

REPORT ON PROCEEDINGS BEFORE

PORTFOLIO COMMITTEE NO. 4 – LEGAL AFFAIRS

**PARKLEA CORRECTIONAL CENTRE AND OTHER OPERATIONAL
ISSUES**

CORRECTED

At Macquarie Room, Parliament House, Sydney on Friday 28 September 2018

The Committee met at 9:30 am

PRESENT

The Hon. Robert Borsak (Chair)

The Hon. David Clarke

The Hon. Scott Farlow

The Hon. John Graham

The Hon. Trevor Khan

Mr David Shoebridge (Deputy Chair)

The Hon. Lynda Voltz

The CHAIR: Welcome to the third and final public hearing of Portfolio Committee No. 4 – Legal Affairs inquiry into Parklea Correctional Centre and other operational issues. The inquiry is examining a range of matters concerning the management of Parklea Correctional Centre as well as investigating rapid-build dormitory prisons and the benchmarking of prisons in the State. Before I commence I acknowledge the Gadigal people who are the traditional custodians of this land. I also pay respect to the elders past and present of the Eora nation and extend that respect to other Aboriginals present. Today we will receive evidence from the Inspector of Custodial Services; Dr Carolyn McKay from the University of Sydney Law School; former correctional officer Mr Domenic Pezzano; Justice Health and Forensic Mental Health Network, NSW Health; Associate Professor Jane Andrew and Dr Max Baker from the University of Sydney Business School; and Corrective Services NSW.

Before we commence, I make some brief comments about procedures for today's hearing. Today's hearing is open to the public and is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at the hearing, so I urge witnesses to be careful about any comments they may make to the media or to others after completing their evidence as such comments would not be protected by parliamentary privilege if another person decided to take an action for defamation.

The guidelines for the broadcast of proceedings are available through the secretariat. There may be some questions that witnesses could only answer if they had more time or with certain documents to hand. In these circumstances witnesses are advised that they can take a question on notice. Due to the limited time before the inquiry finishes, the Committee has resolved this morning that answers to questions on notice must be provided within 10 days. The Committee would appreciate witnesses' cooperation in this regard. Witnesses are advised that any messages should be delivered to Committee members through the Committee staff. To aid the audibility of this hearing I remind Committee members and witnesses to speak into the microphones. In addition, several seats have been reserved near the loudspeakers for persons in the public gallery who have hearing difficulties. Finally, everyone present should turn their mobile phones to silent for the duration of the hearing.

FIONA RAFTER, Inspector of Custodial Services, affirmed and examined

The CHAIR: Would you like to make a brief opening statement?

Ms RAFTER: Yes, thank you, Chair. Thank you for the opportunity to appear before you today. I would also like to firstly acknowledge the Gadigal people of the Eora nation. The Inspector of Custodial Services is an independent statutory office created in October 2013 pursuant to the Inspector of Custodial Services Act 2012 and reports to Parliament. The first inspector, Dr John Paget, was appointed on 1 October 2013 and I commenced in the role in April 2016. The purpose of the Inspector of Custodial Services is to provide independent scrutiny of the conditions, treatment and outcomes for adults and young people in custody and to promote excellence in staff professional practice. The principal function of the inspector is to inspect each custodial centre at least once every five years and inspect each juvenile justice centre at least once every three years and report to Parliament on each such inspection. There are currently 40 correctional centres, six residential facilities, 12 24-hour court cells and six juvenile justice centres that require inspection—the adult facilities once every five years and the juvenile centres once every three.

Parklea was the first centre to be inspected in September 2014. The "Full House" report, which was tabled following that inspection, contains 47 recommendations and was tabled following the inspection of Parklea, the Metropolitan Remand and Reception Centre and Metropolitan Special Programs Centre. The report included six recommendations that relate specifically to Parklea. Four have been achieved, one is partially achieved and one is not achieved. Parklea has been visited on four occasions since that time. Parklea is one of two centres due to be reinspected next year and must be inspected by September 2019 in accordance with the legislation. There are a further seven new or reopened centres to inspect next year. This includes two rapid-build prisons, Hunter and Macquarie. They are not required to be inspected by next year but they are on the forward plan for inspection.

My office has tabled eight reports relating to 30 custodial facilities and two juvenile justice facilities, and has implemented a reporting and monitoring framework to monitor the implementation of the 200 recommendations from the eight reports. This information is published in my annual report. The office also coordinates the Official Visitor Program. Official Visitors perform an important accountability mechanism in the corrections system. They are community representatives appointed by the Minister for Corrections to visit correctional centres and juvenile justice centres in New South Wales. The role of Official Visitors is to be independent observers of the custodial environment, report on the conditions in custodial facilities and to receive and deal with complaints.

The program has increased during my tenure to 92 appointments. Eighty of those appointments are to adult correctional centres. There were 1,828 visits generating 8,952 complaints in the 2016-17 financial year.¹ Health, property, phone, programs and services were the highest number of complaints. The official visitor [OV] complaints data is published in the annual report. Parklea has four official visitors appointed to the centre who each visit the centre once a fortnight. This means that Parklea is visited by an official visitor twice per week. Hunter and Macquarie correctional centres each have one official visitor and they attend the centre once per fortnight. The prisons with the largest populations are also the prisons with the most OVs attending. For example, the Metropolitan Remand and Reception Centre [MRRC] has four official visitors and the prisons with the highest number of official visitors and the highest populations, not surprisingly, also generate the highest number of complaints. That would be the MRRC, Parklea and Long Bay.

The Hon. LYNDIA VOLTZ: One of the recommendations in the Full House report was in regard to inmates with different separation requirements. Given what happened at Silverwater recently, what has been your review in regard to that matter and have those recommendations been implemented?

Ms RAFTER: That is a matter that is recorded by me as "not achieved".

The Hon. LYNDIA VOLTZ: Have you spoken to the Minister's office since the incident at Silverwater or done an inspection out there?

Ms RAFTER: What specific incident at Silverwater?

The Hon. LYNDIA VOLTZ: Where an inmate who should have been segregated was put in the same cell area.

¹ Please see clarification provided by the witness in correspondence to the committee received 15 October 2018 and published on our [website](#).

Mr DAVID SHOEBRIDGE: As a key witness in a trial and was not able to attend because he had the bejesus beaten out of him.

Ms RAFTER: Yes, I am aware of that matter and I have not been involved in a review into that incident.

Mr DAVID SHOEBRIDGE: Given it came about because of a failure to implement one of the inspector's recommendations, did you not trigger something when you saw that?

Ms RAFTER: No, I did not trigger anything when I saw that particular incident.

Mr DAVID SHOEBRIDGE: Can you explain why you did not?

Ms RAFTER: I believe it was already under investigation by corrections itself.

The Hon. TREVOR KHAN: You believe or know? I am not being rude; I am wondering what the procedure is. If a significant event occurs do you wait for a newspaper report?

Ms RAFTER: Or is it reported to me?

The Hon. TREVOR KHAN: Yes.

Ms RAFTER: I do not receive daily updates of incident reporting from Corrections. I do receive advice if there is any death in custody.

Mr DAVID SHOEBRIDGE: You are aware of this incident. It was notorious and widely reported. You are the inspector of prisons.

The Hon. TREVOR KHAN: Can we break it down without a speech? How did you become aware of it? Let us start with the basics.

Ms RAFTER: How did I become aware of that issue?

The Hon. TREVOR KHAN: Yes.

Ms RAFTER: I became aware of it through the media.

The Hon. LYNDA VOLTZ: And then what actions did you take?

Ms RAFTER: Following that incident?

The Hon. LYNDA VOLTZ: Once you became aware of the matter?

Ms RAFTER: Once I became aware of that matter I did not take any particular action in relation to that matter.

Mr DAVID SHOEBRIDGE: The media reporting made it clear that there were prisoners of different classifications and that prisoners should not have been in that general cell. Did you think to yourself, "Well, hang on, they have not implemented one of our recommendations. That is what has caused this, I had better look at it"?

The Hon. TREVOR KHAN: You may not be able to draw that conclusion.

Mr DAVID SHOEBRIDGE: I am asking the question.

The Hon. TREVOR KHAN: You are making statements.

Mr DAVID SHOEBRIDGE: No, I am asking the question. Did you think, "Well, they have not implemented that recommendation. I had better have a look at this"?

Ms RAFTER: No. What I thought at the time was that it appeared from the media reports there had been a serious incident that had taken place. It also appeared that there was a review that was immediately undertaken and I was satisfied that action had been appropriately taken.

The Hon. SCOTT FARLOW: Ms Rafter, maybe we should spend a second looking at your role as Inspector of Custodial Services and what you do in that role?

Ms RAFTER: Yes.

The Hon. SCOTT FARLOW: It seems to me if you investigated every incident that occurred in a prison across New South Wales you do not have the resources and I do not think you have the remit for that. Perhaps you could explain to us what your role is and how you look at incidents across Corrective Services in New South Wales.

Mr DAVID SHOEBRIDGE: Do not repeat your opening please. We have already heard the opening.

The Hon. TREVOR KHAN: Mr Shoebridge, do not be a—

Ms RAFTER: Thank you. The inspector's role is not specifically an investigative function. Those functions are performed by a number of other agencies. We are an inspectorate. We have standards that we inspect to. Our role is to inspect those centres once every five years. We do that in accordance with our standards. We inspect according to a theme methodology and we arrive at our themes on the basis of looking at complaints data and looking at potential incidents that have happened across the system. We are not resourced and we do not have the remit to investigate every incident that happens within Corrective Services; there are others that have that jurisdiction. That would apply to deaths in custody as well because I receive notifications about those, but that is for the Coroner.

The Hon. SCOTT FARLOW: It is more of a thematic role, so to speak? You are looking at centres holistically over time and what may be happening at Corrective Services and providing reports to government and the public on those matters?

Ms RAFTER: That is right. The focus of the inspectorate is around system improvements and not investigation of individual matters.

The Hon. LYNDA VOLTZ: The inspector is able to examine correctional and juvenile justice facilities at any time and make recommendations about issues or concerns. Were you aware of media reports at the time that this lapse may have related to staff shortages?

Ms RAFTER: No, I was not particularly aware that it may have been as a result of staff shortages with that particular incident. As I said I have not been involved in investigating that incident.

The Hon. LYNDA VOLTZ: Do you undertake reviews of the status of staff at all correctional facilities against key performance indicators

Ms RAFTER: When we inspect a centre we speak extensively with staff. That is part of the inspection process so that we are very aware of what staff attitudes and views are in relation to particular issues at their centre. But I am not involved in reviewing the staffing structure; I am interested in what staff have to say particularly from the point of view of the treatment and conditions of inmates.

The Hon. LYNDA VOLTZ: When was the last time an inspection was undertaken at Silverwater?

Ms RAFTER: Of the MRRC? The MRRC was inspected in June 2016 as part of the inspections related to the management of radicalised inmates. It has been visited since then. Most recently would have been the first week of September.

The Hon. LYNDA VOLTZ: Was it an overview inspection or an inspection specifically relating to that program?

Ms RAFTER: It was specifically relating to that program and that is how the inspection methodology has been operating since the office commenced. It is by theme with a number of centres inspected in relation to a theme, rather than a centre being inspected and then a report being tabled.

The Hon. LYNDA VOLTZ: When the Government triggered the wellness report on Parklea Correctional Centre were you notified?

Ms RAFTER: I was aware that there had been some issues raised, and that Corrective Services was looking at particular issues at Parklea.

The Hon. LYNDA VOLTZ: Did you make the Minister aware at that time that there were still a number of outstanding recommendations from the Full House report that had not been implemented?

Ms RAFTER: No, I did not.

Mr DAVID SHOEBRIDGE: You adopted the view of the Hon. Scott Farlow that you had a thematic role.

Ms RAFTER: Yes.

Mr DAVID SHOEBRIDGE: But when you look at your principal functions—

The Hon. TREVOR KHAN: I am looking at that right now.

Mr DAVID SHOEBRIDGE: —they include "to examine and review any custodial service at any time", and "to report to Parliament on any particular issue or general matter relating to the functions of the inspector if requested to do so by the Minister". You can also do that of your own volition.

The Hon. TREVOR KHAN: Where is that? I am not doubting it; I am looking at section 6.

Mr DAVID SHOEBRIDGE: Section 6 (1) (e) states:

to report to Parliament on any particular issue or general matter relating to the functions of the Inspector if, in the Inspector's opinion, it is in the interest of any person or in the public interest to do so,

You can, if you wish, adopt a purely thematic approach, but you also have the power to investigate and review any particular issue if you think it is appropriate. Do you agree?

Ms RAFTER: Yes. There are broad powers in the legislation. But of those functions, the requirement to inspect each centre once every five years, and then once every three years for the juvenile, is the main function.

The Hon. TREVOR KHAN: Where do I get that from the Act?

Mr DAVID SHOEBRIDGE: Is it just because they come first? Because that would be old reading.

The Hon. LYNDA VOLTZ: Or because you do not have the resources.

Ms RAFTER: That has a specific legislative requirement around a time line. The other matters are matters that are discretionary. And, yes, resourcing plays a significant part.

Mr DAVID SHOEBRIDGE: I do not understand that reading of the section. It does not prioritise the periodic inspections at all; it simply says you have to do that. It does not give them priority. If there is some particular incident that seems quite disturbing, such as a wellness report about a private prison where you would have been aware of significant concerns—

The Hon. TREVOR KHAN: Or a public prison.

Mr DAVID SHOEBRIDGE: —or a public prison, how does that not trigger your obligations under section 6?

Ms RAFTER: It enables me to take some action, but it does not require me to take some action at the time.

Mr DAVID SHOEBRIDGE: Are there any occasions you can recall in your time as inspector where you have, either through the media or official channels, had a disturbing incident raised with you where you used your powers to inspect?

Ms RAFTER: No, I have not used those powers.

The Hon. TREVOR KHAN: Have you used your powers to require the production of documents?

Ms RAFTER: Yes.

The Hon. TREVOR KHAN: And that has been under section 7 of the Act?

Ms RAFTER: Yes.

The Hon. TREVOR KHAN: Have you required custodial officers to answer questions?

Ms RAFTER: I have not had to use that power. I usually seek the consent of officers to speak with us, and I have not had any officer decline whom we have requested to speak with.

Mr DAVID SHOEBRIDGE: Do you consider a thematic review of part of a prison's operation satisfying your obligations to inspect under section 6 (1) (a) or (b)?

Ms RAFTER: Under section 6.

Mr DAVID SHOEBRIDGE: No, do you consider a thematic review of a part of a prison's operation as satisfying your obligation to inspect under section 6 (1) (a) and (b), and they are the five-year and three-year provisions?

Ms RAFTER: Yes, under section 6 (1) (a).

Mr DAVID SHOEBRIDGE: How does a thematic review of one part of a prison's operation satisfy your obligations under section 6 (1) (a)? Because the obligation is to inspect the centre, not just one part of the centre or one part of the centre's operations. How does a thematic review satisfy your obligations?

The Hon. TREVOR KHAN: That will be a matter of legal interpretation, will it not?

Mr DAVID SHOEBRIDGE: I am asking the inspector. You could go in and look at the laundry service and come away and, on your reading of it, tick the box.

Ms RAFTER: It has been a matter which I have given a lot of thought to. I have developed the thematic reviews since I have been the inspector because I was concerned that centres were not being inspected fully because of the thematic methodology. When we inspect centres we will be specifically looking at a theme, but we will look at all areas of a centre when we are on site. But that has been a developing methodology that I put in place.

The Hon. SCOTT FARLOW: Perhaps you could outline to the Committee what is undertaken when you conduct a review of a centre?

Ms RAFTER: Sure.

The Hon. SCOTT FARLOW: How long does it take and what do you do?

Ms RAFTER: Sure.

Mr DAVID SHOEBRIDGE: That is if you can give it generally. It sounds to me like your practice has changed over time.

Ms RAFTER: It has.

Mr DAVID SHOEBRIDGE: Are you going to describe your current practice, or your past practice?

Ms RAFTER: I am happy to describe the current practice, the methodology we have been using for the inspections that we have been doing this year. For example, we have just finished an inspection of seven centres where we have been looking at rehabilitation services. That has involved being on site at those seven centres for multiple days. As part of that inspection we would be focused on the areas of employment, education and program delivery. But, in addition to that, we would look at their reception function, the accommodation and all of the matters that would affect the treatment and conditions of the inmates at that centre.

Mr DAVID SHOEBRIDGE: I can see very good reasons to do that—look intensely at seven different centres and get a thematic view. But if you go into a prison for two days and look intensively at the rehabilitation services how much time will you have to look at the breadth of issues, or other emerging issues or concerns realistically?

Ms RAFTER: That is why we take a team of people. We usually have four or five people on the inspections. They work in teams of two, and that way we can cover—

Mr DAVID SHOEBRIDGE: Would it be fair to say that you can cover some of the rest of the prison's operations?

Ms RAFTER: Yes.

The Hon. LYNDA VOLTZ: Except, you say in your annual report of 2016-17 that they are theme-based models of inspection.

Ms RAFTER: Yes, they are still theme-based models, as in we are looking at a particular issue, whether it be health, or program, or rehabilitation.

The Hon. LYNDA VOLTZ: In that report it was clothing and bedding.

Ms RAFTER: Yes.

The Hon. LYNDA VOLTZ: Management of radicalised inmates.

Ms RAFTER: Yes.

The Hon. LYNDA VOLTZ: Use of force in Juvenile Justice centres.

Ms RAFTER: Yes.

The Hon. LYNDA VOLTZ: And 24-hour court cells, and women in remand.

Ms RAFTER: Yes.

Mr DAVID SHOEBRIDGE: Could you point us to the reports that you say show that you satisfied your obligation to do that overall review of a prison, notwithstanding the fact that there was a focus on a thematic inspection? Can you satisfy us that, yes, you looked intensively at rehabilitation, but yet all the other aspects of the prison's operation were covered in your review?

Ms RAFTER: Most of those reports are still in progress. But there is a report that I tabled earlier this year, the 24-hour court cell report, which included 14 facilities.

Mr DAVID SHOEBRIDGE: That is a much different kettle of fish to a large complex prison.

Ms RAFTER: Yes, but in respect of the methodology that report has individual reports on each of those facilities.

Mr DAVID SHOEBRIDGE: That is hardly what I am asking you about. I am asking you about going to a large complex facility, looking at a thematic review of it, and you providing us with evidence that you have satisfied your obligations under sections 6 (1) (a) and (b) to review the functioning of the prison. It may be that you cannot provide that, and it may be a resourcing issue, in which case please tell us.

Ms RAFTER: The reports that have used this more recent methodology are still in progress. They are not yet tabled. The reports that have been tabled in the past—for example, the radicalisation report and the clothing and bedding—very much focus on those particular aspects.

Mr DAVID SHOEBRIDGE: There is almost nothing about the other operations of a prison?

Ms RAFTER: That is right. I do not want to continue with the methodology that we are currently using when we commence the next five-year cycle of the office. The office will have been in operation for five years this October. From then on I want to move to a methodology which moves away from doing purely thematic reports to doing standalone prison inspections. The reason that I have continued with the thematic methodology, even though I have moved away from the very narrow thematic methodology that the first inspector had introduced was because of the number of centres that were required to be inspected after I commenced in the role to meet the statutory time limit of October 2018.

The Hon. TREVOR KHAN: What is the statutory time limit of October?

Ms RAFTER: That is that every centre needed to be inspected once every five years. There are over 60 facilities and when I commenced in the role there had been approximately 10 inspected.

The Hon. TREVOR KHAN: Wow!

Mr DAVID SHOEBRIDGE: October when is the deadline?

Ms RAFTER: October 2018.

Mr DAVID SHOEBRIDGE: How many have you done now?

Ms RAFTER: We have five to complete—smaller residential facilities—and we will meet the time line.

Mr DAVID SHOEBRIDGE: A number of the inspections that have been done to date are those thematic inspections that you pointed to?

Ms RAFTER: The early ones, yes.

Mr DAVID SHOEBRIDGE: Ms Rafter, Dr Andrew and Dr Baker are at the University of Sydney Business School and they have looked at resourcing. One of their recommendations to us is to increase the resources available to the Inspector of Custodial Services [ICS] to ensure appropriate oversight.

Ms RAFTER: I would welcome that.

Mr DAVID SHOEBRIDGE: Can you tell us what your resources are now?

Ms RAFTER: I can tell you what the resources were when I started in the office, when I started in the role.

Mr DAVID SHOEBRIDGE: I am fine with that as long as you end up telling me what the resources are now.

Ms RAFTER: When I commenced in the role there were four people in the office. There were two officers to assist with inspections. One of those officers had already found another position when I commenced, so there was one inspection officer to assist with the inspections. I now have—sorry about the point two—12 point two full-time equivalents in the office,² but I would welcome additional resources.

The Hon. TREVOR KHAN: That is up from four?

Ms RAFTER: That is up from four.

² Please see clarification provided by the witness in correspondence to the committee received 15 October 2018 and published on our [website](#).

The Hon. SCOTT FARLOW: Triple?

Ms RAFTER: Yes.

Mr DAVID SHOEBRIDGE: Are they focused on inspections, or what is their focus?

Ms RAFTER: Yes. There is a combination. The majority are focused on inspections. That is how we have managed to conduct all of those inspections.

Mr DAVID SHOEBRIDGE: Is it your view you have sufficient resources to fully deliver on your statutory functions, which is not just the inspections but that raft of other subsections that come under section 6 (1) (a) and (b)?

Ms RAFTER: No, we do not have sufficient resources to be doing that.

Mr DAVID SHOEBRIDGE: Have you made a submission to the Minister for additional resources?

Ms RAFTER: I have not made a submission to the Minister but I have made submissions to Government.

Mr DAVID SHOEBRIDGE: The department?

Ms RAFTER: To Government that with the implementation of OPCAT—OPCAT was ratified last December, so with the implementation of OPCAT by 2020 and my desire to implement OPCAT-style inspections, that I require additional resources.

Mr DAVID SHOEBRIDGE: You will have to give Hansard the expansion of the acronym OPCAT.

Ms RAFTER: The Optional Protocol to the Convention Against Torture.

Mr DAVID SHOEBRIDGE: Have you had a response to that request?

Ms RAFTER: Well I believe it is being considered.

Mr DAVID SHOEBRIDGE: You said there were six recommendations directed to Parklea in the Full House report.

Ms RAFTER: Yes.

Mr DAVID SHOEBRIDGE: Four had been implemented, one partially and one not at all. Can you tell us the recommendation that has been partially implemented and what has not been implemented and the recommendation that has not been implemented at all.

Ms RAFTER: Sure. Can you just repeat that for me?

Mr DAVID SHOEBRIDGE: My memory of your evidence earlier was that there were six recommendations for Parklea. Four had been implemented, one had been partially implemented and one had not been implemented. I was asking you about the latter two.

Ms RAFTER: The ones that had not. That would be recommendation 21, that during the periods out of cell that there is simultaneous access to cells and yards to enable some periods of privacy.

Mr DAVID SHOEBRIDGE: Has that been not recommended at all, partially recommended?

Ms RAFTER: It has been reported as not achieved.

Mr DAVID SHOEBRIDGE: When?

Ms RAFTER: Quite recently.

Mr DAVID SHOEBRIDGE: What was the one that has been partially implemented?

Ms RAFTER: That relates to recommendation 17. It recommends that GEO work with Justice, Health to ensure that inmates return to their cells within 60 minutes of arriving back at Parklea from court because they do a risk assessment process.

Mr DAVID SHOEBRIDGE: The particular concern is the unimplemented one but what follow-up have you had of the partially implemented recommendations?

Ms RAFTER: What we do as part of our monitoring and reporting framework—the monitoring of all these recommendations is a desk top exercise initially.

The Hon. TREVOR KHAN: What does that mean? I hear that referred to often.

Ms RAFTER: What that means is that I request a six-monthly update from the agencies that we address recommendations towards and they supply information as to the progress of implementation of the recommendations and then when they achieve the recommendations, then as part of our an annual site visit plan we will verify whether they have achieved the recommendation.

Mr DAVID SHOEBRIDGE: It seems to me that when they have not achieved it would be equally important to check. We are now four years on and you have not achieved this recommendation. Do you just keep waiting until the achievement happens and then you inspect, or do you just get desktop reviews? My concern is that four years on you still have not implemented it. What do you do?

Ms RAFTER: The monitoring and reporting framework was something that I implemented after I commenced. We were able to report for the first time in our annual report last year. So this reporting framework has not been in place, being a new office, for the four years. It in itself is relatively new. This will be the second annual report so that I can track progress. With those centres that are not achieving recommendations when we commence the new methodology we will be able to obtain a better baseline of what is happening at a centre and then monitor the progress of that individual centre. I pick up with the recommendations that are already in place.³ We monitor them by those visits once a year at the moment. So I think there is a much better way to do it in the future but that will be how we operate after we finish this first five years.

Mr DAVID SHOEBRIDGE: A few years ago the minimum cell size regulation was removed and that had been a longstanding public health requirement. What have you done to monitor minimum cell size? How many cells have you inspected that are in breach of what you would consider international or basic standards for minimum cell size?

Ms RAFTER: Full House discussed the issue of cell sizes before that amendment to the regulation took place. Since that time we have not done a thematic review around cell sizes. Under the proposed methodology I would like to implement that is exactly the sorts of things that we should be looking at in the future.

Mr DAVID SHOEBRIDGE: It was highly contentious when Parliament removed the minimum cell size standard. As inspector, your evidence is that you have not conducted a review of that in the years since.

Ms RAFTER: Of the cell sizes?

Mr DAVID SHOEBRIDGE: Yes.

Ms RAFTER: No, we have not conducted a review of cell sizes.

Mr DAVID SHOEBRIDGE: Have you done a review of the policy that Corrective Services put in place?

Ms RAFTER: No, but I am aware that the standards in the inspector's standard is nine square metres.

The CHAIR: I want to ask about rapid-build prisons. Have you had a chance to review any of the aspects of the rapid-build prisons that are popping up in the State?

Ms RAFTER: Yes. I have visited both of the rapid-build prisons. We have official visitors in those rapid-build prisons as well. There is a rapid-build prison near Cessnock, Hunter. I was able to visit that earlier in the year, late April, and then I have been more recently at the Macquarie rapid build at Wellington.⁴

The CHAIR: What is your general view of those prisons in comparison to the more traditional structures and layouts?

Ms RAFTER: I think the ideal situation in prisons is that there should be single-cell occupancy. I think that is the ideal. I think that is the aspiration that there should be. But the rapid builds seem to be operating quite well. We will inspect them next year and form a view then after we have been on site for multiple days. I have had the opportunity to look at them, speak to prisoners confidentially, speak to inmates and review the reports of official visitors. At this point they seem to be operating quite well.

The CHAIR: Did you talk to prisoners?

³ Please see clarification provided by the witness in correspondence to the committee received 15 October 2018 and published on our [website](#).

⁴ Please see clarification provided by the witness in correspondence to the committee received 15 October 2018 and published on our [website](#).

Ms RAFTER: Yes.

The CHAIR: In general, what were they saying to you?

Ms RAFTER: The issues that are raised out of rapid builds are not surprising. There are potentially some noise issues. Because it is a new centre and there has been a lot of movement into those centres there were some early issues with loss of property because of the movement in.

The Hon. TREVOR KHAN: Is that loss of property as between centres?

Ms RAFTER: As between centres, yes. That was an early issue with movement into the centres.

The Hon. TREVOR KHAN: That is not an issue that relates, with respect, to the rapid builds; that relates to the whole problem of moving prisoners between centres.

Ms RAFTER: That is right. But these are the issues that are coming out of those people who are at the rapid builds. Privacy is an issue as well that is raised. On the other side of matters, though, there is greater privacy with ablutions compared with being in a cell with two or potentially three other people in the system. The privacy for toileting and showering is something that people speak positively of. They particularly speak positively about the length of out-of-cell hours as well because the rapid builds have a structured day.

The CHAIR: What about snoring?

Ms RAFTER: Snoring has been mentioned as well, yes. That comes to noise. Because there are 25 people in one dormitory style, noise is an issue, and just the soundproofing. I think it would be good if Corrections looked at ways that maybe they could soundproof better. But the positives that the inmates speak about are the length of time they have during the day, the access to outside areas, the implementation of the structured day at that centre, which I think is critical. If you are going to have dormitory style I think there are grave risks associated with having lots of people in one dormitory and them not being fully occupied. That would cause issues but that is not the case. There is a full structured day with employment and programs and education on offer. I saw evidence of this at both of those centres and that seems to be appreciated by the inmates who are there. The ones that I spoke to said that they would rather be there than anywhere else in the system.

Mr DAVID SHOEBRIDGE: What about the night-time security? That was one of the very real concerns that was raised.

Ms RAFTER: And it was one of my concerns as well. Safety and privacy were probably my two greatest concerns about the dormitory style prisons. The staffing complement at the rapid builds is high and it needs to be for safety the issue. The other thing that they have done, and I think this was important to do, is they have been very selective in who goes there and that needs to continue to occur. In my opinion, the rapid builds are only suitable for those who have already displayed very good institutional conduct.

The Hon. TREVOR KHAN: And continue to, I would say,

Ms RAFTER: And continue to.

Mr DAVID SHOEBRIDGE: At best a boutique solution.

Ms RAFTER: I have not inspected the centres properly as yet, but my view is that you could not have a whole system with this type of prison.

The CHAIR: No.

Ms RAFTER: As I say, the aspiration should be single cell.

Mr DAVID SHOEBRIDGE: A long time out of cell.

Ms RAFTER: And a long time out of cell, of course.

The Hon. LYNDA VOLTZ: Do you get the data on assaults per prison?

Ms RAFTER: I see them when they are published in the Report on Government Services [ROGS] data. I look at that.

The Hon. LYNDA VOLTZ: Which is the correctional facility with the highest rate?

Ms RAFTER: For performance indicators?

The Hon. LYNDA VOLTZ: Yes.

Ms RAFTER: I would have to take that question on notice because the ROGS data is New South Wales data.

The CHAIR: Can you please take that question on notice?

Ms RAFTER: Of course.

The CHAIR: Thank you very much for coming today.

Ms RAFTER: I did not get to speak about the official visitors.

The Hon. LYNDA VOLTZ: We are out of time. You can come back; we will get you back.

Mr DAVID SHOEBRIDGE: I am more than happy if you want to provide on notice additional information about official visitors. I do not think you completed the sentence about prison cell sizes. Please provide on notice any more information you have about what you doing with regard to monitoring prison cell size.

Ms RAFTER: Of course.

The CHAIR: Do you have some documents for the Committee?

Ms RAFTER: I want to table the "Full House: The growth of the inmate population in NSW" report because it is very relevant to the inquiry. I table the report.

Document tabled.

The CHAIR: Questions on notice will need to be returned within 10 days. The secretariat will be in contact with you to help you with that process. Thank you for coming.

Ms RAFTER: Thank you very much for your time this morning. I appreciate it.

The CHAIR: Thank you.

(The witness withdrew)

CAROLYN McKAY, Deputy Director, Sydney Institute of Criminology, University of Sydney Law School, affirmed and examined

The CHAIR: Welcome, Dr McKay. Would you like to make a short opening statement?

Dr McKAY: I am a lecturer at the University of Sydney Law School. I acknowledge the Gadigal people, the traditional owners of the land on which we are meeting today—the people of the Eora nation. I also pay my respects to Elders past and present. My teaching at the Law School relates to criminal law and civil and criminal procedure. However, I have conducted quite a bit of research into prisons in New South Wales. I have interviewed 31 prisoners in two correctional facilities in relation to their experiences of using audio-visual links [AVL] to appear in court from a custodial situation or to access legal advice and legal representation. That research has been recently published.

I will make three quick points. First, obviously my submission is very much focusing on the response to overcrowding in the prisons—the response being the expansion of the prison estate through the expenditure of \$3.8 billion and the building of the rapid-build prisons with dormitory accommodation. Secondly, I talk in my submission about the dormitory accommodation. Clearly, there are some positives with that accommodation, very much in terms of the more humane and hygienic forms of toilets and bathroom facilities.

I commend the hopeful initiative of the use of digital technologies in these facilities. Access to online platforms of legal information and rehabilitation programs are vital for all prisoners, but probably more so for remand prisoners than sentenced prisoners. Having digital literacy and programs on digital platforms is very important in contemporary prisons.

However, from my literature review there are negatives in terms of dormitory accommodation that we can see from international resources. There are obviously problems with getting the inmate classification right, questions of security and safety of prisoners and issues of privacy. It is interesting if we look at wanting to expand the use of digital technologies for prisoners, for instance, if they are going to be doing sensitive rehabilitation programs using a tablet in their cubical. How can they do that in a private manner if they need to be doing things that are sensitive? How can they do that when potentially they are being eavesdropped on or interfered with by another prisoner? Obviously, there are issues with sleep and noise in the actual prisons. I certainly suggest that there must be some very rigorous continuous monitoring of these forms of accommodation and independent assessment of them, both in terms of the prisoners' and the prison officers' experiences.

Thirdly and finally, I would suggest that we need to focus more on decarceration and non-custodial sentences, especially for non-violent offenders. There are more socially responsible ways of spending \$3.8 billion trying to keep people out of prison and with their families and their work. It is clear that pouring public money into the prison system is really an investment in failure. It would be more positive to shape policies that address root causes of criminal offending and to focus on diversionary programs and the development of non-custodial sanctions. I am aware that the Department of Justice is looking at examining the use of community corrections orders, which is a positive thing.

Alongside that we need continuous good programs in prison that address rehabilitation and employment and set people up for reintegration back into the society. They are going to be our neighbours again. I welcome this inquiry. It represents a great opportunity to take stock of the sustainability of the prison industry and the costs of imprisonment not only in dollars and cents but also in terms of the life-long impacts on people and the ripple effects that disrupt their families, children and communities and destroy future prospects. Thank you.

The Hon. LYNDIA VOLTZ: Have you looked at prison design and good design practices as opposed to poor design practices? I assume you have been to some of the prisons like Parklea Correctional Centre, but perhaps not to the new pop-ups.

Dr McKAY: Thank you for that question. I have not been to Parklea, and that is why I have not included it in my submission. I have only been to Mid North Coast Correctional Centre, Dillwynia Correctional Centre, part of the John Morony Correctional Complex, Bathurst Correctional Centre, Long Bay Correctional Complex and Silverwater Correctional Complex. I have not been to the rapid-build prisons, but I would be very interested to see them. I also have not been to Parklea Correctional Centre. However, it does seem that the literature and the general prison standard for people is to be in a one-out cell; a single cell. Obviously some prisoners welcome the companionship that a dormitory can provide.

There would be some prisoners who would find that form of accommodation suitable and good for them. But there would be many others who would be very keen to ensure that at night time they can sleep. Perhaps they might be sharing with one or two other people, but at least they would know them and feel more secure in that

space. Perhaps they would not have to wrap themselves in a couple of blankets every night to ensure they did not get stuck with a shiv.

The Hon. LYNDA VOLTZ: From what I could see, the advantage of the dormitory-style accommodation was the ability for inmates to access outside areas until late at night. I think those in the cell were overwhelmingly locked down by about 6.00 p.m. I guess with any model you will have pros and cons and different levels of prisoners. There will not be horses for courses.

Dr McKAY: I guess not, although I am not sure why we could not have a situation where people still have more privacy and security in a single cell and still have longer out-of-cell hours. Certainly New South Wales does have some of the shortest out-of-cell hours in the country.

The Hon. LYNDA VOLTZ: For minimum security prisoners and people who are on their way out that is probably true. Again, it will come down to the mix, I guess.

Dr McKAY: Yes.

Mr DAVID SHOEBRIDGE: There is no particular reason to have shorter out-of-cell hours for medium and high security. Is there any evidence to suggest that a well-structured day with plenty of access to programs does not provide benefits for all levels of prisoners?

Dr McKAY: I have not seen any evidence that says it does not provide benefits to all prisoners at all. I would suggest that a well-structured day would suit most prisoners. There would be nothing worse than being in a prison with nothing to do. When I was conducting my interviews obviously I was focused on talking about audiovisual links, but a range of other issues were discussed by the prisoners. Especially the women that I spoke to said, "We've got nothing to do." I think their days seemed incredibly unstructured.

Mr DAVID SHOEBRIDGE: We visited the two new dormitory prisons. In each of those visits the evidence that I saw was that there was a large number of programs available, they had a fully occupied day and that seemed to be producing very real behavioural benefits. But that is not something that should be isolated to dormitory-style prisons. Is that your evidence?

Dr McKAY: That would be my evidence. I do not see why that should be limited to dormitory-style accommodation.

Mr DAVID SHOEBRIDGE: Do you think there may be a place for a small number of dormitory-style facilities in any prison system, or do you think the object should be to not ever have dormitory systems but have everybody in one-out cells?

Dr McKAY: If I look at the international literature, and that is all I can do, I am an academic, I have not worked in custodial services—

The Hon. TREVOR KHAN: Do not apologise.

Dr McKAY: I am not coming from a lived experience.

Mr DAVID SHOEBRIDGE: We will start talking about our collective shortcomings if you are not careful.

Dr McKAY: The literature shows that dormitories are a negative experience overall and they certainly diminish privacy, they diminish health, they diminish the feeling of safety and security. As I said, there can be a certain situation where they may be good. For the population that has been selected to be in the current dormitories it sounds from the evidence that I have heard that it has been a positive experience for them. Certainly to be in a nice, bright, shiny new prison would be better than being in a very old place, for example, at Bathurst or Long Bay.

The Hon. TREVOR KHAN: Or some of our other country jails.

Dr McKAY: Exactly. I could see that there would be a lot of benefits from that point of view. But prisons are very noisy places. We have heard a little bit about snoring, but in my own research I looked at the noise of prison and how that infiltrates the audiovisual links when people are appearing in court. There is constant noise in a prison and I am sure it does not diminish at night-time either. Suddenly if you are sharing a room with 24 other people it would be possibly very difficult to sleep and that is not conducive to your health at all. As I said, there are health issues. The literature indicates that people have a greater level of illness. I think we have to be aware of that when the State is responsible for the health and wellbeing of a population in a closed environment.

Mr DAVID SHOEBRIDGE: What are the indicators and the kind of data we should be looking for to assess whether or not a dormitory-style system is working? They have only been operating for a short time now. What kind of parameters should we be looking at?

Dr McKAY: That is a great question. There have been some questions, I notice in the transcripts, about the level of assaults. That is obviously an important thing to look at but I do not think it is the only benchmark that we should be looking at because I think we need to be engaging with the actual prison population as well as the prison officers. I think there is going to be a range of other behaviours that may not be so necessarily publicly seen, or available for the prison officers to see. I think we need to be able to have some ongoing independent research with the prison population to find out if there have been issues of standing over, intimidation or bullying that may not necessarily result in assault. I think if we only look at assault figures it may not be very telling about the culture that is developing within the dormitory situation.

The Hon. TREVOR KHAN: I would be troubled if we introduced anything that approximated the style of dormitory accommodation that appears to exist in some US States. That is really almost back to an old barracks style of accommodation. The level of supervision or the lack of it potentially exposes prisoners to great harm from other inmates. That would be right, would it not?

Dr McKAY: That seems to be what the literature suggests, yes.

The Hon. TREVOR KHAN: In the literature are there any studies that deal with more modern and sophisticated forms of this style of imprisonment from, say, Europe?

Dr McKAY: I have not found those myself as yet, but obviously there is going to be some interesting data coming out of Australia. But I think we need to be very cautious about setting this up as some human experiment. That is why I think that what we really need to be doing is ensuring that there is some very close rigorous monitoring and assessment of what is happening. I am not aware of what are the protocols if a prisoner feels that they are being intimidated or bullied. How can they actually get that reported and in what way? Especially as now we have a situation where we have sort of a vertical delineation between the prisoners down here on the ground floor and the prison officers upstairs on the catwalk, there is not that usual situation of just running into a prison officer in the corridor and saying, "Hey, can I have a quiet word with you?" I wonder what the situation is for the prisoners to have a private word with a prison officer to tell them that they are experiencing some concern.

The Hon. TREVOR KHAN: I am not dismissing any of your evidence and concerns, but do I take it that the literature you are relying upon is studies in particular US environments? Is that the case?

Dr McKAY: It is primarily in the US but there has also been a study by Grant and Memmott talking about the dormitory accommodation for Aboriginal prisoners in Australia as well. They talk about how dormitories have been sort of set up and treated as if they are the best practice for Aboriginal prisoners—very much within the context of deaths in custody, obviously. But they question the efficacy of dormitories and even having double bunking for all Aboriginal prisoners. That seems to have created a race divide in some prisons in Australia and they actually argue that it is not necessarily best practice at all for that prison population. We can also look in New South Wales. Dormitories were used in New South Wales for Juvenile Justice and then they were demolished because they were found to be inhumane, they lacked privacy and the young people within them felt insecure and, as I said, did not have privacy. They were actually demolished in New South Wales.

Mr DAVID SHOEBRIDGE: And there was the Victorian evidence of that notorious dormitory prison. The name of it escapes me. It was a dormitory-style Melbourne prison that had a series of riots in the 1960s and early 1970s. I might ask you about it on notice.

Dr McKAY: I cannot think of the name. I can work on that.

Mr DAVID SHOEBRIDGE: This question is a central part of this inquiry. You said it should not be an experiment, but in some ways it kind of is an experiment, is it not?

Dr McKAY: It is an experiment and it is an experiment that has been rapidly built.

The Hon. TREVOR KHAN: That is very good.

Dr McKAY: You can use that one.

Mr DAVID SHOEBRIDGE: If you have an ongoing experiment I suppose an external third party assessment and review of it would be usual, would it not?

Dr McKAY: Yes, it would be.

Mr DAVID SHOEBRIDGE: That is not just to observe and report. That would have to have some kind of observe, adapt and report function.

Dr McKAY: Yes, I would hope that it would be responsive rather than just observing and creating yet another report.

Mr DAVID SHOEBRIDGE: Can you think of examples from any of your national or international literature where there is an identifiable and independent third-party who has done that kind of work and what that model would look like?

Dr McKAY: I cannot think of an example off the top of my head, no.

Mr DAVID SHOEBRIDGE: Do you want to take that on notice, because, in some ways—

Dr McKAY: Okay, I would take it on notice and see if I can find something for you.

Mr DAVID SHOEBRIDGE: I think, for myself, we have seen complex evidence about those dormitory-style prisons. You would have heard the evidence from the inspector.

Dr McKAY: Yes.

The Hon. TREVOR KHAN: Did you hear all of the inspector's evidence?

Dr McKAY: Yes, I did.

Mr DAVID SHOEBRIDGE: Her observations about what was said to her in the course of inspecting the prisons were very similar to my observations. I do not know about the balance of the Committee; they will speak for themselves. It is complex, particularly when you put it against the historical operation of dormitory-style prisons.

Dr McKAY: Yes.

The Hon. LYNDA VOLTZ: This is something you might want to also take on notice. The dormitory style works best, it appears, when you have a structured day. It is heavily reliant on investment in education programs and employment programs. My concern with these programs is that they are not just programs for the sake of programs and having a structured day but that there is an outcome on the end. The question has two parts: What is the best scenario, outcome or efficacy of those employment and education programs within the jail systems? Which ones work best and which ones do not?

The Hon. TREVOR KHAN: The ones that achieve literacy is probably a good start for the newer prisons.

The Hon. LYNDA VOLTZ: Well, for some people, and for some people, having a practical school when they walk out the door, like the barista.

Mr DAVID SHOEBRIDGE: Or the music class that we saw, which was extraordinary.

The Hon. LYNDA VOLTZ: Yes. It would be a mix. But what happens in dormitories where they do not exist? If the system breaks down at a later stage, my concern is that when they start looking for cost-cutting, does education become the focus of that? That style of prison does not work without it. You may not know if there are any studies along those lines, but that would be interesting.

Dr McKAY: I would have to take that on notice and come back to you. Thank you.

The Hon. TREVOR KHAN: Were there any studies in the United States of more modern dormitory-style accommodation that seemed to be working, or was it all bad news?

Dr McKAY: Well, no, it was not all bad news. Even in my submission I bring out that there are some positives. As I said, some people find that they enjoy the companionship. I guess if you can get in a good mix of people and a good mix of the right classification people, it could be a very positive experience. There is a book on prison design which talks about having cubicles—if they have got very high walls they can feel the same and feel as private as having a one-out cell. Although I note with the rapid-build prisons the height of the walls is only 1.5 metres, which is probably not—

Mr DAVID SHOEBRIDGE: They are like office partitions.

Dr McKAY: Yes.

The Hon. TREVOR KHAN: There is potentially a trade-off. You create more privacy and you potentially then create a greater security issue. You create privacy for an assault to occur, essentially, or other things.

Dr McKAY: Exactly. That would be the issue, although if there is all this surveillance from above, if there are all those catwalks and cameras, if you are constantly being surveilled, that raises another issue for the lack of privacy. For the more law-abiding prisoners, that feeling of being constantly surveilled would be a fairly tough one, although I assume you get used to it.

Mr DAVID SHOEBRIDGE: Part of the management practices is a blanket infrared camera, which is centrally monitored and follows people as they get up and move at night. You can see why there might be very sensible safety reasons for that, but are there potential issues with that? There is an obvious privacy issue, but is there any literature that says that might play out and become problematic?

Dr McKAY: I have not read anything about any negatives of that sort of security at night-time. Indeed, I would suggest that the literature suggests that there must be some form of surveillance in the evening. That is when people do feel insecure. As I said, some of the studies talk about how some prisoners feel so nervous in a dormitory at night-time that even in very boiling hot weather they wrap themselves up in a couple of blankets just to make sure that they are stab proof.

Mr DAVID SHOEBRIDGE: Would it be fair to say that a dormitory-style prison carries a whole series of inherent risks that there is a series of potential management strategies to address? Is that not is the nature of them: a whole series of inherent risks and a bunch of management strategies you can use to minimise and address those risks?

Dr McKAY: I guess there would be a whole lot of management strategies that could address that risk but ultimately if we are going to be incarcerating people we want to be putting them in a situation where they can hopefully improve their lot in life. Obviously, having structured programs and access to all of those great programs during the day is a very positive aspect of these, but I do not understand why that cannot be made available to other prisons as well. I have forgotten the other part of your question, I am sorry.

Mr DAVID SHOEBRIDGE: It was about inherent risk. Perhaps a better answer is: Do not build in the inherent risk.

Dr McKAY: Yes, that is right. Why have that inherent risk anyway? It is great to have these initiatives of structured days, but why can that not just be transported to the situation that we have at the moment with more one-out cells, or two-out, at the most.

The CHAIR: Are there any more questions?

Mr DAVID SHOEBRIDGE: The only thing, if you could on notice—

The Hon. TREVOR KHAN: David always has to have the last question.

The Hon. SCOTT FARLOW: Even when he has had the last question.

Mr DAVID SHOEBRIDGE: Your submission talks about the removal of the public health regulation about minimum cell sizes. Have you monitored what has happened since then? Do you know if there is any monitoring that is happening since then?

Dr McKAY: I have not been aware of any monitoring of the cell sizes at all. Obviously this response with the rapid-build prisons has been as a response to the rapidly growing population. And obviously there have been three people put in a cell that was actually designed for one person, which is not a good situation at all. But I am not aware of what actual monitoring exercises or strategies have been taken.

The Hon. TREVOR KHAN: Can I just ask one question quickly?

Mr DAVID SHOEBRIDGE: You always have to have the last question, don't you, Trevor?

The CHAIR: That is the pot calling the kettle black.

The Hon. TREVOR KHAN: You talked about the fact that you published a paper recently.

Dr McKAY: I published a book on video links.

The Hon. TREVOR KHAN: It is a book, is it?

Dr McKAY: Yes, correct.

The Hon. TREVOR KHAN: Right, good. I will find it.

Dr McKAY: It is called *The Pixelated Prisoner*.

The CHAIR: Thank you very much, Dr McKay.

Dr McKAY: Thank you very much for your time.

The CHAIR: I do not think you had any questions on notice.

The Hon. LYNDA VOLTZ: Yes, a couple.

Dr McKAY: Yes, I do.

The Hon. TREVOR KHAN: Yes, a lot of study to do.

The CHAIR: I am sorry. You have 10 days in which to respond. The secretariat will be in contact with you in relation to it.

Mr DAVID SHOEBRIDGE: They will be in contact with you extremely soon—kind of now.

Dr McKAY: Thank you. That is great.

The CHAIR: We are a bit tight for time.

Dr McKAY: Thank you, Chair. Thank you, Committee.

The CHAIR: Thank you very much.

(The witness withdrew)

(Short adjournment)

DOMENIC PEZZANO, former correctional officer, sworn and examined

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

Mr PEZZANO: I am mindful of the fact that you are limited for time, but it is important that I read this statement. Good morning Chair and members of the Committee. By way of introduction, I was an employee with Corrective Services NSW for 30 years, commencing as a probationary prison officer in 1984 and I completed my career at the rank of superintendent in 2014. I appeared on numerous occasions as an expert witness at judicial hearings, district and supreme courts, administrative appeals tribunals, coronial inquests, and for Corrective Services NSW in relation to classification and protective custody of inmates. I have trained hundreds of both custodial and noncustodial staff in the area of inmate classification and placement of inmates throughout New South Wales.

I was also responsible for the classification of thousands of inmates throughout the New South Wales system throughout my career. I was an active member of the Serious Offenders Review Council and its subcommittees and a delegate of the deputy commissioner on the board of management in death in custody committees and other committees. I represented Corrective Services NSW as a national delegate to assist corrective services Western Australia with its classification system. I would like to thank the Committee for the invitation to be here as a witness at today's inquiry, as I feel obligated to provide a submission. I want to point out from the outset that I do not have any personal issues with the current senior management of Corrective Services NSW and would think that they are all generally honest people with integrity.

My concerns are not the individual persons but the direction in which Corrective Services NSW is heading. It is my professional opinion that there is a lack of detailed corporate knowledge and history of Corrective Services NSW and there is a deficiency of experience required to operate and manage a correctional service of this size and magnitude. Since retiring in 2014 I have been embarrassed as a former officer to read and hear about the numerous security breaches, benchmark reforms, rapid-build prisons, and inappropriate behaviour and conduct by certain staff who are currently engulfing this once great correctional service and organisation.

During my 30 years with the service I experienced some challenging times but also experienced and was part of some great achievements. You will note from my submission that I have not only covered all the terms of reference but also identified questions that relate to the specific terms of reference which will provide a clearer picture for the Committee. As the Chair and Committee members are well aware, in 2009 there was a similar parliamentary inquiry established about the privatisation of prisons and prison-related services which resulted in 18 recommendations being made. Two of those recommendations I highlighted in my submission on page 48. If those two recommendations had been adopted by Corrective Services NSW we would not be here today raising these same concerns.

I have made a number of recommendations within my submission and I respectfully ask that the Committee carefully consider them in the context of the evidence being presented to you across the course of the inquiry. I cannot emphasise the importance and responsibility that you have as a Committee that will stop the haemorrhaging and hopefully restore some credibility and public confidence once again with Corrective Services NSW. The implementation of the rapid-build prisons for maximum security inmates is a real concern for the security, containment and humane management of inmates, and the safety of correctional officers. Whoever was responsible for developing this design and implementing this style of accommodation needs to consider what they have put forward. There will be incidents in the future, I can guarantee that.

To round this up, I have worked under a number of government Ministers during the 30-year period of my employment from both political parties, Labor and Liberal, Ministers such as John Akister, John Fahey, Michael Yabsley, Terry Griffiths, John Hatzistergos, Bob Debus, John Watkins, Richard Amery, John Robertson, Phillip Costa—all different styles of Ministers with different views on corrections. As a public servant the reality is that you are in the job for a long time, as I was for 30 years. Ministers and governments will change and move on, but the officers and other staff are there for 10, 20, 30 and 40 years and have to carry on in their duty and pick up the pieces.

My concerns are that the changes that are being implemented at present within Corrective Services NSW have caused and will continue to cause irreparable damage in the years ahead. Hopefully this Committee can address these concerns while there is still an opportunity. It is my opinion that at present correctional officers do not have a voice. Earlier this year I saw the largest industrial action undertaken by correctional officers across the State in the past 35 years. This is a very strong indication of how serious the issues are with the New South Wales correctional system. I want to finish with this comment: The incarceration and management of inmates in custody should be directly operated by the State. It is an essential public function and there needs to be a reporting line of

accountability that operates all the way from the prison yard to the floor of the Parliament. Depriving people of their liberty whilst on remand or sentence is an extensive and vital responsibility. It should not be removed from public administration or delegated. Thank you for your time. I am available to take any questions from the Committee.

The Hon. LYNDA VOLTZ: Did you work in Parklea Correctional Centre?

Mr PEZZANO: My responsibility as the manager of classification was to attend Parklea in the classification of inmates, yes.

The Hon. LYNDA VOLTZ: One of the issues you raised is staffing. Something that has concerned me when I have visited the prisons is the different styles of prisons. Some are poorly designed—and I put the physical design of Parklea into that category—and obviously require high levels of staffing. You raised the issue of a reduction in staffing. Do you have any idea exactly how much that has reduced in Parklea?

Mr PEZZANO: No. Unfortunately, I am not privy when GEO took over what the reductions in staffing were. You are correct. The different styles of prisons and when they were built—Bathurst and Goulburn correctional centres are more than 100 years old, compared to the South Coast or the mid North Coast correctional centres, which are more modern correctional facilities. That does have an effect and impact on how the staffing structure in those correctional centres is managed.

The Hon. LYNDA VOLTZ: Particularly with Parklea, it has a pinch point where it brings its prisoners in. Essentially there is only one way in and one way out, unlike other prisons, where the new pop-ups get to choose. Parklea has to take everybody, therefore intelligence takes longer on where to place people. They can only take one through at a time. Is that a problem in any other prison?

Mr PEZZANO: Not really. The major reception jails all have a process and policy how they manage new receptions—we call them fresh custody inmates—from courts. Also, inmates who are received from inter-jail escorts, there are obviously procedures on how they manage that. Parklea is designed where they have the main gatehouse gate. Then they travel through the correctional centre to what they call the reception intake area, which is another processing, similar to other correctional centres. Although it is set out differently, the rationale is the same.

The Hon. LYNDA VOLTZ: The Committee has been to Parklea and a number of other prisons. I think Junee had a conflict pinch point. Mr David Shoebridge may remember.

Mr DAVID SHOEBRIDGE: I did not go to Junee. I was on another inquiry.

The CHAIR: That was probably more related to the temporary nature of the build there at the moment. Because of all the modifications that are going on there it was all very tight and really not satisfactory. But you are quite right; it was pinched very tight.

Mr PEZZANO: I attended Junee on numerous occasions in my role and the way it is set up there with the main gatehouse and then the reception room, intake room, is directly to your right. It does not leave a lot of room for the prison vans and the separate area for the receptions, as opposed to the Metropolitan Remand and Reception Centre [MRRC] or Parklea on a much larger scale.

The Hon. LYNDA VOLTZ: The design obviously impacts on the types of education and employment programs that inmates can be put into. The new pop-ups are designed with intensive managed days. Obviously, in other prisons where there is segregation, inmates are not getting out for education and employment programs. Do you know how many prisons there are with inmates in segregation who are not getting time out of the cell or into education programs as required?

Mr PEZZANO: The terminology "segregation"—the maximum, medium security correctional centres all have what they call a special management area, segregation area. When we call it segregation, they are placed there obviously because of a risk or concern for an inmate, to be placed in segregation. You are talking about pop-ups and whether you are at Bathurst or Lithgow or Goulburn. The aim is, regardless of whether they are in a pop-up or in a normal accommodation area, they still should be able to access industries during the day and education or activities.

The Hon. LYNDA VOLTZ: And they are in those prisons. But it is the ones that are not the purpose-built, dormitory-style pop-ups where I suspect they are not accessing them.

Mr PEZZANO: Once again that comes back down to the management of the correctional centre. The core hours of business of a correctional centre are during the day, Monday to Friday, whether it is 7.00 to 3.00 or 8.00 to 4.00, depending on the classification. The aim of that correctional centre is to make sure, in a traditional correctional centre not a pop-up, that inmates are released from their cells, transferred to activities, employment,

programs, or the yards. The fact is they are saying that pop-ups will provide more access. Well it should be across the board regardless of whether it is a pop-up or even a normal prison. To say that the pop-ups give them more freedom, the intention is always to provide those services regardless.

The Hon. LYNDIA VOLTZ: In your experience, which prisons are not meeting that criteria of allowing inmates, particularly those who may be in protective custody, access to education and employment facilities?

Mr PEZZANO: In my experience—and bear in mind I ceased operations in 2014—Goulburn, given the nature of the correctional centre with the segregated yards, obviously is a concern because they go from the wings to the actual yards where they are segregated. It is one of the only correctional centres in the State where they do separate due to cultural background. So that is a difficulty. But they do still have corrective services industries; they still have programs and services which they should be able to access. It is about ensuring that there is enough employment, enough program opportunities for those inmates to access. Places such as Goulburn, Lithgow are pretty structured. Bathurst is similar. When you talk about maximum, medium security correctional centres, probably Goulburn would be one of the difficult ones in accessing.

Mr DAVID SHOEBRIDGE: The goal should be every correctional centre has a well thought out, fairly long structured day and minimum times in cells.

Mr PEZZANO: Exactly, 100 per cent.

Mr DAVID SHOEBRIDGE: How is the prison system doing on that key performance indicator?

Mr PEZZANO: When I was in the service, the challenges were always with time out of cells, which is a key performance indicator, which is standard cross the board. I believe Victoria does not even report now—correct me if I am wrong. From the last information I had, it does not even report time out of cells now for secured custody. Inmates in secured custody are inmates in maximum security, A2, B classification inmates. That is a challenge.

The Hon. TREVOR KHAN: What inference do you take from not reporting it? Is that because of the statistics—

Mr PEZZANO: Too difficult. It is a challenge. That is what I am getting at. At the end of the day, you are managing maximum security inmates. They are maximum security, obviously, for a reason—length of time, 10-, 15-, 20-year sentences, they have serious outstanding charges, or they are not compliant in the system and they have to be maintained in maximum security. However, the time out cells is that core activity that I spoke about. The influx of staff should be during the day. So when we have sufficient staff on duty—subject to sick leave, recreational leave and so forth—they can come in, release inmates from their cells, escort them to the program centre, escort them to activities, escort them to the yards and visiting sections. That is the aim. That is a big challenge in secure custody because, unfortunately, in the prison systems you have critical incidents that take place.

When there is a death in custody, a stabbing, a serious assault, or an attempted escape, obviously security is paramount. You lock down the centre. The inmates are secured in their cells. There is no movement, obviously, because there is accountability and security comes into it. That is where the challenges lie. The other side of that is when you have shortages of staff and sick leave. When you do not have sufficient staffing levels, inmates are locked in their cells and are not able to access particular programs or employment. The critical incidents, no-one is going to get them around that—better supervision, better intel to avoid critical incidents, but unfortunately it is a prison system and things happen. When it happens, security and containment is paramount. Police come in, investigators come in. There are crime scenes that you have to maintain if there is a death in custody or a serious stabbing. The lockdown happens. The time out of cells gets impacted and that is where the challenge is.

Mr DAVID SHOEBRIDGE: You are saying that challenge is more significant in maximum security, obviously, and that means it is harder to get time out of cells?

Mr PEZZANO: That is right, yes.

Mr DAVID SHOEBRIDGE: What about medium and low? On your observation how is the prison system doing that?

Mr PEZZANO: On my observation, medium and maximum secure custody is always a challenge. That was one of the KPIs that we had to meet or attempt to meet. Minimum security, New South Wales is excellent. It is aboveboard. It matched all the other States and did well.

Mr DAVID SHOEBRIDGE: The area where the focus can be on to get the greatest improvement for the greatest number of people is probably in medium security?

Mr PEZZANO: Medium to maximum, absolutely, yes.

The Hon. TREVOR KHAN: If there is a critical incident during the day and people are out of their cells attending some educational course or working in industry—you might not be able to answer this—what is the approach? If there is a critical incident, does industry stop and people are returned to their cells, or are they kept in place where they are?

Mr PEZZANO: It depends on where the location is and what the incident is. If there was an attempted escape, the place is locked down. All movement is stopped—accountability. You will find that those inmates in those industries are not allowed—there is no movement until accountability is established and it is identified what has happened. If there is a death in custody, a stabbing—worst-case scenario is if there is a murder—you can imagine it is about security, so everything does stop. There is no movement. Where that incident occurs, if it is a critical incident, it becomes a crime scene. You have to maintain that because you have police and investigators coming in. If you have people walking around and inmates walking around in an area—once again, I go back to the rapid builds. At 11 o'clock at night or 2 o'clock in the morning, if you have a critical incident, what are you going to do?

It is fine you have immediate action team [IAT] officers who can shoot tear gas, but you have 25 inmates who normally, as per the routine, should have been secured in their cells in maximum security. Now all of a sudden you have to move 25 inmates into a sterile zone at 11 o'clock at night or 2 o'clock in the morning. You have to manage a critical incident. If there has been a stabbing or something has happened, you have to lock that down. Whereas if they are secured in their cells there is less opportunity for those instances to occur and you do not have to lock down—the place is already in lockdown because inmates are already secured in their cells. If you had, for instance, a medical emergency someone was having a heart attack and an inmate was to buzz up to central control, you would respond to that accordingly. You do not affect the whole of the unit.

The Hon. TREVOR KHAN: I get that, but if you had a stabbing at 3 o'clock in the afternoon, say, at Cessnock, in their industrial section, I do not know how many you have there, but tens of prisoners in that area?

Mr PEZZANO: Yes, absolutely.

The Hon. TREVOR KHAN: First you would have to secure it and then you would have to move all of the prisoners out of that area as well?

Mr PEZZANO: Absolutely. That is exactly right. There have been incidents where we have had serious offences. There was a murder that took place at Grafton in the industries area. One inmate attacked another inmate and, unfortunately, he was deceased. There was a lockdown. You have to secure the other inmates away. That becomes a crime scene.

Mr DAVID SHOEBRIDGE: You lock the whole facility down?

Mr PEZZANO: When there is a critical incident like that, that type of maximum security, it normally happens. Because of the nature of the incident—once again, if it was an escape, the centre would be locked down, there would be no movements. As you can imagine, it is security. They want to account where the inmate escaped from, what has happened.

The Hon. TREVOR KHAN: I take it there is also, in a sense, a concern that if once incident occurs, other incidents will cascade off it? The safest course of action is to lock the whole place down—I am not being critical. It would be the nature of it?

Mr PEZZANO: It is the nature of the business. Bearing in mind there could be a diversion. An incident could be manufactured on purpose to deflect from something else. The security aspects come into play and that is why there is a lockdown. There might be a serious assault in this location distracting—

Mr DAVID SHOEBRIDGE: You are stripping assets off other duties in order to address that, which creates security risks?

Mr PEZZANO: Yes, absolutely.

The Hon. TREVOR KHAN: I am sure there is a simple explanation, but tell me what is the difference in terms of what you have to do with an incident that happens in a workshop, the woodworking shop, or whatever else at Cessnock jail at 3 o'clock in the afternoon to a similar incident at 2 o'clock in the morning in a dormitory-style accommodation?

Mr PEZZANO: Firstly, during the daytime operations you have more influx of staff for a critical incident. Then there are policies and procedures that have to be implemented once a critical incident takes place.

The Hon. TREVOR KHAN: One of the reasons you have more staff about is because you have more prisoners on the loose during the day?

Mr PEZZANO: That is absolutely right. More supervision, more influx of blue uniforms on the floor obviously it makes it a lot more safer. Traditionally, when you have inmates out of cells late at night, particularly in the early hours, that creates a security issue. I was listening to the evidence before. When you have an inmate in a dormitory-style that has to get up to use the bathroom at 2 o'clock in the morning, if he is in his own cell, he has his own shower, he has his own toilet. You do not have those security issues—

The Hon. TREVOR KHAN: Or "they" have.

Mr PEZZANO: —of inmates walking around in an area in the middle of the night. It is maximum security.

Mr DAVID SHOEBRIDGE: Mr Pezzano, when did you start working in the New South Wales prison system?

Mr PEZZANO: I commenced in 1984 as a probation prison officer.

Mr DAVID SHOEBRIDGE: And you worked all the way through to 2014?

Mr PEZZANO: Yes, 2014; 30 years.

Mr DAVID SHOEBRIDGE: Over that time what have you seen change, if anything, in the number of prisoners with mental health issues and how prisoners with mental health issues are addressed?

Mr PEZZANO: Significantly an increase of inmates with mental health issues is probably one of the largest things that I have seen. Inmates are coming in with more issues associated with their protective custody associations with gangs, bikies—outlaw motorcycle gangs—so it is becoming more difficult to manage and separate these types of classes of inmates. There is a saying that Corrections in New South Wales has become the biggest mental health facility in the State.

Mr DAVID SHOEBRIDGE: Do you adopt that?

Mr PEZZANO: I believe in that because, unfortunately, a number of inmates come into the system that require mental health assessments. We have health assessment units in the system and they are doing a great job but they are overloaded, and referrals by psychiatrists are made for these inmates who are suffering mental health issues.

The Hon. TREVOR KHAN: Mr Pezzano, could that also reflect that you and the prison system generally—and this is not a criticism—have become more attuned to the needs of the prisoners over the time that you have been in the job?

Mr PEZZANO: Absolutely. Case management over those years from when I first started—when I started in the remand centre we had inmates out of their cells until 9 o'clock at night on the landing. We are talking about a dormitory, having inmates out of their cells, and this is a maximum security remand centre in the early 1980s. They used to be secured in the cells at 3 o'clock in the afternoon. Levels of officers: three officers on the landing with 70 inmates on the landing who were able to roam around into the activities room, common room, and into their cells till 9 o'clock at night. They were not able to access programs and services but they had free roam.

Mr DAVID SHOEBRIDGE: Was that a better system?

Mr PEZZANO: It had some faults. There were some issues that came about in having inmates out of cells for that time—obviously security issues, once again.

The Hon. TREVOR KHAN: I remember I had a client who was charged with an escape, which he got off, surprisingly. He was a very long-term prisoner. One of his brothers used to play for St George, in fact. He made the point that in the latter years of his imprisonment, prison was not as much fun as it used to be. It was a lot tougher, there were more ethnic-related gangs and it was a much more dangerous environment he was living in than when he was a younger man. Would that be your perception as well?

Mr PEZZANO: No. I would probably be the opposite of that. I would say later on in the years there is more cultural and ethnic background of inmates coming into the system and gang-related activities as opposed to when I started in the early 1980s it was your traditional tough inmate who came in, but they knew where they stood. They knew where they were in the, so to speak, pecking order in the system. Obviously there were no mobile phones. There were always issues with contraband but not to the extent that we have now.

The Hon. TREVOR KHAN: I think actually you probably agree.

The CHAIR: Yes, I think he does.

The Hon. TREVOR KHAN: I think you are describing what he was describing.

Mr DAVID SHOEBRIDGE: If we could go back to the mental issues and more broadly the adequacy of the services provided through Justice Health, what are your observations about that? I do not want to lead you in any direction, for once.

Mr PEZZANO: My observation when I was in the system—I had a very close relationship with Justice Health; we used to work very closely with Justice Health through the classification process. Number one, inmates had to be medically assessed, medically screened, and if they did have any indications of mental health issues we would ensure that they were referred to the psychiatrist, the mental health clinic, before they were classified and moved on. My involvement back then was that we worked well. The issue was there were so many inmates that came in with mental health issues.

Mr DAVID SHOEBRIDGE: For the people who have approached me inside and outside of this inquiry the issue is not about the competency of Justice Health; it is about the adequacy of resources and the numbers.

Mr PEZZANO: Absolutely.

Mr DAVID SHOEBRIDGE: Is that the issue that you found?

Mr PEZZANO: Yes, absolutely.

Mr DAVID SHOEBRIDGE: Particularly for mental health services, one of the other aspects about the New South Wales prison system is that a number of people who are detained for forensic mental health reasons—they have a detention order because of their mental illness, and that may have come about through a criminal justice procedure, they were charged with a crime and were found to have a mental health condition that meant they could not plead—are being held within New South Wales prisons and not in secure mental health facilities. Do you have any knowledge of that?

Mr PEZZANO: My working relationships, particularly when I was at Long Bay when we used to have the Long Bay Hospital and forensic patients—

Mr DAVID SHOEBRIDGE: That is the facility where it is most apparent.

Mr PEZZANO: Yes. Then there was a terminology that came in with correctional patients—and I understand that the Committee has Mr Forrest following me—he is from Justice Health and he is the professional. But my involvement was that, depending on their assessment and if they were deemed to be a correctional patient, until they were assessed and until they were managed on medication then they would remain within that mental health facility. If they were deemed to be a forensic patient they would be detained in the forensic hospital.

The Hon. LYNDA VOLTZ: If they were receiving their treatment would they then be put into general population?

Mr PEZZANO: Yes. Once they have been cleared and their imprisonment status has gone from correctional patient just to a normal imprisonment status then they are medicated and managed by Justice Health within the system.

The Hon. LYNDA VOLTZ: Are they in single-bed rooms or will they go in and share?

Mr PEZZANO: Once again Justice Health have a process with Corrective Services where they assess inmates. Depending on the health notification form they will determine whether an inmate has to remain one-out or two-out due to their medical health status. That is predominantly what it is. Obviously there is a security aspect if an inmate has to remain one-out because of security concerns, but otherwise the organisation works closely with Justice Health to determine if an inmate can be accommodated in a dormitory, for instance, now, a one-out cell, or if he must remain two-out.

The Hon. LYNDA VOLTZ: What do you do if you are at a facility like Junee where it is at capacity and you do not necessarily have a single cell available? Is someone shifted from their single-bed facility to put this person in?

Mr PEZZANO: Yes, absolutely. If the justice notification or security assessment is that that inmate has to remain one-out, he has to be placed one-out. It might be a two-out bed cell and unfortunately you lose that second bed.

The DEPUTY CHAIR: Mr Pezzano, thank you very much for your evidence. We have unfortunately run out of time.

Mr PEZZANO: That was quick.

The DEPUTY CHAIR: Yes, it was.

The Hon. TREVOR KHAN: But very informative.

The DEPUTY CHAIR: I do not think you took any questions on notice.

Mr PEZZANO: No, I have not.

The DEPUTY CHAIR: Thank you for your evidence today and the assistance you provided the Committee more generally.

Mr PEZZANO: I just want to reiterate that the 2009 inquiry was put in place. I just hope that some of the recommendations out of this inquiry hold weight because we would not be here today if some of those 2009 recommendations had been adopted.

The DEPUTY CHAIR: And you have pointed to two of those in another place.

Mr PEZZANO: Yes.

The DEPUTY CHAIR: If you have any additional matters you think we have not addressed, you would be welcome to address that to us in writing within 10 days. Thank you.

(The witness withdrew)

GARY FORREST, Chief Executive, Justice Health and Forensic Mental Health Network, NSW Health, affirmed and examined

The DEPUTY CHAIR: Mr Forrest, do you have a brief opening statement?

Mr FORREST: Yes, thank you. I thank the Committee for allowing me the opportunity to present here today. The network is responsible for the delivery of health care to adults and young people in contact with the criminal justice and forensic mental health systems across New South Wales. Justice Health has continuously provided health services at Parklea Correctional Centre from its opening in 1983 as a public prison and since its security operations were transferred to the private sector run by the GEO Group Australia in October 2009. Parklea has been the only public health and private security model in operation in New South Wales. This model will cease on 1 April 2019 when Management and Training Corporation, or MTC, and Broadspectrum take over all operations, health and security at Parklea Correctional Centre.

The successful tender was recently announced by the New South Wales Government on 20 September 2018. The network is well positioned to respond to the health needs of patients who commonly have had minimal contact with mainstream health services in the community. As noted in the Corrective Services NSW submission to this inquiry, Parklea has experienced significant population growth since the time GEO commenced its operational management in October 2009. The maximum security patient population has grown from a daily average of 634 in 2009-10 to 906 in 2016-17. That equates to about a 4 per cent increase per year. As part of the Government's building Better Prisons program, Parklea has seen a further expansion with Area 4, which is the minimum security, opening in December 2017 and which currently houses 210 patients.

Further expansion of the centre continues but will not be completed until after 31 March 2019. The network works hard with both Corrective Services NSW and the GEO Group to meet the increased and complex patient demands for services at Parklea. The network has a current staffing profile of 32.8 full-time equivalents [FTE], and this includes 16 permanent employees, 13 temporary employees, 14 long-term agency staff and five regular casuals. It is important to note that all deployments continue to be filled despite ongoing vacancies.

The network health service provision at Parklea Correctional Centre in 2017-18 includes approximately 2,500 new receptions. That is up by almost 150 per cent since 2012-13, when new receptions were just under 1,000. We have seen an increase over the past five years of 50 per cent in general practitioner appointments, a 30 per cent increase in primary care nursing appointments, a 30 per cent increase in drug and alcohol nurse appointments, a 50 per cent increase in drug and alcohol doctor appointments, and a 300 per cent increase in mental health nurse appointments.

In 2016, there were four deaths in custody, in 2017, there were six, and there has been one in 2018 to date. Of the 11 deaths in custody, seven were by suicide, one patient died of endocarditis, one patient died of sepsis, one death occurred while the patient was undergoing detoxification, and one death occurred as a result of a cerebral aneurysm. There were six serious incidents. Three were due to self-harm that required hospitalisation and surgical intervention; two were due to self-harm that required hospitalisation; and one was due to an assault that required hospitalisation and surgical intervention.

In relation to hospital transfers, the network holds significant data on the number of patients transferred from Parklea to the local health district hospitals. I am able to provide all of this information should the Committee require it, but I will provide a brief summary now. For example, in the period from November 2011 until August 2017, 1,488 patients were transferred to Blacktown Hospital, 220 patients were transferred to Westmead Hospital, and 96 patients were transferred to Nepean Hospital. It is important to note that inmate presentations across the State account for less than 1 per cent of the total emergency department presentations. The reasons that patients are sent out from the corrections environment usually involve, but are not limited to, cardiovascular issues, injury from fracture or dislocation, self-harm issues, injuries from an assault or overdose, and intoxication.

When the network reviews this data across the State—and Parklea data is no different—approximately 50 per cent of patients who are sent out are sent as a result of suicide or self-harm, assaults or overdoses, or secretion of contraband. Approximately 30 per cent of patients transferred to public hospital emergency departments are admitted. When we review that data and compare it to the Bureau of Health Information data for admission for the general public, it is exactly the same. These examples illustrate the complexity of the patient cohort at Parklea and the network's highly trained, skilled and professional workforce who are delivering health services.

As the Committee is aware, there are two rapid-build prisons in New South Wales at Macquarie and Hunter. The main issues identified with the rapid-build, open-dormitory-style prison from a health perspective are the lack of dental facilities, and there are some environmental factors. The two rapid-build centres do not have

any dental facilities that would ordinarily be in place. The network was able to engage a dental van operated by the Royal Flying Doctor Service to service Macquarie. At the Hunter Correctional Centre the patients need to be transferred to the Shortland Correctional Centre.

An environmental health assessment has been undertaken, and some environmental factors were identified in the report. I am happy to provide that should the Committee wish. The main consideration from a health perspective is to manage communicable diseases and transfers, and to prevent outbreaks from occurring. To date, Justice Health has worked closely with Corrective Services NSW to manage that environmental health risk. The network staff are actively working with Corrective Services NSW staff to address the concerns identified during the health assessment of the two rapid-build prisons.

The Hon. LYNDA VOLTZ: You said there were seven deaths from suicide. Were any of them the result of overdoses?

Mr FORREST: Separate from the seven deaths, there was one from detoxification. That was a patient who was withdrawing from drugs and alcohol rather than intoxication.

The Hon. LYNDA VOLTZ: So that was not an overdose?

Mr FORREST: No, it was a withdrawal from drugs.

The Hon. LYNDA VOLTZ: So none of the seven were from overdoses?

Mr FORREST: No, that is correct.

Mr DAVID SHOEBRIDGE: Someone died from withdrawal.

Mr FORREST: From drugs and alcohol; that is correct.

Mr DAVID SHOEBRIDGE: Is it not the job of Justice Health to ensure that someone does not die when they go through withdrawal?

Mr FORREST: That is absolutely correct.

Mr DAVID SHOEBRIDGE: How did that happen?

Mr FORREST: The patient was housed in the clinic observation cell. The Justice Health staff nurses on duty failed to implement the drug and alcohol treatment plan provided by the drug and alcohol doctor. An investigation was undertaken by Justice Health of all the staff on both the evening and afternoon shifts. Three of the staff members were suspended on pay and terminated as a result of their failure to provide adequate patient care. A first and final warning was issued to one of the other staff members and some licence restrictions were put on the other staff members. The death occurred on 7 December 2017, so the matter is yet to go before the coroner. Justice Health has taken the necessary steps in response to the shortcomings of the staff on duty.

Mr DAVID SHOEBRIDGE: Has the family been advised of the steps that have been taken against the staff members?

Mr FORREST: Yes, it has. As part of NSW Health policy, Justice Health undertakes open disclosure. We have provided some early information to the family members.

Mr DAVID SHOEBRIDGE: Did you provide any public information about these identified failures?

Mr FORREST: Nothing that has gone to the media. It has certainly been briefed up to the Ministry of Health and to the Minister's office.

The Hon. LYNDA VOLTZ: Is that the Minister for Corrections?

Mr FORREST: No, the Minister for Health.

Mr DAVID SHOEBRIDGE: That was the Justice Health response?

Mr FORREST: Yes.

Mr DAVID SHOEBRIDGE: And that was on 7 December last year?

Mr FORREST: That is correct, 7 December 2017.

Mr DAVID SHOEBRIDGE: There was a death in custody on 1 September this year. Are you aware of that?

Mr FORREST: At Parklea?

Mr DAVID SHOEBRIDGE: No, at the Outer Metropolitan Multi-Purpose Correctional Centre.

Mr FORREST: That is a different centre. Yes, I am aware of that death.

Mr DAVID SHOEBRIDGE: Are you aware of the concerns that the death followed a request for medical assistance and that that request was not responded to in a timely fashion? Are you aware of those concerns?

Mr FORREST: That information is not correct. Action was taken as soon as Justice Health was made aware of it—it occurred late at night; at about 11.00 p.m. Our staffing for the entire Windsor complex—that is, Dillwynia Correctional Centre, John Morony Correctional Centre, and the Outer Metropolitan Multi-Purpose Centre—is serviced by a registered nurse located at the Dillwynia Correctional Centre. The time from when the nurse was notified until she arrived at the Outer Metropolitan Multi-Purpose Centre was 15 minutes. That is a reasonable response time. In the meantime, the patient had become unconscious. When the nurse arrived at the gatehouse and was informed of that, she asked Corrective Services NSW to call an ambulance, and that was done. When the nurse arrived, she commenced resuscitation.

Mr DAVID SHOEBRIDGE: How long after the notification did the nurse arrive at the patient?

Mr FORREST: She arrived 15 minutes after.

Mr DAVID SHOEBRIDGE: No, you said that she was at the gatehouse after 15 minutes.

Mr FORREST: Yes, and it was a very short time after that before the nurse got into the correctional centre.

Mr DAVID SHOEBRIDGE: The reports I have are that there was a 40 minute delay. Are you saying they are wrong?

Mr FORREST: That is incorrect from the information that I have.

Mr DAVID SHOEBRIDGE: And it was a 36-year-old Aboriginal man?

Mr FORREST: That is correct, yes.

Mr DAVID SHOEBRIDGE: Was it true that the prisoner had a severe asthma attack and that there was not adequate medication to address his asthma?

Mr FORREST: We do not have the results from the Coroner. However, the information we received was that the patient was having trouble breathing. The patient did have a pre-existing asthma condition and had the appropriate medication provided to him. At this stage it is unclear whether asthma was the direct cause of death, though it is certainly a likely cause of death. We will wait until we get the results from the Coroner.

Mr DAVID SHOEBRIDGE: What do you say to the proposition that has been raised with me that there was an inadequate response to this 36-year-old Aboriginal man's medical condition?

Mr FORREST: Are you talking prior to him having the asthma attack?

Mr DAVID SHOEBRIDGE: Following from the notification, or the attempted notification at least.

Mr FORREST: The information that I have received is that the patient was receiving appropriate asthma management care. From the moment that the patient identified he was having trouble breathing and the nurse was identified at Dillwynia it was a 15-minute period before the nurse got to the patient. There was an assessment undertaken. CPR was commenced. The defibrillator was applied and the defibrillator indicated that that patient's heart rhythm was in asystole. The likelihood of resuscitating somebody who is in asystole is extremely low. The officers performed CPR until the ambulance arrived and, unfortunately, the patient was not able to be resuscitated.

Mr DAVID SHOEBRIDGE: What was the rationale for not having medical staff at the facility and only having medical staff a 15-minute travel time away?

Mr FORREST: A review was undertaken of all of the activity data that occurs once the prisoners have been locked down for the evening. The activity across the State is extremely low. We would quite often have a nurse sitting on duty that would not have any patients that they needed to attend. That review was done—I would be guessing but it was probably about at least five, seven or 10 years ago and Justice Health then reduced staffing and just provided staffing on a complex-wide basis. We have a night staff nurse at the Long Bay complex that services all of the areas. We have a night nurse at the Metropolitan Remand and Reception Centre [MRRC], a night nurse at the Silverwater Women's Correctional Centre that also services Dawn de Loas. We have a night nurse at Parklea and a night nurse at the Windsor complex.

The Hon. TREVOR KHAN: It was put to you that the nurse was 15 minutes away. Is it your evidence that from notification to being at the patient was 15 minutes?

Mr FORREST: That is my understanding.

Mr DAVID SHOEBRIDGE: I thought your evidence was to the gatehouse.

Mr FORREST: Well, the gatehouse and then shortly after to the patient. It does not take much—

Mr DAVID SHOEBRIDGE: Yes, but from notification to the gatehouse was 15 minutes?

Mr FORREST: That is correct.

Mr DAVID SHOEBRIDGE: You did not give a precise time for being at the patient.

Mr FORREST: No.

Mr DAVID SHOEBRIDGE: Could you give that on notice?

Mr FORREST: The distance from the gatehouse to the patient is only a very short distance in the Outer Metropolitan, so it should not have been too much longer. The nurse would have been provided with unfettered access getting through the gatehouse.

Mr DAVID SHOEBRIDGE: But up until seven years ago there was a nurse at each of the facilities and there would have been a nurse who did not have a 15-minute delay in getting there up until seven years ago when this rationalisation was undertaken. Is that right?

Mr FORREST: That is correct, yes, but the information in relation to the patient was that the patient presented with an asystole heart rhythm and, regardless of whether there was a nurse present on the site or whether there was a nurse 15 minutes away, the likelihood of a successful resuscitation of a patient with that heart rhythm is extremely low.

Mr DAVID SHOEBRIDGE: But you do not know when that rhythm commenced—if it was a response to a severe asthma attack which if it had been dealt with earlier may not have got to that point?

Mr FORREST: Sure, I would accept that that is a reasonable argument.

The Hon. TREVOR KHAN: You do not know at this stage whether it was an asthma attack that unfortunately led to the man passing way.

Mr FORREST: That is correct.

The Hon. LYNDIA VOLTZ: Your proposition was that he did have his medication on his person?

Mr FORREST: That is correct. From the information that I have received, the person was assessed as having asthma by a medical officer and had been provided with an appropriate asthma management plan and treatment.

The Hon. LYNDIA VOLTZ: Yes, but I think the question was whether he had medication on his person at the time that he could access. As part of the review that has been undertaken, was it ascertained that he had access to his medication?

Mr FORREST: That is correct from my understanding. As part of any death in custody Justice Health undertakes a root cause analysis. We would look at the information in detail and absolutely be certain that the asthma management plan was followed, that the patient had access to both a preventer and a symptom reliever, which is part of a usual asthma management plan—and at this early stage I am advised that that was present—and whether there was anything further that should have been done or could have been done in order to either prevent the incident from occurring or to prevent the outcome from being a death.

Mr DAVID SHOEBRIDGE: If you could provide us with any further details on notice, that would be appreciated.

Mr FORREST: I will need to take that on notice because root cause analysis findings are normally privileged documents. I would need to get some advice from the ministry about whether I can furnish that.

Mr DAVID SHOEBRIDGE: You can take it on notice.

The Hon. LYNDIA VOLTZ: You also said there had been a number of hospitalisations for drug overdoses at Parklea. Approximately how many were there over that period?

Mr FORREST: If I look at the last calendar year from August 2017 to August 2018, there does not appear to be any on that chart. Let me just go to the more detailed document.

The Hon. LYNDA VOLTZ: You can take that part on notice.

Mr FORREST: I have the information here if you would like it now. The table that I have in front of me is 17 November 2011 to August 2018, so it is a much longer period of time. Over that period of time we have had 61 recorded occasions where there has been overdose or intoxication.

The Hon. TREVOR KHAN: Returning to the asthma death, it just struck me when you gave your evidence that you indicated that the nurse arrived at the gatehouse—I think was the description—and was advised that the patient was unconscious.

Mr FORREST: Unconscious at that stage.

The Hon. TREVOR KHAN: Therefore, she directed that an ambulance be called. Is that your evidence?

Mr FORREST: That is correct.

The Hon. TREVOR KHAN: I am not being critical of you or the nurse in that regard. Let me ask you this: What is the protocol that exists in our jails when a prisoner is found unconscious?

Mr FORREST: The prisoner, as I understand it, or the patient, as I understand it, was not unconscious when the Corrective Services staff called the nurse from Dillwynia but certainly when the nurse arrived and was going through the gatehouse the nurse was notified that the patient was now unconscious. It would be usual protocol for Corrective Services to call an ambulance prior to being instructed.

The Hon. TREVOR KHAN: Do you know if that is in fact a direction that is given? We will obviously have Commissioner Severin here this afternoon. It would not be normal to wait for a nurse, would it, to require the calling of an ambulance?

Mr FORREST: That is correct. There is not a nurse at every correctional centre 24 hours a day and there are protocols in place to call ambulances for specific conditions such as a person has chest pain, a person is unconscious or a person is having an epileptic seizure, for example.

The Hon. TREVOR KHAN: Are you able to explain why on this occasion the direction appears to have been given by the nurse to call the ambulance?

Mr FORREST: No, I think that is something that you would need to put to Corrective Services. I am sure that will form part of their investigation.

Mr DAVID SHOEBRIDGE: Is it true, though, that the prison officers on the site were taking the prisoner from the cell to the clinic while this was happening?

Mr FORREST: That is correct. At that stage the patient was still conscious and was able to be moved from the cell.

Mr DAVID SHOEBRIDGE: Was the patient complaining of chest pains?

Mr FORREST: I do not have that information, I am sorry.

Mr DAVID SHOEBRIDGE: Again, it would assist if you could provide it on notice.

The Hon. TREVOR KHAN: It is obviously a concerning incident. I do not think anyone would treat it lightly, and I am not suggesting anyone did. But I take it from what you say that the prison officers were attempting to get the patient whilst conscious to the clinic. Is that right?

Mr FORREST: Yes.

The Hon. TREVOR KHAN: And it was during that transfer when the patient lapsed into unconsciousness. Is that right?

Mr FORREST: That is correct.

The Hon. TREVOR KHAN: So that when the patient was seen by the nurse first off, the patient was unconscious?

Mr FORREST: That is correct.

The Hon. TREVOR KHAN: And in the clinic?

Mr FORREST: I do not know whether the patient was actually in the clinic. I cannot confirm that.

The Hon. TREVOR KHAN: Do you know if any resuscitation had started before the nurse arrived?

Mr FORREST: Again, I do not have that information but the information that I know from when the nurse arrived is that resuscitation was commenced by the nurse and the Corrective Services officer at that time.

The Hon. TREVOR KHAN: But we cannot draw a conclusion one way or the other?

Mr FORREST: Not at this stage, no. That will be the subject of the investigation.

The Hon. LYNDA VOLTZ: In regard to the death at Parklea in December 2017, you report all deaths to the inspector of Corrective Services, is that correct?

Mr FORREST: No, that is not correct. Because I work for NSW Health all deaths would be subject to a coronial inquiry. We would normally brief NSW Health up regarding the incident. There will be a root cause analysis undertaken, we will prepare for the coronial proceeding and then during the coronial proceeding we will keep the NSW Health legal branch up to date.

Mr DAVID SHOEBRIDGE: I am sorry, Mr Forrest, there was one issue that has not been addressed about that tragic death in custody. Your evidence is that from the time Justice Health was notified it was 15 minutes for the nurse to get to the gatehouse and then, soon after, to attend the patient.

Mr FORREST: That is correct.

Mr DAVID SHOEBRIDGE: Do you have any knowledge about how long it was between when the inmate and/or fellow inmates sought medical intervention or assistance and the time at which Justice Health was notified?

Mr FORREST: No, I do not have that information but again that will form part of our investigation.

Mr DAVID SHOEBRIDGE: I just want to put this proposition to you clearly. There have been multiple reports, including those received from my office, that that delay was in the order of 20 to 40 minutes before a Justice Health call was made—before the correctional officers attended and then sought medical intervention. Are you aware of anything or any suggestion that there was a delay?

Mr FORREST: I am not suggesting there was a delay. The information that I have is only about the response in relation to the nurse's time to arrive at the Outer Metropolitan Multi-Purpose Correctional Centre. Anything that happened prior to that would be best directed to Corrective Services.

The Hon. LYNDA VOLTZ: Has Justice Health ever undertaken briefings to the Inspector of Corrective Services in regard to deaths in custody?

Mr FORREST: Can I just clarify—are you talking about the Commission of Corrective Services or the Inspector of Custodial Services?

The Hon. LYNDA VOLTZ: The Inspector of Custodial Services.

Mr FORREST: The Inspector of Custodial Services undertakes her monitoring-auditing program. I heard her evidence before. Part of the recommendations for those various audits will entail Justice Health being able to respond to certain recommendations. So we provide a report on progress of those recommendations through to the Inspector of Custodial Services. So there is no communication in relation to any deaths in custody that go through to the Inspector.

The Hon. TREVOR KHAN: Can I just ask a question?

The Hon. LYNDA VOLTZ: Yes, go on.

The Hon. TREVOR KHAN: I am looking at the powers of the inspector, under section 7. It gives the power to the inspector so that he/she "may require custodial centre staff members to supply information" et cetera. Are your officers deemed custodial centre staff?

Mr FORREST: It would be unusual for that terminology to be used.

The Hon. TREVOR KHAN: That is what struck me.

Mr FORREST: Without knowing the specifics and the legal interpretation of that definition, I would assume that that is Corrective Services staff. Justice Health staff would be referred to as "health centre staff".

The Hon. TREVOR KHAN: Yes. In the definition it says:

custodial centre staff member means any person employed or engaged to provide custodial services ...

Your people are not.

Mr FORREST: That is correct.

The Hon. LYNDA VOLTZ: Can you recall—you can take this on notice—whether the Inspector of Custodial Service has ever requested any documentation from Justice Health?

Mr FORREST: In relation to deaths in custody in particular?

The Hon. LYNDA VOLTZ: With regard to Corrective Services at all.

Mr FORREST: There is a current review that is being undertaken by the Inspector of Custodial Services regarding inmate patient access to health care. That is an important interface between the custodial arm and the health arm. The inspector has asked Justice Health to provide a whole lot of data in relation to that report.

The Hon. LYNDA VOLTZ: Into that report, but—

Mr FORREST: In regard to previous reports we have provided information in relation to Poole House. We have provided information in relation to "Old and inside". We have not provided information, necessarily, on the radicalisation one. There was a couple of others that were very specific to Corrective Services.

The Hon. LYNDA VOLTZ: So you have provided information at request when a report has been undertaken?

Mr FORREST: Upon request, that is correct.

The Hon. LYNDA VOLTZ: With regard to the 61 drug overdoses—I do not know whether you have the figures there—how many were from contraband and how many would have possibly been from prescription medication that that they had received within the prison system?

Mr FORREST: I do not have that information, and I am unsure whether our information would be that detailed, because we would just respond to an overdose. We would not necessarily know the circumstances around where the medication came from—whether it was illegally secreted contraband or prescription medication.

Mr DAVID SHOEBRIDGE: Or even unlawfully obtained prescription medication—

Mr FORREST: Absolutely.

Mr DAVID SHOEBRIDGE: —which is where complications happen.

The Hon. LYNDA VOLTZ: Yes. That is fine.

Mr FORREST: We would not have that information.

The Hon. LYNDA VOLTZ: What about whether they were suicide attempts?

Mr FORREST: Because the overdose did not result in death there would not be any information to make the link between whether the overdose was an overdose with the intention to take somebody's life, or whether it was an accidental overdose by somebody who took a little bit too much of the drug.

Mr DAVID SHOEBRIDGE: But as the health provider surely you would have to investigate that. You are there to provide health services and—

Mr FORREST: That is not the sort of information that we are able to obtain as part of our investigation into the incident.

Mr DAVID SHOEBRIDGE: But if you are not looking at that, you are potentially missing a major part of your obligation in providing essential services.

Mr FORREST: But—

Mr DAVID SHOEBRIDGE: If it is an attempted self-harm and you just simply treat it as an accidental—

The Hon. TREVOR KHAN: Let him answer .

Mr DAVID SHOEBRIDGE: They are quite different.

Mr FORREST: I need to be clear that the role of Justice Health is not to manage the inflow of contraband or illegal medication into the prison system. That sits clearly on the custodial side.

The Hon. TREVOR KHAN: We would all agree with that.

Mr FORREST: Justice Health's responsibility—

Mr DAVID SHOEBRIDGE: I am talking about a suicide attempt.

Mr FORREST: —is to manage the health care associated with that. If there is a relationship that we can make between medication coming into the prison system we would certainly provide that information to Corrective Services but that does not normally form part of our investigation.

Mr DAVID SHOEBRIDGE: I think—it is probably my fault—you have missed the intent of my question. If a prisoner has taken an overdose deliberately in order to end their life, in order to properly treat the prisoner you would have to know whether or not it was a deliberate intention because you would have to deal with the underlying mental health issue. If you are not looking at that question you are not going to address the underlying mental health issue.

Mr FORREST: Maybe I can explain it in a different way. We would take an overdose in a correctional centre as a serious incident. If it did not result in death, because it did not result in death we would not undertake a root cause analysis but we would do a separate investigation which would be a serious incident review. As part of that investigation we may have some details that might relate to the circumstances surrounding the overdose. I would be happy to have a look at whether the 61 overdoses ended up getting a serious incident review undertaken.

Mr DAVID SHOEBRIDGE: Yes, and whether or not any of that picked up concerns about intentional self-harm.

Mr FORREST: Sure.

The Hon. LYNDA VOLTZ: Or, more, importantly whether it had the capacity to pick up whether they were self-harming. You may have been here earlier when we heard from Mr Pezzano, who said there is a requirement for people with mental health issues to be in a single cell. Are you encountering any problems—

The Hon. TREVOR KHAN: No, I do not think that was it. It may be that somebody with a mental health issue is in a two-up place.

Mr DAVID SHOEBRIDGE: Yes, but they are in a cell by themselves.

The Hon. TREVOR KHAN: No.

The Hon. LYNDA VOLTZ: No, that was his evidence, Trevor.

Mr DAVID SHOEBRIDGE: The evidence was that if the person was in a two-up then the other prisoner was vacated and that created a management problem.

The Hon. LYNDA VOLTZ: Yes, you lost your capacity in the jail.

The Hon. SCOTT FARLOW: I do not believe that that was the case. From what we saw at Parklea in the first instance, I know that there was some discussion about individuals, for safety concerns—

The Hon. TREVOR KHAN: There are some prisoners that are put two up—

The Hon. LYNDA VOLTZ: Let me just ask the question.

Mr FORREST: Maybe I can answer the question, and that might put some context to it. Justice Health will assess any patient that comes into custody, and make a recommendation to Corrective Services or the private operator regarding cell placement. In patients who have a mental illness a patient may require to be placed into a single cell—a one-out cell placement. If that patient goes into a cell with two beds and requires a one-out cell placement, the second bed is lost. The circumstances where Justice Health would make a single cell recommendation for somebody with a mental illness is where we would feel that the association with another person may inflame their mental illness and make the mental illness worse, or that they may pose a harm risk to the other person. We would make a single-cell recommendation on that basis.

We would make a two-out cell recommendation for patients with mental illness if we believe that the person was at significant risk of suicide self-harm. Having an additional person in the cell might be a protective factor. Patients who are placed on mandatory notifications and managed by the risk intervention team may transition from being in a safe cell—a cameraed cell—to a two-out cell environment with a person as a protective factor. Does that answer your question?

The Hon. LYNDA VOLTZ: That answers my question. There was a recent case, which you may be aware of, of an inmate who was killed with a sandwich maker by someone they were in a cell with. I am wondering about the differentiation between people with personality disorders and people with mental illnesses, and whether there is an underlying psychosis that places a person in a mental illness area as opposed to a personality disorder area. Is Justice Health able to deal with people with personality disorders? As you know, those personality disorders could be because of underlying previous drug use. In that case, had that person been assessed by Justice

Health, given the history of that person's crime in the first instance? You may or may not be able to provide us with an answer.

Mr FORREST: In the circumstances that you are talking about with the incident of the inmate being murdered with a sandwich press, those were two elderly inmates. They were both in the Kevin Waller unit and were certainly over the age of 70—I cannot remember their exact ages. One older inmate assaulted another older inmate, and both of the inmates had been treated and risk-assessed by Justice Health as part of their care as they progressed through the correctional system. They had been identified as suitable placements in the Kevin Waller unit. For placements in the Kevin Waller unit, the cells are two-out cells. The patients were placed together, and the health problem notification form that Justice Health provided to Corrective Services identified that both patients could have normal cell placements. There was no indication that the offender in that instance presented any significant security or health risk to be placed with another offender.

In relation to your question about dealing with personality disorders, it is absolutely true that there is a correlation between personality disorder and mental illness. Justice Health will manage both of those components; however, the personality disorder and the behavioural component is sometimes better managed by a psychologist, and they are employed by Corrective Services. There is a behavioural management unit specifically for people with a severe and enduring personality disorder who might self-harm. That unit sits under Corrective Services.

Mr DAVID SHOEBRIDGE: Are you aware of the policy position statement from the Royal Australian and New Zealand College of Psychiatrists in November 2017 on involuntary mental health treatment in custody?

Mr FORREST: Yes, I am.

Mr DAVID SHOEBRIDGE: Are you aware that the college opposes the use of involuntary mental health treatment in custodial settings and says if a person experiences psychiatric symptoms so severe that involuntary treatment is necessary, the college believes that the prisoner should be transferred to receive treatment in hospital?

Mr FORREST: Yes, I am aware of that.

Mr DAVID SHOEBRIDGE: You would be aware, of course, that the New South Wales corrections system does not comply with that policy position.

Mr FORREST: That is correct. When you say "does not comply", it is not a policy position that we are not complying with; it is a capacity issue position. In the ideal situation, absolutely people with mental illness who require enforced treatment should not have that treatment provided in the corrections environment. The reality is that we do not have enough beds in the forensic mental health system or in the mental health system more broadly to manage those sorts of patients. In the absence of having suitable beds to place patients in, if we did not provide involuntary treatment in the corrections environment we would have somebody whose mental illness would go for an extremely long period of time untreated. To Justice Health clinicians that is not a position that we would like to support.

Mr DAVID SHOEBRIDGE: But those were the circumstances in which David Dungay found himself, and we saw the tragic consequences there. Within the prison system you can provide the same level of care as is provided in the hospital system. That is true, is it not?

Mr FORREST: We provide a different level of care in prisons—

Mr DAVID SHOEBRIDGE: A lower level of care.

Mr FORREST: I would not say a lower level; no, I would disagree with that. I think we provide a different care. We are constrained by the prison environment and the prison routine—absolutely, there is no disagreement about that. But the psychiatrists who work in the corrections environment also work in the forensic mental health environment. There is no difference in the calibre or quality of care that patients are receiving.

Mr DAVID SHOEBRIDGE: How much of the \$3.8 billion in additional spend on new and expanded prison facilities is being spent to expand forensic facilities, so that we can move patients out of prisons and put them into hospital when we need to?

The Hon. TREVOR KHAN: Mr Forrest works for the Department of Health; he does not work for Corrective Services.

Mr DAVID SHOEBRIDGE: He can answer the question.

Mr FORREST: I am very happy to answer the question. The \$3.8 billion is allocated to Corrective Services, so it is not Health money; it is Justice money. Minister Davies announced a \$700 million allocation for mental health infrastructure across the State.

Mr DAVID SHOEBRIDGE: How much of that is going to provide additional forensic health beds?

Mr FORREST: I do not have that detail at this point in time. There are business cases that are being submitted through government health infrastructure to expand the forensic mental health and mental health systems across the State with the \$700 million.

Mr DAVID SHOEBRIDGE: Can you provide us on notice with the number of patients held in correctional facilities who have been receiving involuntary treatment over the past 12 months?

Mr FORREST: Certainly. I can tell you that there are approximately 60 forensic patients who are currently placed in the prison environment who have an order either to be detained in the prison environment until there is a bed or have a time limit or order to move them into the forensic hospital.

Mr DAVID SHOEBRIDGE: Please give us some historical data over the past five years.

Mr FORREST: Certainly.

The Hon. LYNDA VOLTZ: Getting back to the clinical psychologists under Corrective Services, how do you interrelate the two mechanisms? Are the clinical psychologists notifying Justice Health when they take on patients with personality disorders?

Mr FORREST: There is a close working relationship between Justice Health and mental health staff—mental health nurses, psychiatrists and the Corrective Services psychology team. There is sharing of information. We have established a guideline to share information between the Justice Health staff and the Corrective Services staff in order to ensure that patients' mental health history is comprehensive. Quite often there is joint case management for patients who present with a severe and enduring mental illness who may have a complicating factor of personality disorder. We work closely with our counterparts in psychology.

The Hon. LYNDA VOLTZ: Would anyone who has taken a drug overdose automatically be referred for review by a psychologist, or is that decision subject to the centre itself?

Mr FORREST: Again, I am assuming that you are talking about when that person took the overdose with the intent of taking their life. In that instance, there would be a mandatory notification undertaken. The risk intervention team would be formed and that would consist of a Corrective Services psychology or welfare officer and a Justice Health mental health nurse. In those sorts of circumstances where there is a self-harm event by overdose then a mandatory notification and a risk intervention team would manage the patient.

Mr DAVID SHOEBRIDGE: In your answers on notice, could you provide what proportion of forensic mental health detainees in the custodial setting are Aboriginal or Torres Strait Islander?

Mr FORREST: Yes.

The CHAIR: Thank you very much for coming. I note you have taken some questions on notice. You will have 10 days to respond to them, and the secretariat will be in contact with you.

(The witness withdrew)

(Luncheon adjournment)

JANE ANDREW, Associate Professor—Accounting, University of Wollongong, before the Committee via teleconference, affirmed and examined

MAX BAKER, Senior Lecturer—Accounting, University of Sydney Business School, University of Sydney, before the Committee via teleconference, affirmed and examined

The CHAIR: Thank you for appearing before the Committee. Would you like to make a short opening statement?

Associate Professor ANDREW: Yes, we would. I will do that. Prison privatisation in Australia has been promoted as a policy alternative using three primary arguments. These relate to claims that privatisation will deliver greater public accountability, reduce costs and improve performance. Drawing on our research, our submission to the inquiry considered those three claims and we would like to highlight some of our findings to the Committee before we start having conversations with each other. First, public accountability has not improved as a result of privatisation in New South Wales. While the contracts are now in the public domain, all of the key information has been redacted so there is no way to properly interrogate the appropriateness of these or the prisons' performance in relation to them. It is also impossible to determine whether the abatements or payments within the prisons are appropriate.

In addition, while there is much talk of monitoring, it was impossible for us get an accurate picture of the role of the monitors in the prisons, including the amount of time they spend there and with whom. Further, any reports produced by the monitors is quarantined from the public view. The annual reports to the Department of Corrective Services [DCS] provided no detailed information and the oversight provided by the Ombudsman and the Audit Office is limited. In every way, the claim that privatisation would improve public accountability can be refuted. We believe that it is reasonable to ask why this is the case. If privatisation delivers, why does it have to be shrouded in secrecy? Second, as accounting academics, we are well placed to analyse the claim that privatisation will push down the cost, but again we felt very frustrated by the lack of information in the public domain. This is unacceptable because it is public money and should be open to scrutiny. Most States produce costs per prisoner per day comparators to show the relative differences among the cost of delivery across the sector.

While we do not have access to the estimates and assumptions that go into the production of those numbers, we are fairly confident that the cost per prisoner per day in private prisons is determined using the contract cost, and it is entirely unclear how departmental overheads are allocated across the sector more broadly. Our research across the nation suggests that the taxpayer routinely bears broader societal costs and that those are unevenly allocated between public and private jails when making the comparisons. This entirely distorts the costs data and routinely pushes down the appearance of costs for private prisons. There is a range of other cost-related issues, such as opaque costing methods, the use of different discount rates to compare the new private and public sector projects; and the cost of risk is not factored into the contracting process because they are risks that can never be fully transferred. In addition, previous evidence in this inquiry raised the cost of consultants that are increasingly used to determine the optimal shape of the market or to support the public sector's bid on contested contracts.

Given these are new and significant administrative costs associated directly with contestability—something that ultimately benefits the private sector—the costs should be allocated appropriately across the sector, but we doubt this is the case. All of this and other issues inflate the cost of the public delivery of presents and masks the true costs of privatisation. The general lack of cost-related information is entirely unacceptable. Lastly, while some performance measures are available to the public, information related to actual performance is not. There is no way for a reasonable person to assess the actual performance of these prisons—something we believe is entirely unacceptable. We are aware that New South Wales is currently engaged in a benchmarking process in an effort to address this. We have serious concerns about the internal consequences of benchmarks on practices within jails. Some of our more recent research has tracked the ways in which getting the report right has replaced any real interest in the actual conditions within jails.

In addition, there was also some discussion of the benefits of privatisation in terms of innovations in previous evidence given to the inquiry, but in New South Wales, as far as we are aware, the private contracts do not contain any performance-related bonuses for innovations or innovation transfer. Given the need to improve performance across the whole sector, the lack of outcome-oriented data seems particularly unjustifiable. In our submission, we made a number of recommendations to the inquiry that we think are reasonable and practical. It appears that the system is set up to produce a series of internal accountabilities that have never been subject to public scrutiny. This is perplexing, given that private prisons have been in operation in New South Wales since 2001 and elsewhere in Australia since 1990. That is all we want to say.

The CHAIR: I am sure you will have some more to say.

The Hon. LYNDIA VOLTZ: The first question is in regard to cost per prisoner per day and the idea of benchmarking. We have found that the differences in prisons probably leans us away from that type of model simply because prisons are operating on different models, such as the new pop-up dormitory style as opposed to Parklea where basically it is whoever comes in and turns up. They churn a lot of prisoners through there. Have you looked at those types of models and at how you could work out who was being the most efficient and had the greater efficacy?

Associate Professor ANDREW: Are you talking about how to benchmark effectively?

The Hon. LYNDIA VOLTZ: It is not just about the cost per day in privatisation; it is also benchmarking how many staff should go in and what type of prison you are operating. There is a whole range of complex variables within the model. I assume it is similar to what you are finding that it is difficult to benchmark in that way.

Dr BAKER: It is a hugely difficult task, especially in remands where it is extremely staff intensive and very expensive. There are transport costs, there are health on-costs, there are a whole bunch of rehabilitation costs that change in each of these different prisons on the basis of security levels and on the basis of whether they have got remand or women. We find that across the board a lot of those comparison reports that the Committee would have been reading as evidence for privatisation draw those connections, and they will draw it between a medium- security prison and a remand centre as they do in the Arthur Gorrie in the Queensland Auditor-General's report.

Part of our research is sort of showing how difficult that is and a lot of it too is whether the costs are indirect, at a higher level, a departmental level or happening. At what stage do we take it in as being a prison- related cost and at what stage is it a departmental level cost? One thing for sure is probably in the way that private prisons have been costing they have not taken their fair chunk of departmental costs. We should also keep in mind that there are a lot of new costs associated with privatisation such as the idea of contracting, using consulting services, legal services, to set up contestability frameworks and contracting arrangements. I am very doubtful whether these are allocated directly to private prisons only and logically you would assume they should be.

Mr DAVID SHOEBRIDGE: You may or may not have seen the evidence of Gary Sturgess when he presented his fairly positive view about privatisation, or contestability as it is called. I put to him your paper and then in answers on notice he gave a detailed response to your paper. Have you seen that history and the follow through?

Dr BAKER: Yes.

Associate Professor ANDREW: Yes, we have. We have only had a brief look at his response because we have obviously been busy with other things. One of the things that Dr Baker and I were thinking about is that there are lots of places where we agreed with Professor Sturgess—like there should be more information in the public domain.

Dr BAKER: In some States like Victoria the contestability model is going to be more difficult. I think he mentions that it may not even work, it is not likely, because of the build-own-operate-transfer [BOOT] structure and the long-term contracts they have there.

Associate Professor ANDREW: One of the things I guess is the sort of narrowing of the debate around contestability. The view that contestability leads to better outcomes I think is one that some people hold but others do not. I think if we look internationally there is a range of jurisdictions that have been incredibly successful without the need for prisons to compete with each other using benchmarks or whatever other kind of constructs and calculative practices that you might want to use as ways of representing jail performance. I think the fundamental note that contestability is an environment for improvement in performance whether it includes the private or public sector jails should be challenged because there is evidence definitely in Scandinavia, Norway and Sweden where they have purely state delivery of prisons that are very successful, very cheap and with low recidivism rates. I think that is where we would kind of disagree with Professor Sturgess.

Mr DAVID SHOEBRIDGE: His conclusion is interesting. He said he was not suggesting that competition is a panacea but he said:

It would be wrong to ignore the evidence published by a number of independent authorities across the Australian States indicating that contestability and contracting for prisons have generally been done well in this country resulting in lower costs and in some cases in better services.

Do you agree the evidence is that contracting and contestability for prisons has generally been done well in this country?

Associate Professor ANDREW: Based on our research—our research has been largely using data that is in the public domain, which is really, really constraining. We have also done a lot of research that involves interviewing people within the sector, which is slightly different. I would say, no, we would not agree with that, particularly the idea that it reduces costs. Primarily costs are made up of a series of estimates and assumptions and unless we can see what they are, we do not actually have any understanding of the claims. For instance, the latest Auditor-General's report in Victoria said that private jails were saving up to 20 per cent more than public sector jails. Dr Baker and I both did a sort of interrogation of that because they followed the money powers for the first time and again there was not enough data for us to be able to assess it. When someone says "up to 20 per cent" what does that actually mean? Does that mean 1 per cent? Does that mean 19.9 per cent? There was no really rich detailed classification of what those cost savings were in that report.

The Hon. TREVOR KHAN: You are not seriously suggesting that up to 20 per cent means 1 per cent, are you?

Associate Professor ANDREW: I am not saying that it does mean that but "up to 20 per cent" is very imprecise. We are accountants, we could look at that data and be able to—I would love to be able to look at it and say it is actually was 20 per cent cheaper. Even if that were the case, it would not necessarily say that privatisation is an appropriate response to policy dilemmas. I would still like to be able to see the data and I could not even in the report that used the Auditor-General's follow the money powers for the first time.

Mr DAVID SHOEBRIDGE: There has been some publishing of the Parklea contract; large parts of it are now published on the departmental website. What is missing? What do we need to see to actually have adequate information to compare private and public?

Associate Professor ANDREW: We do not have any of the information around performance-linked fees, the actual amount that has been paid or the abatements. I am just trying to think about Parklea's contract. I think a lot of the key performance indicators [KPIs] are actually missing in the redacted document, so you cannot even see what they are. I do not think it is just about what they should be doing—these contracts are about what they should be doing, right? They are set up to say, "This is what you should achieve. This is what the consequences are going to be if you do or do not achieve these things." We also need information about what they do do. So it is like performance outcome information not just KPIs that are critical for us to make any kind of assessment. My understanding is that a lot of that information is actually produced, it is in the department and it is circulated but it is not in the public domain.

Mr DAVID SHOEBRIDGE: In terms of getting best value and best outcomes for the public the Government made a decision in the retendering for Parklea to exclude the department from putting a tender in. Do you have any observations about that?

Associate Professor ANDREW: I am going to say two things about that. One is that I am really surprised that that contract has been re-signed before the findings of this inquiry have been settled—that surprised me, but that is an outsider's view. One of the things that I also thought was interesting in the audit report in Victoria was that they said that they did not put out the contracts for retendering because it was going to cost too much. So contestability works until it does not work, and in that case it meant the exclusion of the public tender. I do not know if that is the case in New South Wales but I think that is deeply concerning.

Dr BAKER: I believe that Broadspectrum won the contract?

Mr DAVID SHOEBRIDGE: As part of a team.

Dr BAKER: I think I am right in saying that this company has not had any experience in managing public sector works in this country before. Is that correct?

Mr DAVID SHOEBRIDGE: I think it has had some work with detention centres offshore.

The CHAIR: Broadspectrum is the old Transfield and they have had a lot of experience in managing and building large projects, engineering and all that sort of stuff, and delivering services.

Mr DAVID SHOEBRIDGE: But in managing detention facilities I think they have mainly done it in places like Nauru and Manus Island.

The CHAIR: That is why they are bringing a partner in with them.

Dr BAKER: Okay.

Mr DAVID SHOEBRIDGE: I suppose I was particularly surprised at seeing the public excluded from tendering for Parklea, when there was an open tender at another facility in Western Sydney where public and private both tendered and the public won that.

Associate Professor ANDREW: That is right, yes.

Dr BAKER: John Morony, was it?

Associate Professor ANDREW: John Morony.

Mr DAVID SHOEBRIDGE: Do you have any views about the contestability process for John Morony?

Dr BAKER: I am not entirely across it, but I think the risk when you have contestability in the public sector, there is a force on the public sector to do similar things that the private sector might be doing, like reduce staff-to-prisoner ratios. You may be having the same outcomes in reduced rehabilitation and increased recidivism. The pressures are still there and I think that is what is clever about the contestability model. I am being a little bit facetious in saying "clever", in that it treats the public sector, or the Department of Corrective Services [DCS] in this case, in the same way and with same expectations it would have on a private for-profit operator. It is another way of getting the same outcome and that is where the risks are. But I guess we will see what happens with John Morony.

Associate Professor ANDREW: I think there were politics in John Morony. From what I understood that story was not as obvious, I do not think—the reasons behind the allocation of that to the public sector.

Mr DAVID SHOEBRIDGE: After you finish your evidence, we are going to have the commissioner and a number of senior officials coming. What should we be asking about? What criteria should be on the public record and available to identify the performance of the new contractor at Parklea?

Associate Professor ANDREW: I do not know if you have our submission to you in front of you, but we made a series of recommendations. I think they are actually really reasonable recommendations so I am just going to go for it. To start with, the contracts should be made available in their entirety. That was one point that we made. The second one was about monitoring arrangements because Dr Baker and I have tried in our research to really get an understanding of the role of the contract monitor and how much time they spend on site, who they have got access to and who they report to. We think there should be transparent and uniform monitoring arrangements across the sector. That would be something that we would be pushing very hard for, and that they are on site. I read the evidence previously in this inquiry and I was really confused about what they actually do and how long they spend time there. They are a critical feature of the success of any private jail. Also official visitors and the community advisory committee is critical. Do you want me to keep doing this or are you okay with the fact that you have got in on the record already?

Mr DAVID SHOEBRIDGE: I have your performance measures at page 15 and onwards from your submission but it is quite dense. I was wondering whether there were things we should be highlighting that are essential.

Dr BAKER: You are talking about performance measures.

Associate Professor ANDREW: Actually, in terms of measures, I do not think—

Mr DAVID SHOEBRIDGE: I do not mean to stop you talking about essential contract features or other transparency features, but I was thinking about the measures.

Associate Professor ANDREW: Okay. I do not know that we can answer you. But there is one thing that I think is profoundly problematic and that is that performance measures generally pay no attention to one of the key stakeholders in jails, which are the workers. There are very few performance measures that relate to the obligations of the private provider to their employee. Things like training programs, safety conditions and so on are not generally considered. If I were to say one thing that needs to be added, it would be that because they are critical to the functioning of a successful jail. So, yes, we need assault rates; yes, we need drug tests; and yes, we need all of these things. But we also need really well-trained, dedicated prison officers to make the system work and they are completely neglected.

The Hon. TREVOR KHAN: How do you articulate that in a contract or a performance measure?

Associate Professor ANDREW: As a performance metric?

The Hon. TREVOR KHAN: Yes.

Associate Professor ANDREW: I think it would be like anything else. How many days training or—

Dr BAKER: Assaults on officers.

Associate Professor ANDREW: There are assaults on officers but I am thinking more about training. I am thinking much more about professional development of staff. I think data about staff matters in these contracts.

Mr DAVID SHOEBRIDGE: Are you also talking about more subjective criteria, such as whether there is job satisfaction by the staff? As accountants, you may run from that kind of data and you may say we should be looking at hours of training, number of qualifications and that sort of stuff.

Associate Professor ANDREW: I think you could do both. I think it is not unreasonable to do these kinds of healthy prison studies, which would include an assessment of prison officer satisfaction. We have done a lot of interviewing of prison officers and some of the things that we found absolutely astonishing is that they do not have annual performance reviews. That should be in the contract. That should be a requirement that they have annual performance reviews, which gives them that opportunity—

The Hon. TREVOR KHAN: Of individual prison officers?

Associate Professor ANDREW: Yes. All professional people should be having performance reviews. I do not mean performance reviews that are punitive; I mean ones in which they have got an opportunity to talk about their work and to track things that they are doing that are impressive that gives them opportunities for career progression that engages these people in the work that they are doing, which is critical to the rehabilitation of prisoners.

The Hon. SCOTT FARLOW: When you are talking about performance reviews, are you referring only to people employed in private prisons or to people employed in public prisons as well?

Associate Professor ANDREW: We have interviewed people in private prisons, so we are talking about those people.

The Hon. SCOTT FARLOW: Have you done any comparison across the issues raised or is it exclusively on private prisons?

Associate Professor ANDREW: No, only in private prisons. I do not know what happens in public prisons in terms of performance appraisals or dialogues with managers around work. But we know from our interviews that they are not happening in private prisons because it is not a requirement. I think that is something that potentially is quite transformative.

Dr BAKER: Can I also add something on the metrics front? I know we already talked about this. Probably also you may want to make more explicit the assessment process of whether the key performance indicators [KPIs] have been achieved and how the performance-linked fee comes about. There have been some cases in New South Wales where sometimes the fee has been paid and yet they have stated—the Auditor-General has stated—that the performance was actually not up to scratch. Having some sort of logical flow there so the public can see why a performance-linked fee should be paid and for what reason would also be good.

Associate Professor ANDREW: I really agree with that. I think outcomes-oriented information is critical in the public domain. It should not be just what you are trying to achieve, it should be what you have achieved and that stuff is completely opaque.

Mr DAVID SHOEBRIDGE: I am sorry to take you back to where you were earlier, which is about the monitoring arrangements and the actual contracts themselves. When I read your submission I was surprised to see that there has not always been—in fact, most of the time it appears there has not been—an onsite contract monitor at Junee. Can you tell us what your understanding is? What has been the history at Junee and why would an on-site contract monitor be important?

Associate Professor ANDREW: Our understanding from our work is that Junee started with an onsite contract monitor and slowly they disappeared. How that happened culturally over time I do not know. Our work in Western Australia would be the same. I understand that at Acacia initially the onsite monitor was there on a regular basis but now is there very irregularly and largely speaks with management and not with staff. These are important cultural roles somehow. So sustaining their independence in terms of navigating, talking to management about how they would like to be seen and also having access to staff and seeing what they are actually doing. I am not quite sure how you contract that. You can contract that there is a monitor but what kind of access they get is a feature of the culture of the jail.

They are absolutely critical. How else do we see what is going on? The work that Dr Baker and I have done in terms of interviewing, there is a huge disconnect between what is actually being done and what is being reported to be done in many of these jails. This is why benchmarking will be a big issue for New South Wales. There will be a lot of push towards reporting around benchmarks and to make benchmarks look good but actually

the underlying dynamics within the jail will be disconnected from that reporting. That may last for a while. So maybe for a while we think jails are improving because our benchmarks look better and we are making jails compete with each other to meet their benchmarks, but the underlying realities and the dynamics of the jail over time are likely to erode in our view. I would say that is the biggest warning around trying to come up with lead tables that compare. Competition can be represented through reports and accounts, we know this stuff, in a way that does not reflect the reality. Monitors are critical to have a sense of reality.

Mr DAVID SHOEBRIDGE: We have had some evidence that suggests that the on-site monitoring, I am not sure if it is the contract monitor, but the on-site monitor at Parklea has for significant periods of time been relatively junior and not had the experience or capacity to do their job.

The Hon. TREVOR KHAN: What was the evidence of that?

Mr DAVID SHOEBRIDGE: I will show it to you next.

The Hon. TREVOR KHAN: Especially to me. I note his assertion.

Mr DAVID SHOEBRIDGE: I cannot identify it more directly than that because this is not a confidential session, although I would like to. Do you agree that the seniority and the authority of the contract monitor has to be real so they can get to places, see places and understand what is happening?

The Hon. TREVOR KHAN: You are not going to have an argument from anyone.

Associate Professor ANDREW: We agree 100 per cent. That is the only way they can do their job. They have to be able to talk to whoever they want at whatever point they want. It cannot be a curated insight into the jail, it cannot be that. It has to be a real substantive engagement. I also think, this is me speaking as a researcher, but I think jails need to be much more open to research and they are not. The independent work that people like us can do is limited, particularly in private jails.

Mr DAVID SHOEBRIDGE: My last question is: Have you asked for data from Corrective Services? Have you approached them and asked them for data?

Associate Professor ANDREW: Not New South Wales. To be frank with you, a lot of the work Dr Baker and I have been doing is in Victoria and Western Australia. That has been the primary focus of our work. I spent a lot of time with the Department of Corrective Services and with the commissioner in Western Australia. So, yes, and they have poor data and they would like us to help them out with producing the type of cost data that might help them to allocate the costs of the department appropriately across the sector. I cannot say we have in New South Wales but I can definitely say we have in Western Australia. I would definitely say that the department and the commissioner are really committed to trying to understand this stuff better.

Whilst they are under the belief that they are working better and cheaper in Western Australia they also truly acknowledge the fact that the State is bearing a whole heap of costs they never even thought about that could be allocated across the sector. Consultants' fees, for instance, is a significant one. Why would the State pay for consultants to formulate a bid on a jail that they usually were running apart from the fact that there is a new market. That is a market cost. That cost should be distributed across the market. They are keen to do that work. I do not know about New South Wales.

Mr DAVID SHOEBRIDGE: Is this an offer to help New South Wales?

Associate Professor ANDREW: Our offer?

Mr DAVID SHOEBRIDGE: Yes.

Associate Professor ANDREW: We are always open to help New South Wales.

The CHAIR: Thank you for giving us your time. If you want to comment on Professor Sturgess' submission we would welcome that.

Associate Professor ANDREW: We will read it and we will probably make some kind of response. We will respond.

The CHAIR: You have a deadline of 10 days from today.

Associate Professor ANDREW: All right.

(The witnesses withdrew)

PETER SEVERIN, Commissioner, Corrective Services NSW, on former oath

KEVIN CORCORAN, Assistant Commissioner, Custodial Corrections, Corrective Services NSW, on former oath

CARLO SCASSERRA, Acting Assistant Commissioner, Governance and Continuous Improvement, Corrective Services NSW, affirmed and examined

GAYLE ROBSON, Commissioner's Chief of Staff, Corrective Services NSW, on former oath

GLEN SCHOLES, Director, Custodial Corrections North, Corrective Services NSW, on former oath

The CHAIR: Would you like to that make a short opening statement, Commissioner?

Mr SEVERIN: Very short. I appreciate the opportunity to address the Committee again. The Committee has now had the opportunity to take evidence from witnesses and to extensively visit our facilities and get a firsthand impression of the operation. It is always very beneficial from a practitioner's point of view that people who need to concern themselves with the subject matter had the opportunity to actually look at what it is like on the front line. I am happy to take questions in relation to the terms of reference. As we did on the last occasion we will take the questions and share them between the experts at the table.

The Hon. LYNDA VOLTZ: Commissioner, last time you were before us we were speaking about your monitoring at Parklea and the fact that on 2 February 2017 you instituted a wellbeing report and sent a governor in to make changes. Firstly, that is the only wellbeing review that has been undertaken anywhere, is it not?

Mr SEVERIN: It is the only review that we have undertaken in Parklea. We have certainly had some reviews of other operations in my time here in New South Wales. For example, we had a quite significant event, an escape at Goulburn and I introduced an expert from New Zealand, together with an expert from our security operations group to do a comprehensive security review. We have done a comprehensive review of the mobile phone introduction into prisons.

The Hon. LYNDA VOLTZ: That was not my question. My question was: Is that the only wellbeing review that has been undertaken in New South Wales?

Mr SEVERIN: At Parklea, that is correct, yes.

The Hon. LYNDA VOLTZ: You made significant changes after you sent a governor to head up that review? Made systemic changes.

Mr SEVERIN: The wellbeing review was led by governor Sue Wilson—who happens to be in the room here actually—and supported by a team of operational experts from various disciplines. The review was aimed very cooperatively with GEO to identify matters that require attention and improvement. The review resulted in a report which was made available to the GEO Group. As a result of that the GEO Group confirmed with us after a period of time the type of actions they were going to take, and we were then proceeding to monitor the implementation. Sorry, I erred there. The wellbeing review was actually not led by a governor. The wellbeing review was undertaken by the Operational Performance Review Branch. It was the intervention that was led by a governor, which was intervention under the contract. I apologise.

The Hon. LYNDA VOLTZ: Are all deaths in custody reported in the public domain?

Mr SEVERIN: Yes, they have to be under law. Every death in custody is subject to coronial inquiry. That is dealt with under the Coroners Act. There is a police investigation, there is an operational investigation that is always undertaken by Corrective Services NSW investigations group, and both the investigation undertaken internally, as well as the police investigation, are made available to the coroner, together with all the relevant evidence in relation to the occurrence. Then there is a formal coronial inquiry conducted into every death in custody.

The Hon. LYNDA VOLTZ: Is that a public inquiry?

Mr SEVERIN: That is a public inquiry. The coroner has got the ability to conduct desktop inquiries, but in New South Wales to the best of my knowledge—but it is not my area of responsibility—these inquiries are public.

The Hon. LYNDA VOLTZ: In December 2017 there was a death at Parklea of an inmate undergoing withdrawal treatment, a person who was on a drug and alcohol program in Parklea. Was that information released to the public?

Mr SCASSERRA: Again, if I may, it is currently under coronial inquest. Matters that are ongoing we generally cannot comment on.

Mr DAVID SHOEBRIDGE: That does not prevent you commenting here, as you know.

Mr SCASSERRA: Yes, the public—we will make the reports available from our investigation, et cetera. The coroner then makes the findings or recommendations available and is responsible for whether something is public or held.

The Hon. LYNDA VOLTZ: Follow my train of thought here: in February 2017 you brought in a wellbeing team; in July you put in a team to make changes; in December 2017 you had a death, and I understand people were removed from their positions after you had sent in a team. When did you inform the public that that was the case?

Mr SEVERIN: Sorry, they are completely unrelated matters. If I may just clarify that. The wellbeing review was done as a result of concerns that I was having in relation to some operational realities at Parklea. The intervention followed a continued concern about management's attention to detail in relation to the operation of the centre. The death in custody is obviously a very tragic event, there is absolutely no question about that. That immediately becomes a matter for the coroner. We are not acting on behalf of myself, we are acting on behalf of the coroner. The coroner is completely responsible for that process.

However, if we identify that as a result of a death it is clearly evident that there was negligence, that there were matters that are of concern, which I understand related to staff who are part of Justice Health—which obviously is a separate statutory authority under the Ministry of Health—and there was disciplinary action taken. That was not disciplinary action that Corrective Services NSW took or the GEO Group took. The matter of the drug-related death I understand is still before the coroner, so we are not in a position to talk about the detail there—

The Hon. LYNDA VOLTZ: I am not asking you to talk about the details. I am saying, you have a prison that you are so concerned about that you have put in the only wellbeing review in the State and you have put a governor in to make changes. Subsequent to you taking that action there is the death of an inmate who is meant to receive pharmaceuticals—

The Hon. TREVOR KHAN: That may not be what the issue was.

Mr DAVID SHOEBRIDGE: They were being treated for severe withdrawal.

The Hon. TREVOR KHAN: It may not have been pharmaceuticals that was the issue.

Mr DAVID SHOEBRIDGE: They were being treated for severe withdrawal.

The Hon. LYNDA VOLTZ: It was so much of a concern that Justice Health reported to the Committee today that staff were removed from their positions.

The Hon. TREVOR KHAN: They removed their staff from the positions.

The Hon. LYNDA VOLTZ: Yes. In Parklea Correction Centre, where a Minister has already said that he is outraged about contraband and you have prohibited the company from taking on the contract again, my question to you is: When did you release that information to the public?

Mr SEVERIN: Sorry, I can only reiterate that a death in custody is a very tragic event. In this particular case the information that is available to me at the moment indicated that it was staff from the Justice Health & Forensic Mental Health Network which were obviously in some way not acting as they should have under their code of practice. The Act governing the way Corrective Services administer it, is very clear about the fact that the responsibility for the provision of health services rests with the Justice Health & Forensic Mental Health Network. In that particular case they actually also provided the service, not just provided the monitoring of the service.

So, again, for me this is not about saying that we were not concerned about the operation of Parklea, and we had a very unfortunate death in custody, which evidently was the result of the medical treatment. I do not want to go any further because this is subject to coronial investigation. We do not publicise deaths in custody. It is a very tricky and very difficult area of administration in corrections. On one hand we are not at liberty to make any comment about deaths until the coroner has had the opportunity to investigate.

Mr DAVID SHOEBRIDGE: That is not true, commissioner.

Mr SEVERIN: On the other hand, we obviously have a very clear objective of making sure that those who are affected by the death, particularly families and loved ones, have every opportunity to inquire and to be provided with answers where we can do that. It is a very fine balancing act, one that is dealing with the most tragic event that can possibly happen in somebody's family's life, and we treat that with utmost seriousness.

The Hon. LYNDA VOLTZ: You had your monitors telling you time and time again there are contraband and other issues in Parklea. You implemented a wellbeing review. None of that was reported in the public domain. All we got was a comment from the Minister when a video was released to the media of a person with a mobile phone in Parklea, that he was shocked and outraged that that had happened, somehow had missed it in all your briefings. We have now had these ongoing issues. We should not have Ministers saying they are outraged when time and time again there are these issues and there is a pattern in Parklea—

The Hon. TREVOR KHAN: What is the question?

The Hon. LYNDA VOLTZ: —where they are not being reported in the public domain. Why did you not release to the public that there had been a death in custody? There are other instances of deaths in custody that are reported well before there is a coronial inquiry. Why was it not reported in this instance?

Mr SEVERIN: We do not. We have a policy of not reporting on deaths in custody in the public domain. That is absolutely clear. Of course, they are reported and then we obviously respond to media requests, and we do that as responsibly as we possibly can. But we do not go out and report to the public incidents of deaths in custody.

Mr DAVID SHOEBRIDGE: Are you aware of any circular that was provided to other corrective centres about what happened in Parklea, so there can be early warnings and corrective measures taken in other correctional centres?

Mr SEVERIN: No, I would have to take that on notice.

Mr DAVID SHOEBRIDGE: If you do not make information like this public and you do not have another method for sharing the information internally, then the mistakes may be repeated and you are not doing your job to address risks.

Mr SEVERIN: Sorry, your question was very specifically to a circular that related to sharing any findings from investigations. Of course we have mechanisms to communicate with our senior staff and, indeed, all staff on systemic issues that require attention across the system. We do that very regularly. Assistant Commissioner Corcoran, and he can talk for himself, has a regular teleconference with all his governors. We have regular updates of our corrections procedures manual. We make changes and adjust those procedures manuals accordingly. We have a very clear line of communicating with staff anything that is relevant, not just for one particular centre but for the system as a whole.

Mr CORCORAN: We have a fortnightly teleconference with all the governors and their management teams in the centres. We go through a whole range of issues that impact on governors and the operations of centres, and when we have a death in custody that raises alarm with us in respect of a particular issue that is communicated through to governors.

Mr DAVID SHOEBRIDGE: The question about this death, you had multiple staff of Justice Health being disciplined, you had a death, which raises a variety of troubling issues. Was that communicated and, if so, in what form?

Mr CORCORAN: No, it was not.

The Hon. TREVOR KHAN: My question goes to the jurisdictional issue. My understanding is that this death occurred in the area controlled by Justice Health. Is that right?

Mr SEVERIN: That is correct.

The Hon. TREVOR KHAN: How much control, whether it be in a public facility or a private facility, does Corrective Services have for what goes on in the Justice Health area of a jail?

Mr SEVERIN: I might pass to Mr Scholes, who is clearly involved with the operation, but very clearly, only as it relates to security not as it relates to treatment.

Mr SCHOLES: The normal process is if there is a death in custody or a serious event, the Coroner will make the recommendations, unless it is something that is glaringly obvious that Justice Health needs to address immediately, in which case they would inform us. We have policy people in our operations branch who will immediately respond, amend policy and then implement it. At the moment in relation to Parklea, I cannot recall seeing anything coming from Justice Health to us at this point in time about those matters. I am not aware of the background of this particular sad outcome, but I am sure from the recommendations that will come from the Coroner if there is something with security or operationally that we need to do differently, we will absolutely do it.

The Hon. LYNDA VOLTZ: I will take you to the evidence of GEO representatives at the last hearing. They said:

The most significant group of prisoners who are at risk of self-harm and unnatural death are those that in that period are first received into custody.

Originally Parklea agreed to take six fresh custodies a day and that was ramped up to fresh custodies of up to 30 a day. That is well within your control, is it not?

Mr SCHOLES: Yes. When they come in, there is an extensive screening process that includes custodial, Justice Health, welfare, psychs. They go through a screening process to identify if there are any factors that immediately need to be addressed. Anything that is to do with the health of the inmate, particularly with respect to withdrawals or detox, which is what I am picking up from the conversation, that would be normally in the domain of Justice Health. They will make recommendations as to whether or not there should be some sort of intervention. They might put them on Valium. It might be an observation cell issue if there are concerns of self-harm. It might be a two-hour placement if it is a medical issue.

The Hon. TREVOR KHAN: What is a two-hour placement?

Mr SCHOLES: That is a placement where that particular inmate will go in with another inmate on the understanding that they will provide support to them. Even someone to talk to can be enough to help them through that process. It varies with each individual. The staff at correctional centre level and particular with Justice Health, I cannot talk directly to Parklea, but from my operational area, they take it seriously and people understand the implications in that reception process and making sure they get it right. We are all human. The process is that if someone does not declare something, and it will happen with inmates occasionally, you can only go on the information and advice you garner from them.

The Hon. LYNDA VOLTZ: We asked them, "Did you get more resources?" Their response was:

Our obligation is to always do our best but there are a number of risk factors associated with the receipt of fresh custodies...

There is no indication they have fresh resources.

Mr SCHOLES: There is always risk factors with fresh custodies. Anyone who is coming off the street that is impacted by drugs, alcohol or abuse, essentially coming into a jail environment is stressful.

The Hon. LYNDA VOLTZ: I am not talking about fresh custodies, I am talking about the increase in numbers that are going through that centre.

The Hon. TREVOR KHAN: This person was put into the care of—

Mr SEVERIN: Justice Health.

The Hon. TREVOR KHAN: Justice Health.

The Hon. LYNDA VOLTZ: Can we deal with my question first? I am talking about the increase of numbers from six a day to 30 a day.

Mr SCHOLES: The processes are that they go into the holding cells—

The Hon. LYNDA VOLTZ: I am not asking what about the process is. I am asking: What did you put in place? Your original contract had six fresh custodies a day and then you demanded they take 30 fresh custodies a day.

Mr DAVID SHOEBRIDGE: We all agree it is resource intensive, a high-risk situation, a lot of additional time and work. What was done?

The Hon. LYNDA VOLTZ: And it is becoming more complex.

Mr SEVERIN: If I can answer the question, we will take on notice the number of additional staff that were provided, but as a result of changes to the operational requirements for Parklea there were certainly additional resources made available, the number of which I do not have in front of me. If I can make one other comment in relation to deaths in custody, we have a committee that deals with any recommendation resulting from a coronial inquiry or our own inquiries. The Coroner has a person who attends that committee. It is otherwise made up of staff from within Corrective Services. Every recommendation is very carefully considered. What is more important, any action taken as a result of recommendations is monitored by that committee so that we do not end up losing any action that is important as a result of an investigation or a review being lost.

The Hon. TREVOR KHAN: Commissioner, when you have a death in custody, irrespective of what the Coroner does, I am assuming you and officers under your command would undertake some sort of investigation and make some conclusions as soon as possible?

Mr SEVERIN: Absolutely.

The Hon. TREVOR KHAN: Otherwise you could be waiting 18 months or years?

Mr DAVID SHOEBRIDGE: Three years for the decision.

The Hon. TREVOR KHAN: Exactly, for the Coroner.

Mr SEVERIN: Absolutely not. We go in straightaway. If there are any obvious matters that need to be addressed immediately, we do that. The report that comes out of it ultimately will also go to the Coroner. As I said, any action that we need to take straightaway is taken straightaway as it relates to systemic issues, but also issues relating to the particular occasion when the incident has occurred.

The Hon. TREVOR KHAN: The others might want to go back to these issues, but I want to go back to the wellbeing report. You will be surprised to know we actually talk civilly to each other sometimes outside the context of the hearings.

The Hon. SCOTT FARLOW: They might have seen that in the jails.

The Hon. TREVOR KHAN: That is right. In terms of the wellbeing report, what were the issues that concerned you sufficiently to take that step? I think that is what we were talking about earlier. Again, you might have told us. I want it clear in my mind now: What were the trigger points of what GEO was doing that set alarm bells for you?

Mr SEVERIN: We had a series of incidents that included deaths in custody. We had incidents of security breaches.

The Hon. TREVOR KHAN: I know there might be operational incidents, but what were those generally?

Mr SEVERIN: The detail of all of them I would have to take on notice, but they were issues like a set of keys not being properly returned, a person being discharged and allowed to take their keys with them. There were certainly incidents that related to self-harm and deaths in custody, contraband matters. For me, it was an assurance process. Very clearly I needed to not only assure myself that GEO was taking it very seriously but also that every action that needed to be taken was being taken and that we were in a position to say that we could satisfy ourselves that the action was taken. The only way you can do that, it is not what you expect in corrections, it is what you inspect. We had to inspect it and that is what the wellbeing review did.

Mr DAVID SHOEBRIDGE: What surprises me about that—I recall the evidence—is that it was not a failing in one area; it was a failing in multiple critical areas. But the same company is running the prison in Junee. I assume that similar corporate structures apply to how they oversee their facilities. What, if anything, have you done to run the ruler over Junee?

Mr SEVERIN: We have onsite monitoring in our privately managed facilities on a daily basis. We have monitors that are physically in the facility.

Mr DAVID SHOEBRIDGE: Every day?

Mr SEVERIN: Every day, yes. Sorry, they may not be there on weekends but certainly Mondays to Fridays.

The Hon. TREVOR KHAN: And at Junee?

Mr SEVERIN: Yes, absolutely, at Junee.

Mr DAVID SHOEBRIDGE: And that is a full-time position at Junee?

Mr SEVERIN: Full-time.

Mr DAVID SHOEBRIDGE: For how long has that been?

Mr SEVERIN: The whole time; ever since the contract came into being.

The Hon. TREVOR KHAN: If the Committee heard evidence today that suggested the monitor at Junee had been withdrawn is that an error?

Mr SEVERIN: If that is the evidence—

Mr DAVID SHOEBRIDGE: I can read to you the evidence.

Mr SCASSERRA: There may have been a few occasions where if staff are being redeployed to Parklea we did put extra monitoring staff into Parklea at some point, but they are very small absences. But, no, there are monitors attached to Junee.

Mr DAVID SHOEBRIDGE: The evidence is this:

The contract for Junee Correctional Centre includes provision for an on-site monitor but the Government has not always taken up this option. During the initial contract period the Commissioner of Corrective Services decided that an on-site monitor would only be required for the first six to 12 months, moving off-site thereafter.

Subsequently the Public Accounts Committee's value for money inquiry of 2005 noted that the Junee monitor was also responsible for the mid North Coast Dillwynia and Wellington prisons. Therefore, the monitor was not fixed to a single site as is the case in Western Australia.

And that is referenced.

Mr SEVERIN: Sorry, that precedes my tenure.

The Hon. TREVOR KHAN: By a long way.

The Hon. SCOTT FARLOW: That is the 1990s and then 2005.

Mr SEVERIN: Ever since I have been here we had a monitor in Junee.

Mr DAVID SHOEBRIDGE: Are they also responsible for mid North Coast, Dillwynia and Wellington, or any other prisons?

Mr SEVERIN: No, they are not.

Mr SHOLES: Can I just answer that? I was around in that time. I have been around a few years. The monitor from Junee was never deployed to Dillwynia or mid North Coast or any other government location.

The Hon. TREVOR KHAN: That would be a heck of a stretch.

Mr SHOLES: Yes. For those government-run facilities, which they always have been, it has been the role of Operations Branch, which is oversighted with the Governor on site, the operation, including the commissioning processes. Absolutely not; the Junee monitor was not redeployed to go and look at those sites.

Mr DAVID SHOEBRIDGE: In 2009 the predecessor of this Committee recommended onsite monitors for all private prisons because of the evidence it had before it. It has obviously been an ongoing issue. I am more than happy if you want to review that on notice. We can provide you with these references so that you can double-check on it.

Mr SEVERIN: All I can say is that when I started in September 2012 there were monitors at Junee and Parklea, and they are still there. If we have had short periods of time where a monitor was redeployed that was not the rule; that is not the norm. But we take on notice the detail in reference to the inquiry to which you referred.

The Hon. SCOTT FARLOW: How many monitors do you have at Junee and how many do you have at Parklea?

Mr SEVERIN: We have one monitor at any given point in time in Junee. In Parklea we have increased it because we are obviously dealing with transition now. We have dealt with the issues that are subject to the inquiry here as well. We have up to three monitors there at any given point in time—not consistently three monitors.

Mr SCASSERRA: Again, depending on the need and the shift patterns to cover all the activities that we would like to review during the week, we deploy them as such so that they can span a greater time period and look through a greater component of operations on site.

The Hon. TREVOR KHAN: So do you do it as a two-shift thing or something like that?

Mr SCASSERRA: We stagger the shifts, yes, that is correct. Some may start early, some start later and again cover the critical components of the day or look at risk areas that we have identified.

Mr DAVID SHOEBRIDGE: If there is just one monitor at Junee does that mean they only do the standard daytime shift?

Mr SCASSERRA: We actually have two staff assigned. There are two MOS grades for Junee but there is one on site and there will be one back in Sydney and then they correspond back and forth.

Mr DAVID SHOEBRIDGE: Is the one on site only there during day time hours? Do they have fixed hours and therefore the bulk of the 24-hour cycle is not covered? Maybe you can provide the Committee with details on notice.

The Hon. TREVOR KHAN: We were complaining before that there was not one there.

Mr SEVERIN: I will take that on notice but certainly the experience would be that you might have an eight-hour day but you work your eight hours at different times of the day.

Mr DAVID SHOEBRIDGE: Will you provide the Committee with details on notice?

Mr SEVERIN: We will.

Mr DAVID SHOEBRIDGE: On 1 September a death in custody of a 36-year-old Aboriginal man occurred at the Outer Metropolitan Multi-Purpose Correctional Centre. Concerns have been raised publicly that Corrections Services officers took between 20 and 40 minutes to call for medical assistance. What do you say to those assertions?

Mr SEVERIN: First of all, that is still very much subject to investigation so I will be very careful in how much information I provide. We are certainly following those lines of inquiry as to what, if any, delays occurred between the call system being used and the staff responding.

Mr DAVID SHOEBRIDGE: So you are aware of an allegation that there was a delay between the call and the response?

Mr SEVERIN: There certainly have been some responses which were published. The responses were also raised through the media from inmates, but we are aware of those. Our investigators are aware of those. What I am aware of is that once the call was made that the person actually had collapsed it took five minutes for the staff to physically get to the place, which is consistent with the time it takes. What we are still investigating is whether there were previous occasions when alarms were raised that may or may not have been responded to in a timely manner. That is as far as I will take it.

Mr DAVID SHOEBRIDGE: Are you aware that Justice Health did not have an onsite nurse at that facility and there was a 15-minute delay in the nurse arriving to the facility?

Mr SEVERIN: I am.

Mr DAVID SHOEBRIDGE: Have you reviewed the decision that was made seven years ago to rationalise resources and not have a nurse on site at that facility?

Mr SEVERIN: Again, this is something I would have to raise with the chief executive and the board of Justice Health and the Forensic Mental Health Network.

Mr DAVID SHOEBRIDGE: Have you?

Mr SEVERIN: Not at this point in time.

Mr DAVID SHOEBRIDGE: Will you?

Mr SEVERIN: If there is a concern that is clearly linked to the response that was provided and the response that should have been provided, and if there is an indication that is due to a lack of resources, then of course I would raise that.

Mr DAVID SHOEBRIDGE: When do you expect your internal investigation to be completed about, amongst other things, the alleged delay in Corrections Services officers attending this 36-year-old Aboriginal man who was presenting with medical issue?

Mr SEVERIN: I need to take that on notice because we obviously have a whole range of investigations happening. We are trying generally to finalise investigations within about 12 weeks. Sometimes that is not possible because we cannot get all the witnesses organised within that time. There might be other complexities relating to post mortem matters, et cetera. Police always have the right to talk to staff in the first instance because they are conducting a police investigation. I will take that on notice and get back to you.

Mr DAVID SHOEBRIDGE: Will you commit to bringing the family in and communicating directly with the family on completion of the report and not wait for the coronial inquiry?

Mr SEVERIN: I am very happy to do that.

The Hon. LYNDA VOLTZ: Did the police carry out an investigation in regard to the death in December 2017 in Parklea?

Mr SEVERIN: Absolutely, yes, under law.

The Hon. LYNDA VOLTZ: So you would have the outcomes of that police investigation?

Mr SEVERIN: I do not. They report that to the Coroner, not to us.

Mr DAVID SHOEBRIDGE: To move on to a different point, the contract for the Parklea facility was awarded recently. Will you publish that contract in its entirety?

Mr SEVERIN: Yes. The contract has not been awarded yet so there is nothing to publish. We only have a preferred tenderer. But all contracts—that is, the contract for Junee, the current contract Parklea and the contract for Grafton—are publicly available on the government website. I will hand over to Mr Scasserra to explain it.

Mr SCASSERRA: We publish all our contracts online. So our website will contain the list. We can send the link or provide the link that has those contracts available to them. This contract, once signed, will go up on the website as well, with the exception of some minor commercial-in-confidence components.

The Hon. TREVOR KHAN: How minor?

Mr SCASSERRA: These are internal workings. They are the formula of how you work out the inner workings of some of the KPIs. But the KPI is still listed and so are the outcomes. The achievement and the non-achievement of the KPIs listed are formula only. They do not get listed.

Mr SEVERIN: I will explain why that is necessary. It is not to withhold information from the public. They are formula, and if we go back and tender for another facility again, that would give bidders the ability to very clearly manipulate the desired outcome. This is done for entirely commercial reasons. It has nothing to do with the operator or the operation of the centre. We are talking about formulas for KPIs. We will publish the whole contract, including the KPIs and the abatement regimes. I remember indicating in my previous evidence, that we will then publish all the outcomes of our contract monitoring on a quarterly basis for publicly and privately managed centres.

Mr DAVID SHOEBRIDGE: But if you ever go to tender again on a facility, you would obviously need to put that information in the tender documents because otherwise the operator who has access to that information—

The Hon. LYNDA VOLTZ: Has an advantage.

Mr DAVID SHOEBRIDGE: —would have a grossly unfair commercial advantage.

Mr SEVERIN: That is correct.

Mr DAVID SHOEBRIDGE: I cannot comprehend the rationale—

The Hon. TREVOR KHAN: Let him answer.

Mr DAVID SHOEBRIDGE: —for excluding it now.

Mr SCASSERRA: That is correct. It is within the procurement process, which is a confidential process so that those operators do not or cannot publish that information. They have not published the current tender and will not. They are under the confidential bounds of this tender, and that is how all tenders in New South Wales are conducted.

Mr DAVID SHOEBRIDGE: But all the key players already have access to the formula. What possible damage is being done?

Mr SCASSERRA: There may be new players that are attracted to the market. So, again we do provide—

Mr DAVID SHOEBRIDGE: But then you will give them the formula. I cannot comprehend the commercial-in-confidence issue. If you give it to them eventually when they are tendering, how does publicly releasing it now cause some sort of commercial damage when a future tender happens if you are going to give it to them anyhow?

Mr SCASSERRA: As I said, there are only small components of the contract that are commercial-in-confidence. These are those commercial-in-confidence—

Mr DAVID SHOEBRIDGE: You are still not answering my question.

The Hon. TREVOR KHAN: Do not do this. Let him answer.

Mr DAVID SHOEBRIDGE: You are not still answering my question.

Mr SCASSERRA: Again, as I said, they are the commercial components that make this contract particular to the tender we agree to. They are negotiated; we have not completed the tender yet. Again, if they were kept in the standard format, we would look at releasing as much as we possibly can. There are components that remain commercial-in-confidence, which gives the State its ability to leverage in terms of the outcomes we are achieving.

The Hon. TREVOR KHAN: Can we ask about benchmarking?

Mr DAVID SHOEBRIDGE: I want to continue before we move away from the current contract. I do not know whether you have had the opportunity to look at the submission from Dr Jane Andrew and Dr Max Baker, two academic accountants. It would take too long to read parts of their submission into the record. However, in the appendix to their submission they have set out a variety of criteria that they believe should be contained in "Performance measures" and "Performance according to performance measures and inspections". I refer to pages 15, 16 and 17 of their report. Can you take on notice and respond to whether or not those matters are proposed to be dealt with in the current contract? They also set out transparency provisions about the contract on page 11 of the report.

Mr SEVERIN: We will do that.

The Hon. LYNDIA VOLTZ: We will go back to benchmarking. I assume the KPIs come into this as well. I know, Mr Scholes, that you went through this last time in regard to case plans and the different levels. Having looked at all the prisons ourselves and the great differences across them that relate at the design of the prison, the type of prisoner—

The Hon. TREVOR KHAN: And the size.

The Hon. LYNDIA VOLTZ: Yes, the size. There are things such health facilities. You know about the problems at Junee. Perhaps you can explain why no dental facilities were built in the pop-up prisons, which creates a complexity. It is difficult for the Committee to comprehend how benchmarking prisons gives you a good indication and an efficacy about what the State is getting out of the contracts for the prisons and also how they are performing.

Mr SCHOLES: From a benchmarking point of view, I think I said in my evidence previously that it is predominantly the north that has rolled into benchmarking. We are operating all centres in the north of the State under benchmarking. Essentially, it has moved us into an outcomes focus for the KPIs—that is, prisoners going to work, programs and education. The focus is on that and not the cost per inmate per day. It is an outcomes focus for reducing re-offending.

The Hon. LYNDIA VOLTZ: Junee is a good example because it has training. It has three inmates who are currently employed as part of its KPIs. However, it can have only C category prisoners in employment. The reality is that it could actually move more into that KPI. How are you working those criteria? The prison could be performing better, but it does not because of the type of prisoners it has.

Mr SCHOLES: I will use the rapid-build prisons as an example. We were all out there and we had a look at the centre. Everyone in the rapid-build does half a day working in employment. Everyone is employed. In the afternoon, they do half a day in programs, education and other services. That is a full-engagement model so that every inmate is getting the maximum amount of exposure to those activities. The rapid-builds arguably are different from our traditional system.

If you look at a maximum security environment, for example, a mid-North Coast correctional centre, the vast number of inmates are working or are in education or programs. It is a different model in terms of how it operates. It is not as structured as the rapid-builds. Although Corrective Services Industries' arm has its KPIs around what they are producing and how they produce it, for us it is vocational training, whether we are getting people qualified and whether they are going through the EQUIPS programs to address their addictions and other matters that are criminogenic. That is the important thing, to make sure that when these people get out—whether they are in the maximum side or they progress through to the medium side and they are released from minimum security—we have done everything we possibly can to give them the best opportunity not to re-offend in the community. Have I answered the question?

The Hon. LYNDIA VOLTZ: Now I am thinking that we are not benchmarking necessarily; we are just into KPIs.

Mr DAVID SHOEBRIDGE: What are we benchmarking against? That sounds like KPIs, which I think we all understand. What is the benchmarking against?

Mr SEVERIN: In the first instance, we benchmark against ourselves. In the analysis undertaken at the start of this process we looked at 30 different areas of activity in a correctional facility, from the gatehouse through to programs. Ms Voltz is right, it was evident that you cannot benchmark a Long Bay with a Manus. That would not make sense. We ended up grouping like prisons in four different categories. Some hang right outside. Supermax is not part of it and a couple of other operations are not part of it because they are very different. Then within them we establish how many we need to undertake a certain function in a centre that is very much like another centre.

The Hon. TREVOR KHAN: Is that how many officers?

Mr SEVERIN: Yes, staff. It is the staff you need to achieve the KPIs, but also to make sure we are efficient as we can be and offer the best value for money.

The Hon. TREVOR KHAN: I am not being critical.

Mr SEVERIN: For me the very clear objective was that we needed to be sure we did not just cut staff and that we had staff on the ground who could ensure that those KPIs could be reached, that we had people in employment and that we had prisoners in education et cetera.

Mr DAVID SHOEBRIDGE: But we have slipped from benchmarking to KPIs because you are working out how many staff you need to run a particular program. That is a benchmark. If you are working out what those staff produce, that is a KPI.

Mr SEVERIN: But it is intricately linked. For example, if we want to achieve better time out of cell, we need staff to be in the centre to do that, to facilitate that. In arriving at our staffing levels when it comes to time out of cell, we needed to test with the staff—that is a three-month consultation process—that they are sufficiently staffed to ensure that time out of cell meets the benchmark or the KPI. We have done that in four different categories, from very large centres to slightly smaller centres to medium centres to very small centres. Again then we still had to look at individual issues like, for example, design. You cannot do every centre exactly the same. That is what the moderation is there for. That is why we actually say, "Here's your draft benchmark, which may be exactly the same as it is for centre X, but we now give you three months to work through if it will work for you or not." That is essentially what has happened.

Mr DAVID SHOEBRIDGE: I think you talked us through the process in Wellington about how the basic benchmark was set and then there was this kind of negotiation or moderation process that you talk about. Largely that has been resolved now, so that has set your benchmarks. What are you measuring against now? Now that you say that you get 5.6 full-time staff on this particular day and 7.2 for this shift, what are you measuring against?

Mr SCHOLES: One of the key things for us is the time out of cells, whereas before we did benchmarking there were no requirements; however, the lockdowns were significantly greater. I missed the question, I am sorry, where you were going with that before, but the change to the formula in particular with how we calculate staff actually increased.

Mr DAVID SHOEBRIDGE: We recall that complex formula that you put up.

Mr SCHOLES: The idea is the time out of cells but also the fact that you have to have enough custodials to be able to get them to the various areas, programs, industries and whatever and move them around the centre. There was never a requirement for that to happen in the past. If say, for example, education was on but we did not have the staff to get them there it would not necessarily occur. To the best effect we could try to move them with the staff we had. Now the expectation on governors is very clear: you will get them from point A to point B. Where we have previously had, for example, a hospital escort going on, one of the key things with benchmarking is we now no longer say that we are going to pull two people out of the centre, they are going to do the hospital escort and we are going to shut an area down. We now bring staff in or we cover off or we use other resources to make sure that the operation of the structured day goes ahead so the inmates are getting access to the services.

The Hon. SCOTT FARLOW: Let me cut to the chase. The Public Service Association came in here and told us that 378 people would go under the benchmarking. Is that true?

Mr SEVERIN: The total reduction in roles that is expected, we are still in one centre, is 215. That includes the rank of assistant superintendent. However, we are obviously creating new roles. So the total loss of staff through voluntary redundancy is actually now 29. We had a net loss of 29 staff.

The Hon. SCOTT FARLOW: Let us just go through the numbers. The 378 is not true.

The Hon. TREVOR KHAN: Well, it is not correct.

Mr DAVID SHOEBRIDGE: The 378 may have been on the initial figures were put out and there has been a moderation process that has reduced that to 215. Would that be a fair summary?

Mr SCHOLES: Yes.

Ms ROBSON: In actual fact, on our numbers the draft benchmarks were more around 312 staff going. As the commissioner has indicated, we expect it will be somewhere around 215. That is not staff; they are roles that are going. As the commissioner has pointed out, we have retained a large number of the people whose roles have been affected and they have been redeployed into either new roles that are coming about because of

expansions, or because of new case management programs that are being rolled out, or indeed people are being promoted within the system into new roles.

The Hon. TREVOR KHAN: Or people are leaving and you are not filling the positions. Would that be the case?

Ms ROBSON: In some cases going into benchmarking we did leave some roles unfilled, again very clearly so we did not put people in roles only to then affect them.

The Hon. SCOTT FARLOW: So 215 roles no longer exist. How many new roles are there?

Mr DAVID SHOEBRIDGE: It is 176 or it is some other figure?

Mr SEVERIN: There are about 1,500 new roles overall with the prison program, but we did create the case management roles and we created more senior assistant superintendent roles, the exact number of which we would have to take on notice.

Mr DAVID SHOEBRIDGE: We are talking about in existing facilities, not the expanded or new facilities?

Mr CORCORAN: In existing facilities we also in this formula that Mr Scholes was talking about before put in a whole range of staff, about \$17 million worth of staff, at the base grade level as well.

The Hon. LYNDA VOLTZ: Except at the Wellington rapid-build pop-up there had been the shift. You went through explaining where you were shifting roles in that facility and said that you were putting in nine case management positions. When we went to see the case managers, there were only five. I said, "You are short," and they said, "Yes, they are going to employ one more." That only brings it up to six. Are they positions that are all filled?

Ms ROBSON: The exact status of whether roles are filled in a particular location we would have to take on notice. Obviously, recruitment changes potentially on a daily basis.

The Hon. LYNDA VOLTZ: Even the people working in the section only thought there were going to be six positions, but there had been a clear indication that the restructure had allocated nine to it.

Ms ROBSON: We will take that on notice.

Mr SCHOLES: I would have to check the numbers too because we have had so many. I am not sure whether it was six or nine. From recollection, I think there were two roles still to be filled. If we can take it on notice we can provide that.

Mr DAVID SHOEBRIDGE: I accept it is complex, but you have been able to give us a pretty clear number of roles that have disappeared as a result of benchmarking, which is 215. Can you come back and tell us the number of additional roles that have been created, therefore we can work out what the net loss is?

Mr SEVERIN: We will do that.

The Hon. SCOTT FARLOW: One of the narratives in this inquiry is that we have seen the prison population across New South Wales increase.

The Hon. TREVOR KHAN: Significantly.

The Hon. SCOTT FARLOW: Has there been a commensurate increase in correctional staff as well?

Mr SEVERIN: Absolutely. We are recruiting more staff than we have ever recruited in the history of corrections in this State.

Mr DAVID SHOEBRIDGE: What would be really helpful would be a full-time staff to prisoner ratio going back over the past five years so that we could track that.

The Hon. TREVOR KHAN: That is not really helpful, is it?

Mr DAVID SHOEBRIDGE: I would find it helpful.

The Hon. TREVOR KHAN: This ratio exercise suggests a uniformity that does not really exist, does it?

Mr DAVID SHOEBRIDGE: I am asking about staff to inmates across the system.

Mr SEVERIN: It is almost meaningless. I apologise for using language like that. You really need to look at like functions. We need to look at a unit, for example, that has a similar size to another unit and look at the staffing levels in that unit compared to another unit.

Mr DAVID SHOEBRIDGE: There may be an explanation of it but the overall number of full-time staff compared with the number of inmates would be a useful metric. It may be explained by the fact that you have opened new facilities that have lower staffing requirements because of a variety of other modern things. That can be explained in any answer you give.

Mr SEVERIN: It very much relies on the role and function of the facility, for example.

Mr DAVID SHOEBRIDGE: I understand. It is a good starting point.

The Hon. SCOTT FARLOW: A Long Bay is very different from a Berrima.

Mr SEVERIN: We will take that on notice and come back with as meaningful information as we possibly can.

Mr DAVID SHOEBRIDGE: I do not think that it is a linear test. I accept that it is complex.

Mr SEVERIN: As long as that is clear.

The Hon. LYNDA VOLTZ: We would expect the Wellington and Cessnock pop-ups to be almost similar.

Mr CORCORAN: They are identical.

The Hon. TREVOR KHAN: Ms Voltz raised the issue of the dental facilities that are available or not available in the pop-ups when Justice Health was here. Is this a problem in jails?

Mr CORCORAN: Right at the outset we were trying to build these things very quickly and we thought we were going to have four of these things. One of the methodologies for getting the thing built quickly was to have a concept of a dental truck that would go between the facilities and provide dental services.

The Hon. LYNDA VOLTZ: Like the old ones we used to have at school, for us that are old enough to remember.

Mr CORCORAN: That is right. If you look at the design of the facility you will notice that there is a rather large area outside the clinic where that truck was supposed to park. But we went through an extensive process in the commissioning phase of producing a number of papers to see whether that was a viable option. We settled eventually on having the inmates transfer over to Wellington and Cessnock prisons to get their dental care.

Mr SEVERIN: There may well be an opportunity further down the track to look at engaging another service for that. Again, it is a responsibility for Justice Health. At the moment, based on all the advice that was available eventually, the truck was not viable for Justice Health. I agreed to then organise the transfer of inmates and use the dental facilities in the adjacent facility.

The Hon. LYNDA VOLTZ: Would it not, in the long term—given how labour-intensive the transfers are—be easier to extend?

Mr SCHOLES: Believe it or not, it is very difficult to get the dentist—particularly in the Wellington area—out there. So the dental truck does do Wellington and Macquarie—they are co-located. At the Hunter Correctional Centre we take them over to Shortland—the other centre—because they have the appropriate facilities there; it is close. It makes sense to have the mobile service out west because it is very hard to get some of the services out west. They will do it as visiting arrangements more often, rather than trying to get a permanent position.

The CHAIR: My question is slightly less esoteric—noise in the rapid-build prisons. What practical solutions have you come up with? What complaints have you encountered?

Mr CORCORAN: That has not been an issue for us.

The Hon. TREVOR KHAN: It might be for the prisoners.

The CHAIR: You are not living there.

Mr CORCORAN: I have spent the night in there.

Mr DAVID SHOEBRIDGE: And you complained about the noise, from memory.

Mr CORCORAN: Mr Scholes and I did spend the night there.

The CHAIR: Some people were saying to us that there were issues around snoring and stuff.

Mr CORCORAN: Mr Scholes and I spent half a day with the inmates from Macquarie. We were sitting with their representatives two days ago, as we are doing a review at the moment of the rapid builds. We were

getting everybody together to see where we move in the future and what we can do to improve things there. I have to say that that did not feature at all as one of the issues that the inmates were raising. In fact, it was quite amazing to hear some of the things that they were saying about wanting to stay in these rapid builds, and what they had done for them in terms of changing their lives. Some of these people were very hardened criminals who had extensive and violent histories in prison. Their behaviour had changed to such an extent that they were—

The Hon. DAVID CLARKE: You had no complaints about snoring at all?

Mr CORCORAN: Not one.

Mr SEVERIN: We have not had one complaint.

Mr DAVID SHOEBRIDGE: What about the sense of security?

Mr SHOLES: That was really important. At the last lot of evidence I think we said that we were really surprised about the outcomes—how good it was going—yet the other day when we were there talking to the inmates we actually asked the question straight up, "How do you feel in terms of your personal security?" There were 30-odd inmates there who were the delegates for their units. They said, "It's great; not a problem." That was actually the terminology. We said, "What would you do to improve it?" The head delegate said, "You guys have really got this right. This is working. We're actually doing something." We said, "What is there that we should otherwise do differently?" The answer was, "Could we get some access to tertiary studies?"

The CHAIR: Can we get some of the guys in green here to verify that?

Mr CORCORAN: We should have videoed it, because, quite frankly, I was blown away by it.

The Hon. LYNDA VOLTZ: I am not sure you would get anything out of them; you could do your own time in prison.

Mr DAVID SHOEBRIDGE: Could I ask a question on another front. There are about 60 forensic mental health patients that are being held primarily at Long Bay, who are being given involuntary mental health treatment within a corrective service setting. Do you agree with Justice Health that that is a poor outcome and that it would be far preferable if they were all held in a medical facility rather than a corrective setting?

Mr SEVERIN: That is almost a Dorothy Dixier.

Mr DAVID SHOEBRIDGE: I am just interested.

Mr SEVERIN: Of course we are concerned about having mental health patients in our custody. We obviously communicate with the Mental Health Tribunal about this. We have no ability to move them into forensic mental health facilities. That is a prerogative of the health system.

Mr DAVID SHOEBRIDGE: Is it a lack of beds in the forensic mental health system that means you cannot move them on?

Mr SEVERIN: I would not go as far as professing that I have the answers for that. We respond to it. We have a strategy in place for Long Bay to increase the availability of step-down arrangements—not just for those who are there and should be in a mental forensic mental health hospital under the direction of the Mental Health Tribunal, but also for those who have mental health issues that are not regulated. So we are acutely aware of this. It is not an issue that we are content with, or ever will be, but we need to constructively work on their safe management and supporting whatever Justice Health can do.

Mr DAVID SHOEBRIDGE: Do you agree that the answer does not lie in additional facilities within the prison system; that the answer lies in finding accommodation for them—secure forensic accommodation for them—in a medical setting outside of the prison system?

Mr SEVERIN: I would agree with that.

Mr DAVID SHOEBRIDGE: Lastly, are you aware of the recommendation from the Royal Australian and New Zealand College of Psychiatrists—

The Hon. TREVOR KHAN: You have got him over the line!

Mr DAVID SHOEBRIDGE: —that came out in December last year? Have you raised that with the department? Have you raised with the Minister the recommendation that recommended exactly that?

Mr SEVERIN: We certainly have dialogue, particularly at officer level. I am not responsible for the capital works program for the Ministry of Health—

Mr DAVID SHOEBRIDGE: I understand that.

Mr SEVERIN: —but clearly it is an issue that we continue to have dialogue about. I do not think there is anybody—whether they are in Health or Corrections—who agrees that this is a good solution. It has been around, I understand, for decades almost. We have had some relief with the good facility out at Long Bay—the forensic mental health hospital. I would like to think there was more possible going forward.

The CHAIR: We might draw it to an end there. Thank you very much. There are no more questions. I note that you have taken a number of questions on notice. We have a slightly shorter notice period now—10 days, please.

(The witnesses withdrew)

(The Committee adjourned at 16:05)