looking at quite a substantial reduction there as well.

**The Hon. ADAM SEARLE:** To be clear, as far as you are aware only one vehicle was unregistered?

**Mr SEVERIN:** As far as I am aware it was the only occasion that was brought to my attention.

**The Hon. ADAM SEARLE:** For how long was it unregistered?

**Mr SEVERIN:** Again I would have to take the exact detail on notice—

**The Hon. ADAM SEARLE:** Please do.

**Mr SEVERIN:** —but it was not any longer than a couple of days. It was literally as a result of the repairer or the service provider not registering it, which we were not aware of until the vehicle was stopped by police.

**The Hon. ADAM SEARLE:** Was the vehicle driven during the period it was unregistered?

**Mr SEVERIN:** Yes, it was actually driven at the time. It was identified that it was not registered when it was stopped by police and then it was realised that it was not registered.

**The Hon. ADAM SEARLE:** What are the implications of it being driven while unregistered? Were there any incidents apart from being pulled over by police?

**Mr SEVERIN:** Obviously driving an unregistered vehicle in itself is an offence against statute; however, there was no identified failure of any of the Corrective Services staff other than making sure that once we get a vehicle back from a service, and that includes re-registration, we positively identify that that action has actually been carried out by that third party. Those procedures have been reinforced with staff.

**The Hon. ADAM SEARLE:** As a result of this failure of registration how many parolees or probationers did not receive adequate supervision during the period the vehicle was unregistered?

**Mr SEVERIN:** Nobody, because the vehicle was actually an inmate transport vehicle and not the vehicle used by Community Corrections staff.

**The Hon. ADAM SEARLE:** Was there any impact on transportation?

**Mr SEVERIN:** No, there was not. At no time was there any risk to safety or to the security of the escort. A second escort vehicle was immediately despatched and the offenders were moved from one vehicle to the other, which then proceeded to court as it was originally scheduled.

**The Hon. ADAM SEARLE:** Can you check to make sure that it was only one vehicle?

**Mr SEVERIN:** I certainly can.

**The Hon. SHAOQUETT MOSELMANE:** Minister, the Law Reform Commission has released a scoping paper on the parole review project and it indicated that it will review the 12-month rule which provides that an offender may only apply for parole once every 12 months. Do you support reviewing the 12-month rule and will you rule out scrapping it?

**Mr GREG SMITH:** I will not rule out scrapping it, but I philosophically support the right of someone to be able to apply more quickly than 12 months after the previous—if there is, say, a technical breach or matters of that sort; it seems rather harsh.

**The Hon. SHAOQUETT MOSELMANE:** By not ruling out scrapping it you may review this rule as well?

**Mr GREG SMITH:** I will look at what is recommended and make a decision.

**The Hon. SHAOQUETT MOSELMANE:** In December last year you had to reopen a maximum security wing at Long Bay Jail to cater for up to 100 additional prisoners. Is that wing still open?

**Mr GREG SMITH:** I will ask Mr Severin to answer this.

**The Hon. SHAOQUETT MOSELMANE:** And how many inmates does it have?

**Mr SEVERIN:** We temporarily reopened one wing of the Metropolitan Special Purpose Centre No. 1, which is part of the Long Bay Correctional Centre complex. That was closed when we opened the Cessnock facility. We were still in the process of commissioning Cessnock. The plan was to close down the whole of the MSPC No. 1, which was achieved in February of this year, and that coincided with the opening of Cessnock. So it was an immediate response to a spike in prisoner numbers and we were able to close that wing down very quickly after that.

**The Hon. SHAOQUETT MOSELMANE:** How many inmates were in that wing?

**Mr SEVERIN:** There were 100 inmates in that particular wing. I am not sure what the average number of inmates was over the period that it was open, but it would have been in the vicinity of 100. All of those inmates were subsequently transferred to other facilities when the Cessnock expansion opened.

**The Hon. SHAOQUETT MOSELMANE:** So has that wing now been closed?

**Mr SEVERIN:** It has closed.

**The Hon. SHAOQUETT MOSELMANE:** Minister, the prison population has started to increase. The number of prisoners in this State is now about 10,000. Does this show a lack of judgement in closing Grafton jail?

**Mr GREG SMITH:** No, I do not think it does. The number of prisoners will fluctuate from time to time. For example, there has been a lot more police activity against outlaw bkie gang members in recent months and, as I understand it, several hundred people are on remand in prison. That is the reason for the spike. Grafton jail was a very old jail. It required a much higher ratio of staff than Cessnock. Once we opened Cessnock, I do not think we had any great problem.

**The Hon. AMANDA FAZIO:** Minister, I would like to clarify something. You just said, in relation to the spike in prison population, that that was in part a result of the crackdown on outlaw motorcycle gangs. You said there were several hundred people on remand. Are you implying that those several hundred people are members of outlaw motorcycle gangs or just that there are several hundred in general?

**Mr GREG SMITH:** Perhaps Mr Severin and I might have the wrong impression of the numbers. Some may be serving sentences. But there are several hundred former outlaw motorcycle gang members, or rather they probably still are outlaw gang members, in prison I think.

**Mr SEVERIN:** Prisoner numbers increased between August 2012 and April 2013. Subsequently they have stabilised. Our analysis has identified that the initial increase in the number of prisoners was predominantly

due to an increase in our remand population. The subsequent increase for the second part of that period, again, on early analysis, relates to sentenced inmates. We are still identifying all of the relevant factors that would have contributed to this increase. More targeted policing certainly would be one contributing factor. The demographics in relation to the nature of offence and type of offender analysis is not identifying clearly that we are talking just about outlaw motorcycle gangs. But clearly focusing on gang activities would no doubt result in a higher level of those persons who are targeted being arrested and subsequently charged if there has been an offence committed.

**The Hon. SHAOQUETT MOSELMANE:** Minister, you described this as a spike in numbers, so it is a temporary increase. Are you forecasting no significant increase in the number of people in prison?

**Mr GREG SMITH:** That is not an easy thing to forecast. After reaching a peak of around 10,500, or something of that sort, the number has gradually declined from several years ago. It has then come back up again a bit. But, as I understand, it is still not 10,000. It is now 9,900 or around that figure. So it does seem to be staying under 10,000.

**The Hon. SHAOQUETT MOSELMANE:** In April 2013 the State Government closed the Broken Hill Juvenile Justice Centre. Why would you close a recently-upgraded facility?

**Ms RUSIS:** I think it is helpful to be clear on what the Broken Hill facility is. It is a house, and the facility was built at the back. It has four rooms, which at maximum capacity could have eight beds. It was not purpose-built and its design and limitations were problematic. In 2010 we had two serious security breaches, which were escapes. What happened then was that Treasury granted us money to upgrade it to make it a secure facility, because there were obvious flaws in it. That was also at a time when the juvenile prison population was rising and there was an increased demand for beds.

Whilst those repairs were being made and it was becoming a workable place, safe not only for young people but also the Broken Hill community, the number of offenders started to decline. So the demand for beds was reduced. However, we opened the Broken Hill facility with its real limitations. For instance, one limitation was that it did not have a kitchen. It did not have a classroom. It was really just a containment area only. So we did open it, but the demand was just not there. We were averaging one admission every two weeks, and most young people stayed there for less than 24 hours.

**The Hon. SHAOQUETT MOSELMANE:** So where do young people stay now?

**Ms RUSIS:** During the time when it was closed for the upgrade, we had an arrangement with the local police. When young people were brought in, we would supply the staff if they needed staff if the person was remaining overnight, and then the next day we would have the young person moved.

**The Hon. SHAOQUETT MOSELMANE:** Is that an acceptable arrangement where juveniles are held in police stations?

**Ms RUSIS:** Yes, it is acceptable because it is not unique. It happens in a lot of remote locations because we only have seven centres throughout the whole State. Particularly in regional New South Wales, and depending on what time they arrive, it can be impossible to get young people to a centre. What we have offered at Broken Hill is an additional service in that we bring in our staff should we require young people to be in there overnight.

We have been out there numerous times and inspected the facilities. I have not seen it myself but I understand that there has been an upgrade of the cells—I think to either court cells or some other cells. Also the Broken Hill adult jail takes people under section 7. So they can take adults straight into custody, and so there is no contamination effect. The other thing to remember is that the number of people we are talking about is very small.

**The Hon. SHAOQUETT MOSELMANE:** So are those people, even if it is a small number, now taken to the Dubbo jail?

**Ms RUSIS:** What we do is to look at where their next court appearance is and where they live.

**Mr DAVID SHOEBRIDGE:** Ms Ruis, you said this morning that there are 302 juveniles in detention and on average in the past 12 months there have been 324. So it is on the way down.

**Ms RUSIS:** Yes, it is on the way down.

**Mr DAVID SHOEBRIDGE:** What proportion of those inmates are Aboriginal or Torres Strait Islanders?

**Ms RUSIS:** It is 50 to 51 per cent. So even though our gross numbers have gone down the proportions have remained the same.

**Mr DAVID SHOEBRIDGE:** What are your targets over the next 12 months? What are your aims or your predictions for the proportion of Aboriginal and Torres Strait Islanders in detention?

**Ms RUSIS:** Of course we are always aiming to reduce that.

**Mr DAVID SHOEBRIDGE:** But what are your predictions?

**Ms RUSIS:** I am loathe to predict anything. All I can say is that all of our work is tailored to reducing that figure. I would be reluctant to predict anything. I am hopeful that the strategies that we are continually introducing will have an effect. But it is important to realise that juvenile justice is a "downstream agency". That is an often-used term. I think what is really important, and the Government has already commenced this program, is early intervention to catch young people earlier with programs such as Youth on Track. We are very hopeful that we will get some promising results from interventions earlier, which in the long term will affect our rates.

**Mr GREG SMITH:** We do have a government plan for Aboriginal Affairs which includes a number of major initiatives designed to link education and employment to increase the number of Aboriginal students who stay at school and transition into employment; to strengthen and support Aboriginal language and culture; to increase employment and economic opportunities for Aboriginal people; to strengthen mutual accountability between government and community; to increase the effectiveness of Indigenous-specific expenditure; to increase the local decision-making capacity; and to strengthen the Aboriginal voice in government. Being able to train young Aboriginal people and get them into jobs is one of the best ways of keeping them out of the justice system, as it is with other people as well.

**Mr DAVID SHOEBRIDGE:** Minister, have you considered reviewing the proposal that was put to the former Labor Government by the former Minister for Juvenile Justice for a significant expansion of expenditure on those kinds of diversionary programs and early intervention programs? That proposal was the cause of his resignation, if you recall, from the previous Government.

**Mr GREG SMITH:** I remember that. I think we have broken through on that with the Youth on Track program, which was one of the matters recommended in the Noetic report to identify young people who looked like becoming criminals and to mentor and guide them with their parents and their schools to keep them out of the criminal justice system. That was one of the themes that Minister West had that we have been able to deliver. But we are doing other things as well in encouraging employment and looking at places such as the Balund-a centre at Tabulam. We are looking at other similar projects for the future.

**Mr DAVID SHOEBRIDGE:** If I understand it though, the essential assumption is that nothing substantial is going to change in the next 12 months. Your projections do not seem to be taking on a belief that there will be a substantial change in the rate of juvenile Aboriginals in detention.

**Ms RUSIS:** What I said was that I am not projecting it; I am hopeful. Another interesting fact is that the Bureau of Crime Statistics and Research [BOCSAR] recently reviewed the effect of the Young Offenders Act particularly on Indigenous young people. I am sure you have read the report. In it BOCSAR concluded that the Young Offenders Act has worked fairly effectively with Indigenous young people in that the variety of diversional options has delayed entry into a custodial system should that young person be ending up in custody. There were some encouraging things in that.

**Mr DAVID SHOEBRIDGE:** You are not suggesting that to have an incarceration rate of 50 to 51 per cent among a population that makes up 2.5 to 3 per cent of the juvenile population is anything like working, are you?



**Ms RUSIS:** I do not think anybody would accept that 50 per cent is a good ratio. What I am saying is that we and all areas of the Government are working together to try to reduce this. There has to be a linkage with education and early interventions.

**Mr THOMAS:** The figures as they stand at the moment are the lowest they have been for some time. In my experience in the justice system I have not seen the juvenile detention rates being this low and sustaining this low for a little while.

**Mr DAVID SHOEBRIDGE:** Could you take it on notice to provide us with the actual rates over the past three to four years? As I understand it, they have been stubbornly stuck between 48 and 51 per cent.

**Ms RUSIS:** The proportional rate. That is right.

**Mr THOMAS:** The Attorney mentioned the Youth on Track scheme. It is a very targeted scheme that is aimed at identifying as early as possible in the criminal justice process those young people who show the greatest proclivity to reoffend. It aims to get those young people into a structured and detailed form of case management that works with them and their families to try to identify and target the criminogenic risks that are making them more likely to offend. While available to all young people, the program has a specific focus on trying to engage with Aboriginal young people and Aboriginal families. Through that systemic shift that is focusing resources and efforts in a more targeted way earlier in the criminal justice system we hope to forestall the numbers of young people going through the system in general.

**Mr DAVID SHOEBRIDGE:** What proportion of the juveniles who are currently being detained are being held on remand?

**Mr GREG SMITH:** I think it is about half.

**Ms RUSIS:** It is 50 per cent. When you look at our population you find that 50 per cent are Aboriginal. Within that is remand and custodial. I can give you the exact figures, but they are roughly about 50 per cent on remand.

**Mr DAVID SHOEBRIDGE:** If you would give me the exact figures on notice I would appreciate it. Is it still the case that 80 per cent of those juveniles being held on remand are either acquitted or given a non-custodial sentence at trial?

**Ms RUSIS:** Yes.

**Mr DAVID SHOEBRIDGE:** Could you give me the exact figures on that?

**Ms RUSIS:** It is 82.8 per cent, which is a drop from 84 from the year before.

**Mr DAVID SHOEBRIDGE:** Effectively, it is steady. Do you accept that that is a failing in the Juvenile Justice system? Perhaps it is fairer if I put that question to the Attorney.

**Mr GREG SMITH:** I do not know whether it is a failing. A lot of the remand is very short. They might only be there for a couple of days at the start until they get accommodation. I think we have changed or are in the process of changing the rules. It is probably in the new Bail Act. Instead of the juveniles who do not have accommodation having to come back to court once they get accommodation, we are giving courts the authority to release them subject to getting accommodation. That is a problem and, unfortunately, there are still some people staying in custody until they get accommodation. It is an unfortunate thing, because they would otherwise qualify for bail.

**Mr DAVID SHOEBRIDGE:** Are you considering commencing those provisions of the Bail Act prior to the balance of the Act in order to get those benefits as soon as possible?

**Mr GREG SMITH:** Good question. It is something I will think about. The problem is that we gave it about a year for everyone to be trained up, for the forms to be done and matters of that sort. If you bring in a specific change like that it may cause confusion.

**Mr DAVID SHOEBRIDGE:** What additional resources is your Government allocating to ensure that there is not just a technical ability to make an application but that there also is accommodation available for young people so that they are not refused bail for that reason?

**Ms RUSIS:** I will answer that. Can I also say about bail that a very encouraging figure is that over the past two years we have halved the amount of time that young people who have got conditional bail but are unable to meet it spend in custody. We have really worked very hard in that area. We have halved the length of the stay and there has been a drop in those figures.

**Mr DAVID SHOEBRIDGE:** Stopping you there, how do you explain the proportion on remand overall in the Juvenile Justice prison population remaining roughly the same? How do those two things interact?

**Ms RUSIS:** There is always a group of bail-refused people on remand who are going to be bail refused because of the seriousness of the offence or for another reason. The group that we have always targeted is the group that otherwise would be granted bail. Often parents will not come to court.

**Mr DAVID SHOEBRIDGE:** The group who would be granted bail if surety or accommodation was offered?

**Ms RUSIS:** Yes. We have worked hard with that group and we have very much reduced the stays of that group. We were able to do that because we were given additional funding in 2011 which we converted into bail support positions of Juvenile Justice officers. All the courts now have access to a Juvenile Justice officer to provide information about determining bail and also assisting them to deal with the conditions which are preventing them from receiving bail.

**Mr DAVID SHOEBRIDGE:** How do you explain that the proportion in detention on remand remains stubbornly the same? If you have had that success, how do we explain that stubbornness in the remand population?

**Ms RUSIS:** The whole juvenile justice population is shrinking and control orders also are coming down, but the ratio remains similar. In regard to your accommodation question, Juvenile Justice funds a number of accommodation support services. In 2013 and 2014 more than \$3 million has been allocated to providing accommodation support services for our young people through three major programs. One is the Joint Support Program, which is our community funding program. The other one is through the Homelessness Action Plan and the third one is through the Bail Assistance Line. But housing young people does not have a one-size-fits-all solution. We need to be really careful about their age and their family, so we have not gone for large accommodation. We have a variety of services for young people varying from placements in very small houses and foster care type arrangements with some non-government organisations. We have a variety of arrangements. In regard to your question about people not being able to meet bail because of their accommodation, the Attorney mentioned one of the changes to the Bail Act. At the moment if a young person is unable to find accommodation but Juvenile Justice is able to find them something—

**Mr DAVID SHOEBRIDGE:** Yes, I know. They can now do that paperwork.

**Ms RUSIS:** That is right. That also will really streamline it.

**Mr DAVID SHOEBRIDGE:** Can you give me the number of supported beds that have been provided through those schemes in the last financial year and the predicted number in the coming financial year?

**Ms RUSIS:** Yes, I can.

**Mr DAVID SHOEBRIDGE:** I am happy for that to be answered on notice.

**Ms RUSIS:** Okay. I have got that. I can pass that up.

**Mr DAVID SHOEBRIDGE:** Attorney, what is the current status of the rollout of the Community Offender Support programs in New South Wales? Perhaps Mr Severin can respond. There was very strong support for it, I think, from Corrective Services in 2009-10.

**Mr GREG SMITH:** Yes.

**Mr DAVID SHOEBRIDGE:** Where is that at?

**Mr GREG SMITH:** We have had it reviewed and we do not think it came up to expectations. We had an average filling rate of 44 per cent so we have decided to close a number of those Community Offender Support Program Centres, or COSPs as they call it.

**Mr DAVID SHOEBRIDGE:** Which ones?

**Mr GREG SMITH:** All except Long Bay and Campbelltown. Both Long Bay and Campbelltown deal more significantly with dangerous child sex offenders and providing them with accommodation when they are released. We are certainly closing Community Offender Support Program Centres at other places—Cooma, Swanson Lodge, Wollongong, Tomago, Boronia and Bundaleer.

**Mr DAVID SHOEBRIDGE:** I gather from that you are not going to be funding those committed facilities in Wagga Wagga or Dubbo.

**Mr GREG SMITH:** That is right, but we are encouraging alternatives to it. Perhaps the commissioner could go into more detail about that.

**Mr DAVID SHOEBRIDGE:** In doing that, commissioner, could you say when those facilities will be shut?

**Mr SEVERIN:** The plan is that that will close within the next three months. We have a detailed implementation strategy that both relates to placing the residents who are there at this point in time and transitioning them into the community or relocating them to one of the two centres which will remain open; then also providing some significant funding to the non-government sector this financial year, who are existing service providers—who we already have a service level agreement with—to increase the capacity that they have in order to not create a gap. The fundamental observation is, while the program has been quite successful in relation to its original intent, it was very much underutilised. It was, in the way it was structured, not responding to the required geographical location and the actual demand. We feel that this is consistent with good practice.

It has been mentioned earlier here that we need to provide more than an accommodation service. We need to engage with service providers who can provide, as I term it, a wraparound service which looks at other identified needs as well as housing. For example, we will identify the particular requirements for an individual offender, engage a non-government organisation [NGO] to provide a tailored service, which may include an accommodation service but it could also include things like debt reduction, transitioning into employment, support in relation to re-establishing contacts within the community and so on. Money will be made available, obviously, to do that.

We are estimating a total of \$3 million in 2014-15. Obviously some money will be made available this financial year to prop up existing service providers until those new contracts will kick in on 1 July next financial year. Overall, we consider that we will end up having a very good balance between continuing to provide an accommodation service for those inmates with very complex needs and providing a much more tailored and geographically more responsive service to those who require support, but not necessarily just accommodation support.

**Mr DAVID SHOEBRIDGE:** When the facilities close in three months time, how many offenders will be removed from the facilities that are closed, and what proportion of them will be rehoused in Long Bay or Campbelltown facilities?

**Mr SEVERIN:** I would not be able to give you the exact number.

**Mr DAVID SHOEBRIDGE:** Approximately?

**Mr SEVERIN:** However, the plan is that we will not have any offender left in those facilities, not by virtue of having to move them but by virtue of transitioning them into the community. Average stay in a Community Offender Support Program Centres [COSP] facility is currently 55 days, and we have very much based our planning on those numbers. We are quite confident that, with few exceptions, we will be able to do

what the program is meant to be doing and that is transitioning residents into stable housing in their area of residence.

**ACTING CHAIR:** Mr Severin, this question is addressed to you. How many people smugglers are in custody in New South Wales? From a costing point of view, what is it costing the taxpayers of New South Wales to accommodate, say, in the past 12 months?

**Mr SEVERIN:** On 30 June we had 63 inmates in custody right across all States and Territories in Australia. Twenty-four of those were in New South Wales, which is around 38 per cent. Based on the cost of inmate per day—and I am referring to the 2013 report on government services—the average cost in secure custody is around \$290 per inmate. If we multiply that, we are looking at around about \$317,000 for the people smugglers that we have at this point in time. Of course on top of that comes the cost of trials, et cetera. The Attorney may want to make some remarks in relation to cost recovery.

**Mr GREG SMITH:** There has been quite a reduction over the past year or so because of a policy decision made by the Commonwealth Director of Public Prosecutions [DPP] at the direction of former Attorney Nicola Roxon to use a different provision. Previously, as I understand it, they were all dealt with under provisions carrying mandatory minimum sentencing of five years with a minimum non-parole period of three years. That tended to lead to trials rather than pleas of guilty—in fact, almost all trials. The success rate was very low. I think it was under 30 per cent. But there were a lot of people coming into the prisons on remand and then serving their sentences.

With this change in the policy where they are charging another offence, that gives the judge a discretion. Even though I think it might carry a heavier maximum penalty, people who have already served time are often being released very quickly.

**ACTING CHAIR:** Do you have a feel for what is the average penalty they are getting now under new arrangements?

**Mr GREG SMITH:** I think they are getting a penalty virtually that covers how much time they spent in custody.

**ACTING CHAIR:** No, I am sorry; I meant the new ones that are coming into the system.

**Mr GREG SMITH:** That is what I mean.

**ACTING CHAIR:** So their remand time ends up being the time they serve.

**Mr GREG SMITH:** Yes. It has generally taken a fair while to get the matter to trial. That will probably reduce now, too.

**ACTING CHAIR:** Right.

**Mr SEVERIN:** Could I just correct a figure I mentioned before? The figure I mentioned related to the cost per individual over the period of the previously mandatory sentence period of three years before parole. The actual cost for all of the 24 inmates, if they would stay with us for 12 months, would be of the order of \$2.5 million per annum based on the \$290 average cost per inmate per day.

**ACTING CHAIR:** Referring to the inmates, the majority of whom are on remand, I suppose they would be held in and around Sydney. Is that right?

**Mr GREG SMITH:** I think they are held throughout the State. I have seen them in remote country jails.

**ACTING CHAIR:** Remote country jails?

**Mr GREG SMITH:** Yes.

**ACTING CHAIR:** How many escapes from custody have occurred in the past 12 months? That is something we do not hear much about these days anymore.

**Mr GREG SMITH:** No. In the last year, 2012-13, there were 10 escapes from Corrective Services custody. Nine were classified as minimum security and one as medium security. As at 25 July there have been no escapes from Corrective Services New South Wales custody this financial year. In the period 26 March 2011 to 30 June 2013, there were 40 escapes from Corrective Services custody. During the same period prior to the election of this Government, there were 41 escapes from Corrective Services custody. But the number of escapes has dropped markedly over the past 10 or 15 years.

**ACTING CHAIR:** And what do you put that down to, Mr Severin?

**Mr SEVERIN:** Predominantly the fact that we have been able to introduce far more sophisticated technology in relation to our secure custody facilities. Fortunately that results in the escape from secure custody rates reducing quite significantly. Also we have developed far more sophisticated assessment procedures and identified risks, hopefully in advance of somebody doing the wrong thing, and reacting to it very proactively. Unfortunately, while it is not a situation where we can completely eliminate escapes, and a human factor always comes into it, it is very heartening to see that the various mechanisms we have employed both in terms of static security and dynamic security, as it is referred to, seem to work.

**ACTING CHAIR:** What is your view of the effectiveness or lack of needle exchange programs?

**Mr SEVERIN:** I personally do not believe that the needle exchange program in custody has any benefits. Currently, there is no trial underway. The Australian Capital Territory was looking at that. Of course, we would have looked at it as well. I believe that it is incompatible with the objectives of secure and open custody. We focus on our drug strategies, both in terms of prevention of drugs getting in, deterrence in relation to people smuggling drugs into prisons and, of course, treatment. The intensive drug and alcohol treatment program, for example, is one very proactive way of dealing with inmates who have a drug problem. Of course, a lot of those have previously injected illicit drugs as well. There is a risk to staff in exposure to needles, and there is also certainly a suggestion that, indeed, it could be counterproductive in almost implying that the use of illicit drugs is in any way condoned. I personally have been looking at developments elsewhere in the world over many years. Many years ago Switzerland had a trial that was evaluated and did not result in findings that warranted the trial being expanded. So did other jurisdictions. At this point in time I would not recommend to the Attorney, if I were asked, to introduce such a trial or program in New South Wales.

**ACTING CHAIR:** Attorney, do you want to add anything?

**Mr GREG SMITH:** No. I agree.

**ACTING CHAIR:** That finalises the hearing. Thank you for attending.

**(The witnesses withdrew)**

**The Committee proceeded to deliberate.**

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