

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

**Monday 2 September 2019**

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

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

**CORRECTED**

**The Committee met at 9:30.**

### **MEMBERS**

The Hon. Robert Borsak (Chair)  
The Hon. Niall Blair  
Ms Abigail Boyd  
The Hon. Emma Hurst  
The Hon. Trevor Khan  
The Hon. Taylor Martin  
The Hon. Shaoquett Moselmane  
Mr David Shoebridge (Deputy Chair)

### **PRESENT**

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

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

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

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



**The CHAIR:** Welcome to the public hearing for the inquiry for the examination of budget estimates for 2019-20. Before I commence I acknowledge the Gadigal people, who are the traditional custodians of this land. I also pay respect to the elders, past and present, of the Eora nation and extend that respect to other Aboriginals present. I welcome the Attorney General, the Hon. Mark Speakman, and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolios of Attorney General and Prevention of Domestic Violence. Today's hearing is open to the public and is being broadcast live via the Parliament's website.

In accordance with broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I also remind media representatives that you must take responsibility for what you publish about the Committee's proceedings and that you now have a table in the room against the wall. The guidelines for the broadcast of proceedings are available from the secretariat. All witnesses in budget estimates have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. There may be some questions that a witness could only answer if they had more time or with certain documents to hand. In these circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days.

Any messages from advisers or members' staff seated in the public gallery should be delivered through the Committee secretariat. Attorney General, I remind you and the officers accompanying you that you are free to pass notes and refer directly to other advisers seated at the table behind you. Transcripts of this hearing will be available on the web from tomorrow morning. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. Attorney General Speakman, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament. I also remind Mr Coutts-Trotter and Ms Stratford from the Department of Communities and Justice that you do not need to be sworn as you have been sworn at an earlier budget estimates hearing. All other witnesses I ask to state their full name, position title and agency and swear either an oath or an affirmation.

**SIMONE WALKER**, Deputy Secretary, Strategy Policy and Commissioning, Department of Communities and Justice, sworn and examined

**KATHRINA LO**, Deputy Secretary, Law Reform and Legal Services, Department of Communities and Justice, affirmed and examined

**CATHERINE D'ELIA**, Deputy Secretary, Courts, Tribunals and Service Delivery, Department of Communities and Justice, sworn and examined

**BRENDAN THOMAS**, Chief Executive, Legal Aid NSW, sworn and examined

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

**LIBBY STRATFORD**, Chief Financial Officer, Department of Communities and Justice, on previous oath

**The CHAIR:** I declare the proposed expenditure for the portfolios of Attorney General and Prevention of Domestic Violence open for examination. Questioning of these portfolios will begin at 9:30. All witnesses, including the Attorney General, will be questioned in the morning session. After a lunch break we will continue questioning Government witnesses. The Attorney General will not be questioned in the afternoon and evening sessions. As there is no provision for any witness to make an opening statement before the Committee commences questioning, we will begin with questions from the Opposition.

**The Hon. TREVOR KHAN:** Shame!

**The Hon. NIALL BLAIR:** Good start.

**The CHAIR:** Good start, yes.

**The Hon. ADAM SEARLE:** Mr Attorney, you are aware of the terrible deaths of Jacinta Rose Smith and Mona Lisa Smith. Have you applied for, or will you apply for, a new inquest?

**Mr MARK SPEAKMAN:** The National Justice Project, I think it is called: George Newhouse wrote to me some time ago asking for an inquest. I recently wrote to the Commissioner of Police forwarding to him the material that I received from Mr Newhouse. There was some material, I think, around about December last year or a bit earlier. That was supplemented in July. I have asked the Commissioner to indicate what, if anything, he wishes to say or do in response to that.

**The Hon. ADAM SEARLE:** When you say "supplemented in July"—

**Mr MARK SPEAKMAN:** July this year.

**The Hon. ADAM SEARLE:** Okay. You were asked questions on notice in Parliament last year and I think you answered in April and May.

**Mr MARK SPEAKMAN:** Yes.

**The Hon. ADAM SEARLE:** Last September I think at budget estimates I think you said you had received the further information you had sought and you are seeking then further information. What was that further information that you were seeking last September?

**Mr MARK SPEAKMAN:** I do not recall. Certainly seeking departmental advice on the avenues open to me and what to do. Just excuse me for a moment.

**The Hon. ADAM SEARLE:** Of course.

**Mr MARK SPEAKMAN:** I understand we received a second batch of material on 7 August this year.

**The Hon. ADAM SEARLE:** That is in relation to the further advice you sought last September?

**Mr MARK SPEAKMAN:** No. This was from the National Justice Project. They forwarded, I think, some witness statements and some other material to us.

**The Hon. ADAM SEARLE:** I am just interested in what had happened from last year. You were asked questions in April and May?

**Mr MARK SPEAKMAN:** Yes.

**The Hon. ADAM SEARLE:** Last September you said that you had got the further departmental advice you were seeking but you were now asking for more information. I am just wondering what that extra information was and when did you receive it?

**Mr MARK SPEAKMAN:** I do not know when I received it, but basically advice on the avenues open.

**The Hon. ADAM SEARLE:** Okay. But nothing took place then and now this year you have received representations from the National Justice Project.

**Mr MARK SPEAKMAN:** I received a follow-up set of material from the National Justice Project.

**The Hon. ADAM SEARLE:** So you have now written to the police Minister, or was it the Commissioner?

**Mr MARK SPEAKMAN:** The Commissioner of Police.

**The Hon. ADAM SEARLE:** In what time frame do you expect to receive some response?

**Mr MARK SPEAKMAN:** I have not given him a time frame. Whatever answer I gave would be speculative but my speculation is that it would be months and not years and not weeks.

**The Hon. ADAM SEARLE:** This has been going on for some time.

**Mr MARK SPEAKMAN:** It has.

**The Hon. ADAM SEARLE:** Have you met with the affected families?

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

**The Hon. ADAM SEARLE:** Would you be willing to do so, if they sought a meeting with you to try to persuade you to have another inquest?

**Mr MARK SPEAKMAN:** I would be willing to meet them, yes.

**The Hon. ADAM SEARLE:** Okay. Have you had any discussions with the police Minister about this matter?

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

**The Hon. ADAM SEARLE:** And no discussions with the previous police Minister?

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

**The Hon. ADAM SEARLE:** Currently there is a mediation process underway, I think, between the police and the family. What do you know about that process and where that is up to?

**Mr MARK SPEAKMAN:** I have not got a note in front of me but my recollection is it has reached a bit of an impasse.

**The Hon. ADAM SEARLE:** Okay. Again, not wishing to put words in your mouth, but you are hopeful that in weeks rather than months you might have some response from the commissioner.

**Mr MARK SPEAKMAN:** No. I think I said months rather than weeks on the one hand, or years on the other hand.

**The Hon. ADAM SEARLE:** Okay, but it has been going on for some time. Have you got in mind a time frame in which you think it is not unreasonable for you to make up your own mind on this?

**Mr MARK SPEAKMAN:** Look, I am conscious it has been going on for quite some time. These are events that occurred 30, 35 years ago.

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

**Mr MARK SPEAKMAN:** Very tragic events.

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

**Mr MARK SPEAKMAN:** There was an inquest. There is a request for another inquest. Obviously, to give the families some direction I am hopeful of making a decision as quickly as possible.

**The Hon. ADAM SEARLE:** Okay. Thank you.

**Mr MARK SPEAKMAN:** Thank you.

**The Hon. SHAOQUETT MOSELMANE:** Attorney, the trial of three men accused of the murders of underworld figure Pasquale Barbaro and Mehmet Yilmaz set down for July was vacated when the defendants could not secure counsel for the four months trial at Legal Aid fee rates. The presiding judge, His Honour Justice Fagan said:

... [the] inability to secure the services of trial counsel at Legal Aid rates on reasonable notice for a long trial is a problem that requires urgent attention to enable this court to do its work.

That is right, is it not?

**Mr MARK SPEAKMAN:** What is right?

**The Hon. SHAOQUETT MOSELMANE:** That Legal Aid rates are not available for solicitors and barristers taking on such long trials.

**Mr MARK SPEAKMAN:** I am sorry. What is the question?

**The Hon. SHAOQUETT MOSELMANE:** The question is: The "inability to secure the services of trial counsel at Legal Aid rates on reasonable notice for a long trial is a problem that requires urgent attention".

**Mr MARK SPEAKMAN:** Legal Aid rates are certainly getting close attention by the Legal Aid Commission and me. This is an issue with private practitioner rates. They have not gone up for 12 years. Understandably the Bar Association and the Law Society are rather agitated by that. I think it is out in the public domain that Legal Aid earlier this year prepared a business case that will be the subject of Government consideration and, hopefully, a decision sooner rather than later.

Just on what Justice Fagan said, I do not know that he had direct knowledge or direct evidence of the causes of an unavailability of counsel. As I understand it, in that case Legal Aid was unable to secure counsel. The trial was vacated. There were counsel available for 2020. I think his Honour inferred that it was a problem with Legal Aid rates but he did not have direct evidence. However, I accept there is a live issue about private practitioner fees that have not gone up for 12 years.

**The Hon. SHAOQUETT MOSELMANE:** But this is being described as a crisis and abysmal. It has been going on for a long, long time—12 years, as you say.

**Mr MARK SPEAKMAN:** The rates have not gone up for 12 years, which is why Legal Aid has done a business case on whether headline rates should go up, whether it is appropriate to look at greater block payments for early preparation to try to encourage cases to be dealt with quickly before they go to trial. All those permutations and combinations are being looked at by Legal Aid and it is now a matter for the Government to—

**The Hon. SHAOQUETT MOSELMANE:** What is your view, Attorney? What is your proposition?

**Mr MARK SPEAKMAN:** I am conscious that rates have not gone up for 12 years. I am conscious that about one-third of Legal Aid's work is outsourced to private practitioners. Most of it is done in-house. Private practitioners are an important part of the network of providing legal services to the disadvantaged. I am keen for a resolution sooner rather than later.

**The Hon. ADAM SEARLE:** Attorney, I think his Honour suggested a number of remedial measures. Apart from increasing the rates for private practitioners, it was also suggested that maybe the number of public defenders could be expanded and prioritising the work of public defenders to cases that are difficult to place with the private bar. Are those measures that you are also looking at?

**Mr MARK SPEAKMAN:** I think we have increased the number of public defenders by about four in recent years.

**The Hon. ADAM SEARLE:** Is that enough to keep pace with the workload?

**Mr MARK SPEAKMAN:** There was an increase in the number of public defenders to keep pace with the extra workload from the early appropriate guilty plea regime. That is something we will keep under review.

**The Hon. SHAOQUETT MOSELMANE:** These rates have been so low that when compared to other States—for example, Victoria, South Australia and Queensland receive \$171 and \$204 an hour across criminal and family matters compared with \$150 in New South Wales. It has been such a low rate for a long time. Why have they not been looked at?

**Mr MARK SPEAKMAN:** I am conscious that they are low compared with other States. I am also conscious that they are lower than Attorney General rates, the rates the rest of government pays private practitioners to do government work. They are certainly way below market rates. It is a matter of balancing the budget on one hand and access to justice and fairness to practitioners on the other. That is why Legal Aid has done this business case for us to consider the way forward.

**The Hon. SHAOQUETT MOSELMANE:** When is the business case going to be finalised?

**Mr MARK SPEAKMAN:** It is part of the budget process. It may be part of budget 2020-21 or it might be dealt with sooner.

**The Hon. SHAOQUETT MOSELMANE:** So it could be 2022?

**Mr MARK SPEAKMAN:** No, I said sooner. It is in the process for the next budget, the 2020-21 budget but it may be that a decision will be made sooner than that.

**The Hon. SHAOQUETT MOSELMANE:** Justice Fagan is correct when he says representation of the accused increases the efficiency of court. Is he not right?

**Mr MARK SPEAKMAN:** He is right.

**The Hon. SHAOQUETT MOSELMANE:** Increasing Legal Aid rates to ensure representation is likely to save public money in the long term. Is that right?

**Mr MARK SPEAKMAN:** If you increase Legal Aid rates you are obviously paying out more money. It is a question of balancing that against the savings you make because trials are dealt with more efficiently, issues are crystallised more effectively and cases get on quicker and are dealt with quickly—and probably more importantly, fairly.

**The Hon. SHAOQUETT MOSELMANE:** And less delays in court.

**Mr MARK SPEAKMAN:** That is correct.

**The Hon. SHAOQUETT MOSELMANE:** The Legal Aid Commission government agency business case for increased funding prepared in February of this year said the delivery of Legal Aid is increasingly under threat and argued for increased funding to avert the crisis experienced in other jurisdictions such as the United Kingdom, where private lawyers have withdrawn their services and created a crisis in the justice system. Why will the Government not provide extra funding for Legal Aid?

**Mr MARK SPEAKMAN:** There are two parts to the question, at least. One is the private practitioner element. That is about a third of Legal Aid's work. I have said there is a business case that has looked at private practitioner rates that is under consideration at the moment. The rest is funding for Legal Aid generally. State Government funding from Legal Aid is up I think around 80 per cent since 2010-11. The Government has been very keen to resource Legal Aid properly—that is, resourcing not just for private practitioners but for in-house lawyers who do the bulk of the work. That commitment will continue.

**The Hon. ADAM SEARLE:** Attorney, is there any intention to make solicitors within the Office of the Director of Public Prosecutions [DPP] permanent employees? We are hearing that many lawyers working there have been on temporary contracts for well over four years and have very little notice when contracts are coming up, whether they will be renewed or not. It is very close to the mark.

**Mr MARK SPEAKMAN:** I will have to take that on notice, Mr Searle.

**The Hon. ADAM SEARLE:** I do not know whether this is—I guess this might fall particularly within the purview of the Director of Public Prosecutions—

**The Hon. TREVOR KHAN:** Are you looking for a new gig, are you?

**The Hon. ADAM SEARLE:** No. The issue is whether or not—

**The CHAIR:** One would ask what are you going to do after you leave.

**The Hon. NIALL BLAIR:** Asking for a friend.

**The Hon. TREVOR KHAN:** Well, we will talk about this later.

**The Hon. ADAM SEARLE:** Settle down.

**The CHAIR:** Order! No more traffic matters for you.

**The Hon. ADAM SEARLE:** Mr Attorney, right across the Government there has been an increase in insecure work. For example, in budget estimates last week we saw that the contract and contingent workforce across the whole of the public sector is now 31 to 32 per cent of the whole workforce. Many workers are on temporary contracts—term limited—and not finding out whether their contracts will be renewed until fairly close to the time. This is, of course, also occurring within the office of the DPP. Do you, as the Attorney General, have any view about the desirability of that or would you accept that permanent workforces or more timely renewal of contracts is a better thing?

**Mr MARK SPEAKMAN:** With everything in government there is a question of balance. On the one hand you want to be—I was going to use an expression of a former Prime Minister, which did not get him very far—"nimble", "agile" with your expenditure so you can tailor expenditure as the circumstances change. However, obviously if you were an employee you would prefer to have permanent tenure or a permanent position than be a casual or a contractor.

**The Hon. ADAM SEARLE:** Yes. In your portfolio, what is the percentage of contingent workers?

**Mr MARK SPEAKMAN:** We will have to take that on notice.

**The Hon. ADAM SEARLE:** Turning to the Coroner's Court—we had some discussions about this last year. Mr Attorney, where is the statutory review of the Coroners Act 2009? Are you expecting it imminently?

**Mr MARK SPEAKMAN:** That is tied up with a review of coronial processes generally. There is a task force at the moment that includes Health and Justice looking at the ways we can speed up the whole coronial process—not just by the time it is in the Coroner's Court, but from go to whoa. We announced a couple of reforms I think last week or the week before to the coronial process: getting rid of the requirement if a deceased has not seen a practitioner within six months that that is a reportable death, trying to speed up the whole coronial process. I think as the health Minister said in an answer in question time, the biggest problem we have is the worldwide shortage of forensic pathologists. The statutory review will be part of a holistic approach to possible reform to the coronial system.

**The Hon. ADAM SEARLE:** At the risk of inviting you to speculate, Mr Attorney, do you have any time frame for when this might be complete?

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

**The Hon. ADAM SEARLE:** Because it is well overdue, isn't it, the statutory review?

**Mr MARK SPEAKMAN:** The statutory review is well overdue. This is a very important issue. It is particularly important in regional New South Wales where there have been lots of issues. We want to get it right. That is why we are taking a holistic approach and not just segmenting the statutory review.

**The Hon. ADAM SEARLE:** There have been significant complaints about the delays in coronial inquests, including by the Law Enforcement Conduct Commission. What steps are you taking to reduce those delays?

**Mr MARK SPEAKMAN:** As I have said, there is a task force with Health and Communities and Justice representatives looking at a holistic approach to the entire coronial process, including the Coroner's Court.

**The Hon. ADAM SEARLE:** Because ex-State Coroner Barnes said that the coroner system is well under-resourced and that in the last year less than half as many inquests were finalised as they were in 2011, although there are now almost 20 per cent more reportable deaths. That is quite a big decline in the efficiency of that court due to under-resourcing, isn't it?

**Mr MARK SPEAKMAN:** I do not know whether it is a decline in efficiency. The Coroner makes decisions, sometimes there are mandatory requirements but the Coroner also makes decisions when or when not to have an inquest.

**The Hon. ADAM SEARLE:** One source of the delays has been post mortem examinations not being carried out or pathology tests not being carried out in a timely manner. What steps are you taking as Attorney General to secure additional resources to address that particular problem?

**Mr MARK SPEAKMAN:** I think forensic pathologists is more a matter for the health Minister. As I say, this task force is looking at the whole process.

**The Hon. ADAM SEARLE:** One of the weaknesses, I guess, in the coronial system is there does not seem to be a systematic approach to determining whether or not the recommendations made by coroners are actually being implemented, particularly by non-government bodies. You would accept that, would you not?

**Mr MARK SPEAKMAN:** No, I do not know that I would accept that.

**The Hon. ADAM SEARLE:** What sort of systematic approach is taken to making sure—

**Mr MARK SPEAKMAN:** My recollection is that, at least where there is a government response to an inquest, the Government Minister has to copy me in with that response.

**The Hon. ADAM SEARLE:** That is true, and how many coronial recommendations are currently outstanding?

**Mr MARK SPEAKMAN:** I would have to take that on notice.

**The Hon. ADAM SEARLE:** Please do. Where it does not require action by a government Minister, where it involves the non-government sector, what approach does your portfolio or the Government take to make sure that coronial recommendations are considered and implemented or, if not implemented, responded to in some way?

**Mr MARK SPEAKMAN:** Obviously, if a coronial recommendation is directed at the State, we have to respond in a full and timely manner. If they are directed to non-government organisations, I am not sure that is a government responsibility, but I will take your question on notice.

**The Hon. SHAOQUETT MOSELMANE:** Attorney General, I take you to the victims of crime matters. Why has it taken six months for immediate needs payments to be made under the Victims Support Scheme for women fleeing domestic violence [DV]?

**Mr MARK SPEAKMAN:** There are a number of answers to that, then I will invite Mr Coutts-Trotter to either supplement or mop up, as the case may be. I think there was a new information technology [IT] system introduced last year that has had some teething problems that are being overcome. We are also putting on casual staff to speed up the processing time for immediate needs payments. I think our key performance indicator [KPI] is 15 working days. It is not a crisis payment. It would probably be better called "urgent needs" rather than "immediate needs". We did introduce a package earlier this year for victims of domestic violence, rather than producing invoices, receipts et cetera they could get immediate needs of up to \$5,000 with quotes and so on to speed up that process. Turnaround times have improved. Mr Coutts-Trotter, you might assist with that.

**Mr COUTTS-TROTTER:** Thank you, Attorney General. As at August 2019, the average time taken to provide an immediate needs payment is nine days, against a service level standard of 15. There has been significant improvement there.

**The Hon. SHAOQUETT MOSELMANE:** Can you repeat that?

**Mr COUTTS-TROTTER:** An average of nine days to provide an immediate needs payment and our expectation is that immediate needs payments are provided within 15 business days—sorry, working days.

**The Hon. SHAOQUETT MOSELMANE:** Attorney General, is that as a result of your thorough briefing that you requested?

**Mr MARK SPEAKMAN:** Politicians always want to claim credit for everything. It is probably a result of our public servants working very hard to rectify an unacceptable blowout in waiting times. As I said, we have introduced for domestic violence victims this immediate needs package that does not require receipts and invoices. We have tried to fix up the IT system, put on extra staff, so that victims get prompt payment.

**The Hon. SHAOQUETT MOSELMANE:** Our time has run, so I will ask you to come back to it.

**The Hon. EMMA HURST:** Studies have found that approximately 50 per cent of women in domestic violence situations report that their partner also hurt or killed one of their companion animals. We have seen a lot of research that roughly 33 per cent of women actually delay leaving a domestic violence situation because of concerns about companion animal welfare. What programs is the Government funding to ensure that victims can safely flee violent relationships with companion animals, considering this strong link?

**Mr MARK SPEAKMAN:** Thank you for the question. In round one of our \$20 million Domestic and Family Violence Innovation Fund we funded the Safe Families program. Since July 2017 the RSPCA, in partnership with Dignity, has developed and piloted Safe Families to support an increased number of refugees to accommodate victims of domestic and family violence together with their pets. That package includes pet

enclosures, food, veterinary support and training for refuge staff in basic pet care. By supporting refuges to accommodate victims with their pets, this is a program that is removing barriers faced by victims with pets in accessing safe accommodation and is improving the capacity of the domestic and family violence system to respond to victims who have pets.

It is a pilot. We are working with two refuges to help people with pets fleeing domestic and family violence. Penrith is one location. There has not been a formal evaluation but I am advised that the project has implemented all the milestones that have been outlined in the proposal, including delivering pet care training to refuge employees, developing refuge procedures for residents for pets, and purchase and installation of pet enclosures and equipment. We have got two additional refuge locations committed to working in the program, at Port Macquarie and Maitland.

**The Hon. EMMA HURST:** How much is the Government helping fund these programs?

**Mr MARK SPEAKMAN:** I will take that on notice, if I may.

**The Hon. EMMA HURST:** Our current laws also do not recognise animals as protected persons under apprehended domestic violence orders [ADVOs]. They can be included under an ADVO as a property order but there are a lot of unintended consequences with this, where animals could end up in a civil dispute as a property dispute and could be left in violent situations. Is the Government willing to consider any law reforms that would recognise animals as potential victims of domestic violence so they can actually be included in an ADVO in their own right?

**Mr MARK SPEAKMAN:** To be honest, it is something I have never considered, but I am certainly happy to consider it.

**The Hon. EMMA HURST:** Thank you. The RSPCA and the police are obviously very separate entities and they also operate on separate computer and operating systems. In our meetings with the New South Wales police they found that if there is a conviction of animal cruelty or an investigation of animal cruelty by the RSPCA that remains on their computer system and the police do not have access to that information. If they are called out for a domestic violence situation they may not be aware that the RSPCA has been called out for multiple animal abuse calls. That would provide them with a lot more important information that will help them intervene, particularly in domestic violence situations, considering that strong link. Is your department doing anything to address this disconnect between how New South Wales currently investigates animal abuse and domestic violence?

**Mr COUTTS-TROTTER:** Not that I am aware of.

**Mr MARK SPEAKMAN:** We are not aware, but I will take that on notice.

**The Hon. EMMA HURST:** A lot of States in the US have created a private animal cruelty register that is accessible by police and major services. Is that something your department would be open to looking into?

**Mr MARK SPEAKMAN:** I do not know whether they will be, but I am.

**The Hon. EMMA HURST:** That is good to hear. Thank you.

**Mr DAVID SHOEBRIDGE:** It was in July 2016 that Rebecca Maher was found dead in a Maitland police cell. If you recall, I asked you questions—you may not—in the budget estimates hearings that followed about the prospect of extending the Custody Notification Service [CNS] to include persons who are detained under, I think it is part 16 of the Law Enforcement (Powers) and Responsibilities Act [LEPRA]. If you recall, you said you would await the coronial finding before you made any changes. Do you remember that?

**Mr MARK SPEAKMAN:** I accept that.

**Mr DAVID SHOEBRIDGE:** The Coroner has now delivered the findings and said that the Attorney General should consider amending the LEPRA to ensure that an Aboriginal person detained under part 16 as intoxicated is provided with the same access to the Aboriginal Legal Service [ALS] CNS as an Aboriginal person held in custody under part 9, and that the duty of police to put an Aboriginal person in custody in touch with the CNS is extended to Aboriginal persons that are detained under part 16. Are you aware of that recommendation?

**Mr MARK SPEAKMAN:** I am.

**Mr DAVID SHOEBRIDGE:** When will we see some legislation to implement it?

**Mr MARK SPEAKMAN:** The department has instructed the Parliamentary Counsel's Office to prepare changes to the regulation to require the notification of the Aboriginal Legal Service when an Aboriginal or Torres Strait Islander person is detained under part 16 of the Law Enforcement (Powers and Responsibilities) Act, dealing with the detention of intoxicated persons. We have consulted with the NSW Police Force and the Aboriginal Legal Service on that drafting and the regulation is currently being finalised by the Parliamentary Counsel's Office.

**Mr DAVID SHOEBRIDGE:** When it comes to implementation, is there a commitment to provide additional funding to the Aboriginal Legal Service to deal with the additional notifications that are likely?

**Mr MARK SPEAKMAN:** After some negotiation, there is additional funding from the Commonwealth for the police side of things and the ALS.

**Mr DAVID SHOEBRIDGE:** Mr Coutts-Trotter or Ms Lo, if you have it before you, could you perhaps—

**Ms LO:** There have been discussions between the Attorney General and the Commonwealth Minister for Aboriginal Affairs, and the Commonwealth has agreed to provide additional funding to the ALS to cover that extended service if we amend our legislation. I do not have a dollar figure with me though.

**Mr DAVID SHOEBRIDGE:** Attorney, first of all, thank you. That is a good development. Do you have an indication of when the regulation will come into effect?

**Mr MARK SPEAKMAN:** No, I do not. But I certainly expect that it would be this calendar year—maybe within a month.

**Mr DAVID SHOEBRIDGE:** Do you know from your discussions—and Ms Lo may know—with the Commonwealth whether there are moves afoot to make this a national project?

**Ms LO:** I do not know.

**Mr MARK SPEAKMAN:** I do not know either.

**Mr DAVID SHOEBRIDGE:** Attorney, in May 2014 the Special Commission of Inquiry into matters relating to the police investigation of certain child sexual abuse allegations in the Catholic Diocese of Maitland-Newcastle—the so-called Cunneen inquiry—was released. Do you remember that?

**Mr MARK SPEAKMAN:** Yes.

**Mr DAVID SHOEBRIDGE:** At the time volumes 1, 2 and 3 were published, but volume 4 was restricted for publication until the conclusion of matters involving Archbishop Wilson. Do you remember that?

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

**Mr DAVID SHOEBRIDGE:** Attorney, matters involving Archbishop Wilson concluded in December 2018. When will volume 4 be published?

**Mr MARK SPEAKMAN:** I will take that question on notice, but that may be a question for the Department of Premier and Cabinet.

**Mr DAVID SHOEBRIDGE:** Thank you. Attorney, are you a participant on the Age of Criminal Responsibility Working Group?

**Mr MARK SPEAKMAN:** No.

**Mr DAVID SHOEBRIDGE:** Is somebody from your department on that working group?

**Mr MARK SPEAKMAN:** Yes.

**Mr DAVID SHOEBRIDGE:** Who is that?

**Mr MARK SPEAKMAN:** Paul McKnight.

**Mr DAVID SHOEBRIDGE:** Do you know if there are terms of reference for that working group?

**Mr MARK SPEAKMAN:** I think there are, yes. They have come from the Council of Attorneys-General.

**Mr DAVID SHOEBRIDGE:** Could you provide the Committee with a copy of them on notice?

**Mr MARK SPEAKMAN:** I can—if they exist, which I think they do.

**Mr DAVID SHOEBRIDGE:** Do you know what perspective the review has been conducted from? Has it been done from the perspective of economic-cost benefits, social- and cultural-cost benefits or human rights?

**Mr MARK SPEAKMAN:** I do not think it is being conducted from any particular perspective. It would be taking a holistic approach to this issue. Western Australia is the lead jurisdiction and there is a report due back to the Council of Attorneys-General at the end of the year.

**Mr DAVID SHOEBRIDGE:** Do you know which meeting of the Council of Attorneys-General the report will be delivered to?

**Mr MARK SPEAKMAN:** We are probably going to have a meeting in November or December and I anticipate that it will be delivered at that meeting.

**Mr DAVID SHOEBRIDGE:** In the work that your department has done to date, what position will New South Wales take to that national body on increasing the age of criminal responsibility?

**Mr MARK SPEAKMAN:** In terms of the ultimate outcome, whether it be that it is the status quo or that it is moved to 12, 14 or some other outcome, New South Wales has not determined a position. We will determine that in consultation with other jurisdictions.

**Mr DAVID SHOEBRIDGE:** Obviously a position is going to have to be taken to the meeting. Are you saying that you will not take a position to the meeting?

**Mr MARK SPEAKMAN:** It is likely that I will take a position to the meeting, but that position has not been determined.

**Mr DAVID SHOEBRIDGE:** What, if any, reports or processes is your department going through in order to determine that position? Who are you consulting with?

**Mr MARK SPEAKMAN:** We will be consulting with interested stakeholders. We will be looking at the research, looking at experiences in overseas jurisdictions and looking at the views, research and feedback of other jurisdictions in Australia, all of which have, at the moment, an age of criminal responsibility of 10.

**Mr DAVID SHOEBRIDGE:** But when you compare Australia to other jurisdictions, particularly in Europe and even in places such as Russia, the age of criminal responsibility in Australia is almost uniquely low at 10.

**Mr MARK SPEAKMAN:** It is certainly lower than many or most European countries. I am not sure that it is uniquely low. I think in some states of the United States it might be as low as seven, or there may be no minimum age at all. Singapore either has a very low minimum age or is moving in the opposite direction.

**Mr DAVID SHOEBRIDGE:** We do not normally look to Singapore as a jurisdiction to establish our human rights though, do we?

**The Hon. TREVOR KHAN:** You referred to Russia.

**Mr DAVID SHOEBRIDGE:** I referred to Russia simply because even Russia has a higher age of criminal responsibility, which puts New South Wales in context.

**Mr MARK SPEAKMAN:** As much as you may wish me to do so, I cannot pre-empt where we will end up. But obviously it is an issue of significance that we will look at very closely.

**Mr DAVID SHOEBRIDGE:** Is your department considering alternatives to the criminal justice system for children aged 10 to 12 or 14.

**Mr MARK SPEAKMAN:** The answer has to be yes. If you were to raise the age of criminal responsibility you cannot do that in a vacuum. You have to have some alternative diversionary scheme or schemes in place.

**Mr DAVID SHOEBRIDGE:** Which is what I am asking you about, Attorney. What, if any, alternative diversionary regimes are being considered at this point? Obviously you cannot do one without the other. You need to have a package.

**Mr MARK SPEAKMAN:** That is right. I am not going to point to anything in particular. But any alternative that is proffered by those who would promote raising the age of criminal responsibility will be looked at. Also, I should have said we have announced that we are reviewing the Young Offenders Act in response to a recommendation from the Law and Safety Committee of the Legislative Assembly.

**Mr DAVID SHOEBRIDGE:** When is that review due? It is not due before the meeting of the Council of Attorneys-General, is it?

**Mr MARK SPEAKMAN:** Probably not, no.

**Mr DAVID SHOEBRIDGE:** If you have an incomplete review of the Young Offenders Act at the time that you meet at the Council of Attorneys-General, how are you going to have a concluded position for New South Wales?

**Mr MARK SPEAKMAN:** That is a bridge I will cross when I come to it. I will look at the state of the work on the review of the Young Offenders Act then. But I am conscious that I would not want New South Wales to drag the chain, compared with other jurisdictions.

**Mr DAVID SHOEBRIDGE:** Are you considering advancing the review of the Young Offenders Act so that it could be completed in time for you to take a fully informed position to the Council of Attorneys-General on this issue?

**Mr MARK SPEAKMAN:** I will take the question on notice. We only announced the review of the Young Offenders Act in the last week or so. There is a draft of the terms of reference sitting on my in-tray. I will take the issues you have raised on board when I settle those terms of reference.

**Mr DAVID SHOEBRIDGE:** When was the decision made to review the Care Partner Program funding?

**Mr MARK SPEAKMAN:** I will invite Mr Thomas to answer that question because that was a decision of Legal Aid, rather than a ministerial decision.

**Mr THOMAS:** Thank you, Attorney. The Care Partner Program was established in 2015 following changes the Government made with the staying home for life reforms. It was established on an assumption we made in Legal Aid that there would be a significant increase in the amount of legal work flowing into the care and protection jurisdiction following those reforms. Initially that program was funded with just over \$800,000 for 22 Centres [CLCs]. It was reviewed after two years, in 2017, and it was found that in fact the reverse had happened: Rather than a significant increase in legal work, there was a decrease in legal work. In 2017 that program was reduced by around 50 per cent. It dropped from 22 funded CLCs to 12 CLCs. The amount of funding going into the program was reduced from just over \$800,000 to just over \$440,000.

In 2017 the program for those 12 CLCs was continued for another two years. We have had another look at the number of participants being serviced by that program and it had continued to decline. Right across all of our work areas in the care and protection jurisdiction our work has dropped by between 16 per cent and 25 per cent. There have been significant reductions in that work. In fact, the number of services being provided through the Care Partner Program continues to be considerably low. If I can just provide some contextual figures for that. There were 12 community legal centres [CLCs] funded under that program. They provide advice to clients but they were also funded to do legal work and legal tasks, court work and court representations and duty work. If I can just give you some figures that put that in a little bit of context.

One CLC in the first six months of this year did no representation and six legal tasks. Another did 10 instances of representation and five legal tasks. Sixteen instances of legal tasks and 23 representations. At a fourth CLC, four legal tasks and one representation. The next CLC, no legal tasks and five representations. I can continue on but I do not want to name any of them. We made an assumption that that volume of work would increase. The reality is that the volume of work has not increased, it has decreased substantially. We are very confident that we can take over the clients that would otherwise have been dealt with through the Care Partner Program internally within Legal Aid, and through the network of private lawyers that we have established, who provide specialist services in the care protection system.

**Mr DAVID SHOEBRIDGE:** Do I understand your position to be that all the funding will be withdrawn when the contracts expire on 30 September or the contracts will not be renewed when they expire on 30 September?

**Mr THOMAS:** The contracts were continued in 2017 for two years. They fully expired at the end of June this year. We extended those contracts until September, and now until the end of October, to assist CLCs funded under that program to manage any transitional arrangements.

**Mr DAVID SHOEBRIDGE:** CLCs have suggested that around 800 families each year work with those 12 community legal centres in this program. Do you dispute those figures?

**Mr THOMAS:** The substantive legal work they are doing under this program—that is, legal tasks where they are doing legal activity on behalf of clients and court appearances, as I mentioned, are significantly lower. They may well be dealing and interacting with 800 families but in terms of doing substantial legal work that volume of legal work is very low.

**Mr DAVID SHOEBRIDGE:** But the program is more than just substantive legal work in court. The program is early, informed support from a legal perspective to prevent these families falling into the Children's Court, falling into Family and Community Services [FACS] and prevent children being removed in the first place. There is a great deal that they provide over and above that formal legal representation in court. Are you aware of that other work that they do?

**Mr THOMAS:** I am aware of the other work they do but where that work is not resulting in formal legal tasks being done, we can take that work in-house. We are providing advice to thousands of clients, the most disadvantaged clients in New South Wales, entering into the care and protection system right across New South Wales every day. We have got care and protection services going from our 24 offices, from 200 outreach locations. We have a specialised early intervention unit that provides statewide services. We have more than 240 private lawyers specially appointed to care and protection panels that provide legal advice and legal assistance to parents dealing with the care and protection system. We are very confident that no client will go without a service because of this decision.

**Mr DAVID SHOEBRIDGE:** But, Mr Thomas, I think you are missing the point. The work that community legal centres do prevent matters spiralling out of control and then taking up the legal resources that would otherwise be done. The fact that there are less cases actually being run is an indicator of success because the whole purpose of this was early intervention to prevent that spiralling out of control. If Legal Aid's only measure for the success or otherwise of this has been the number of legal cases represented, then you are measuring the wrong thing.

**The Hon. TREVOR KHAN:** That is not what he said.

**Mr THOMAS:** The volume of work for all of us doing work in this jurisdiction has dropped substantially. As I mentioned our work—that is, legal advice, legal appearances and legal tasks—has been declining year-on-year since these reforms were put in place. We do not believe that there is a need to continue this program any further. That we can very comfortably deal with the clients who would otherwise have been dealt with at these CLCs through our own network of offices and a network of private lawyers that work for us under grants of legal aid.

**The Hon. ADAM SEARLE:** Mr Attorney, the Acting Ombudsman in his report on Operation Prospect, said it was imperative that New South Wales had an effective system of oversight in relation to the issuing of warrants for listening devices. Your Government's response was the Surveillance Devices Amendment (Statutory Review) Bill 2018, or Act as it now is. When I checked this morning, despite being enacted in 2018, it still has not been proclaimed or brought into force. Can you tell us why and when it will be?

**Mr MARK SPEAKMAN:** Sure. The amendments will commence on 28 October. We expect to have recruited a surveillance devices commissioner in the meantime.

**The Hon. ADAM SEARLE:** Is the delay because of the recruitment issue?

**Mr MARK SPEAKMAN:** That is the primary reason. You cannot start this regime without having a commissioner in place.

**The Hon. ADAM SEARLE:** Sure. What are the other reasons for the delay because it is a pretty extreme delay? Parliament passes legislation in 2018 and almost all of 2019 goes past. The Ombudsman's report showed that it was in a pretty parlous state.

**Mr MARK SPEAKMAN:** I will let others supplement, if I may. Often these reforms require changes to operational practice. Manuals, procedures, you have to change the criminal justice system, a practice note, bench book—that is not quite relevant here. Changes to the court's procedures, changes more particularly to the policing practices. All those have got to be documented, trained in-house. That does not happen overnight.

**The Hon. ADAM SEARLE:** Have the police done their share? Have they updated their operational procedures?

**Mr MARK SPEAKMAN:** I would imagine so.

**The Hon. ADAM SEARLE:** You touched on bench books. Have there been any changes or practice notes issued to the judiciary about how to approach the task?

**Mr MARK SPEAKMAN:** I do not know. I was more talking about bench books as the kind of thing that happens when we have a major reform. I am not sure whether there has been a practice note or a bench book update in this case.

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

**Mr MARK SPEAKMAN:** I will.

**The Hon. ADAM SEARLE:** In relation to the Premier's Priority on domestic violence, the deferral until 2023 of that priority has caused some concern in the community. Can you tell us why the time frame has been pushed back?

**Mr MARK SPEAKMAN:** It is not just the matter of changing the time frame; it is also changing the reporting metric. The Auditor-General had identified a number of issues with the current metric.

**The Hon. ADAM SEARLE:** What were those issues?

**Mr MARK SPEAKMAN:** Its lack of transparency. I will quote what the Auditor-General said:

Progress towards the previous target could occur either through reduced reoffending, relative to offending or by increased offending, relative to reoffending.

In other words because it was a ratio measurement, if there were increases in offending the proportion of re-offenders may decrease without actual changes to behaviour. The second point was, and I quote:

Around 21 per cent of reoffending occurs before an initial offence is ever reported. This means that both the original offence and the re-offence are reported at the same time with no opportunity for police or corrections to intervene in between.

I continue to quote:

Reported performance for domestic violence reoffending effectively lags by 24 months. Performance data for 2018 is reporting domestic violence that occurred first in 2016 with a re-offence in 2017.

This made it difficult to gauge the impact of intervention. So two points. First, where you have a metric that is looking at the rate of reoffending, sometimes somebody might be charged at the one time with multiple offences and that is counted as reoffending. So that is the problem with having a rate matrix, rather than a volume of re-offenders matrix.

Changing the time to 2023 allows us to look at the impact of domestic violence interventions. When you have a target, you do not want a target at large. These are ambitious targets, they are not easy targets set so that we can say we have done this, we have done this. These are meant to stretch government. There is no point in setting a target that is going to be a walkover to achieve—we want to stretch government. But 2023 is to allow us adequate time to make sure we can properly evaluate the impact of domestic violence intervention, whether they are working or not. Particularly as a lot of these are pilot programs. Like any pilot, you want to see whether or not it works.

**The Hon. ADAM SEARLE:** But the measure of success has now been changed to the number of persons charged with two or more incidents of domestic violence in a 12-month period. It is well known that only one in five victims of domestic violence reports matters to police. Essentially, this measure of success is setting up—

**Mr MARK SPEAKMAN:** I am not sure it is as low as one in five, but there is certainly gross under-reporting.

**The Hon. ADAM SEARLE:** Yes. It is gross under-reporting. The majority of people who are victims do not report. The measure of success your Government has adopted is almost sending a message to the police to not charge people.

**Mr MARK SPEAKMAN:** No, it is not.

**The Hon. ADAM SEARLE:** Well, it is a pretty iffy measure.

**Mr MARK SPEAKMAN:** The problem of under-reporting is a problem whether you are measuring the rate of reoffending or the volume of reoffending. It makes no difference one way or the other to the problem of under-reporting.

**The Hon. ADAM SEARLE:** Is your Government considering Don Weatherburn's proposal of a victim survey to capture the experience of people who do report as well as those who do not?

**Mr MARK SPEAKMAN:** Look, I saw his op-ed in *The Sydney Morning Herald* a week or two ago. There is a Personal Safety Survey that the Australian Bureau of Statistics [ABS] does periodically. I will take on board Mr Weatherburn's critiques. I will also take on board whether a more effective approach would be to persuade the ABS to do more regular reporting of its Personal Safety Survey or improve some of the metrics in there.

**The Hon. ADAM SEARLE:** In relation to that, then, how did your Government strike the rate of 25 per cent reduction? What went into that? And why the focus on reoffending? Why not just target domestic violence offending, full stop?

**Mr MARK SPEAKMAN:** Our \$431 million over four years is targeting offending and reoffending, so it is not as if we are putting all our eggs in the reoffending basket.

**The Hon. ADAM SEARLE:** But the Premier's priority is about reoffending, is it not?

**Mr MARK SPEAKMAN:** The metric, yes, is reoffending but there are 14 Premier's Priorities. That does not mean those 14 things are the only things that the Government is doing. It is a cohort where success or failure with intervention programs can be measured more easily than with the general population.

**The Hon. SHAOQUETT MOSELMANE:** The New South Wales Government has ceased funding to the Women's Family Law Support Service and the Sydney Family Court. Why did that happen?

**Mr MARK SPEAKMAN:** That was a program that began in the Sydney family law registry in 2007. It received funding, I think, for three years from June 2008 from the Department of Premier and Cabinet. For four years from 2011 to 2015 it received no State Government funding; it was funded out of a charity called the women's Domestic Violence Service Management. Then for financial years 2016-17 through to 2018-19, the Government provided ad hoc funding for this program at the Sydney Family Court registry. From 2017 there is now a federally funded program, the Family Advocacy and Support Service, that duplicates the services of the program you have described.

The program you adverted to operated only at the Sydney registry. The federally funded program now operates at four registries: Sydney, Parramatta, Newcastle and Wollongong. So the answer to your question is it has been superseded by another service that operates at four times the number of registries, a service that was independently evaluated in 2018—that is the federally funded service—as an effective program which fills a gap in legal and social support to family law clients with family violence matters. There was an issue raised about whether victim survivors of domestic violence, for example, would feel comfortable dealing with this service which is run through legal aid, but so far as female clients are concerned, it is entirely staffed by female lawyers and other providers.

**The Hon. SHAOQUETT MOSELMANE:** So the New South Wales Government did not see the value in refunding support of this organisation?

**Mr MARK SPEAKMAN:** We have to prioritise service gaps. There was no service gap as we understood it, because this was an independently evaluated program in 2018 that the independent valuation said met the mark. There is \$9.9 million funding from the Commonwealth, I think over three years, for this program and it is now operating at four locations instead of one.

**The Hon. SHAOQUETT MOSELMANE:** What is the Government doing to address inappropriate use of apprehended domestic violence orders against female defendants?

**Mr MARK SPEAKMAN:** Do you mean police using this as a kind of counter-tactic?

**The Hon. SHAOQUETT MOSELMANE:** You tell me.

**Mr MARK SPEAKMAN:** Yes. I suppose inappropriate use is in the eyes of the beholder. We want to make sure that—

**The Hon. SHAOQUETT MOSELMANE:** It is the women that are—

**Mr MARK SPEAKMAN:** We know that domestic and family violence is overwhelmingly gendered when it comes to intimate partner violence. Female victims overwhelmingly exceed the number of male victims when it comes to intimate partner violence. But that does not mean there is not a cohort of men who suffer domestic and family violence. Typically, male victims will still be victims at the hands of male perpetrators, even when it

is male victims. But there is certainly still a cohort of male survivor victims who are entitled to the protection of the law just as much as females.

**The Hon. ADAM SEARLE:** I would like to ask some questions about the Link2home program. For each of the financial years that the program has been provided, including 2018-19, how many occasions of service were provided by the New South Wales Link2home program?

**Mr MARK SPEAKMAN:** I think that is Minister Ward's responsibility. It might be best to ask him.

**The Hon. ADAM SEARLE:** I will definitely ask him those questions. How many specialist Aboriginal family and domestic violence services are funded in New South Wales at present?

**Mr MARK SPEAKMAN:** There is the Kalypi Paaka Mirika Healing Program, which operates in Broken Hill, Menindee and Wilcannia and is a therapeutic practice to address domestic violence through a localised cultural framework. There is the Firmer Foundations program, which aims to build the financial independence of women in western Sydney through workshops and training. That is tailored to the needs of Aboriginal women and also culturally and linguistically diverse women. What's Your Plan? is an intervention program for Aboriginal offenders who attend court due to an apprehended domestic violence order to help them comply with ADVO conditions. Of the 83 women's refuges currently funded, there are two that specifically support Aboriginal and Torres Strait Islander women, and two more include targeted support for ATSI women. I might supplement that answer on notice, if I may?

**The Hon. ADAM SEARLE:** You certainly may. How many Aboriginal women with children were provided with accommodation in a specialist family and domestic violence service in New South Wales in the last year?

**Mr MARK SPEAKMAN:** That is, I think, specialist homeless services. Best to ask Minister Ward.

**The Hon. ADAM SEARLE:** That is one that falls under Minister Ward.

**The Hon. SHAOQUETT MOSELMANE:** We will just go back to the victims of crimes questions.

**Mr MARK SPEAKMAN:** Sure.

**The Hon. SHAOQUETT MOSELMANE:** You indicated that there was a thorough briefing. What else did that thorough briefing reveal to you?

**Mr MARK SPEAKMAN:** That is a fairly open-ended question. Could you be a bit more specific?

**The Hon. SHAOQUETT MOSELMANE:** You have indicated that there were a few things that came back to you as a result of your thorough briefing request from your departments. Can you elaborate on those?

**Mr MARK SPEAKMAN:** This is about the blowout in times to make recognition payments and immediate needs payments.

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

**Mr MARK SPEAKMAN:** I was very concerned about that blowout. That is why extra staff were recruited to speed up processing times. That is why we have introduced a special immediate needs package for domestic and family violence victim survivors so that they can be processed more rapidly. I am not an IT geek. I do not know whether they have fixed the IT problems. It is probably a classic story that whenever a government embarks on a new IT build there are always teething problems. There were here. As I understand it, they are largely under control or certainly heading in the right direction.

**The Hon. SHAOQUETT MOSELMANE:** It was not just the immediate needs payments that was the problem?

**Mr MARK SPEAKMAN:** There was a problem in the payment times for recognition payments, as well.

**The Hon. SHAOQUETT MOSELMANE:** Was there also a dysfunction in the Victim Services unit?

**Mr MARK SPEAKMAN:** In what sense?

**The Hon. SHAOQUETT MOSELMANE:** In the sense of the delays.

**Mr MARK SPEAKMAN:** I will let Mr Coutts-Trotter answer that.

**Mr COUTTS-TROTTER:** What I can observe is that there was a very significant increase in demand that was not quickly enough matched with an increase in resources. So the unit has been significantly improving its performance of recent months. But there was a period during the 2018-19 financial year where demand really swamped the organisation. We have seen a more than halving in the average time taken, now, to provide recognition payments. Since February this year, an average of 1,145 matters a month have been finalised, compared to an average of 516 matters per month for the period July 2018 through to January 2019. So it was an unacceptable degradation of service quality. We are very focused on giving victim survivors the respect and the service that they are entitled to. While we have not yet got to the level of performance that we aspire to, significant gains have been made.

**The Hon. ADAM SEARLE:** That degradation in service delivery that you spoke of is due to a particular problem in the Victim Services unit that led to an investigation. Is that not correct?

**Mr COUTTS-TROTTER:** I am aware of that history, but I think it would be a little simplistic to say that that is the only factor that explains the degradation in service response. The fundamental driver was the increase in victim survivors approaching Victim Services looking for a response.

**The Hon. ADAM SEARLE:** What was the outcome of the investigation into the issues at Victim Services?

**Mr COUTTS-TROTTER:** When I took up this role, one of the first things I needed to do was to deal with a report that came from a review commissioned in, from memory, October last year, when my colleague Kathrina Lo became aware of concerns about the culture and practices within that unit. I received that review. I dealt with it. As you would be aware, I have appointed a new executive to lead that team.

**The Hon. ADAM SEARLE:** Yes. The investigation was carried out by an organisation called Strategy HR. Is that correct?

**Mr COUTTS-TROTTER:** I would need to check that.

**Ms LO:** It was called CPM Reviews.

**The Hon. ADAM SEARLE:** Will you release that review?

**Mr COUTTS-TROTTER:** No. The review was undertaken on the basis that staff who wanted to offer information to the review could do so on a confidential basis. We cannot breach the trust that those people put in the review process.

**The Hon. ADAM SEARLE:** You could provide a redacted copy of the review, couldn't you, so that individuals are not named?

**Mr COUTTS-TROTTER:** I really do not think that that is an appropriate thing to do. I have decision-making responsibility here. I received the results of that review, I considered it and I have taken action accordingly.

**The Hon. ADAM SEARLE:** That investigation arose from concerns about bullying, harassment and spending. Can you take us through at least some of those concerns that were highlighted in the review?

**Mr COUTTS-TROTTER:** No. I really do not think I should. To canvass those issues is to start to talk about the content of the review and what the reviewer was told. I think it would be a mistake to do that.

**The Hon. ADAM SEARLE:** We will put a pin in that, Mr Coutts-Trotter, and come back to it.

**Mr COUTTS-TROTTER:** Okay.

**Ms ABIGAIL BOYD:** Good morning. I want to start by asking you about the New South Wales Women's Alliance's Safe State platform—before the election and certainly before the budget. You would be aware of the 49 recommendations that the New South Wales Women's Alliance, made up of frontline domestic and family violence experts and specialists put together. Some of those recommendations involved funding amounts and a lot of them involved structural issues. Did your department consider those Safe State recommendations? Which of them were you considering when you put in your budget pitch?

**Mr MARK SPEAKMAN:** I am aware of them. We have gone through them line by line, analysing each one. Do you want to ask me about any one in particular?

**Ms ABIGAIL BOYD:** I am just curious, because none of them made it into the budget. As far as I know one has been sort of met. We are finally signing up to Our Watch, which is fantastic. The second is, hopefully,

reform of abortion law. But apart from that I could not see any of the other recommendations that had been considered by the Government in a way that made it into any kind of reform or funding amount.

**Mr MARK SPEAKMAN:** We are considering those as part a refresh of the DV blueprint plan. I do not know whether you want me to go through them one by one.

**Ms ABIGAIL BOYD:** I guess those organisations are a bit confused. They are experts in the field and they have put together a whole-of-government set of reforms that they believe are necessary to address the domestic and family violence epidemic, yet none of them seem to have been considered. If you are not looking at them for advice, where are you getting your advice from?

**Mr MARK SPEAKMAN:** Do not blow the full-time whistle on the first budget. By the time I was Minister, on around 1 April, the budget may not have been set in concrete but the concrete was pouring. So these are all proposals we will keep looking at.

**Ms ABIGAIL BOYD:** Sure. Did you put in any budget pitches for extra funding for domestic and family violence frontline services?

**Mr MARK SPEAKMAN:** The pitches I put in are Cabinet-in-confidence.

**Ms ABIGAIL BOYD:** Of course. Just looking quickly at the immediate needs support package, I know that you said that it is really not immediate—it is for urgent needs. What proportion of applications for those packages are approved?

**Mr MARK SPEAKMAN:** It is pretty high. I do not have the number.

**Mr COUTTS-TROTTER:** I am sorry, I do not have that information to hand, but we could get it on—

**Ms ABIGAIL BOYD:** If you could take it on notice.

**Mr MARK SPEAKMAN:** I do have it. As at a few days ago, since 3 June 576 claims for the immediate needs support package were lodged and 1,584 individual packages were claimed. Of those 1,584 claims, 901 were approved, 545 were not approved and 137 were deferred for further information. The average amount paid per individual is \$3,749.

**Ms ABIGAIL BOYD:** Of those that were not approved, how many of them were due to the women no longer deciding to leave their homes?

**Mr MARK SPEAKMAN:** I do not know.

**Ms ABIGAIL BOYD:** Is that something you could get the information for?

**Mr MARK SPEAKMAN:** I will take your question on notice but I am not sure we will be able to answer it. We will do our best.

**Ms ABIGAIL BOYD:** I am pleased to hear that the average has gone to nine days, because we were hearing of a six-month lag. Obviously if somebody has made that decision to leave the person who is perpetrating violence upon them it is a rather massive undertaking. What are they supposed to do in the nine days when they are waiting for money or for any kind of assistance? Is there only recourse through the Safer Pathways system?

**Mr MARK SPEAKMAN:** The immediate needs package is not a crisis package. It is meant to be very, very quick but not a crisis package. There is Safer Pathway and women's refuges et cetera.

**Ms ABIGAIL BOYD:** Does Safer Pathway have a brokerage component to meet that need?

**Mr COUTTS-TROTTER:** There is brokerage available to women's domestic and family violence services. We have temporary accommodation and support available through the Link2home line. The specialist homeless system as a whole is equipped to provide a crisis response.

**Ms ABIGAIL BOYD:** Can we look then at crisis accommodation. We know that one in two women are currently turned away from crisis accommodation in New South Wales. That is what the experts are telling us. What are the plans, if it is not? Maybe it is funding. Maybe you will tell me that that is coming up in a future budget. What are the plans to ensure that we have not only more positions available for women and their children in crisis accommodation but also for women who have particular obstacles or additional barriers to finding the right kind of accommodation—for instance, people with disability, people with pets and people with teenage sons?

**Mr COUTTS-TROTTER:** Minister Ward is appearing before this Committee on Wednesday. They are his ministerial responsibilities, as opposed to the Attorney General's.

**Ms ABIGAIL BOYD:** So crisis accommodation—

**Mr COUTTS-TROTTER:** It is with Minister Ward.

**Ms ABIGAIL BOYD:** Thank you. I will ask him. Can I talk quickly about the legal system? I understand that we still have a situation in New South Wales where victims can be cross-examined by their perpetrators. Do we have any plans to outlaw that direct cross-examination?

**Mr MARK SPEAKMAN:** That remains under review. We have considered a number of alternatives. One would be to pay for lawyers, either through Legal Aid or otherwise, to do the cross-examination. The Bar Association, I think, at least has an issue whether ethically they could take a slice of the case, just the cross-examination rather than the whole case. I do not presently share those ethical concerns. I think a barrister can be briefed on part of a matter rather than an entire matter, but they are ethical considerations that have been raised at least orally by the bar. Another possibility is that you have justices of the peace [JPs] reading out questions. I am not sure that they would necessarily have that the requisite expertise to do this so.

Sometimes court registrars read out questions. They do not like doing it, I understand, but they read out questions. That is certainly something to keep under review. On the one hand you do not want victim-survivors basically being re-traumatised—and a hostile cross-examination can be a form of abuse; and you do not want that—but on the other hand you have to afford procedural fairness to the accused or the alleged perpetrator, even in an apprehended domestic violence application, even though it is civil. That is the balancing exercise.

**Ms ABIGAIL BOYD:** Sure. You would hope that would not extend to having a perpetrator actually cross-examining their victim.

**Mr MARK SPEAKMAN:** No.

**Ms ABIGAIL BOYD:** I know that this has been dealt with in other States.

**Mr MARK SPEAKMAN:** Yes.

**Ms ABIGAIL BOYD:** I am sure there is a way forward.

**Mr MARK SPEAKMAN:** Yes.

**Ms ABIGAIL BOYD:** Similarly, closed court proceedings: We do have situations where perpetrators are there with their entire families and victims are feeling very shut down and they cannot respond in those circumstances.

**Mr MARK SPEAKMAN:** Yes. How we protect vulnerable witnesses, not just in this context but sexual assault complainants, people with cognitive impairments, children, remains under review.

**Ms ABIGAIL BOYD:** Is there any plan to afford victims the right to provide evidence via some type of CCTV, like we see in other jurisdictions?

**Mr MARK SPEAKMAN:** Often they can provide evidence now from remote witness rooms.

**Ms ABIGAIL BOYD:** But not in all—

**Mr MARK SPEAKMAN:** And in 2015 we introduced the evidence-in-chief requirements so that a domestic violence complainant can give evidence-in-chief in the form of a video that was taken at the time, rather than be re-traumatised by having to give the evidence-in-chief again.

**Ms ABIGAIL BOYD:** Is that in every court or just in certain courts?

**Mr MARK SPEAKMAN:** Sorry, I think prima face that would be—I think it is the legal entitlement is in every court, whether the machinery is there to do it is another matter.

**Ms ABIGAIL BOYD:** Is that just with court leave?

**Mr MARK SPEAKMAN:** No. There is no need for court leave for that. We have certainly got the audiovisual link [AVL] facilities in every court location that sits daily so that in the busiest courts there is capacity to do this and in some other courts as well. There is a legal entitlement to do it. It is a question of the logistical ability to do it, which is available at the courts where there are daily sittings and may be available in some other courts.

**Ms ABIGAIL BOYD:** I understand that we provide support for victim-survivors—advocacy and support—at initial ADVO hearings but we do not continue that sort of case management and support through. Are there plans to fund that additional—

**Mr MARK SPEAKMAN:** The Women's Domestic Violence Court Advocacy Service [WDVCAS] has case management services at Campbelltown and Wagga Wagga. That funding has been rolled over for 12 months and we are doing an evaluation of the efficacy of those services.

**Ms ABIGAIL BOYD:** So that is going to be coming, potentially. Okay. Has there been any thought given to making court processes safer, generally? I know in the NSW A Safe State platform there was a recommendation that all courts that hear domestic violence and family violence cases have, for example, witness rooms with two doors so that a witness cannot be followed in and trapped by the perpetrator, for instance. Have those sorts of structural reforms been considered?

**Mr MARK SPEAKMAN:** Well, look, yes. We have got remote witness rooms available I think at least in most or all the busiest courts. If there are particular configuration issues in certain courts, I would certainly be happy to look at that.

**Ms ABIGAIL BOYD:** I might send you some details on that later.

**Mr MARK SPEAKMAN:** Thank you.

**Ms ABIGAIL BOYD:** Are there any government plans to create specialist domestic and family violence courts or to have specialist lists on certain days in courts?

**Mr MARK SPEAKMAN:** There is no final decision on those. I would be reluctant to go down the specialist court route. I know it has been looked at. I know that there is the Southport model in Queensland where I think there has been a favourable evaluation and Queensland is looking at rolling out that further across Queensland. I think a parliamentary committee looked at it sometime ago and recommended against it. The Domestic Violence Death Review Team report for 2015-17 recommended that I continue to look at specialist techniques, if you like, for dealing with domestic and family violence cases but did not go as far as saying "they must include a specialist DV court", although that is one possibility.

I think the problem with any specialisation is postcode justice. Whatever you put into bricks and mortar in some locations you are depriving other locations and other jurisdictions. Generally speaking, my philosophy is not in favour of specialist tribunals. This is a kind of common debate in legal circles. Some will say this specialisation, specialist tribunals; others will say you get better rounded judicial officers if they have experience in other jurisdictions. In the Local Court magistrates are doing a hell of a lot of domestic and family violence work anyway so they develop a degree of expertise, just like in the District Court. I understand there is something like 30 per cent of the criminal case load that is sexual assault so they develop that expertise.

If there is more room for education and training of judicial officers to conduct hearings in some cases in culturally sensitive ways and in other cases just empathy for what a survivor is going through, that is certainly something that I think the Chief Magistrate is willing to look at and something I am willing to look at. So more specialisation within the Local Court and listing practice is something I will keep looking at.

**Ms ABIGAIL BOYD:** Good.

**Mr MARK SPEAKMAN:** But I am unlikely to be going down the separate court route.

**Ms ABIGAIL BOYD:** Understood. In relation to the Safer Pathway program, the report that came out in February 2019 was very encouraging. What are your plans for implementing the recommendations? I am particularly interested in expanding referral pathways. Depending on the statistics you are looking at, we know that under half of all victims will go to the police as their first point of call.

**Mr MARK SPEAKMAN:** Yes.

**Ms ABIGAIL BOYD:** Has consideration been given to the recommendation that the referral pathways be increased under that program?

**Mr MARK SPEAKMAN:** We will look at that part of refreshing our blueprint.

**Ms ABIGAIL BOYD:** When will that happen? What is the time frame?

**Mr MARK SPEAKMAN:** I think probably by the end of the year, 2020.

**Ms ABIGAIL BOYD:** By 2020. Fabulous. We have talked about case management. You might tell me that this is not in your portfolio either, but in terms of respectful relationships education and looking at the prevention side, do you have any update for us on plans to fund those sorts of programs going forward?

**Mr MARK SPEAKMAN:** It is the portfolio responsibility of the education Minister; however, I can provide a bit of commentary, if you like?

**Ms ABIGAIL BOYD:** Yes, please do.

**Mr MARK SPEAKMAN:** There were recommendations in relation to incorporating domestic and family violence content into the existing personal development, health and physical education [PDHPE] syllabus that were submitted to the Board of Studies Teaching and Educational Standards—now the Education Standards Authority—and they were accepted. Since 2016 all secondary school students in years 7 to 10 are educated about domestic and family violence as part of the mandatory PDHPE syllabus.

In 2018 the Education Standards Authority released a new mandatory PDHPE syllabus, which has strengthened content relating to respectful relationships. That has been implemented in years 7 and 9 in 2019 and will be available to all students, from kindergarten to year 10, starting in 2020. Decisions are made at the local school level as to how to deliver this education. Some schools may choose to engage external providers to meet the requirements of the syllabus such as LOVE BiTES, which is an interactive education program for young people regarding respectful relationships.

**Ms ABIGAIL BOYD:** Again, this might not be your department specifically, but those programs are sort of run on a bit of an ad hoc basis. Are there any plans to implement a long-term coordinated whole-of-school respectful relationships program?

**Mr MARK SPEAKMAN:** My understanding, from what I have just said, is that it is a mandatory component of the PDHPE syllabus, not an ad hoc thing.

**Ms ABIGAIL BOYD:** It is being delivered by community and health workers though, apparently, depending on the provider—

**Mr MARK SPEAKMAN:** It may be a school-by-school decision about how it is delivered, but it is a mandatory part of the curriculum.

**Ms ABIGAIL BOYD:** Looking at women's health centres, why has there been no increase in funding to women's health services in the past 30 years?

**Mr MARK SPEAKMAN:** I am told that is the health Minister.

**Ms ABIGAIL BOYD:** Okay. Clearly it is relevant to—women's health centres are a really significant portion of the initial contact for women experiencing domestic and family violence. I will take it up with the health Minister, and also when we will see an increase. Are you aware of Australia's first community support initiative in the Illawarra for the domestic and family violence trauma recovery centre?

**Mr MARK SPEAKMAN:** No.

**Ms ABIGAIL BOYD:** Apparently there was a funding ask for the trauma recovery centre before the last election. I guess the gap that has been identified is that there are a number of women and children who experience a very specific type of trauma following domestic and family violence. In the Illawarra the trauma recovery centre has been proposed and they are seeking funding there to try and pilot that program. That is not something you are aware of?

**Mr MARK SPEAKMAN:** It may have been something I was aware of and it has now slipped my memory. I do not have a present recollection.

**Ms ABIGAIL BOYD:** Does the Government have any plans for other initiatives to address that sort of long-term trauma?

**Mr MARK SPEAKMAN:** I will take that on notice, if I may.

**Ms ABIGAIL BOYD:** On the assumption that abortion will be decriminalised shortly—let's hope—will the Government be looking at ways to ensure that women, particularly in rural and regional areas, will have better access to reproductive health care?

**The Hon. NIALL BLAIR:** Point of order: We cannot do hypotheticals. You can probably re-put that question in a different way but we cannot do hypotheticals on assumptions.

**The CHAIR:** You can ask the question differently.

**Mr DAVID SHOEBRIDGE:** "What additional resources".

**Ms ABIGAIL BOYD:** What additional resources will you be providing for regional and rural areas in particular in relation to reproductive health care?

**Mr MARK SPEAKMAN:** They are questions best addressed to the health Minister.

**The CHAIR:** This is all the re-engineering that makes it impossible to understand what belongs where.

**The Hon. TREVOR KHAN:** Health has not ever sat with the Attorney General, as best as I understand.

**The CHAIR:** There goes your job.

**The Hon. ADAM SEARLE:** I will return to the issue of the victim services unit and the issues that were raised by the investigation. I stress that I am not asking for names or anything that might breach confidentiality. I am just interested in the issues that were identified in the investigation or the "review" as you call it. Do they include bullying and harassment in the workplace?

**Mr COUTTS-TROTTER:** As I think is on the public record, they were the nature of some of the complaints that the review dealt with.

**The Hon. ADAM SEARLE:** Were all the staff who complained to the investigation or review interviewed?

**Mr COUTTS-TROTTER:** I might pass to my colleague, Ms Kathrina Lo.

**Ms LO:** The investigation was done independently from the department. It was the investigator who determined who he needed to interview based on the material he received from staff. The department did not play any role indicating to him who he should interview as part of his process.

**The Hon. ADAM SEARLE:** Could I ask you to find out whether all the persons who have complained were able to be interviewed or were interviewed and, if they were not, was that because of some assessment about the information or simply because there were too many complaints to do in the time?

**Ms LO:** There are probably a couple of points I would make there. First of all, I received three complaint letters in October last year; human resources received one. All three of the complaints I received were anonymous so there is no way to know if those people were interviewed. In terms of staff who put in information to the investigator, there were quite a number of them. He would have made that assessment in terms of what information he needed to follow up and to which staff he needed to speak to get clarification or further information.

**The Hon. ADAM SEARLE:** Can I still ask you to find that out for me? Are you happy to take that on notice?

**Ms LO:** Yes, I will.

**The Hon. ADAM SEARLE:** Mr Attorney, I would like to ask you some questions about the recent District Court decision in *R v RB*, involving section 293 of the Criminal Procedure Act 1986. The court was pretty clear that the statute in its current form occasions significant unfairness to an accused because the accused is unable to put a highly relevant matter, the matter of past falsifications of information, to the jury. Can you tell us whether or not you are contemplating amendments to the legislation in light of the decision?

**Mr MARK SPEAKMAN:** Sorry, I was momentarily distracted. Could you just say the last two sentences again, please?

**The Hon. ADAM SEARLE:** Are you contemplating legislative change as a result of this decision, which has been described as an "affront to justice"?

**Mr MARK SPEAKMAN:** I cannot comment on the particular matter before the court, but I have—

**The Hon. ADAM SEARLE:** Well just talk about the issue that is—

**Mr MARK SPEAKMAN:** The issue, yes. I will have a look at the issue. It is an issue that has had a long history. It has been around for quite some time. Section 293 of the Criminal Procedure Act provides a fundamental protection for complainants to avoid humiliating, embarrassing, irrelevant cross-examination on prior sexual activity, sexual reputation and so on. There is an important interest of complainants to protect there. That is important in having complainants come forward to the police and bringing cases to court so that they are not saying, "I do not want to go through that in cross-examination, the humiliation on irrelevant matters". It is an important protection.

**The Hon. ADAM SEARLE:** I think we would agree on that.

**Mr MARK SPEAKMAN:** It has been around in one form or another since 1981, when it was section 409B of the Crimes Act. It has had a number of analyses and evaluations well before your time and my time. The Law Reform Commission at the time in 1998 at the time of the current government recommended change in light of some of those criticisms but there were strong and divergent views of stakeholders, which is unsurprising. In 2005 the Criminal Justice Sexual Offences Taskforce considered section 293, and again clear vision in views of the stakeholders, we have some groups that—it is all a question of balance—will properly want to protect the interests of women having to go through a cross-examination. There will be others who emphasise the civil liberties of the accused and a fair trial and a fair process.

**The Hon. ADAM SEARLE:** Just on that, and I do not mean to cut you off, I think we can agree on the policy of protecting complainants and not wanting them to be discouraged from coming forward, but this case really highlights a slightly different issue. In that case the issue involved I think a past conviction, a falsification of evidence, so it was not really about a person's prior sexual history; it was really about their prior falsification of evidence on that matter. The judge said Parliament could not have foreseen the facts that he is confronted with but that there should be a residual discretion in the court to meet the facts of the case. Is that something you are looking at?

**Mr MARK SPEAKMAN:** Yes, something we will look at.

**The Hon. ADAM SEARLE:** That would bring New South Wales into line with other States.

**Mr MARK SPEAKMAN:** New South Wales probably has the widest coverage in 293 at the moment and the discretion, the broad—no, I withdraw that—the breadth of discretion that is in other States does not appear in New South Wales. Whether it is appropriate to add a discretion in exceptional circumstances, formulated that way, whether you might just have a carve-out where there has been a conviction for false complaints, they are things we will look at. But obviously this is incredibly sensitive.

**The Hon. ADAM SEARLE:** I would agree.

**Mr MARK SPEAKMAN:** There have now been a few cases where this has been raised, so I do not want to drag the chain, but it is something where I want to tread very cautiously and carefully.

**The Hon. ADAM SEARLE:** On that, on 19 August Judge Graham vacated a criminal trial, I think it was in Orange, where similar issues arose, and it has been adjourned for two months to allow the Office of the General Counsel to furnish you with a report.

**Mr MARK SPEAKMAN:** I read that.

**The Hon. ADAM SEARLE:** I have read that too. Can you confirm whether that is the case; and, secondly, if it is, when you expect the report?

**Mr MARK SPEAKMAN:** I think I have now received a brief from the department in the last couple of business days.

**The Hon. ADAM SEARLE:** So you will get to it shortly?

**Mr MARK SPEAKMAN:** I will get to it as soon as I can.

**The Hon. ADAM SEARLE:** In August of this year the New South Wales Government took the decision to cancel the tender process for the WDV CAS. That is the service that provides the primary response to victims of domestic and family violence in pretty much every metropolitan and regional centre across the State. The reason given was that there was a view your Government took that parts of the sector felt they had not been adequately consulted on the tender process and the tender itself would not result in better outcomes for women and children impacted by domestic and family violence. On what basis did your Government reach those two conclusions?

**Mr MARK SPEAKMAN:** My recollection is that the tender period was only open for about three weeks. There was a voluminous amount of material for prospective tenderers to consider. Commonly, prospective tenderers were not big organisations with large tender writing capacities.,

**The Hon. ADAM SEARLE:** I am familiar with that.

**Mr MARK SPEAKMAN:** And it was just overwhelming that there would not have been a productive tender outcome when significant providers were not in the position to put their best foot forward. The whole idea of a tender is competition and getting the best competitive outcome, but if the playing field you set does not allow fair competition you are not going to get that outcome.

**The Hon. ADAM SEARLE:** So where to from here? Are you going to revisit the tender process?

**Mr MARK SPEAKMAN:** At the moment what we have said is that there will be another tender. Part of the issue at the moment—

**The Hon. ADAM SEARLE:** When?

**Mr MARK SPEAKMAN:** Well, it is for services from 1 July next year. The WDVCS allocation to date has been on the old police area command boundaries. Now that there has been a re-engineering in the Police Force a new police district, boundaries, particularly in regional areas, there is a need to realign those services. We are looking at having these services aligned with police boundaries.

**The Hon. SHAOQUETT MOSELMANE:** Going back to the victims of crime, and particularly the dysfunction in the Victims Services unit. Mr Coutts-Trotter mentioned that the investigation was more into the culture of the unit. I note that some of the concerns were raised about bullying and harassment, which goes back to 2014. Is that the type of culture that you are talking about, Mr Coutts-Trotter?

**Mr COUTTS-TROTTER:** The review report, as I recollect it, you would not describe it as a broad review of the culture of the organisation. It dealt with the specifics of individual people's complaints. I do have the latest results of the People Matter Employee Survey—which, as you probably know, is an annual survey across all State government agencies—and looking at the results for the Victims Services division, 34 per cent of people reported that they witnessed bullying in the previous 12 months, which is an increase on the year before but, from memory, I think the sector-wide figure is about 33 per cent.

So neither of those figures is acceptable but it indicates that, while there was an increase in people saying they witnessed bullying, it is broadly in line with sector averages; and 25 per cent of people reported through the People Matter Employee Survey that they were the subject of bullying in the previous 12 months, which compares to a public sector wide figure of 18 per cent. So that is not a good result. Working with my colleagues and the leadership team in Victims Services, we are intent on creating a workplace where people feel respected and valued. That is important because people who feel respected and valued do better work for the community, and the survivors and victims need a respectful and high-quality response from the teams.

**The Hon. SHAOQUETT MOSELMANE:** You now say that it is unacceptable, but this type of behaviour apparently has gone back to 2014. Why was no action taken since 2014?

**Mr COUTTS-TROTTER:** I think that is a fair question. I will turn to Ms Lo for the chronology but we acted at a deputy secretary level the moment the issue was raised.

**Ms LO:** I was the deputy secretary responsible for Victims Services from April 2017. As I said before, I received three anonymous letters in the first half of October last year, and before the end of October I had approved a fact-finding investigation to be conducted. Within a matter of days, an investigation was under way. I do not think that that is a shoddy response at all.

**The Hon. SHAOQUETT MOSELMANE:** When are those investigations likely to conclude, or have they concluded?

**Ms LO:** They have concluded.

**The Hon. SHAOQUETT MOSELMANE:** What did you find as a result?

**Ms LO:** It is the same investigation that the Secretary has been talking about and, as we said before, we cannot give out the report.

**The Hon. SHAOQUETT MOSELMANE:** Not only are there issues about bullying and harassment, but other critics of the Victims Services describe the unit as being cumbersome and bureaucratic. That is also unacceptable, is it not?

**Ms LO:** It would be good to, I guess, get a little bit more detail on what they are referring to. I know that the unit has over a number of years been looking at its processes and looking at streamlining processes and how it can be more responsive to victims of crime and how it can speed up the processing of applications. I think we are seeing those improvements come through in the results now.

**The Hon. ADAM SEARLE:** I would like to ask some questions now about section 316 of the Crimes Act. There are some concerns, for example, that it requires disclosure to the police even where the victim does not want that to occur, which may have the risk of reducing complaints. Will you give or are you giving consideration to amending section 316, for example, to include the kinds of exemptions that we find in section 316A?

**Mr MARK SPEAKMAN:** I am just getting 316 up.

**The Hon. ADAM SEARLE:** This is the concealment offence. While you are pulling it up, a number of groups have suggested that is the sort of thing that should take place—for example, Rape And Domestic Violence Services Australia have suggested that kind of change.

**Mr MARK SPEAKMAN:** What kind of change exactly?

**The Hon. ADAM SEARLE:** That you would not necessarily have to report—or it would not be an offence to not pass on—that information to the police when it goes against the wish, for example, of a disclosing adult, particularly when you are reporting something that may have happened before they were an adult. It might include the exemptions you find in section 316A.

**Mr MARK SPEAKMAN:** I am happy to look at that. Section 316 (1) (c) deals with a person "who fails without reasonable excuse", unlike 316A, which sets out a series of circumstances—

**The Hon. ADAM SEARLE:** It kind of codifies it.

**Mr MARK SPEAKMAN:** It kind of codifies it, yes.

**Mr DAVID SHOEBRIDGE:** For the regulations.

**Mr MARK SPEAKMAN:** It is also set out in 316A.

**The Hon. ADAM SEARLE:** Is that something you are considering or is it not on your radar at this time?

**Mr MARK SPEAKMAN:** It is not at the forefront of our legislative program, but it is something I will take on board. I notice that section 316A (2)—which we introduced a year or two ago—sets out what the reasonable excuses are. Section 316 is silent on that. It just says "reasonable excuse". It would not necessarily be a copy and paste but that is something I will have a look at.

**The Hon. ADAM SEARLE:** In 2015 the member for Kiama, Gareth Ward, said he supported the expansion of the Drug Court to the Illawarra. Prior to the 2015 election the former member for Dubbo and the later Police Minister, Troy Grant, said that plans to expand the Drug Court to Dubbo were almost finalised. Can you tell us why the Drug Court has not be expanded to either of those locations? Do you have any plans to expand it?

**Mr MARK SPEAKMAN:** I am not familiar with that bold claim by the former Police Minister and member for Dubbo.

**The Hon. ADAM SEARLE:** I can provide you with the video, if you like.

**Mr MARK SPEAKMAN:** Okay, thank you. That remains under consideration in the budget process.

**The Hon. ADAM SEARLE:** But it works, does it not? The Drug Court, where it is implemented, has quite a good success rate.

**Mr MARK SPEAKMAN:** The Bureau of Crime Statistics and Research has done a couple of evaluations. The 2008 evaluation suggested that the rate of reoffending for those who had completed—distinct from those who had started—the Drug Court program was about 37 per cent less than a comparable cohort. There is good evidence that it reduces reoffending rates. That is something we will take into account in the budget process. As you know, at the moment there is an inquiry into ice and other amphetamines. That inquiry might well make recommendations in this area. I was in Dubbo about two or three weeks ago and I spoke to a number of stakeholders about their interest in a Drug Court.

**The Hon. ADAM SEARLE:** Every candidate in Dubbo in the recent State election supported the expansion of the Drug Court. Are you aware of Dubbo Regional Council's submission about a rehab and detox unit to go with the Drug Court?

**Mr MARK SPEAKMAN:** I am aware of that. One of the issues with any Drug Court is the need for wraparound services.

**The Hon. ADAM SEARLE:** It will fail otherwise.

**Mr MARK SPEAKMAN:** Yes.

**The Hon. ADAM SEARLE:** Where are your deliberations up to?

**Mr MARK SPEAKMAN:** Those issues will be part of the budget process for 2021. We will also see what recommendations the ice inquiry makes in January.

**The Hon. SHAOQUETT MOSELMANE:** Attorney, advocates for victims of crime often point to delays of up to two years in payments being made. Is that correct?

**Mr MARK SPEAKMAN:** I do not think that is correct. That would be exceptional. As Mr Coutts-Trotter said, we are now averaging around nine days in the case of immediate needs payments and about 60 days in the case of recognition payments.

**Mr COUTTS-TROTTER:** The expectation of service is 60 days. The current average, as of August 2019, is 114 business days. But that is a substantial improvement on the average for the 2018-19 financial year.

**The Hon. SHAOQUETT MOSELMANE:** What was it in 2018-19?

**Mr COUTTS-TROTTER:** It was about 390 days, which is completely unacceptable.

**Mr DAVID SHOEBRIDGE:** That is business days not calendar days?

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

**The Hon. SHAOQUETT MOSELMANE:** What efficiency dividend will be extracted from Victims Services?

**Mr COUTTS-TROTTER:** It is part of the new core department and, of course, we view the services provided by the victim support unit as core frontline services. We would not be looking to take savings from that team.

**Mr DAVID SHOEBRIDGE:** Attorney, earlier there were some questions about the review of the Coroners Court. Do you remember that?

**Mr MARK SPEAKMAN:** Yes.

**Mr DAVID SHOEBRIDGE:** I will put some facts on the record. Rebecca Maher died on 19 July 2016 and the findings for that coronial inquest were delivered almost three years later on 5 July 2019. David Dungay died on 29 December 2015 and we are still awaiting the Coroner's findings. Tane Chatfield died whilst on remand in Tamworth Correctional Centre on 22 September 2017 and his inquest has not even been listed. Nathan Reynolds died almost a year ago and a brief has not even been completed. That is a short part of an extensive list of grossly unacceptable delays in the coronial system. Would you agree, Attorney?

**Mr MARK SPEAKMAN:** It is always preferable to get things done quickly. Often these inquests are matters of great complexity and a coroner has to take appropriate time and hear appropriate evidence to resolve them.

**Mr DAVID SHOEBRIDGE:** But if it takes a year to even get a brief completed and, in David Dungay's case, almost four years for a finding—

**Mr MARK SPEAKMAN:** Which I think is due in October.

**Mr DAVID SHOEBRIDGE:** Correct. Do you accept that those delays are unacceptable?

**Mr MARK SPEAKMAN:** I accept that those delays are highly undesirable. Whether they are unacceptable depends on the complexity of the matters that the Coroner and those assisting him have to consider.

**Mr DAVID SHOEBRIDGE:** If you go back and review coronial inquests in the 1980s, they were being delivered within two or three months of the date of death.

**The Hon. TREVOR KHAN:** Some were, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** Not uniformly, but they were regularly being delivered within two or three months of the date of death. There would not be a coronial finding in the last decade that involved a hearing before a Local Court that was delivered in a time frame anything like two months or three months. In fact, you can go back to the 1990s and see coronial inquests being delivered within two or three months of the date of death then—not uniformly, but regularly.

**Mr MARK SPEAKMAN:** How resources are allocated within the Coroner's Court is a matter for the Coroner and the Chief Magistrate. The *Report on Government Services* [RoGS] figures, which were published in January 2019 by the Productivity Commission, suggest that for the last reported financial year of 2017-18 there was a backlog of 25.2 per cent of cases more than 12 months old. That is down on what it was in 2013-14 and

2012-13 when it was around 35.5 per cent and 36.7 per cent. The backlog is not getting greater in terms of waiting times. For cases older than 24 months, in 2017-18 the backlog was 11.5 per cent, which is down from 24.6 per cent and 22.3 per cent in 2013-14 and 2012-13 respectively.

When you compare that with other States, for cases older than 12 months, there is a backlog of 25 per cent in New South Wales—I will round to the nearest percent—28 per cent in Victoria, 39 per cent in Queensland, 21 per cent in Western Australia, 37 per cent in South Australia, 41 per cent in Tasmania, 48 per cent in the Australia Capital Territory and 31 per cent in the Northern Territory. New South Wales was second best in 2017-18. We also came second best for cases more than 24 months old. New South Wales has a rate of 11.5 per cent, compared with a high of 27 per cent in the Australian Capital Territory and a low of 7 per cent in Western Australia. We were second best. If you look at the overall metrics the position is not deteriorating and compares favourably with other jurisdictions.

**Mr DAVID SHOEBRIDGE:** Attorney, that is not comparing apples with apples, is it? In New South Wales the Coroner's Court disposes of many applications without having a hearing, which skews the figures in New South Wales.

**Mr MARK SPEAKMAN:** The RoGS report indicates which data are comparable and which are not. Table 7A.18 of the report includes an indicator that states:

Data are comparable (subject to caveats) across jurisdictions and over time.

Data are complete (subject to caveats) for the current reporting period.

**Mr DAVID SHOEBRIDGE:** "Comparable subject to caveats" is not comparable.

**Mr MARK SPEAKMAN:** It means it is not perfectly comparable, but it means it is broadly comparable otherwise RoGS just would not have said the data are comparable.

**Mr DAVID SHOEBRIDGE:** It is not an answer to the family of Tane Chatfield that things are worse in Tasmania. Their boy was killed on 22 September 2017. They still do not have a listing date. Their life is on hold—and they are not alone—awaiting these conclusions. When will your Government adequately resource the Coroner's Court so as that stops happening?

**Mr MARK SPEAKMAN:** Resourcing of the Coroner's Court is part of the annual budget process. The case you described, all of us here could not imagine the grief that that family would be suffering having to wait for so long—but how resources are allocated within the Coroner's Court is a matter for the Chief Magistrate and the Coroner, and New South Wales compares favourably with other jurisdictions. And the overall figures suggest there has been no deterioration, and in fact a bit of an improvement over the past few years.

**Mr DAVID SHOEBRIDGE:** Simply saying it is a matter for the Coroner's Court how it divides what are clearly inadequate resources is missing the point. It clearly has not got the funds to respond to these matters in a timely fashion. And those delays—which are just a handful of the delays—demonstrate that.

**Mr MARK SPEAKMAN:** How the court uses its resources is a matter for the court. The resources it gets is a matter for government.

**Mr DAVID SHOEBRIDGE:** Correct.

**Mr MARK SPEAKMAN:** And the figures in the RoGS data demonstrate that on that issue New South Wales compares favourably with other jurisdictions and favourably over time.

**Mr DAVID SHOEBRIDGE:** We may come back later to the comparative funding between the Victorian Coroner's Court and the New South Wales Coroner's Court, where New South Wales does not compare favourably, but we will probably run out of time.

**Mr MARK SPEAKMAN:** That is looking at output rather than outcomes. When you are looking at outcomes.

**Mr DAVID SHOEBRIDGE:** In funding?

**Mr MARK SPEAKMAN:** Yes. Funding. Output, funding, dollars.

**Mr DAVID SHOEBRIDGE:** Yes.

**Mr MARK SPEAKMAN:** When you are looking at outcomes, the data show that in terms of cases more than 24 months old or more than 12 months old New South Wales compares favourably with, among other jurisdictions, Victoria.

**Mr DAVID SHOEBRIDGE:** Victoria has now moved to putting legislation that allows for a civil claim to be brought in relation to a historic child sexual abuse where there has previously been a deed of release.

**Mr MARK SPEAKMAN:** Yes.

**Mr DAVID SHOEBRIDGE:** And it does so by allowing a discretion in the court to proceed and requiring the court to take into account in any further action any sums paid under an earlier deed. That is a summary of it. Do you agree?

**Mr MARK SPEAKMAN:** I am not sure the legislation has been passed. There is a bill—I think there is legislation like that in Western Australia and Queensland.

**Mr DAVID SHOEBRIDGE:** Yes.

**Mr MARK SPEAKMAN:** And I think there is a bill before the Victorian Parliament at the moment, and the proposal is that a court can reopen a judgement or reopen a settlement if it is just and reasonable.

**Mr DAVID SHOEBRIDGE:** Yes. And they take into account any earlier payments made under a deed in determining the outcome.

**Mr MARK SPEAKMAN:** That is correct. Yes.

**Mr DAVID SHOEBRIDGE:** When is New South Wales going to get that?

**Mr MARK SPEAKMAN:** That is something we are looking at.

**Mr DAVID SHOEBRIDGE:** Is it reform that you support?

**Mr MARK SPEAKMAN:** That is something I will discuss with my Cabinet colleagues. But I have got your letter, I think about a month ago, and it is something we are looking at.

**Mr DAVID SHOEBRIDGE:** But, Attorney, you would know—

**Mr MARK SPEAKMAN:** Sorry, it is also something we will be consulting on as well. So we are consulting internally at the moment and I anticipate there will be broader consultation later this year.

**Mr DAVID SHOEBRIDGE:** You would know of the many now quite notorious cases against particularly religious institutions in the eighties, nineties and 2000s where, because of insidious legal arrangements which have since been reformed—like the Ellis defence—victims were signed on to deeds of release which represented a fraction of a fair entitlement to their claims. Are you aware of that history?

**Mr MARK SPEAKMAN:** I am aware of the history and I am aware that some of those claims were settled in the context of a limitation period that no longer applies.

**Mr DAVID SHOEBRIDGE:** Or the Ellis defence where they would literally—the lawyers for the church would say, "You have no case"?

**Mr MARK SPEAKMAN:** I am aware of all the arguments. That is why at the moment we are consulting internally and looking to broader consultation later this year.

**Mr DAVID SHOEBRIDGE:** When would you expect there to be some form of public consultation and, if so, when would that feed into a potential legislative agenda?

**Mr MARK SPEAKMAN:** I think on the current timetable we are looking at public consultation later this calendar year. And if the Government decided to introduce reforms, that would be in calendar 2020.

**Mr DAVID SHOEBRIDGE:** Are you looking to any of those other State jurisdictions as a potential model?

**Mr MARK SPEAKMAN:** We will look at those others. I think you identified one of them as what you called best practice.

**Mr DAVID SHOEBRIDGE:** I did.

**Mr MARK SPEAKMAN:** We will certainly look at that.

**Mr DAVID SHOEBRIDGE:** All right. Thank you. The mandatory reporting regime. When will we see legislative reform that requires mandatory reporting for allegations of child abuse that have been given in a confessional?

**Mr MARK SPEAKMAN:** We have taken that to the Council of Attorneys-General [CAG]. A CAG working group is looking at that at the moment. We are looking to whether a national response to the royal commission's recommendation on that is possible, and the CAG working group is being asked to report back to CAG out of session by the end of September.

**Mr DAVID SHOEBRIDGE:** I think when we had this discussion last year you said we were waiting for the CAG working group to report.

**Mr MARK SPEAKMAN:** I do not—

**Mr DAVID SHOEBRIDGE:** Or words to that effect.

**Mr MARK SPEAKMAN:** The transcript will identify what I said. The CAG working group—

**Mr DAVID SHOEBRIDGE:** It may not have been the working group, but you were waiting for a national response?

**Mr MARK SPEAKMAN:** Yes. This time a year ago the working group had not commenced its work on this. There has been a working group busily engaged in addressing the royal commission's recommendations on tendency and coincidence evidence. That is now in a reasonably final form and hopefully will be adopted at CAG at our next meeting. So a working group has now moved on to deal with the confessional issue and, noting that it has been around for some time, New South Wales asked that it report back out of session by the end of September.

**Mr DAVID SHOEBRIDGE:** And when it reports back, what is the process for making that report public? Or what is the process?

**Mr MARK SPEAKMAN:** I think that is to be determined. I do not think there is a process in place at the moment.

**Mr DAVID SHOEBRIDGE:** But if a report is out of session—

**Mr MARK SPEAKMAN:** It reports to members of CAG. It reports to Attorneys General of the different jurisdictions.

**Mr DAVID SHOEBRIDGE:** And whether or not that report is made public or not has not been determined at this stage?

**Mr MARK SPEAKMAN:** That has not been determined.

**Mr DAVID SHOEBRIDGE:** Do you accept that there is a strong case to make that public, given the very reasonable concern people have on this issue?

**Mr MARK SPEAKMAN:** I will take that on board. I do not know that reports are usually made public on other topics. So, for example, we have a defamation working group at the moment that is well advanced on defamation law reform. We have had the coincidence and tendency group. Sometimes these groups put out discussion papers or consultation papers. Normally they are confidential briefings for Attorneys General and what is made public is the decision of Attorneys General. So I will take that on notice, but I think that would be a departure from usual practice. But I accept there is a high degree of public interest in this topic.

**Mr DAVID SHOEBRIDGE:** Do you accept that it is wrong in principle for somebody to receive evidence about child sexual assault in their capacity as a religious adviser and not provide that material to police?

**Mr MARK SPEAKMAN:** Ultimately there will be a Cabinet decision on how to respond to any recommendations of the working group. I will have those discussions in Cabinet, but I am fully cognisant of the arguments.

**Mr DAVID SHOEBRIDGE:** Attorney, what is the current date for the—

**Mr MARK SPEAKMAN:** Sorry, I will just clarify that. That last answer sounded a bit arrogant. I think I am cognisant, but if anybody wants to put further arguments for or against or angles that they do not think have been canvassed by all sides of the argument, I am certainly happy to hear them.

**Mr DAVID SHOEBRIDGE:** Attorney, you have an annoying habit of giving succinct and direct answers, which can make this frustratingly non-newsworthy.

**The Hon. ADAM SEARLE:** Can you ask your colleagues whether they can catch on?

**The Hon. NIALL BLAIR:** That is why he is there. He will be there for a long time.

**Mr DAVID SHOEBRIDGE:** Yes. If your other Cabinet colleagues had this sort of outbreak of candour and directness it would destroy budget estimates for the media.

**The Hon. ADAM SEARLE:** Or enhance it.

**The Hon. TREVOR KHAN:** It is going to be a long day today.

**The Hon. NIALL BLAIR:** I think we are wasted here. We should be working somewhere else.

**Mr DAVID SHOEBRIDGE:** But it is useful, and I appreciate it; I appreciate the direct answers. When it comes to law reform on defamation, when is that national reporting due?

**Mr MARK SPEAKMAN:** National reporting?

**Mr DAVID SHOEBRIDGE:** The Council of Attorneys-General is working on a reform agenda.

**Mr MARK SPEAKMAN:** The time frame at the moment is—I think jurisdictions have their legislation in place from mid-2020. So working backwards from that timetable.

**Mr DAVID SHOEBRIDGE:** Do you accept that the way the law of defamation works now, which is largely a bludgeoning of legal costs, lengthy trials and lengthy delays with legal costs that can sometimes be three, four or five times—sometimes more—the awards of damages, is grossly dysfunctional?

**Mr MARK SPEAKMAN:** I do not know whether it is grossly dysfunctional. I think many or most stakeholders would say that there is a high degree of dysfunctionality about it. Part of it is that most defamation claims are for modest amounts. In terms of volumes, they are offence that has been taken at a not particularly egregious social media post, for example. One of the issues that we are looking at is a "serious damage" threshold so that there are fewer trivial complaints, and ways to encourage settlement and conciliation before you get to court, with a concerns notice and so on.

**Mr DAVID SHOEBRIDGE:** But even in cases where this so-called serious damage threshold is met, the legal costs can be in the millions of dollars and the damages are in the hundreds of thousands. That is evidence of a system that I would say was out of whack, and evidence of a system that is not providing natural justice.

**Mr MARK SPEAKMAN:** High legal fees afflict many areas of the legal system. Defamation is not unique in that, but it is probably worse than in most areas. As I said, where cases are typically for very modest amounts—I am talking about cases of \$5,000, \$10,000 or \$20,000—legal costs can quickly escalate. That is why it is important to have mechanisms in place that punish, if you like, those that pursue claims that are unmeritorious and allow indemnity costs to be recovered by those who make appropriate offers of settlement.

**Mr DAVID SHOEBRIDGE:** But surely the more fundamental reform is to try and find a way of resolving those defamation issues in a way that does not incur those costs, rather than have a post facto remedy to recover those legal costs.

**Mr MARK SPEAKMAN:** That is one of the things that the defamation working party is looking at—ways to resolve disputes before they get to start. They would look at "compulsory concerns" matters—I think that is what it is called—and offers of amends and so on. That is a compulsory pre-trial process rather than a court-ordered mediation.

**Mr DAVID SHOEBRIDGE:** Or an entirely alternative avenue for redress, which is focused on correcting the record, apologies and non-financial resolutions—and not just for those who do not meet the serious damage threshold, surely.

**Mr MARK SPEAKMAN:** Certainly alternatives to financial payment are being looked at closely, and encouraging appropriate offers of apology and so on. But I think it is fair to say that—I do not know whether it is a consensus—a majority stakeholder view is that you need a higher damage threshold in our defamation law.

**The CHAIR:** Thank you, Minister, for attending this hearing. We have finished with your questioning. The Committee will now break for lunch, and we will return at 2.00 p.m. for further questioning of government officers. Thank you very much for coming.

**(The Attorney General, and Minister for the Prevention of Domestic Violence withdrew.)**

**(Luncheon adjournment)**

**The Hon. ADAM SEARLE:** Mr Coutts-Trotter, in previous budget years the clearance rates for the Local, District and Supreme courts have usually been included in *Budget Paper No. 3*.

**Mr COUTTS-TROTTER:** Yes.

**The Hon. ADAM SEARLE:** In this year's budget paper, although the entry of "Outcome—effective and efficient resolution of legal disputes" is the same, the clearance rate is not included. Can you explain where we might find that information in the budget papers or are you able to provide it to us?

**Mr COUTTS-TROTTER:** I am just looking to see if I have it to hand. I might see if my colleague Catherine D'Elia has it. As to why it is not in this year's budget papers and was in a previous year's; I am sorry, I have no knowledge of that. Do we have the clearance rates?

**Ms D'ELIA:** I have the Local Court for 2018-19 crimes and civil.

**The Hon. ADAM SEARLE:** I have 2018-19. I am more interested in what is going to be for 2019- 20.

**Mr COUTTS-TROTTER:** Oh, I see—anticipated performance.

**The Hon. ADAM SEARLE:** Anticipated, yes, or the actuals. I guess last year had the projections. This year might be different. Maybe you should take it on notice okay.

**Mr COUTTS-TROTTER:** We have got the actuals for 2018-19 that my colleague was referring to.

**The Hon. ADAM SEARLE:** Okay. I am happy to hear that.

**Mr COUTTS-TROTTER:** Terrific. Thanks.

**Ms D'ELIA:** For 2018-19 Local Court crime, 103 per cent; Local Court civil, 100 per cent; District Court crime non-appeal, 110 per cent; and District Court civil non-appeal, 104 per cent. I am sorry, which other jurisdictions were you interested in?

**The Hon. ADAM SEARLE:** Supreme Court.

**Ms D'ELIA:** The Supreme Court crime non-appeal was 108 per cent and Supreme Court civil non-appeal was 98.4 per cent.

**The Hon. ADAM SEARLE:** Do you have the appeal figures as well?

**Ms D'ELIA:** I do not have those with me, no.

**The Hon. ADAM SEARLE:** Are you able to take that on notice and report back to us?

**Ms D'ELIA:** Yes.

**The Hon. ADAM SEARLE:** In October last year District Court judge Robyn Tupman spoke about her fears that some of her colleagues might commit suicide over the court's strained workload. It is a matter of record that two magistrates in Victoria did commit suicide.

**Mr COUTTS-TROTTER:** Yes.

**The Hon. ADAM SEARLE:** What is the Government doing in relation to stress on judicial officers at the Local Court, the District Court and even superior court level?

**Mr COUTTS-TROTTER:** Obviously at the District Court level there was investment in additional District Court judges and support staff. We have seen the backlog of matters before the District Court reduce significantly year-on-year. I might invite Ms D'Elia to provide comments about Local Court resourcing, if that is okay.

**Ms D'ELIA:** When it comes to the mental health for judicial officers beyond resourcing, there is also a mental health program where assistance is provided to all judicial officers to manage their mental health. They have available up to 10 counselling sessions per year, plus a health assessment is available to them as well.

**The Hon. ADAM SEARLE:** There is also the significant threat of court delays in the Local Court because of the lack of resources at least as far as the Chief Magistrate is concerned. If you look at the foreword to his 2018 annual review, it makes for some pretty sober reading about the criminal case load of the court rising by eight and a half thousand additional matters in the previous 12 months, 58,000 final orders made in domestic and personal violence matters, 78,000 civil jurisdiction matters and so on. He concludes with:

There is a limit to what may reasonably be expected of the Local Court. In my view, that limit has been reached.

What is the Government doing in relation to the resourcing of the Local Court?

**Mr COUTTS-TROTTER:** Firstly, obviously, through the means of the review and then in direct discussions with Ms D'Elia and I and, I know, with the Attorney General, the Chief Magistrate has been very clear about his views on the pressures on his jurisdiction. As Ms D'Elia's data indicated, actually the extraordinary response of that jurisdiction to rising demand is evidenced in the fact that its performance on those measures continues to be, if not nation-leading, then close to it. But the views and concerns of the Chief Magistrate are well understood both by our department and by the Government.

**The Hon. ADAM SEARLE:** In the medium term is there any likelihood that those concerns will be addressed in the way that he would think that they need to be?

**Mr COUTTS-TROTTER:** Well, they are certainly issues that, as I say, we are aware of and will form, I am sure, part of consideration for the upcoming budget cycle. Now, I could not speculate on what the result of that might be but the data are clear. The leader of the jurisdiction's views are very clear.

**Ms D'ELIA:** There are two additional magistrates who will be starting in October.

**Mr COUTTS-TROTTER:** Yes, of course. As a follow-on from the royal commission?

**Ms D'ELIA:** From the royal commission.

**The Hon. ADAM SEARLE:** The Government commenced a program in April 2018 entitled Early Appropriate Guilty Pleas, based on a recommendation from the Law Reform Commission.

**Mr COUTTS-TROTTER:** Yes.

**The Hon. ADAM SEARLE:** Obviously, it was quite a controversial innovation, at least as far as the legal profession was concerned. What evidence does the Government have that it has achieved the anticipated reduction in the court backlogs?

**Mr COUTTS-TROTTER:** I think we would say—all people who understand the issue and the data would say—that it is too early to be certain about the impact of the reforms. Some of the early data is encouraging. There has been an increase in the proportion of matters going from the Local Court to the District Court that are going for sentencing as opposed to trial. It was fifty-fifty; it is now 55 per cent to 45 per cent, I think, from memory. That is an early indication. I might invite Kathrina Lo or Catherine D'Elia to provide any further comment.

**Ms LO:** I would only say that it is too early. The new reform will be evaluated formally and I think we should probably hold judgement until that happens. I think not only is the quantitative evaluation important but also the qualitative feedback of participants in the reform.

**Mr DAVID SHOEBRIDGE:** We now have enough microphones, Ms Lo, so you can pull a microphone across instead of leaning over.

**Ms LO:** Thank you for that.

**The Hon. ADAM SEARLE:** When do you anticipate that those findings will be available?

**Mr COUTTS-TROTTER:** The outcomes evaluation is due to be undertaken by the Bureau of Crime Statistics and Research and reported in the 2020-21 financial year, according to my note.

**The Hon. ADAM SEARLE:** Mr Coutts-Trotter, a moment ago I think you mentioned additional investment in the District Court resourcing.

**Mr COUTTS-TROTTER:** Yes.

**The Hon. ADAM SEARLE:** In *Budget Paper No. 3* at page 6-3 it refers to funding for five additional District Court judges.

**Mr COUTTS-TROTTER:** Yes.

**The Hon. ADAM SEARLE:** Is that the correct number—an additional five District Court judges?

**Mr COUTTS-TROTTER:** As I understand it, it is maintaining an increase in District Court judge numbers that were delivered last financial year.

**Ms D'ELIA:** I do not have the budget paper in front of me. There were two tranches. There were two sets of District Court judges, one of five and one of seven.

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

**The Hon. ADAM SEARLE:** I was going to ask about that because on 29 October the Attorney General said that the Government would appoint an extra seven District Court judges as part of a package to ease the pressure on the District Court. I am just trying to work out. Is it seven? Is it five? Is it both?

**Ms D'ELIA:** It is both, yes.

**The Hon. ADAM SEARLE:** So it is 12.

**Ms STRATFORD:** It is 12 all-up.

**Mr COUTTS-TROTTER:** Right. Terrific.

**The Hon. ADAM SEARLE:** Is that maintaining establishment or is that an actual net increase? What was the total strength?

**Ms STRATFORD:** They were an addition.

**The Hon. ADAM SEARLE:** What is the full strength of the District Court now?

**Ms D'ELIA:** Currently there are 75 District Court judges, which is the highest number that there has been in 25 years.

**The Hon. ADAM SEARLE:** Okay. That is 75 actual District Court judges on duty?

**Ms D'ELIA:** Currently the headcount in the District Court is 75 judges.

**The Hon. ADAM SEARLE:** Does that include those District Court judges who might be engaged in other activities? For example, I know the president of the workers comp commission is a District Court judge but essentially primarily engaged with the Workers Compensation Commission. Is that part of the 75? I am just wondering day to day how many District Court judges are actually attending to the work of the District Court?

**Ms D'ELIA:** I will have to take it on notice to clarify the number.

**Mr COUTTS-TROTTER:** We will confirm it for you, yes.

**The Hon. ADAM SEARLE:** In relation to the early pleas program, is the funding that underpinned the legislation ongoing funding or limited funding? When does the funding run out?

**Mr COUTTS-TROTTER:** It is time limited and I think it lines up with the evaluation.

**Ms LO:** That is my understanding but I think—

**Ms STRATFORD:** I can confirm that.

**The Hon. ADAM SEARLE:** How much was that funding per year?

**Ms STRATFORD:** I would say in the vicinity of around \$90 million but I would have to come back with a definitive over the period of four years—

**The Hon. ADAM SEARLE:** How is the money to be applied?

**Ms STRATFORD:** How was it applied?

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

**Ms STRATFORD:** Over the course it has been a mix of funding that has gone through to the Office of the Director of Public Prosecutions, Legal Aid and the department to deliver the overall reform.

**The Hon. ADAM SEARLE:** Will the funding carry through the period while the evaluation is being done?

**Ms STRATFORD:** I think it is 2020-21, but it is also being dealt with via the budget process for this next coming year.

**The Hon. ADAM SEARLE:** So you are not going to have the funding drop away while the legislation is still in force and then you are still evaluating the program?

**Ms STRATFORD:** It is my understanding it will be dealt with through the budget process for 2020-21.

**Mr COUTTS-TROTTER:** It was \$93 million over four years, beginning in the 2017-18 financial year.

**The Hon. ADAM SEARLE:** That is good. In relation to the Domestic Violence Justice Strategy, is that something that falls within this portfolio?

**Mr COUTTS-TROTTER:** Yes, it is.

**The Hon. ADAM SEARLE:** What is the current status of the review of the strategy? How much funding has been allocated to the renewal of the strategy for 2019-20?

**Mr COUTTS-TROTTER:** We are just seeing if we can get that information. I might ask my colleague Ms Simone Walker to respond to that.

**Ms WALKER:** We are currently in the process of the overview of the Domestic Violence Justice Strategy, knowing that the previous strategy went from 2013 to 2017. What we are looking at doing is updating the new strategy with a focus on safety and wellbeing of victims with an emphasis on diverse populations. There has been a range of consultations that have occurred to date including a statewide online survey completed by 173 victims and seven defendants. A series of meetings and forums have already occurred with culturally and linguistically diverse communities, people with disabilities, older people, the LGBTIQI community, children and young people and Aboriginal and Torres Strait Islander communities. We are really in the consultation phase at the moment. We do not have a dollar figure attached to the strategy at the moment.

**The Hon. ADAM SEARLE:** Do you have any sort of ballpark? How much has been spent to date?

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

**The Hon. ADAM SEARLE:** I am happy for you to take this on notice, but for 2018-19 how many victims of family and domestic violence were assisted through Victims Services?

**Ms WALKER:** Through Victims Services?

**The Hon. ADAM SEARLE:** And, allied to that, how many are projected to be assisted in the current financial year?

**Ms WALKER:** I have data around Safer Pathway but I might have to ask—

**Mr COUTTS-TROTTER:** Victims Services. I have got data on the number of payments made but that obviously does not capture the totality of the services that are provided. I might accept your invitation to take it on notice and come back to you with a bit more information.

**The Hon. ADAM SEARLE:** I am happy for you to do that. How many victims of sexual assault were assisted through Victims Services, again, in 2018-19 and projected to be assisted?

**Mr COUTTS-TROTTER:** We will take that on notice, Mr Searle.

**The Hon. ADAM SEARLE:** How many victims of family and domestic violence or sexual assault perhaps received victims of crime counselling—again, same time frames?

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

**The Hon. ADAM SEARLE:** How many victims of family and domestic violence were assisted through the immediate needs support package? What was the average payment and what were the total payments made—again, 2018-19 and projected for 2019-20?

**Mr COUTTS-TROTTER:** We will take that on notice as well. Thank you.

**The Hon. ADAM SEARLE:** How many were assisted through receiving financial assistance for economic loss? What was the average payment and what were the total payments made—again, same time periods?

**Mr COUTTS-TROTTER:** Yes.

**The Hon. ADAM SEARLE:** How many victims of family and domestic violence have been assisted through receiving a victim recognition payment—again, what was the average payment and what were the total payments made?

**Mr COUTTS-TROTTER:** All right, certainly.

**The Hon. ADAM SEARLE:** You are providing that information for 2018-19 and projected for 2019-20. Can I also get the back years' figures, going back to 2013-14?

**Mr COUTTS-TROTTER:** Yes, I have got some of those figures back to 2013-14—that time frame?

**The Hon. ADAM SEARLE:** Yes, provide me what you can. We will take it all on notice.

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

**The Hon. ADAM SEARLE:** Can you indicate whether the payments that we were discussing through Victims Services will be indexed in the 2019-20 budget or will it simply be the same level of payment as for 2018-19?

**Ms LO:** The Act is due for another statutory review within the next year or two. We would look at payouts at that point because they are set in the legislation.

**The Hon. SHAOQUETT MOSELMANE:** Can I take you to matters of Court and Tribunal Services? I understand that because of the new service model in the north-west local circuit, the hub of which is in Dubbo, three full-time staff positions servicing five towns—Gilgandra, Narromine, Warren, Nyngan and Cobar—have been replaced by only one full-time position based at Dubbo. This will only decrease the efficiency of these courts and registries, will it not?

**Mr COUTTS-TROTTER:** I might call on my colleague, Ms Catherine D'Elia.

**Ms D'ELIA:** I will have to double-check in terms of what the impact may have been to staff. However, those particular locations were on a court circuit. As a result of that the staff that was sitting with the court is still the staff that is travelling with the court. The change that was made was that the registry hours for those locations were reduced to only being when the court was sitting as opposed to other days.

**The Hon. SHAOQUETT MOSELMANE:** What about the reduction from three staff to one? How do you explain that?

**Ms D'ELIA:** That is the number I would have to check because, to be honest with you, my understanding is that the circuit staff remained because they are still travelling with the circuit. What would happen there is that we had shared positions. My understanding is that those positions were vacant at the time and the support that was previously provided to the registries is now being provided, as you mentioned, from Dubbo.

**The Hon. SHAOQUETT MOSELMANE:** Is this as a result of efficiency dividends? Is that why there are cuts?

**Ms D'ELIA:** Those particular locations had relatively low activity. We were taking a look at the volume of people that were coming into the registry on days when the court was not sitting. The majority of people coming in were not seeking any registry assistance; it was unfortunately more just general inquiries that we can provide through other means, such as the call centre and online.

**The Hon. SHAOQUETT MOSELMANE:** When we combine, for example, the increase in annual salary of 2.5 per cent and an efficiency dividend, that would effectively in future reduce more staff, would it not? By having an increase in salary and an efficiency dividend, does that potentially imply that there will be fewer staff employed in future?

**Mr COUTTS-TROTTER:** I guess we would take the view that the services provided by courts are frontline services. In managing our budgets we are trying to protect staffing arrangements at the front line from the impact of the efficiency dividends. I would not be absolute about it but I do not see it being your conclusion that it would all land on staffing numbers in courts. Just for my colleagues who work in courts, I can assure them that is not how we intend to play it. We are trying to look at all of the costs other than staffing and, obviously, other than any frontline services as the means by which we deliver our budget.

**The Hon. SHAOQUETT MOSELMANE:** This has a similar impact with the new service model, meaning that the court registry in Boggabilla, Bombala, Dungog, East Maitland, Lake Cargelligo, Menindee, Quirindi and Tenterfield has been reduced to only opening when the court sits, is that correct?

**Ms D'ELIA:** I would have to confirm those locations. We do on a regular basis review the volume of work at those locations and the staffing required to do that work.

**The Hon. SHAOQUETT MOSELMANE:** By cutting all the staff, is that an efficient way of running the courts in regional New South Wales? Is that the intention?

**Ms D'ELIA:** The current means of managing the court is to ensure that we do have court sittings and so we support the court when it is sitting there and we balance the registry services against the requirements in the community. We do not make any changes to any of our hours in the registry unless we have done an assessment

of the work that has come in there, and we have ensured that there are alternative means, such as online and through the telephone in order to conduct the services that are typically done in the registries in most cases.

**Mr DAVID SHOEBRIDGE:** Are you saying that you can shut the court down, effectively, in all of those communities and the local community is meant to rely upon either telephone advice or online services? Is that the response you are giving to all of those regional communities?

**Ms D'ELIA:** When the court is sitting we do provide full service. When the court comes to town on a circuit, the registry is open and can provide any of the services that anyone needs face-to-face.

**Mr DAVID SHOEBRIDGE:** But for the 48 weeks a year when the court is not sitting, there is nobody there.

**The Hon. TREVOR KHAN:** That is not how a circuit works, David.

**Mr DAVID SHOEBRIDGE:** For the 48 weeks a year when the court is not sitting, there is nobody there.

**Ms D'ELIA:** We have quite extensive telephone and online services available. Typically we operate in a hub-and-spoke model so that the services are available in a larger, regional centre if they are required.

**Mr DAVID SHOEBRIDGE:** If you could on notice give details about what the additional or further services are for each of those communities with the closure of the court registry outside of the circuit sitting times, that would be appreciated. Mr Coutts-Trotter, the Local Court, according to the BOCSAR data, disposed of fewer matters in 2018 than it did in 2017, falling from 130,146 matters in 2017 to 128,932 matters in 2018. Has any explanation been given to you about why less matters have been disposed of in the Local Court?

**Mr COUTTS-TROTTER:** No, Mr Shoebridge, I have not had an explanation of that.

**Mr DAVID SHOEBRIDGE:** Have you sought an explanation? Have you asked whether or not additional resources are needed?

**Mr COUTTS-TROTTER:** I have had lots of discussions to learn things I need to come to understand in this role, including discussions with the Chief Magistrate, Ms D'Elia and others, about the activities and the resourcing for the Local Court but the issue you have raised has not been put to me in quite those terms.

**Mr DAVID SHOEBRIDGE:** As I understood the answers to the Hon. Adam Searle, there have been an additional 12 District Court judges appointed in the past 12 months, is that right?

**Mr COUTTS-TROTTER:** I think it is slightly longer than 12 months, is that right?

**Ms D'ELIA:** It is longer than 12 months, yes.

**Mr DAVID SHOEBRIDGE:** Over how long?

**Mr COUTTS-TROTTER:** Since 2017 onwards.

**Ms STRATFORD:** Yes, 2017-18 District Court backlog began in earnest, so since then there has been five and an additional seven in the past 12 months.

**Mr DAVID SHOEBRIDGE:** In the last two years, 12?

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** How many additional magistrates have been appointed in the past two years?

**Mr COUTTS-TROTTER:** I would need to check with my colleagues.

**Ms D'ELIA:** The additional magistrates that are starting in October have been appointed<sup>1</sup>. There are currently 137 magistrates in comparison to 128 in 2016.

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<sup>1</sup> In [correspondence](#) to the committee received 12 September 2019, Ms Catherine D'Elia, Deputy Secretary, Communities & Justice provided clarification to her evidence.

**Mr DAVID SHOEBRIDGE:** You see, Mr Coutts-Trotter, overwhelmingly when it comes to delivering justice through our courts in New South Wales, it is delivered at the Local Court, is it not, not at the District Court or the Supreme Court? The numbers would drive you to that conclusion.

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

**Mr DAVID SHOEBRIDGE:** The Local Court completes about 130,000 matters.

**Mr COUTTS-TROTTER:** Yes, I understand.

**Mr DAVID SHOEBRIDGE:** And, between them, the District Court and the Supreme Court deliver fewer than 5,000.

**Mr COUTTS-TROTTER:** Sure.

**Mr DAVID SHOEBRIDGE:** Significantly less than 5 per cent of matters are dealt with in the District Court or the Supreme Court and, overwhelmingly, in terms of outcomes for citizens, they are being delivered in the Local Court. Do you agree?

**Mr COUTTS-TROTTER:** Yes, but I would not want to deprecate the importance of victims of sexual assault getting access to justice in the District Court, for example, so I am a little bit reluctant about being seen to rank or compare the importance of jurisdictions.

**Mr DAVID SHOEBRIDGE:** In terms of sheer volume, the number of citizens who are impacted by delays in the Local Court compared with the number of citizens who are impacted by delays in the District Court.

**Mr COUTTS-TROTTER:** Sure.

**Mr DAVID SHOEBRIDGE:** Given we have seen a reduction in court finalisations in the Local Court in 2018, will you seek an explanation for that from the court? And if additional resources are needed, is that available in the budget?

**Mr COUTTS-TROTTER:** It would not be available in the budget without further decisions of the Government, and I think going back to earlier answers and I think answers that the Attorney General provided, the position of the jurisdiction is well known and understood and will be considered by the Government.

**Mr DAVID SHOEBRIDGE:** What, if any, efficiency dividend is the Local Court required to deliver in this financial year, and what was it required to deliver in the last financial year?

**Mr COUTTS-TROTTER:** The court itself, I think none, but in support of the court the department has delivered efficiencies from across a range of functions in the past couple of years. I am happy to see if I can take on notice efficiencies within Ms D'Elia's area, essentially.

**Mr DAVID SHOEBRIDGE:** Would you mind doing the same for both the Children's Court and the District Court?

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

**Mr DAVID SHOEBRIDGE:** Since 2017 the Government has provided some additional judicial resources to the District Court, but the BOCSAR data shows that the delays in the District Court have extended from 529 days in 2017 to 550 days in 2018. Have you sought an explanation for that?

**Mr COUTTS-TROTTER:** Yes. People are well aware of that. The measure of criminal trials pending has fallen, but in a sense the time to justice is still too long and people are well aware of that. I might invite either Ms Lo or Ms D'Elia to comment with a deal more knowledge about the dynamic there. From what I have read, there is a suggestion that the impact of the position the court was in 18 months ago is still kind of feeding through the processes.

**Mr DAVID SHOEBRIDGE:** Before we go to that in more detail, putting it in historical context, in fact the delays have increased by almost three months since 2014. If you go back to 2014, the median delay was still an unacceptable 437 days but we are now at 550 days. This is not a trend in the past two years. This is a consistent negative trend since 2014.

**Mr COUTTS-TROTTER:** But there have been a series of changes under the Criminal Justice Reform package, including the addition of 12 judicial officers, and of course the Chief Judge is looking at further reforms to the process of listing and managing matters in an effort to continue to improve the efficiency of the court. Ms Lo or Ms D'Elia, is there anything you want to add to that?

**Ms LO:** I suppose I would just add to what the secretary said. I think there is some work being done under the leadership of the Chief Judge at the moment to understand what is causing this and to look at how there can be better case management, how there can be better pre-trial processes and trial readiness, how we can use technology better in courts and how we can simplify decision-making for juries. So there is a major piece of work happening at the moment around that.

**Mr DAVID SHOEBRIDGE:** Every year there is a different reason why delays have increased. For a couple of years it was about the increased filings of child sexual assault matters. Then it was about a number of resignations. But the consistent trend now, for five years, has been the delays getting longer and longer. Are you comfortable that the District Court has the project management skills to address this? Or are they going to get some external assistance from the department? Will they be taking best-practice advice from other jurisdictions?

**Ms D'ELIA:** As the secretary mentioned, the pending caseload has dropped significantly. I do not have back to 2014. But if I looked at 2016, in June 2016 the pending cases in crime trials was over 2,000. In June 2019 it has dropped down to 1,585—a reduction of 22 per cent. Looking at the time it takes to get a trial on in Sydney, that has significantly decreased as well. I have data from 2018 and 2019. In June 2018 a short trial took 34 weeks before it could be put on; it is now down to 17 weeks. A medium trial took 34 weeks; it is now down to 19. So we are seeing an impact of the efforts that have been made.

**Mr DAVID SHOEBRIDGE:** You are not cavilling with Bureau of Crime Statistics and Research data, are you? That has the median delay in the District Court, increasing from 529 days in 2017 to 550 days in 2018—and increasing from 437 days in 2014. You are not saying BOCSAR data is wrong?

**Ms D'ELIA:** I am just giving you the example of what we are seeing as impacts and we are seeing a reduction in the pending caseload, as well as an improvement in the time to get a case on. That data I am providing for the time it takes to get the case on is just within the last year.

**Mr DAVID SHOEBRIDGE:** Secretary, a number of individuals have asserted that they have suffered significant psychological trauma following searches or strip searches by the New South Wales police. Is there any data, in terms of victim services, or is there any feedback about people approaching Victims Services following one of these searches?

**Mr COUTTS-TROTTER:** I would need to take that on notice, unless my colleagues have data to hand.

**Mr DAVID SHOEBRIDGE:** If a search was found to be unlawful, or if an individual made a complaint about an alleged unlawful search, would they have a right to approach Victims Services for counselling?

**Mr COUTTS-TROTTER:** That is a good question and I do not know the answer to it.

**Ms LO:** We will need to get some advice on that.

**Mr DAVID SHOEBRIDGE:** I am happy for you to take that on notice.

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** What percentage of the Local Court matters in New South Wales are for minor drug offences?

**Mr COUTTS-TROTTER:** The proportion of matters before the Local Court for minor drug offences?

**Mr DAVID SHOEBRIDGE:** When I say minor drug offences, I mean personal use or possession.

**Mr COUTTS-TROTTER:** I am sorry, we will have to take that on notice.

**Mr DAVID SHOEBRIDGE:** Has your department been tracking changes in the number of those cases coming before the Local Court since police were given the option to issue criminal infringement notices [CINs] for personal use or possession?

**Mr COUTTS-TROTTER:** The data is tracked. I just do not have it to hand. There is a variety of data which we look at for reasons including to try and assess the impact of the package of criminal justice reforms that involve changes to some aspects of sentencing and diversion from the court. We can get the data. I just do not have it to hand.

**Mr DAVID SHOEBRIDGE:** I am not talking about sentencing reforms, although if you have data on that it would be useful. I am talking about the change that was introduced in the last six months allowing police to issue CINs instead of court attendance notices [CANs] for personal use or possession.

**Mr COUTTS-TROTTER:** I have seen, but do not have with me, the most recent police data on CINs and CANs.

**Mr DAVID SHOEBRIDGE:** So you will provide that on notice?

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** Is there some kind of structured engagement between the police and the department over these kinds of projects? At the moment, it is a pure discretion from police whether or not they issue a CIN or a CAN. That is an unstructured discretion and it is likely, therefore, it will be exercised differently by different commands or different police. Is there some kind of ongoing structural engagement between the department and the police to look at how that discretion is exercised and, maybe, look at regulating it?

**Mr COUTTS-TROTTER:** There are a variety of ways in which the department engages with the police. We have a slightly grandly titled criminal justice transformation steering committee, that involves myself, Legal Aid, the DPP, police at a very senior level and other colleagues from the department, including BOCSAR. We were meeting very regularly, and I am going to start it meeting very regularly again, as a way of ventilating these kind of issues, recognising that police exercise discretion over operational choices. But it is important for all of us to see the impact of different changes in a very complex but very interrelated system, the justice system.

**Mr DAVID SHOEBRIDGE:** The most obvious impact is, if one police command is exercising its discretion to broadly issue CINS, you will see a significant reduction in the filings for these kinds of matters in the Local Court, providing ongoing benefits to the Local Court. Whereas the neighbouring command may not. It is not a particularly principled way of delivering justice, is it? It is effectively justice by postcode. If you are in a police command that exercises the discretion to issue CINs, you do not get a criminal record. If you are in a police command that exercises the discretion to issue CANs, you do get a criminal record. That really is the definition of justice by postcode, is it not?

**Mr COUTTS-TROTTER:** You are inviting me to agree to things I do not want to agree to.

**Mr DAVID SHOEBRIDGE:** You can reject the proposition. I am putting a proposition to you. You can say, "No, that is wrong Mr Shoebridge."

**Mr COUTTS-TROTTER:** You have framed it in terms of broad principles. I simply do not know enough about the area or, indeed, what drives the operational decision-making between different police leaders. It would be presumptuous of me to offer an ill-informed view of that. I think it is important for all of us to seek and use the data to see if there are great points of difference in how police choose to enforce crime—and the impact of those different choices.

**Mr DAVID SHOEBRIDGE:** One of the areas where we see, and you can go to the 2016 BOCSAR report on drug-driving offences, and you can see the extraordinary disparity between drug-driving offences in the north of the State—police commands in the north of the State—as against, say, police commands on the North Shore of Sydney. When those kinds of reports are delivered showing serious geographic disparities about policing, who responds to them? Who looks at it and says, "We need a structured response?" Does your department look at those BOCSAR reports? Who does it?

**Mr COUTTS-TROTTER:** Yes, we do. But my aim in reanimating this group is to try and bring a collection of senior leaders across the justice system together to grapple with precisely these kinds of questions. It requires a systemic response.

**Mr DAVID SHOEBRIDGE:** And that is a systemic response that you will be driving?

**Mr COUTTS-TROTTER:** That sounds a bit grand. There are a lot of people and a lot of organisations that will be, and are.

**Mr DAVID SHOEBRIDGE:** You see, a lot of people in a lot of organisations sounds like no-one is driving it.

**Mr COUTTS-TROTTER:** As the chair of that group, I would accept responsibility for it. Absolutely.

**Mr DAVID SHOEBRIDGE:** When it comes to reviewing the numbers for CINs as opposed to CANs—that is criminal infringement notices as opposed to court attendance notices—is there any data collected on the relative use of those instruments or the proportion of those instruments in respect of Aboriginal community, as opposed the broader community?

**Mr COUTTS-TROTTER:** I do not know, but most of the important criminal justice and, indeed, social policy datasets are now quite appropriately gathered on a basis that allows you to look at the impact on Aboriginal people. I suspect they are, but I can confirm that for you.

**Mr DAVID SHOEBRIDGE:** To the extent there is that kind of data, could you provide it on notice?

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** When it comes to breach of bail, I am assuming the department tracks data for breach of bail?

**Mr COUTTS-TROTTER:** Yes, I have seen breach of bail datasets.

**Mr DAVID SHOEBRIDGE:** When I make a proposition to you about a "technical breach of bail", I am referring to a breach of bail conditions without any further reoffending. Do you know how many Aboriginal and Torres Strait Islander people were arrested for a technical breach of bail in 2018?

**Mr COUTTS-TROTTER:** No, but I am pretty confident that we can provide that information on notice.

**Mr DAVID SHOEBRIDGE:** I have a series of questions on data around technical breaches of bail. Perhaps I might put them on notice at the end, if there are datasets that respond to them, rather than having an iterative process.

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** In the November budget estimates hearing Commissioner Fuller of the New South Wales police indicated that there was a trial around individuals being able to record two addresses for the purposes of bail. Do you remember that?

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** Has your department undertaken a review of that trial? Has the trial concluded?

**Mr COUTTS-TROTTER:** I will take that on notice. I will confirm on those issues. I am confident that we have had a close look at it. I expect that we would be considering proposals from the trial. I have been told by many people who are familiar with the area that it would be a sensible and necessary change to allow for a bail condition to attach to not merely one place of residence but to potentially three, to reflect the fact that some people do move between homes, particularly Aboriginal people.

**Mr DAVID SHOEBRIDGE:** Thank you.

**The Hon. SHAOQUETT MOSELMANE:** I would like to go back to Courts and Tribunal Services. Glen Innes had two full-time positions, which became a single part-time position based in Tamworth. Is that correct?

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

**The Hon. SHAOQUETT MOSELMANE:** With the cutting of services right across New South Wales, is that not simply undermining the administration of justice in regional New South Wales?

**Mr COUTTS-TROTTER:** With respect, we take issue with the assertion that it is a "cutting of services". From what I have heard from my colleague, this is about trying to respond to changing patterns of demand for court services. Ms D'Elia may want to elaborate.

**Ms D'ELIA:** As I mentioned before, we have done what we are responsible for to ensure that we align the delivery of services with demand. On a regular basis, we take a look at that demand and then we determine what resourcing is required in order to meet that demand. That happens quite regularly across the State.

**The Hon. SHAOQUETT MOSELMANE:** So the demand in regional New South Wales for court services dropped significantly enough to mean that less staff are required to service those courts?

**Ms D'ELIA:** We have not reduced the number of positions in the last year in either regional or metropolitan courts.

**The Hon. SHAOQUETT MOSELMANE:** A registrar in the Hunter told staff on circuits that they are not entitled to travel compensation under the award when they are working away from the headquarters on the ground that it is travel between multiple headquarters. Is that correct?

**Ms D'ELIA:** I would have to take a look at the award. But we do operate on a hub-and-spoke model and there are instances where an individual is based out of hub but is expected to work at multiple spokes. That is reliant upon the award.

**The Hon. TREVOR KHAN:** So going to Scone if you are based in Muswellbrook, for instance.

**The Hon. SHAOQUETT MOSELMANE:** Yes, but it is an absurd process, is it not?

**The Hon. NIALL BLAIR:** Point of order: The Hon. Shaoquett Moselmane is asking for an opinion. He is asking representatives of the organisation to provide an opinion.

**The Hon. ADAM SEARLE:** They can agree or disagree with the proposition being put. I do not think—

**The Hon. NIALL BLAIR:** I am allowed to take a point of order. I believe the question is asking for an opinion. I am directing my point of order to the Chair.

**The CHAIR:** They can speak to the point of order. The Hon. Shaoquett Moselmane, are you going to respond?

**The Hon. SHAOQUETT MOSELMANE:** That is my view of what it is happening. I am saying that it is an absurd situation.

**The CHAIR:** You may care to reframe the question.

**The Hon. SHAOQUETT MOSELMANE:** I was going to say, "Isn't it preposterous?"

**The CHAIR:** There is no point of order. Let's carry on.

**The Hon. ADAM SEARLE:** BOCSAR reported a 52 per cent increase in the number of people sentenced to time served in the higher courts—the Supreme and District courts—in the period of 2017-18 compared to 2013-14. Those figures refer to when a person is on remand and when they are finally sentenced the sentence is the same as or less time than what they have already served. The median time from charge to finalisation for a defendant on remand awaiting trial was 528 days and 374 days for sentence matters in 2013-14. By 2017-18, those median delays had reached 684 days and 466 days for sentence matters respectively. Can you give us some insight into what caused that deterioration? Can you also indicate whether that trend has continued for 2018-19 and is likely to continue for 2019-20?

**Mr COUTTS-TROTTER:** I might take the less hard part first. Do we have any data for 2018-19, colleagues? As to what explains that trend or the change in those aspects of performance, I personally simply do not know. I might invite my colleagues who work more closely with this to comment. We will take advice. We are happy to give you a considered view from the department on what explains it.

**The Hon. ADAM SEARLE:** I would prefer a considered view. That would be great. On 3 July this year it was announced that the Chief Judge of the District Court would review ways of reducing court delays. There was a series of dot points of things that would be looked at. The last one was, "Examining the potential for limiting jury use in certain circumstances." Can you tell us for which certain circumstances the Government might consider limiting jury use?

**Mr COUTTS-TROTTER:** From memory, the Chief Judge, at least in response to a media report on that issue, offered some clarifying comments. He focused on clarifying the issues for juries and trying to be very clear about what needed to be tested before a jury and what could be agreed between the parties to get greater clarity and more efficiency from the use of a jury. I think that is what is being contemplated, unless there is something my colleagues know that I do not?

**Ms LO:** That is correct. He is not proposing to abolish jury trials or reduce them.

**The Hon. ADAM SEARLE:** So we are not discussing using juries less often?

**Mr COUTTS-TROTTER:** No, it is about using juries more sensibly and more efficiently on issues of real contest, as opposed to ones that can and should be sorted out earlier in the process.

**The Hon. ADAM SEARLE:** That sounds better than the alternative idea. In relation to efficiency dividends, will imposing the efficiency dividends on the Office of the Director Public Prosecutions not lead to problems in terms of bringing prosecutions? Will it impact on the number of prosecutions that it is likely to be able to bring in a given year?

**Mr COUTTS-TROTTER:** I have not yet had a chance to talk to the DPP about how the office proposes to deliver its efficiency dividend. Of course, it is an independent agency, so I would not want to speculate on that.

**The Hon. ADAM SEARLE:** I know the director is back on duty, but the acting director, while having stewardship of the role, issued a memo to staff indicating that they must adopt a more cautious approach following the requirement to find efficiency dividends. That suggests that there might be some sort of downward pressure on the bringing of prosecutions. Is that something you can report back to us on?

**Mr COUTTS-TROTTER:** I would not speculate on it.

**The Hon. ADAM SEARLE:** No, no, fair enough. Maybe this is one for Mr Thomas. The expenditure of the Legal Aid Commission has been cut by 2.6 per cent compared to what was spent in 2018-19 and there is already significant pressure on the work of the commission. The grants division of the commission, for example, has provided some poor feedback through the People Matter survey. Can you tell us what the justification for those cuts is?

**Mr THOMAS:** If you are referring to the expenditure item in *Budget Paper No. 3*, the expenditure of the Legal Aid Commission for the last financial year against the budget for this financial year is about a \$9 million difference. That is not a difference in the funding allocated to the commission. We have a cash reserve and last year expended monies from that cash reserve on a new payroll system and also on building a new case management system—half of which was completed and half of which will be completed this year. It increased the expenditure on capital works last year versus the forecast budget for this year. So there has not actually been a decrease in the Legal Aid Commission's budget for this year. In terms of the grants division's responses to the People Matter Employee Survey, two years ago they were our worst performing area in terms of responses to the People Matter Employee Survey. If you have a look at the results last year compared to the year before, they went up. And I am very happy to say we got this year's People Matter Employee Survey results—and they will be public, I think, later this week—and our grants division results are significantly better, significantly better.

**The Hon. ADAM SEARLE:** How much better? Can you tell us the percentages?

**Mr THOMAS:** Twenty per cent better. Significantly better. We have invested 10 more staff in that division. Last year we spent most of the year going through every operational process they do to make those processes more efficient. We have introduced a whole program of automated decision-making in the grants division to make the workloads faster. We have introduced some performance measures so that we are tracking every week the workloads that people have. And importantly in that division we have tested flexible working. There are about 80 full-time equivalent [FTE] staff in that division and just about all of them are working flexibly at some point through the week, that is, working from home or working from another site. The engagement of that division with its work, the engagement score that you get through the People Matter Employee Survey is significantly different. We have still got some more work to do to bring it up to the same standard that exists in the rest of the Legal Aid Commission but I am confident that we are making a lot of strong gains here.

**The Hon. ADAM SEARLE:** I think in the budget it says that \$365.7 million was spent in 2018-19 but the Government plans to spend \$356 million this year.

**Mr THOMAS:** That is right.

**The Hon. ADAM SEARLE:** But you are saying that is not a cut. Is that because the money, the gap is made up somewhere else? The money comes from somewhere else, does it not?

**Mr THOMAS:** The money we spent last year, that additional amount we spent last year was from our cash reserve. The Legal Aid Commission in days gone by would get its Commonwealth Government allocation directly to it. There were some unspent monies which have resulted in a small cash reserve. We have been spending that cash reserve for the last two years on IT infrastructure in the commission to try and make the commission more efficient. The new case management system that we invested in, which is \$13 million over two years and about \$3 million and a new payroll system, came out of that. So the difference in the allocated budget this year and the expenditure from last year is that capital investment in IT equipment.

**The Hon. ADAM SEARLE:** I think about two-thirds of Legal Aid Commission funding comes from the State Government and about \$60 million comes from the Federal Government through the national partnership agreement and the rest from the public purpose fund. Can you tell us, the 3 per cent efficiency dividend required of the Legal Aid Commission, is that only on the money provided by the State Government or is it across all sources of revenue?

**Mr THOMAS:** To my understanding, it is across all sources of revenue.

**The Hon. ADAM SEARLE:** Given that \$60 million comes from the Commonwealth and \$33 million comes from other non-government sources and the Public Purpose Fund, how can it truly be an efficiency

dividend? Is this not just a ram raid by Treasury, if they are taking money that they did not give over in the first place?

**The Hon. TREVOR KHAN:** Isn't this a question for the Minister, not for these witnesses? It is inappropriate to be asking this.

**The Hon. ADAM SEARLE:** I assume you are taking a point of order.

**The Hon. TREVOR KHAN:** I am. Point of order: This is an inappropriate line of questioning with members of the public service. Outrageous.

**The Hon. ADAM SEARLE:** To the point of order: I am not hectoring or badgering the witness.

**The Hon. TREVOR KHAN:** No, no. That is not what I am suggesting.

**The Hon. ADAM SEARLE:** I am asking simple propositions. They can disagree with me. But I do press the question.

**The CHAIR:** There is no point of order and I am sure Mr Coutts-Trotter can answer or not according to what he believes he should say or should not say.

**The Hon. TREVOR KHAN:** Fair enough.

**Mr THOMAS:** I cannot comment on the motivation of the dividend. I am not privy to those. In terms of its effect on the Legal Aid Commission, I think is the point of your question?

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

**Mr THOMAS:** Part of the work that we are doing in investing in those IT systems is to make the commission more efficient. I talked about the automation that we have put in in our grants division that has lifted 50 per cent of applications being dealt with automatically, rather than the manual process that existed before. We have still got a lot more automation to do next year to make those processes far more efficient. We are looking at efficiencies in our back office, which is part of the investments that we made in the new payroll system to get some further efficiencies from the back office. It is very difficult to meet efficiency dividends and it is difficult to make those efficiency savings, but I am confident that we can make those savings with the investments that we have put in place.

**The Hon. ADAM SEARLE:** Can you tell us how much the Legal Aid Commission spent on external contractors last year?

**Mr THOMAS:** Contingent labour, you mean?

**The Hon. ADAM SEARLE:** All contractors. Contingent labour is one but I am—I will cut to the chase. We have information that says that in the client and case management systems [CCMS] team I think there are 37 positions or people working there and 15 of them are said to be contractors—

**Mr THOMAS:** Yes, that would be right.

**The Hon. ADAM SEARLE:** —some of them being paid up to \$1,000 a day—I assume not on their own behalf; they are representing some other firm that has been engaged. If that is a correct report, that is an awful lot of money going out the door in the form of contractors. And would that not be better invested in full-time equivalent staffing directly employed?

**Mr THOMAS:** The client and case management team are the team that is building the new case management system for us. The team itself is made up of a mixture of in-house legal aid staff, so solicitors from all of our practice areas, and administrative staff that are taken offline full-time for the purpose of working on this case management system to make sure that we are really designing the system with the needs of staff in mind. And then there are a range of technical staff—that is, IT experts—that are brought on to build the system for us in conjunction with Incessant, an IT development firm.

The challenge we have in the public sector in building these IT systems is we are competing with the private sector for IT skills and IT specialties and we have to pay rates equivalent to what is being paid in the market for those staff. I think you will find with that CCMS team all of the contingent labour in that team are IT specialists and it is just about the only part of the Legal Aid Commission where we have any reasonable use of contingent labour. That is due to cease with the "go live" of that new system. The system goes live in December. The contracts for those staff finish in January and they will not be continuing beyond that.

**The Hon. ADAM SEARLE:** Are you aware, Mr Thomas, of four bomb threats against the Legal Aid Commission since May 2019; is that right?

**Mr THOMAS:** I am aware, yes.

**The Hon. ADAM SEARLE:** The latest being on 4 June, I think, when the head office was closed down. Each of these incidents were dealt with differently, and there were allegations that the current protocols within the commission were not followed and there was a failure to educate workers on the procedures, a failure to coordinate or communicate effectively and a failure to execute the emergency plan for these incidents, which if correct would amount to a breach of the Work Health and Safety Regulation 2017. What is your response to each of those allegations and the incidents themselves?

**Mr THOMAS:** We had a number of bomb threats made against officers of the Legal Aid Commission over a period of about two weeks from the same source, a client of Legal Aid's who has—without divulging information about that person—a long history of that kind of activity. The first was made to the office in Sutherland, the second to the office in Wollongong and a third made to the head office in Castlereagh Street. I am very confident that the way that those bomb threats were dealt with in Sutherland and Wollongong was an effective response. The offices were evacuated against our procedure, the police were notified. The building managers in both of those sites were notified about the bomb threat and informed. They chose not to evacuate the rest of the premises in those particular locations.

The final threat that came in was a threat to our client centre in our Castlereagh Street office. It was not a threat that a bomb was there; it was a threat that a bomb may be delivered. The action that we took there was to close that client-facing part of the building. We called the police. The police did an assessment of that area and advised us not to evacuate that particular location. Unfortunately, we had some staff on the lower ground floor who took it upon themselves to evacuate. It has caused us—in terms of our head office—to completely reassess the way we deal with those matters. Since then we have redesigned our emergency procedures. We have introduced, organisation-wide, a new triaging system for these kinds of threats.

We have put people clearly in lines of responsibility for making decisions about the evacuation of offices and for dealing with any kind of threat in any way to the physical safety or wellbeing of any kind of Legal Aid staff member. Those regional offices—the one in Sutherland and the one in Wollongong—I am very confident they were dealt with very well. The problem was in the reaction to the ground floor of our head office building. I am confident that we have taken steps to improve our system since then.

**The Hon. ADAM SEARLE:** Clause 38 of the Work Health and Safety Regulation requires a review of risk management when control measures do not address the risk. Has the review occurred? If so, when did it commence and when will it be completed?

**Mr THOMAS:** It has commenced. As I mentioned, there are draft procedures, which we are consulting with the Public Service Association [PSA] on at the moment. I have another meeting with them this week, at which these procedures will be discussed. We are applying those procedures across the organisation now. There is still more work to be done to refine them and to get some further feedback from the PSA on their views on the appropriateness and effectiveness of those procedures.

**The Hon. ADAM SEARLE:** What is your time horizon to complete that review?

**Mr THOMAS:** This month. We have also done a safety review of every one of our offices. We have hired independent contractors to do that review. It is quite a comprehensive review of each one of our 24 offices and we are just considering the recommendations of that review at the moment.

**The Hon. ADAM SEARLE:** Back to you, Mr Coutts-Trotter. Which departments and workers are trained by Government in the nature and dynamics of sexual assault, domestic and family violence and how is this carried out? Is that something you would have carriage of, or the portfolio has carriage of?

**Mr COUTTS-TROTTER:** There are a range of training packages. Inside the Department of Communities and Justice is a Chief Practitioner, essentially in a child protection lead. Through the Office of the Senior Practitioner we undertake a lot of training for staff and increasingly for non-government partners in the dynamics of the cycle of domestic violence, the implications for child protection work and the risk that child protection practitioners fail to adequately understand—the steps that women who are the victims of violence take, and are taking, to protect their children. That is a really critical part of the process of training and development. I might invite Simone Walker to add to that.

**Ms WALKER:** Certainly the Office of the Senior Practitioner has well developed programmatic tools for all of the child protection frontline staff, including our joint child protection response team, which is our team that works in collaboration with police and Health. They are all trained in frontline work around child sexual assault and domestic violence. Certainly domestic violence is one of the most frequent reasons that children are reported to the child protection system. So we need our practitioners to be as capable as possible.

**Ms ABIGAIL BOYD:** I am just trying to understand a little bit more about how prevention of domestic violence fits now within the Attorney General framework. I guess it is a machinery-of-government question. My understanding is that although the prevention of domestic violence portfolio sits alongside the Attorney General's Department or within the Attorney General's Department there are core aspects of prevention of domestic violence that are not within the responsibility of this department. Can you tell me which aspects the department is responsible for?

**Mr COUTTS-TROTTER:** There is a set of initiatives to the value of about \$430 million over a four-year period that are either delivered through the department or, in a sense, overseen and governed by the department. My colleague Simone Walker now chairs the cross-government group that sits atop this strategy. Primary prevention, as we touched on this morning, in the school system is the responsibility of the education Minister. There are things contained within the funded package and then there are the working relationships that exist beyond that with big universal service systems that play a fundamental role in either preventing or responding to domestic and family violence.

**Ms ABIGAIL BOYD:** Is that within your department—the frontline service aspect?

**Ms WALKER:** The frontline service aspect. It is certainly within the child protection component, as I mentioned before—that is the frontline aspect. Certainly within the Health department there is considerable frontline awareness of that. When we think about what sits across Communities and Justice now, bringing Justice and the old Family and Community Services together we also bring together the elements of specialist homelessness services, which provide critical services to women, children and also men who are escaping domestic violence, as well as the work of Women NSW, which looks after a range of the programs in that space. That is covered off in the total DV initiatives package of \$431 million.

**Ms ABIGAIL BOYD:** So obviously you deal with the court advocacy services and you deal with Safer Pathway et cetera, but you do not deal with crisis accommodation?

**Ms WALKER:** That sits as part of our specialist homelessness services.

**Mr COUTTS-TROTTER:** The department does, but the Attorney General does not. So the department supports six Ministers. In supporting Minister Ward, we are supporting him on a range of his responsibilities, including funding and being the steward of the specialist homeless service system.

**Ms ABIGAIL BOYD:** So when we are looking at goals and talking about things like reducing reoffending and that sort of thing, is the department as a whole held to that goal as opposed to it being an individual Minister's responsibility?

**Mr COUTTS-TROTTER:** In relation to each of those Premier's Priorities the department would—I would—have accountability for them. They are assigned by the Premier to different Ministers. So the Attorney General is the lead Minister on the Premier's Priority to reduce the number of domestic violence reoffenders.

**Ms ABIGAIL BOYD:** Would it be fair to say, then, that the department as a whole is responsible for the more overall, holistic approach to the prevention of domestic violence?

**Mr COUTTS-TROTTER:** Yes.

**Ms ABIGAIL BOYD:** Is there somebody within the department who says, "Is the education department doing that? Yes. And they are doing this over here"?

**Mr COUTTS-TROTTER:** Yes.

**Ms WALKER:** Yes, that is my role and function.

**Ms ABIGAIL BOYD:** Thank you. I understand that Minister Speakman would not able to tell me, but are you able to tell me how many dedicated crisis beds exist for women experiencing domestic and family violence in New South Wales?

**Ms WALKER:** At the moment we have 83 women's refuges. That includes the women's community shelters in the core and cluster model. What we are really careful of in this space is focusing all our energy and

thought about the crisis beds, because what we know is really important in the domestic violence space is the early intervention work that occurs. So when we just focus on beds we forget about Staying Home Leaving Violence, which ensures that women and children, primarily, can stay in their houses and the perpetrator is removed. So even though we have the 83 there is flexibility in the bed numbers.

**Mr COUTTS-TROTTER:** There is a census once a year where providers confirm the number of beds that are available in their service. We could get that information to you on notice if that is of interest.

**Ms ABIGAIL BOYD:** Yes, if you could tell me how many dedicated crisis beds exist, and also how many beds are available in women-only institutions for broader than that crisis period. Also, how many women were accommodated in motels that were used as crisis accommodation over the last couple of years?

**Mr COUTTS-TROTTER:** There is the temporary accommodation support that is available through the department, usually in response to a call to the Link2home phone number. That now comes in two forms. There is supported temporary accommodation provided by non-government organisations that attempt to do more than simply provide a bed. They try to coordinate supports from other organisations, provide a more person-specific response to the person who needs accommodation. Then there are 10,000 or 15,000 people last year who also just got funding to take up a bed in a hotel or a motel because they were in crisis. I will take the question on notice but I am not sure if we can break that temporary accommodation data down to completely accurately identify those people who use temporary accommodation because they are fleeing violence.

**Ms ABIGAIL BOYD:** Right. I see.

**Mr COUTTS-TROTTER:** I am just not sure about that.

**Ms ABIGAIL BOYD:** If it is possible, that would be very useful.

**Mr COUTTS-TROTTER:** We have certainly got that of the Specialist Homelessness Services system so there is a really quite well-established client information system, where services identify what is causing someone to present at that service. Of course, domestic and family violence is one of the top three reasons people do approach the system.

**Ms ABIGAIL BOYD:** If you could, can you also tell me the total costs spent per year over the last couple of years—in fact, over the last three years would be very useful—on that sort of thing, using motels and hotels as crisis accommodation? We are hearing that less than 1 per cent of people going to service providers are referred to Staying Home Leaving Violence programs and it is actually quite a small percentage. We are also hearing that women are being turned away because there is a lack of crisis accommodation. Clearly it varies from location to location.

**Mr COUTTS-TROTTER:** Yes.

**Ms ABIGAIL BOYD:** How do you monitor that? What are the plans?

**Mr COUTTS-TROTTER:** The data is very well gathered now. The data from the entire Specialist Homelessness Services system is made available by New South Wales and by other jurisdictions to the Australian Institute of Health and Welfare for annual publication. That will include questions about whether the service was able to provide a service or whether it was not able to provide a service and specifically, if someone was deemed to be in need of housing, whether the service was able to connect that person either with crisis or transitional housing. There was a range of really quite detailed information available about the responsiveness of the services system.

**Ms ABIGAIL BOYD:** You might need to take this on notice as well but could you also have a look at the percentage of accommodation or crisis accommodation options that were accessible for people with disability?

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

**Ms ABIGAIL BOYD:** Thank you. My understanding—and I believe that the Government has accepted this—is that the rates of domestic and family violence are unlikely to change substantially until we achieve more gender equality in New South Wales and in Australia. I understand that there is respectful relationships training going on through the education department.

**Mr COUTTS-TROTTER:** Yes.

**Ms ABIGAIL BOYD:** Where does it sit, if it is not the department's responsibility? What other programs are being rolled out to actually improve gender equality more generally?

**Ms WALKER:** One of the most significant programs is the Men's Behaviour Change Program, which is by nine providers in New South Wales. You have to be accredited to be a provider. We monitor those very carefully. We can definitely provide the number of referrals made to those programs. I probably have them in front of me now. We had 355 men in the six months to December 2018 referred to Men's Behaviour Change programs. This is a significant part of the work that we want to do to, certainly, address the gender equity issue that you raise, but also in the contribution to the Premiers Priority to reduce reoffending. Actually, what you need is that behaviour change. There is good evidence that without that behaviour change we will not see the changes that we need.

**Ms ABIGAIL BOYD:** Of that behaviour change from those programs, are we monitoring the successfulness of those programs?

**Ms WALKER:** Certainly. The evaluation of those programs will be really important in telling us what to do going forward because also it is an evolving piece of research around men's behaviour change, about the level of risk that those men may have about reoffending and about how you group different groups of men in those spaces as well. We are constantly looking at the research, both national and international, and evolving the programs from there.

**Ms ABIGAIL BOYD:** What percentage of the department's total staff would be focused on domestic and family violence as opposed to other parts of the portfolio?

**Mr COUTTS-TROTTER:** That is a really difficult thing to quantify. For example, what proportion of a child protection practitioner's time is driven by responding to the risk to children and the harm to children created by domestic and family violence? There is a range of roles: Housing staff on the front desk of one of our many, many outlets are dealing with people day in, day out who have experienced violence or whose housing stability is at risk because of a violent partner or former partner. It is just about impossible to adequately capture how much of their time is driven by this. Obviously, there are people who have quite discrete functions and we could attempt to quantify that but, unfortunately, an awful lot of our work is driven by domestic and family violence.

**Ms ABIGAIL BOYD:** Perhaps a better measure is for you to tell me the percentage of your overall total budget funding for the department that goes towards domestic and family violence initiatives are as opposed to other things.

**Mr COUTTS-TROTTER:** Okay.

**Ms WALKER:** Yes.

**Ms ABIGAIL BOYD:** That would be very useful, thank you. Finally, I just want to ask you about the review of the sexual consent laws. I think it is section 61HE.

**Mr COUTTS-TROTTER:** Yes.

**Ms ABIGAIL BOYD:** I know that submissions closed in February for the Law Review Commission.

**Mr COUTTS-TROTTER:** Yes, the Law Reform Commission of New South Wales.

**Ms ABIGAIL BOYD:** What is the progress of that? Why is it taking so long? Is it normal for it to take this long?

**Mr COUTTS-TROTTER:** I think it is.

**Ms LO:** Law Reform Commission inquiries are very in-depth inquiries into complex legal issues. The reason the Attorney General makes references to the Law Reform Commission is so that that dedicated time and in-depth look can be taken, which could not be done, for example, by the policy area I look after where we do shorter and sharper reviews. That is the reason why those sorts of matters go to the Law Reform Commission. My area would do the shorter reviews.

**Ms ABIGAIL BOYD:** Has that review stuck to the narrow letter of the law, or is it now looking at practice and how the definition of sexual consent is applied in practice?

**Ms LO:** The terms of reference for the review are on the Law Reform Commission's website, so it sticks to the terms of reference. But I think the Attorney General was very keen to ensure that the experiences of victims were taken into account and how the law operates in practice.

**Ms ABIGAIL BOYD:** Do you know when that review will be done—when we might have a report?

**Ms LO:** I will take that on notice and see if the Law Reform Commission can provide a timetable.

**Ms ABIGAIL BOYD:** Thank you.

**The Hon. ADAM SEARLE:** How much funding and other resources has the New South Wales Government dedicated to addressing the gendered drivers of violence against women and their children, as identified through the national framework of Change the Story?

**Mr COUTTS-TROTTER:** I will take that question on notice and do our very best to provide a meaningful response.

**The Hon. ADAM SEARLE:** Thank you.

**Mr COUTTS-TROTTER:** But for the reasons explored earlier, it is a challenge. It is a very significant part of the time, effort and money that we have devoted in the last couple of years to introducing a new child protection practice framework. That has really been focused on this very issue but in a highly practical way, enabling practitioners to see how they can ask a different set of questions that will reveal much more about the dynamics within a family that are making children unsafe from family violence. A lot of that is about understanding the gendered nature of that violence and being able to talk not just to women but also to men—and particularly to men who are perpetrators—to get them to reveal more about their behaviour.

**The Hon. ADAM SEARLE:** What is the New South Wales Government doing to ensure that Aboriginal and Torres Strait Islander culturally and linguistically diverse women, women with disability and LGBTIQ women who are experiencing violence can access specialist and culturally safe support?

**Ms WALKER:** As I mentioned earlier, as part of the Justice domestic violence strategy that is currently being reworked we have done a whole range of consultation with exactly the groups that you are talking about. What we recognise from our last strategy is that we needed to take a much greater look at diverse populations, so we will be looking absolutely at those related issues.

**The Hon. ADAM SEARLE:** I think you answered a few moments ago about the men's behaviour change programs. That is in the DV portfolio, isn't it?

**Ms WALKER:** That sits as part of Women NSW. It manages those programs.

**The Hon. ADAM SEARLE:** In each of the financial years 2014-2015 through to 2018-2019 can you tell us how many men's behaviour change programs have been funded in New South Wales?

**Ms WALKER:** I think I have the data, but it is probably better that I take that on notice.

**The Hon. ADAM SEARLE:** That is fine. Also, can you tell us for each of those years in which locations they have operated?

**Ms WALKER:** Yes, we definitely have the locations.

**The Hon. ADAM SEARLE:** Can you also provide information about how many individual men have been assisted through those programs?

**Mr COUTTS-TROTTER:** I can. I have a snapshot. For interest, just for the six months to December last year there were nine non-government organisations providing men's behavioural change programs to a set of standards determined by the department. They were available in Campbelltown, Tuggerah, Lismore, Tweed Heads, Hastings, Port Macquarie, Coffs Harbour, Dubbo, Parkes, Cobar, Ulladulla, Broadmeadow, Lake Macquarie and Maitland. Some 355 men were referred, 190 were eligible and in that period 60 men completed the program.

**The Hon. ADAM SEARLE:** Thank you for the snapshot. I would still like the whole data.

**Mr COUTTS-TROTTER:** No, of course.

**Ms WALKER:** Of course.

**The Hon. ADAM SEARLE:** Can you tell us again: How is the long-term evaluation of the men's behaviour change program to individual men being carried out or conducted? Is that something you can answer now or do you need to take that on notice?

**Mr COUTTS-TROTTER:** My colleague Ms Simone Walker might want to add some more interesting detail, but I understand that an evaluation of these pilots is due late this month, I think.

**Ms WALKER:** That is correct.

**The Hon. ADAM SEARLE:** Are you able to provide that to us when you have it or has it got to go through some sort of stages?

**Mr COUTTS-TROTTER:** I think we want to present it to a Minister first.

**The Hon. ADAM SEARLE:** Of course. I am just wondering how soon it might be that we might expect to see it in the public domain?

**Mr COUTTS-TROTTER:** As soon as we can get it through a decision-making process. There is a lot of interest in the effectiveness of these programs.

**The Hon. ADAM SEARLE:** Yes. For a long time they have been quite controversial.

**Mr COUTTS-TROTTER:** Yes.

**Ms WALKER:** Yes.

**The Hon. ADAM SEARLE:** As to whether or not it is worth the dollar. It would be very interesting to see the evaluation. How are the practice standards for men's behaviour change programs and the governing compliance framework being implemented?

**Mr COUTTS-TROTTER:** That is just what I alluded to earlier, without being able to remember the exact name.

**The Hon. ADAM SEARLE:** Happy to help.

**Mr COUTTS-TROTTER:** Thank you. I can take that one on notice and give you some detail.

**The Hon. ADAM SEARLE:** Also, can you indicate to the committee how compliance is being monitored? Again, happy for you to take that on notice.

**Mr COUTTS-TROTTER:** Yes, thank you.

**The Hon. ADAM SEARLE:** I know you are going to provide the information for each of the financial years 2014-2015 to 2018-2019, but also if you have any projections for the following financial year that would be very useful.

**Ms WALKER:** Yes, forward estimates.

**The Hon. ADAM SEARLE:** The Integrated Domestic And Family Violence Services—is this the appropriate place to ask this question?

**Ms WALKER:** Yes.

**Mr COUTTS-TROTTER:** Yes, it is.

**The Hon. ADAM SEARLE:** Again, this is one of those ones about the financial years 2014-2015 to 2018-2019 and following. What is the total funding provided to the integrated domestic and family violence program in each year?

**Ms WALKER:** I have that here in front of me. For 2020 it is \$2.692 million; 2021, \$2.762 million. I can provide you with the forward years if that would be useful.

**The Hon. ADAM SEARLE:** How is that money going to be applied? What sort of things will it be spent on?

**Ms WALKER:** It is a multi-agency response, as the name suggests—"integrated"—and really looks at stopping the escalation amongst those high-risk family groups and also in targeted communities. That is us working directly with the NSW Police, but also the non-government support agencies. I can get you the numbers of services that we have available.

**The Hon. ADAM SEARLE:** That would be great. You have them now or you want to provide them on notice?

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

**The Hon. ADAM SEARLE:** That is fine. How will the program be evaluated?

**Ms WALKER:** I will take that one on notice as well.

**The Hon. ADAM SEARLE:** What opportunities exist for funded services and other community stakeholders to have input into that evaluation process?

**Ms WALKER:** What we know is incredibly useful with any of the evaluation processes, particularly for domestic and family violence, is getting perspectives from stakeholders, victims and also perpetrators. We will be looking at a full consultation process for that.

**The Hon. ADAM SEARLE:** Over what period of time?

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

**The Hon. ADAM SEARLE:** What plans are there to expand the program to other priority areas and priority target groups?

**Ms WALKER:** We are currently looking at a range of the funded services in domestic and family violence and so we will take that into consideration.

**The Hon. ADAM SEARLE:** Staying Home Leaving Violence—is this the appropriate place to ask this question?

**Mr COUTTS-TROTTER:** Yes.

**The Hon. ADAM SEARLE:** Good.

**Mr COUTTS-TROTTER:** Well—no, it is. I am just catching up on my machinery of Government [MoG].

**The Hon. ADAM SEARLE:** That is okay. Maybe you can take this on notice—and this is not a trick question, because I would really like to know. What is the delineation of the part of the Attorney's portfolio that is domestic violence prevention? What are the boundaries with this and Minister Ward's portfolio? You can take that on notice—I will ask the question I was going to ask. Again, in the financial years 2014-2015 to 2018-2019 and, again, projected for the following financial year, what is the total funding that has been provided to Staying Home Leaving Violence?

**Mr COUTTS-TROTTER:** We would have to take that on notice, because funding levels have changed and there has been an increase in the number of sites over time.

**Ms WALKER:** Yes, there has.

**The Hon. ADAM SEARLE:** Happy to get a full report on notice. How many women with children experiencing domestic violence have been assisted through the program?

**Mr COUTTS-TROTTER:** We can get that for you.

**The Hon. ADAM SEARLE:** How many women without children and experiencing domestic violence were assisted? I think that would be useful to complete the picture.

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

**The Hon. ADAM SEARLE:** Again, what plans are there to expand the program to other priority areas and priority target groups?

**Mr COUTTS-TROTTER:** Okay.

**The Hon. SHAOQUETT MOSELMANE:** Can I take you to court security matters, if I may? In light of the arrest of two people in July this year who are allegedly ISIS members who want to blow up the courts, why have extra security precautions not been taken at New South Wales courthouses?

**Mr COUTTS-TROTTER:** I will invite Ms Catherine D'Elia to comment on that, but I think extra security precautions have been taken.

**Ms D'ELIA:** Given the nature of security in courtrooms we actually do not publicly discuss what security measures are taken in the courthouses.

**The Hon. SHAOQUETT MOSELMANE:** But what security measures have been taken? Mr Coutts-Trotter—

**Mr COUTTS-TROTTER:** You might describe the kinds of things we do in response to intelligence concerns?

**Ms D'ELIA:** Yes. With the additional funding provided in terms of funding against counterterrorism threats, one of the things that we do have is intelligence officers. Those intelligence officers work with the judiciary to understand matters that are coming before the court, the potential threats that exist there. We also have very good relationships with both the Federal Police as well as New South Wales police to understand the individuals who are coming before the court and any threat that may exist for the court.

**The Hon. SHAOQUETT MOSELMANE:** There are not enough Sheriff's Officers to properly secure courthouses, are there? Are there enough sheriff's officers in New South Wales courts?

**Ms D'ELIA:** The courts are funded to have sheriff's officers for every sitting court.

**The Hon. SHAOQUETT MOSELMANE:** How many sheriff's officers are there?

**Ms D'ELIA:** There are approximately 300 positions. The number of sheriff's officers obviously varies because of attrition and incoming training groups.

**The Hon. SHAOQUETT MOSELMANE:** What do you mean by "attrition"?

**Ms D'ELIA:** People leaving the organisation. The number of staff is about 300.

**The Hon. SHAOQUETT MOSELMANE:** So it is not 280, it is 300?

**Ms D'ELIA:** Currently there are over 290 positions.

**The Hon. SHAOQUETT MOSELMANE:** In the recent six-month period from January to June 2019, 708 shifts were assigned to SNP guards because you do not have enough sheriff's officers. You have an overall reliance on SNP guards, don't you, as a result of this?

**Ms D'ELIA:** No, we rely on SNP in order to support us when we do require additional resources. However, as I mentioned to you before when we do have attrition we also then have a subsequent incoming class. As you can imagine, Sheriff's Officers have to be trained. We train them in bulk and then we bring in additional officers.

**The Hon. SHAOQUETT MOSELMANE:** But Sheriff's Officers are legally trained, whereas SNP officers are not.

**Ms D'ELIA:** Sheriff's Officers are not legally trained. Sheriff's Officers are tactically trained, and they are trained to undertake their operational duties.

**The Hon. SHAOQUETT MOSELMANE:** I meant legal powers; they have legal powers.

**Ms D'ELIA:** They are trained with regard to their powers, yes. I would point out that no SNP officer operates without a New South Wales Sheriff's Officer with them. They do not operate on their own.

**The Hon. ADAM SEARLE:** Mr Coutts-Trotter, Domestic Violence Response Enhancement [DVRE]—are we in the right place?

**Mr COUTTS-TROTTER:** Yes.

**The Hon. ADAM SEARLE:** Excellent. Again, I expect this will all be on notice, but in the financial years 2014-15 to 2018-19 and projected—

**The Hon. NIALL BLAIR:** Just give him your folder and we will go home.

**The Hon. ADAM SEARLE:** No. Not so fast.

**The Hon. NIALL BLAIR:** You are just after facts. Just put them on notice.

**The Hon. ADAM SEARLE:** I get to ask the questions.

**The Hon. NIALL BLAIR:** Sure. Okay, sorry.

**The Hon. ADAM SEARLE:** Mr Coutts-Trotter, how many women and children were assisted through DVRE in each FACS district in New South Wales? I will continue, assuming you will take these on notice.

**Mr COUTTS-TROTTER:** Yes. DVRE of course enhances after-hours access and support for women with or without children experiencing domestic and family violence. I am not sure you could separate out DVRE from the client information and data that the service gathers as a whole.

**The Hon. ADAM SEARLE:** That is okay. I am happy to receive the information in whatever way it has been recorded. What percentage of women with children were referred into a specialist domestic violence

accommodation service? If you can provide that for a FACS district, that is fine. If you cannot, I will take it how it comes. Of the women and children who have been assisted, what was the percentage and number of Aboriginal women and children assisted? And, how many persons have been turned away or unable to be assisted through the program? Returning to the issue of contingent workers, I think I am right in saying that since 2015 permanent full-time equivalent employment in Justice has grown by about 1 per cent, but I think its spending on contingent labour has increased by about 64 per cent over the same period. Is that correct? If that is not correct, what are the correct figures and what is the cause or the driver of that growth?

**Mr COUTTS-TROTTER:** I would be able to have a guess. I am happy to try to get the figures. I would have something of a guess at it. The prison bed capacity program, a \$3.8 billion infrastructure program, of course needed to be stood up as a project team and I know from getting to know many of those colleagues they are sort of project management professionals who move from one project to another. So that might explain some of the change. The other issue—and Mr Thomas alluded to it—when it comes to information and communications technology [ICT] services, particularly some elements of that, you have a workforce that does not want ongoing employment, people want to work on contract and we have to meet the market as we find the market. As a result we do end up employing quite a lot of people on contingent arrangements for that reason.

**The Hon. ADAM SEARLE:** Come back to me with anything further that you have.

**Mr COUTTS-TROTTER:** Sure.

**The Hon. ADAM SEARLE:** I think with Justice in 2017 there were about 39,000 contingent workers. I think they were all contractors.

**Mr COUTTS-TROTTER:** The new department, formed from former FACS and Justice, has about 22,000 people. A figure of 39,000 would be spreading the net very wide and including the police, I would imagine, and other Justice cluster agencies.

**The Hon. ADAM SEARLE:** Rather than guess, can you give me the figures?

**Mr COUTTS-TROTTER:** For the department?

**The Hon. ADAM SEARLE:** For the department.

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

**The Hon. ADAM SEARLE:** 2017, 2018 and projected for 2019?

**Mr COUTTS-TROTTER:** Sure.

**The Hon. ADAM SEARLE:** Again, if there is any further explanation or insight you can give us into how wide that is the case, that would be useful, outside the ICT area, because you have covered that fairly comprehensively. Last year I asked the Attorney General some questions about Magistrate Debra Maher. She was not listed as a Children's Court magistrate last year, although she was a magistrate. Can you tell us when she became a Children's Court magistrate?

**Mr COUTTS-TROTTER:** I will take that one on notice. Unless my colleagues?—no.

**The Hon. ADAM SEARLE:** Can you also provide a response as to why there was a delay in her being appointed as a Children's Court magistrate? Because last year the Attorney General, I think, was under the impression she was already, certainly she was intended to be, but I put it to the Attorney General that there was a difference of opinion between himself and either the head of the magistracy or the Children's Court. Can you explain what happened and how it all got resolved, to the best of your ability?

**Mr COUTTS-TROTTER:** Possibly.

**The Hon. ADAM SEARLE:** Well, you will give a response. Whether it is a—

**Mr COUTTS-TROTTER:** Yes, we will give a response.

**The Hon. SHAOQUETT MOSELMANE:** We will go to the Walama Court. About 2.8 per cent of the population in the country is Indigenous and 28 per cent of the New South Wales prison population is Indigenous. Indigenous incarceration, both in population and absolute terms, is greater than at the time of the Royal Commission into Aboriginal Deaths in Custody. Why will the Government not join the Bar Association, the Law Society and the Police Association in supporting a trial of the Walama Court proposal?

**Mr COUTTS-TROTTER:** I have had the pleasure of being briefed on the Walama Court proposal and I know that the proposal has been put verbally and in writing to the department, and it is one of a number of

proposals that aim to reduce the unacceptable over-representation of Indigenous men, women and young people in the justice system. As I understand it, it is being considered, along with a range of other proposals, in the 2020-21 budget cycle. The issue is simply one of funding.

**The Hon. SHAOQUETT MOSELMANE:** What are those other proposals?

**Mr COUTTS-TROTTER:** There is the Justice Reinvestment experience in Bourke and Maranguka. There are proposals to expand that into other communities around the State. There are proposals, as we heard earlier this morning, to extend the operations of the Drug Court into regional centres, including Dubbo. There is Youth on Track. There are a lot of initiatives aimed at trying to protect community safety, but divert Indigenous people away from the back end of the justice system.

**The Hon. SHAOQUETT MOSELMANE:** Walama Court is a logical and incremental expansion of all those existing structures, is it not?

**Mr COUTTS-TROTTER:** A variety of proposals have a variety of costs and anticipated benefits. It seems unlikely that all could be afforded at once, and so obviously there has to be some prioritisation made between those proposals and then the Government has to consider the results of that.

**The Hon. SHAOQUETT MOSELMANE:** Is Walama Court high on the priority list?

**Mr COUTTS-TROTTER:** There has not been a priority list constructed yet, but I just make the point that while it is an excellent proposal, there is a range of excellent proposals.

**The Hon. ADAM SEARLE:** Mr Coutts-Trotter, will the Government develop a new court precinct in south-western Sydney?

**Mr COUTTS-TROTTER:** We are working on both the Justice infrastructure plan, which is the biggest possible picture, as well as proposals for the south-west precinct and specifically a proposal advanced by Campbelltown City Council for the expansion of a justice precinct on land that the council holds just next to Campbelltown railway station. The state of that, I think, is an initial assessment of feasibility and costs and benefits of that proposal. But I might invite my colleague Catherine D'Elia to add any further information.

**Ms D'ELIA:** There is not much further to add. We have been looking at an overall infrastructure strategy and requirements for courts, especially in south-west Sydney, given the understanding that we know what is going to happen in terms of growth in that area and the demands on the existing infrastructure. The department has undertaken a feasibility study to look at both those things, the growth, the need and the existing infrastructure, and what that might look like into the future—and whether or not Campbelltown is an appropriate location.

**The Hon. ADAM SEARLE:** At a preliminary level, do you think the Government would agree with Campbelltown council's proposal or is it too early to tell?

**Mr COUTTS-TROTTER:** We are doing very serious work on it.

**The Hon. ADAM SEARLE:** Okay. What about Camden and Picton? The population pressure is probably to the south of Oran Park, Camden. Would that be a better location for a new justice precinct to meet the needs of a growing population in that area?

**Mr COUTTS-TROTTER:** The work that Catherine D'Elia was describing will look at the south-west corridor in total, not just Campbelltown. We will form some views on future patterns of demand through a range of existing locations, including Camden and Picton. Obviously with the second airport there are a range of very significant changes to population patterns, to transport corridors and residential development that will be driven by the second airport. We have got to contemplate that in our longer-term planning.

**The Hon. ADAM SEARLE:** Just on that. Are you looking at sites such as around Leppington, near the site of the Badgerys Creek airport?

**Ms D'ELIA:** We are not at a point of site selection. The feasibility study is looking at future demand but it is looking at it in two different tranches. So it is understanding what we are calling "short term", which is 10- to 20-year growth. Then we are looking at longer term, which is 20- to 40-year growth. So it is taking into consideration areas in south-west Sydney, such as Leppington, which is not currently built up but will be in future. But we are not site selecting at the moment.

**The Hon. ADAM SEARLE:** Other than looking at the Campbelltown council site, that is the only specific site that you are looking at?

**Ms D'ELIA:** That is the only site under consideration because Campbelltown has approached us.

**The Hon. ADAM SEARLE:** Given the level of work you have described, is it fair to say the department or the Government agrees that more modern courts are needed in south-west Sydney, given the likely population growth and the existing population that is already there?

**Mr COUTTS-TROTTER:** Over time, yes.

**The Hon. ADAM SEARLE:** Are you aware whether the Attorney has had any discussion with the Minister for Police and Emergency Services about these proposals, or whether the department has had any discussions with the police?

**Mr COUTTS-TROTTER:** I should not comment on any discussions the Attorney General might have had with colleagues. The Attorney has been briefed by our department and will continue to be briefed.

**The Hon. ADAM SEARLE:** In relation to the idea of a south-west Sydney legal precinct, as well as having the criminal courts is there a consideration to having the NSW Civil and Administrative Tribunal sit there?

**Mr COUTTS-TROTTER:** I think it is too early to say.

**Ms D'ELIA:** Some of the consideration when we are planning precincts is to look at which jurisdictions are required and where we currently have operations. So if we are looking at Campbelltown and we have an office space somewhere else in Campbelltown, we would seek to move that into the precinct. But it is too early because we are not at that design phase of a building.

**The Hon. ADAM SEARLE:** Has the Government received any representations from any members of Parliament about any of these matters?

**Mr COUTTS-TROTTER:** I am sure it has but—

**The Hon. ADAM SEARLE:** Can you take it on notice and let us know from whom?

**Mr COUTTS-TROTTER:** Sure.

**The Hon. ADAM SEARLE:** In relation to women's domestic violence court assistance program, workers across the State have identified effective case management as the number one priority for victims' support, particularly in rural and regional areas, and for Aboriginal women and children from culturally and linguistically diverse backgrounds. Can you tell us what commitment will the justice department make to funding case management as part of the ongoing model? I know it is going out to tender again.

**Mr COUTTS-TROTTER:** Which is with my colleague Brendan Thomas. As you will recall, the Attorney has identified two sites within the current service system where case management is provided as part of the service. The impact of that is being evaluated.

**Mr THOMAS:** The Legal Aid Commission of NSW manages the administration of that women's domestic violence court assistance scheme. As the secretary said, there are two of those services in Campbelltown and Wagga that have case management funding as a component part of that service. You are right to say that workers in that system across the State have identified that as a key desire for themselves. That case management service that is being offered at those two sites has been evaluated in the past and is currently being evaluated again by the department.

**Ms WALKER:** We will be looking at a range of options about how case management should be applied more broadly for the next budget period.

**The Hon. ADAM SEARLE:** Can you tell the Committee what compliance and tendering arrangements have been put in place to ensure that those tendering for women's domestic violence court assistance scheme in 2020 will employ staff with specialist experience and relevant qualifications in working with women and children affected by domestic and family violence?

**Mr THOMAS:** The tendering process is being finalised now. We have been working with Domestic Violence NSW and a range of other domestic violence stakeholders for some months in designing the tender process and the tender documents. There is still some work to go and planned consultations with the domestic violence sector over the next few months to talk about that tender process. Suffice to say, the service of the WDVCS is one of the best in the country, in terms of the services it provides to women experiencing domestic and family violence. Last year it provided services to over 47,000 women fleeing domestic violence. It is the central pillar of the Safer Pathway network, which is the most extensive systematic means of dealing with domestic violence in Australia. You can be assured that a key central tenet of any tender process for services to

provide the WDVCS will be the competency of those organisations in providing services to women experiencing domestic violence, and particularly Aboriginal women experiencing domestic violence.

**The Hon. ADAM SEARLE:** Temporary accommodation, did you say that Minister Ward's—

**Mr COUTTS-TROTTER:** It is, Mr Searle.

**The Hon. ADAM SEARLE:** I will shelve that. I have a question for Mr Thomas. On 28 August this year you wrote to Tim Leech at Community Legal Centres about the funding of the Care Partner Program, indicating the decision to cut the program from the end of October. I would like to explore a couple of the aspects of the letter with you. Your letter said, and I quote:

Care Partner CLCs were advised that their service agreements were being extended for three months to 30 September while Legal Aid NSW reviewed the scope and service delivery of the Care Partner Program.

This review was done without the involvement of those charged with delivering the program, so how did you reach that decision? Who did you consult with before making it?

**Mr THOMAS:** That review is in the context of the examination of the program as a whole from when it started. It was first commenced in 2015. It was assessed in 2017 in terms of the volumes of people coming through that service. We assessed it again towards the end of the current financial year in relation to the volume of work coming through the care and protection system. The volume of that work has declined considerably over that period of time. Our work has declined between 16 per cent and 25 per cent. Some of the figures, in terms of people being assisted in meaningful ways through that program, are very low.

That program was originally funded to deal with people interacting with Family and Community Services on parent responsibility contracts and parent capacity orders, in doing legal work for people in its interaction with FACS, legal tasks for people interacting with FACS and representations services. As I mentioned, they have just dropped significantly. We are very confident that we have the capacity within the Legal Aid service system to be able to deal with the volume of people that otherwise would have been through the Care Partner Program—as we are in terms of dealing with anybody in an area not covered by the Care Partner Program and as was being dealt with, with everybody going through the care and protection system prior to 2015 and the establishment of this program.

As I said, the general workload has dropped quite considerably, which has created some capacity for us to be able to deal with this. There are some hundreds of specialist family lawyers employed in Legal Aid and there are a couple of hundred specialist private lawyers on the Legal Aid panels doing care and protection work. We have a dedicated statewide early intervention service that provides early intervention for people in contact with the care and protection system. I am absolutely confident that nobody will be disadvantaged by this change.

**Mr DAVID SHOEBRIDGE:** Mr Thomas, when did you say the review was done?

**Mr THOMAS:** At the end of the financial year.

**Mr DAVID SHOEBRIDGE:** At the end of this financial year?

**Mr THOMAS:** Yes.

**Mr DAVID SHOEBRIDGE:** Are you aware of the very significant legislative change that has happened in care and protection since November?

**Mr THOMAS:** Yes.

**Mr DAVID SHOEBRIDGE:** That change was not implemented until March.

**Mr THOMAS:** Yes, I am aware.

**Mr DAVID SHOEBRIDGE:** How could you possibly do a review given the fundamental change to the landscape that was happening throughout the last financial year?

**Mr THOMAS:** As I mentioned, the volume of work in this jurisdiction has declined significantly. It has not gone up since that legislative change at all. In fact, it has continued to decline. This is simply re-establishing the care and protection legal system that was in place prior to 2015. We have a very competent and very specialised statewide system of lawyers who provide legal assistance and advice to people in contact with the care and protection regime in every specialist Children's Court in New South Wales and in each of our 24 offices. They also have contact with our 200 outreach locations. I am very confident that we have, with the resources of Legal Aid and with the resources of the specialist family lawyers within the Legal Aid Commission, the ability to meet the demand.

**Mr DAVID SHOEBRIDGE:** Did you consult with any of the care partners to find out what services they were delivering and whether or not those services were diverting people from the very kinds of legal costs you say you are ready to meet?

**Mr THOMAS:** There has been ongoing engagement with all of the care partners right throughout the period of funding. Lots of the referrals the care partners get come from the Legal Aid Commission come from our early intervention service. There is constant interaction on an operational level between the organisations funded through the Care Partner Program and our family lawyers. That program is managed through our community partnership area, which has constant interactions with the organisations that are funded through the Care Partner Program on the services they provide. So, yes, we have had regular and detailed interactions with Care Partner Program service providers for the entire life of that program.

**Mr DAVID SHOEBRIDGE:** One of the issues that constantly arises when funding is withdrawn or, as in this case, is not renewed, is the relatively short notice. At best, employees in this area have been given 12 weeks notice that the funding will not be continued beyond October. Secretary, do you accept that that kind of notice about the non-continuation of funding or the ending of funding—12 weeks—is inadequate?

**Mr COUTTS-TROTTER:** I am not going to pass judgement on Mr Thomas or Legal Aid on this matter.

**Mr DAVID SHOEBRIDGE:** I am asking more broadly. I am not trying to get Mr Coutts-Trotter to pass judgement on Mr Thomas or Legal Aid. I am talking more broadly about this issue. We see repeatedly that when funding is not continued people get, at best, 12 weeks' notice. That is their entire livelihood, their employment and their identity. This happens repeatedly. It is wrong to put you on the spot, Mr Thomas, but you have the case in point.

**Mr THOMAS:** If I can answer in relation to this specific program. I appreciate the difficulties that not continuing a funding program causes for people employed through that program. There is no doubt at all about that. This program was funded for a specific term of two years. There was communication to the community legal centres sector during the tendering process for the funds that these contracts were due to end. No indication was given that there was a strong likelihood that the program would continue beyond that period of time. In saying that, I take no pleasure whatsoever in ending the funding for that program or in any inconvenience it has caused for anybody employed through that program. I do recognise the difficulties people do experience, particularly those who do hard work on the frontlines in the NGO sector, around the uncertainties of funding arrangements.

**Mr DAVID SHOEBRIDGE:** Mr Coutts-Trotter, is the Government going to look at alternative ways of reviewing, renewing or reassessing this kind of funding program so that we do not find ourselves here again in 12 months talking about the next two programs that are not renewed where employees get 12 weeks' notice? Simply waiting until the end of the funding cycle to do the review means constantly revisiting this issue.

**Mr COUTTS-TROTTER:** Yes, and it is an issue that is raised regularly with me by colleagues from funded agencies. At the risk of revisiting an unhappy period, we learnt a lot of lessons from the 2014 re-tendering of the Specialist Homelessness Services system. Those lessons were hard won by lots of people. We tried to learn and improve from that. I know, for example, that Minister Ward is intent on trying to provide as much certainty and early indications to the funded sectors for which he has responsibility; I understand why. I also think that in many of the human service systems we fund there is not a bright, shining new entrant just waiting somewhere to come rushing in to operate a small homelessness service in, for example, Lismore.

It is highly likely that the people who are doing the work or their colleagues at the service next door are going to be the people doing the work. You can make things easier for people by simply recontracting with existing service systems, whilst constantly working to build into those new arrangements an impetus for all of us to provide a better service for the people we collectively serve. We should not have to keep going through these resource-intensive tendering processes. We can and should be giving as much indication as we can. What I have learnt from bitter experiences is that the moment you have got two levels of government funding something—which is often the case—it becomes a three-dimensional game of chess.

**Mr DAVID SHOEBRIDGE:** It is the opposite of a tug of war; it is a push of war.

**Mr COUTTS-TROTTER:** It is very difficult to get decision-making to line up in a way that delivers to non-government partners with the certainty and clarity you are looking for.

**Mr DAVID SHOEBRIDGE:** Alright—

**Mr COUTTS-TROTTER:** The answer is yes, we are trying to do it. But there are going to be egregious examples of people being given late notice under these arrangements. A lot of that is about two levels of government trying to come together and sequence their decision-making.

**Mr DAVID SHOEBRIDGE:** Is there a team in the department that is tracking the implementation of the recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse?

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** Do you have a running sheet of the recommendations that have been implemented and the recommendations that are in the process of being implemented?

**Mr COUTTS-TROTTER:** Yes, we do.

**Mr DAVID SHOEBRIDGE:** Can you, as best as possible, share that with the Committee?

**Mr COUTTS-TROTTER:** Yes, of course. We are committed as a jurisdiction to reporting publicly on that.

**Mr DAVID SHOEBRIDGE:** Can I take you to justice reinvestment?

**Mr COUTTS-TROTTER:** Yes.

**Mr DAVID SHOEBRIDGE:** Everybody agrees that the pilot project in Bourke has been a success. We do not have final numbers on it and elements of it are, no doubt, going to require further assessment over time. But the Bourke community says that it is a success—not an unqualified success, but a success. When is that going to be moved beyond the pilot project in Bourke?

**Mr COUTTS-TROTTER:** We did briefly touch on this when you were out of the room, Mr Shoebidge, but—

**Mr DAVID SHOEBRIDGE:** I apologise. I get into trouble being in two different hearings for this very reason.

**Mr COUTTS-TROTTER:** No, not at all. There is the Maranguka Justice Reinvestment project and a range of exciting proposals and existing initiatives that have approached the department and the Government for ongoing funding or funding to expand and increase what they do. They will have to be considered as a collection of potential choices available to government through the 2020-21 budget cycle.

**Mr DAVID SHOEBRIDGE:** So there is an internal budget process on different justice reinvestment projects, is that right?

**Mr COUTTS-TROTTER:** Well, our aim of course would be to put government in a position to have the greatest confidence that, of the available resources, it is prioritising an investment in those initiatives that are most likely to deliver the social outcomes it seeks. They are many, but they are also clearly the Premier's priorities for this cluster and this portfolio.

**Mr DAVID SHOEBRIDGE:** Can you provide us on notice details about what projects are in the mix for these justice reinvestment initiatives?

**Mr COUTTS-TROTTER:** I can provide a response that would identify proposals that have publicly identified that it want to expand, so initiatives that people have put to government or existing initiatives that people have sought additional investment to enable expansion.

**Mr DAVID SHOEBRIDGE:** Is it your intention for there to be a separate and distinct budget allocation for justice reinvestment projects as an overarching justice reinvestment initiative? Or is it simply going to be a variety of projects that have a justice reinvestment theme? One of the options would be a justice reinvestment commission or a similar statewide body.

**Mr COUTTS-TROTTER:** I take that one on notice. That proposal has not been put to me. It might have been put to colleagues. The Government is trying to organise its budgeting around some measurable but high-level outcomes, and it will consider proposals for reprioritisation or new investment against those outcomes. Obviously justice reinvestment-type proposals offer the prospect of very significant gains in the lives of individuals, but over time very significant avoided costs to taxpayers.

**Mr DAVID SHOEBRIDGE:** And does that include implementing the package of proposals put forward by Just Reinvest in February or March of this year?

**Mr COUTTS-TROTTER:** Those approvals are with government, but I cannot speculate on what will happen in the 2020-2021 budget cycle.

**The Hon. ADAM SEARLE:** Returning to you, Mr Thomas, in relation to the review that you spoke about, who conducted the review about the Care Partner Program?

**Mr THOMAS:** It was managed between our deputy CEO and the community funding section of Legal Aid.

**The Hon. ADAM SEARLE:** Okay. And why did you not involve the CLCs that were actually carrying out the work in that field?

**Mr THOMAS:** So we have had regular engagement with the CLCs on the nature of work that they carry out through the Care Partner Program for the life of the program, in very intimate ways. Our early intervention unit constantly refers clients to that program and has interactions with them. Last year, I am conscious that they referred about 100 clients to Legal Aid that they could not deal with. There is a regular interaction. I mean, it is purely a matter of looking at whether the investment that we were thinking of or—whether we continue the investment based on the numbers of clients and legal work that was being done through that program. And we just did not see that it was worth seeing those through.

**The Hon. ADAM SEARLE:** So you said in your letter that there had been a decline of grants of legal aid between 2015-2016 and 2018-2019 of about 25 per cent. That is a justification for potentially cutting legal aid services, not the CLC services. The CLCs can reach—and this is not a criticism of Legal Aid but, you know, Legal Aid is a government body, a government board meeting government-set priorities, released public set priorities. CLCs are embedded in and shaped by sorts of needs closer to the community. Did you consider in that review that many of the clients of the CLCs were people who had had negative experiences with government agencies, including FACS, and that maybe the cut was not being put in the right place?

**Mr THOMAS:** We had 4,000 representation services last year for people in the care and protection jurisdiction. I think you could say most of those people would not have a positive view of FACS.

**The Hon. ADAM SEARLE:** Yes, I can appreciate that.

**Mr THOMAS:** We deal with the most disadvantaged of disadvantaged people in the Legal Aid Commission, in significant numbers in every location in New South Wales. I do not have any concern about the most disadvantaged people coming to Legal Aid to seek assistance in care and protection matters. And certainly I pay a lot of attention to the clients that come to us. In this area of law and in areas of law in general, significant proportions of our clients are homeless. Some 10 per cent of all the adults we deal with in care and protection matters are imprisoned when their matter is coming before the court. People are homeless. We have significant care and protection clients with ongoing and heavy mental health problems, drug and alcohol addictions. We are dealing every day with the most disadvantaged people in New South Wales. I have no doubt that we have every resource and every skill to be able to deal with the client grouping.

**The Hon. ADAM SEARLE:** As I said, this was not a criticism of Legal Aid. It is just that, because Legal Aid is essentially a government department, some people who do need those services may not feel like reaching out to your organisation, but they would and did reach out to CLCs, which are sort of closer to hand and do not have the same sort of potentially intimidating presentation as being sort of an arm of the Government.

**Mr THOMAS:** I understand the proposition. I do not agree with it, though. I think people are equally likely to reach out to Legal Aid.

**The Hon. ADAM SEARLE:** And did you consider in that review that the work of the CLCs through the partner program might actually reduce the need for the sort of legal services provided by Legal Aid down the track and that it might actually be a prevention mechanism that has now been cut off?

**Mr THOMAS:** Yes. Again, the services that are provided by Legal Aid in the care and protection area are not different from the services that are provided by CLCs in this area. So it is not that there is a whole swathe of early intervention work that is happening in this sector that is not happening through the family law division and the network of Legal Aid offices around the country. And the declines that we are seeing in terms of legal work—I quoted grants of Legal Aid as being the heavier end of that work as an indication of a reduction in the entirety of the work in that jurisdiction. But in terms of that early intervention work, as I mentioned, we have a dedicated early intervention team that provides services across New South Wales in conjunction with families and the Department of Family and Community Services to try to do that.

We have Health Justice partnerships with hospitals. We have a great partnership with Blacktown Hospital, for instance, in a maternity ward that was known for having children removed at birth. Since that partnership has been operating I do not think there has been a single removal from that hospital ward. This kind of early intervention work is something that we do everywhere in Legal Aid and it is no different from the work that is being done by CLCs. I think it is drawing a long bow to suggest that a small number of interactions in the CLC network, as good as they are—and this is not meant to be a criticism of them in anyway way—has driven the reduction in care and protection work that we are seeing low costs to the legal landscape.

**The Hon. ADAM SEARLE:** Okay. But just to be clear, it is your evidence to us that the work provided by CLCs under the care partnership program and the services being delivered by the Legal Aid Commission are the same services? They are not different?

**Mr THOMAS:** They are equivalent. That is right.

**The Hon. ADAM SEARLE:** They are not complementary; they are the same?

**Mr THOMAS:** That is right.

**The Hon. ADAM SEARLE:** Okay. I understand.

**The Hon. SHAOQUETT MOSELMANE:** I will just ask a question about GIPAA matters. Last year, the Government introduced legislation to allow government agencies to accept GIPAA applications electronically, but did not compel them. The Opposition has sought to make it mandatory on the agencies. Why has your department or the Government not made it mandatory, given that it is a preferred form of communication by many people?

**Mr COUTTS-TROTTER:** I am not sure about whether there has been any consideration of making it mandatory. I do want to just take the opportunity to acknowledge the extraordinary work of one of my colleagues, Rita Peci, who put in place a system that enables certainly the former FACS to take GIPAA applications electronically and has made that platform available to other Government agencies. So there are a lot of people doing good work. As for the legislative framework, I might turn with curiosity to Kathrina Lo.

**Ms LO:** I do not have anything to add to that. We have an ongoing brief looking at GIPA legislation, which is now jointly administered. If there are any suggestions about improvement or operational aspects to that we are happy to take the suggestions.

**Mr DAVID SHOEBRIDGE:** Any suggestions?

**The Hon. ADAM SEARLE:** Just so that there is no misunderstanding, this was debated in Parliament, and the legislation now makes it possible for Government agencies to accept electronic lodgement but does not require it. The Opposition did propose making it mandatory. We were just interested, I guess, in the policy considerations underpinning the rejection of that proposal that it be made mandatory, particularly given the 2017-18 report on the operation of the GIPAA by the Information Commissioner.

**The Hon. TREVOR KHAN:** If it is a policy matter, shouldn't you have asked the Attorney General?

**The Hon. ADAM SEARLE:** I am just asking for the department's view.

**The Hon. SHAOQUETT MOSELMANE:** The Attorney's not here, that is why we are asking—

**The Hon. TREVOR KHAN:** He was here.

**The Hon. NIALL BLAIR:** And you kept asking the department questions. You have to work out which ones you are going to ask for whom?

**Mr DAVID SHOEBRIDGE:** The Government has woken up. Is that a point of order?

**The Hon. TREVOR KHAN:** Absolutely.

**Mr DAVID SHOEBRIDGE:** I do not think it is a point of order, so I will allow Mr Searle to have his question answered.

**Mr COUTTS-TROTTER:** I am happy to take that on notice. From my discussion with my colleague Rita Peci, and also with Elizabeth Tydd, a lot of the impediment was in finding a tractable information and communications technology platform to do this. We now have one. I will talk to my colleague Glenn King in customer service and see what information we can provide the Committee from an official's perspective about what more we could do to facilitate the uptake of digital lodgement on GIPAA requests.

**Mr DAVID SHOEBRIDGE:** I've got to say, for my part, it seems incredible that we are still at a point of writing cheques in my office that then get put in the mail, that then get opened by a clerk at the other end and then get sent to the GIPAA department and then get entered into their database, get taken down to the bank and get cashed for \$30.

**The Hon. TREVOR KHAN:** It is better than cash.

**Mr DAVID SHOEBRIDGE:** I know some people like to do it with bags of cash; we do it with cheques. It seems arcane, to say the least, that we are going through that process for \$30. Do you agree?

**Mr COUTTS-TROTTER:** It is hard not to agree with that proposition.

**Mr DAVID SHOEBRIDGE:** In fact, when we have new staff coming on—people aged under 30, you have to teach them how to write a cheque solely for the purpose of doing GIPAA applications with the New South Wales Government. It is like we had another group feeding the pigeons to send the GIPAA applications off to various departments. To say it is frustrating would be an underestimation. Surely it is not efficient.

**The Hon. TREVOR KHAN:** Do you think if you could get rid of the cheques you could cut your staffing down?

**Mr DAVID SHOEBRIDGE:** I do not believe I could. They would have other, far more valuable things to do. But thank you for the suggestion. The frustration in my office is only a small part of what government agencies must be feeling when having to go through the process of dealing with cheques and the accounting.

**Mr COUTTS-TROTTER:** No doubt. That is why Rita Peci, if she has not been immortalised in bronze, will be by a collection of people in the public sector for providing—

**Mr DAVID SHOEBRIDGE:** When it happens.

**Mr COUTTS-TROTTER:** Well, it is happening within our agency, but we hope to see a fast uptake. You can pay online as well.

**Mr DAVID SHOEBRIDGE:** Excellent. I asked you earlier about a proposal for a statewide agency to deal with justice reinvestment, and I think your answer was that you were not aware of the proposal. Could I direct you to the Just Reinvest NSW website. Their request going into the March election was for two key things. The first was allocating \$15 million over five years from the Corrections budget for three new community-led Justice Reinvestment initiatives across New South Wales. That is very clear. The second of their requests was to provide \$5 million over five years from the Corrections budget for the establishment of an independent New South Wales Justice reinvestment body overseen by a board with Aboriginal and Torres Strait Islander leadership.

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

**Mr DAVID SHOEBRIDGE:** It is that second one that I was inelegantly trying to reference in that earlier question.

**The Hon. ADAM SEARLE:** In relation to the GIPAA questions I was asking, you mentioned that one of the inhibitions in the past might have been the lack of an appropriate platform. You mentioned that now there was such a platform.

**Mr COUTTS-TROTTER:** Yes.

**The Hon. ADAM SEARLE:** Can you tell us what that platform is, when it was acquired and what its features are—to the extent that you can?

**Mr COUTTS-TROTTER:** It seemed pretty good when we launched it. I will get information for you addressing those three dimensions.

**The Hon. ADAM SEARLE:** In the legislation introduced last year a statutory period of deemed refusal of 40 days for a request for an external review by the Information and Privacy Commission [IPC] of decisions on applications was instituted. Are you able to tell the Committee whether any additional resources have been provided to the IPC to support that function?

**Mr COUTTS-TROTTER:** Not to my knowledge.

**Ms STRATFORD:** They increased the number of commissioners, I thought, to assist. I do not know if that is related.

**Mr COUTTS-TROTTER:** I think we will take it on notice and give you a crisp response.

**The Hon. ADAM SEARLE:** That is fine. In relation to the People Matter survey 2018 for the Justice cluster, there were some interesting responses. I might just explore some of them with you. Only 26 per cent of respondents had confidence in the way that recruitment decisions were made in the cluster.

**Mr COUTTS-TROTTER:** Yes.

**The Hon. ADAM SEARLE:** Do you have any insight as to why that would be the case? What steps is the department or the cluster now taking to address that?

**Mr COUTTS-TROTTER:** I would not, from the Justice cluster, but that theme—a degree of scepticism about recruitment decisions—is fairly common across the public sector. For example, in the former Department of Family and Community Services, it emerged as a concern in the People Matter Employee Survey responses. The response of the leadership team was to be much more explicit about creating expression of interest pools for acting-up arrangements. It was particularly in relation to who was chosen for acting-up arrangements. I would have to take counsel from my Justice colleagues to see if they have any perspective on the 2018 results.

**Ms LO:** In consultations with the staff to try and understand why that would be in the division I was responsible for, some of it was around the fact that people did not understand the process that was happening. So I think there have been efforts to give better explanations of why a particular course of action has been taken in relation to recruitment. For example, are we having an EOI process? Are we going to activate a talent pool? Are we going to advertise externally? Then explaining that process to people. I know that in one of my areas we actually brought human resources in to explain to people how talent pools work because there was a bit of misunderstanding around that. So some of it is education and I think a big part of it is more transparency around process and why particular courses of action are taken in terms of the method of filling a role.

**The Hon. ADAM SEARLE:** That was only about 26 per cent. That is very low. Do you have a benchmark about how you would want to improve that over the next year? The 2019 results must be due fairly shortly.

**Mr COUTTS-TROTTER:** Yes, they are, and I must say that I have not looked at that dimension of them. With large groups of employees—from memory there were about 10,000 people who responded in Justice, so that is a large group—if you saw a 2, 3 or 4 per cent increase in a measure that would be deemed by the people who have designed and run this survey in New South Wales and other jurisdictions as a very good result. So while it sounds a little bit like the old Public Service refrain—"What do we want? Incremental change. When do we want it? In due course"—actually a two or three point shift on those kinds of measures of employee engagement is quite significant. So you would set an ambitious target—probably 5 per cent—but you would not be transforming it in the space of one year. It would take some time.

**The Hon. ADAM SEARLE:** Particularly reflecting on the recent machinery-of-government changes, only 31 per cent of respondents in the Justice cluster said that they felt that change was managed well in their organisation. Only 38 per cent said that senior managers encourage innovation. Do you have any insights into that and how that can be improved?

**Mr COUTTS-TROTTER:** It needs to be improved. People need to feel the inevitable change that is part and parcel of the public sector and the private sector and the impacts and the pressures of that are understood, and that managers and leaders offer clarity, assurance, predictability and challenge to people. What I have discovered from dealing with this kind of survey feedback for a number of years now is that it is interesting at a departmental level; it only really becomes actionable at a workplace division or a workplace level. The factors that drive things are often quite particular to the context.

The context in Corrections is very different to the context in Justice policy, and likewise child protection and commissioning, so the responses have to be accordingly. That is a very longwinded way of saying that I cannot give you a good answer to that but we want people to feel as if the organisation is well prepared and thoughtful to take us through the changes that are now part and parcel of organisational life. We want people to be resilient. We need their managers to be resilient. We need people to be clear communicators and, above all, available to listen and be accessible to the people they lead.

**The Hon. ADAM SEARLE:** You mentioned that the context of these results would differ, depending on the setting. I notice the Stronger Communities cluster is quite diverse now.

**Mr COUTTS-TROTTER:** Yes.

**The Hon. ADAM SEARLE:** Is there a plan in future People Matter Surveys to have greater disaggregation or granularity so that we can have insight into the way in which different parts of the cluster are responding to these questionnaires?

**Mr COUTTS-TROTTER:** Yes. Internally we try to break this down at really quite a detailed level. There comes a point where you cannot break it down into smaller groups of people's responses because it runs the risk of identifying people. The absolute guarantee for everyone who participates is that what they say is treated in confidence. We can only go so far in feeding back results to workgroups, but internally we break the material down in a pretty detailed fashion. I am happy to see what we publish on our websites and to see if we can give good transparency to the community without breaching people's confidentiality as respondents to the survey.

**Ms LO:** I just might give you a bit more information. We can get information down to a level of granularity where we have a branch or a team of 10 or more. We cannot get to results for fewer than 10 people.

**The Hon. ADAM SEARLE:** Just pausing there—and I do not mean to cut you off; I am happy for you to finish—I really meant Justice policy versus Corrections versus Family and Community Services [FACS].

**Mr COUTTS-TROTTER:** Sure. We can publish the divisional—

**Ms LO:** We have got that.

**Mr COUTTS-TROTTER:** We publish internally at a divisional level, which means we may as well publish externally at a divisional level.

**The Hon. ADAM SEARLE:** In response to the question: "I have confidence in the ways my organisation resolves grievances", only 29 per cent of people agreed in the 2018 survey and that is unchanged in the 2017 survey, but the sector-wide response increased from 36 per cent in the public sector generally in 2017 to 40 per cent public sector wide. So there has been an increase in the overall response from the public sector but there has been no change in the Justice space. Can you offer us any insights into why that might be? The vote has risen but not in Justice.

**Mr COUTTS-TROTTER:** I cannot, but I will invite colleagues if they want to. But that is something that we would want to see improved.

**The Hon. ADAM SEARLE:** A quarter of the respondents, or 24 per cent, said that they had witnessed misconduct or wrongdoing at work and 34 per cent said that they had witnessed bullying at work in the previous 12 months. That is slightly higher than the sector-wide response.

**Mr COUTTS-TROTTER:** Yes.

**The Hon. ADAM SEARLE:** And, disturbingly, in the last 12 months the question: "I have been subjected to bullying at work", had a response rate of 20 per cent, which again was higher than Justice cluster's response in 2017 and is a couple of per cent higher than the sector-wide average of 18 per cent. That seems to indicate that the situation in Justice might be slightly worse. Again, can you offer us any insights into why that might be or, perhaps, if not, what you might be doing in response to those survey findings?

**Mr COUTTS-TROTTER:** What we have found in the past few years is that rising workplace pressure, combined with people coming into management and leadership positions or roles without quite a well-prepared transition, leads to a situation where all these types of indicators spike up. People feel that they do not understand why decisions are made. They feel that their needs and concerns are not properly attended to. They worry about the partiality of decision-making. In a sense, it is sort of management 101.

It is really incumbent on us, as more senior leaders in the organisation, to make sure that we develop people so that when they take on those management responsibilities they have the capabilities to meet that responsibility and that they have the oversight and support that enables them to be a success. A lot of the training development and focus of the organisation has been about helping people become better managers of other people. The context for that will be entirely different depending on the workplace, but that is the fundamental capability that needs to be developed—people's confidence and competence as a manager of other people.

**The Hon. ADAM SEARLE:** Often people end up in managerial roles because of their technical experience in one area.

**Mr COUTTS-TROTTER:** Yes.

**The Hon. ADAM SEARLE:** Longevity or what have you.

**Mr COUTTS-TROTTER:** Yes.

**The Hon. ADAM SEARLE:** What specific investment or supports is Justice providing for its current managers and potential or future managers to develop that capability?

**Mr COUTTS-TROTTER:** I would need to take that one on notice, unless Ms Lo or Ms D'Elia want to comment.

**Ms LO:** I can probably talk to it at a high level. Human Resources did have a suite of programs aimed at managers and leaders at different levels. That was also complemented by programs offered through the Public Service Commission.

**The Hon. ADAM SEARLE:** In response to those survey findings do you feel that there is a need, perhaps, to up the investment or support in this area?

**Mr COUTTS-TROTTER:** Potentially, yes. I mean, the coverage of the survey means that the results are a blunt message that you absolutely have to hear. This is not a news poll of 1,100 people nationally. This is 70 per cent of the workforce responding to a survey taking 15 minutes and sometimes more because sometimes people provide free-text comments. It is an absolute goldmine of feedback—good, bad and indifferent. It is really important that we break it down to the two or three simple things, and effective things, that can be done in response to that feedback in each workplace and then deliver on that. That is the way you get improvement.

You would imagine as a whole if the problem is people's confidence and competence in managing other people: Yes, you want to invest in that. But there could be other even more pressing issues workplace by workplace. The response will not be completely uniform. It will be particularised to what we hear from people in different workplaces, but as a general theme investing in the capability of colleagues to be successful managers is critical. If we cannot get that right, a lot of other things we cannot get right either.

**The Hon. ADAM SEARLE:** Fair enough.

**Mr COUTTS-TROTTER:** Yes.

**The Hon. ADAM SEARLE:** When will the People Matter Survey for Justice be out for 2019?

**Mr COUTTS-TROTTER:** I distributed a high level copy of that survey today, I think, by email. More detailed material is in the hands of colleagues. Workplace by workplace, work group by work group people are making arrangements to sit down and talk with people about the feedback that has been given and try to explore with different teams: What do you think this means for us? What should we do about it?

**Mr DAVID SHOEBRIDGE:** Mr Coutts-Trotter, I do not know if you were in your current position when in April 2019 the Australian Law Reform Commission handed down its review on the national Family Court and recommended that the responsibility for family courts be devolved back onto the States and Territories. Do you remember when that—

**Mr COUTTS-TROTTER:** I am familiar at a very high level with the recommendations from the Australian Law Reform Commission report.

**Mr DAVID SHOEBRIDGE:** Given the extremely large impact that would have upon State courts, has there been any review or policy response created or requested in relation to that Australian Law Reform Commission report?

**The Hon. TREVOR KHAN:** No, without a bucket of money, I suspect.

**Mr DAVID SHOEBRIDGE:** Well, quite.

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

**Mr DAVID SHOEBRIDGE:** One of the options that has been on the table for the better part of 30 years has been for the different States and Territories to adopt the unified court that we see in Western Australia, where both State and Federal jurisdictions for children, care and protection and Federal family law are all heard within the one court. Are there any moves afoot for New South Wales to adopt that kind of model, which most people say provides the most comprehensive model?

**Mr COUTTS-TROTTER:** Not to my knowledge, but we will take it on notice.

**Mr DAVID SHOEBRIDGE:** The recommendations for Aboriginal cultural awareness training that were put forward by the original inquiry into the Bowraville family murders, which required the training of judges on Aboriginal cultural awareness, as well as others, were accepted by the Government. How many judges have undertaken that training?

**Mr COUTTS-TROTTER:** I do not think we have that data. I think we would have to make that request of the Judicial Commission and report back to you.

**Mr DAVID SHOEBRIDGE:** I appreciate that. Of course, as I understand it, that training is delivered by an optional online training module or similar. Given the disproportionate number of Aboriginal people who go through the court system—especially in criminal justice but also in care and protection—are there processes in place to make that mandatory for judges and to require the courts to report back upon the extent of the training? Again, you will probably need to take that on notice.

**Mr COUTTS-TROTTER:** I will take that on notice and get advice from judicial officials.

**Mr DAVID SHOEBRIDGE:** I can hear Ms Lo saying, "Take that on notice". The last thing I will ask on that is one of the other recommendations that was supported by the Government was making Aboriginal cultural awareness training a compulsory component of legal training in universities. It was supported by the Government. Can you please provide us any advice as to the implementation of that recommendation?

**Mr COUTTS-TROTTER:** Again, I will take that on notice.

**The Hon. ADAM SEARLE:** In the funding round for Community Legal Centres announced this May I think 13 CLCs received reduced core funding but the basis of the reduction was not explained to them. Are you able to provide the Committee with an explanation for why a combined \$926,000-odd in funding to those 13 services was reduced?

**Mr THOMAS:** You might be aware there was a review of the community legal sector initiated by the Attorney General last year, the Cameron review.

**The Hon. ADAM SEARLE:** The Cameron review, yes.

**Mr THOMAS:** It made a range of recommendations. One of those was around a tender process for Community Legal Centres funding and also to remove the funding decision-making from the board of Legal Aid, where it had been, to the Attorney General, where it is sitting now. In implementing that recommendation, the Attorney established an independent board that oversaw that funding process. The Legal Aid Commission manage the administration of the process—that is, the tender process and I suppose the taking of minutes and so forth of the board. The board was an independent body that made its recommendations to the Attorney General. I understand the Attorney last week released the tender assessment report to Community Legal Centres NSW [CLC NSW] that has some of the detail of that.

As I understand the base funding for Community Legal Centres as it sat in 2016-17, no CLC as a total amount got an amount of funding lower than what it was receiving in 2016-17. That is an important year. You might recall at that period of time there was discussion from the Commonwealth about reducing \$3 million in the community legal assistance sector which—I am not sure of its formal title—was called the Dreyfus funding. The New South Wales Government at that point stepped in to provide an additional \$3 million a year to that sector. The Commonwealth did not remove that Dreyfus funding so the sector ended up having \$3 million more in it than it had otherwise anticipated. It is important to establish that the year before that injection of funds is the base year of Community Legal Centres funding. As I understand, it none of the CLCs got an amount of funding lower than that 2016-17 amount and a number got more. As I say, those recommendations were made by the independent panel to the Attorney.

**The Hon. ADAM SEARLE:** Who was on the independent panel?

**Ms LO:** I was a member of the independent panel, as was an Executive Director from the Department of Premier and Cabinet. There were three independents—so non-Government members—two of whom managed the pro bono programs at large law firms.

**Mr THOMAS:** There was also an independent procurement advisor that sat on all meetings of the panel.

**Ms LO:** Probity advisor.

**Mr THOMAS:** Probity advisor, pardon.

**The Hon. ADAM SEARLE:** With no disrespect to anybody here, it is a sort of semi-independent panel—some Government people, some non-Government people.

**The Hon. TREVOR KHAN:** You are a cynic.

**Ms LO:** There were three non-Government members and two Government members.

**Mr DAVID SHOEBRIDGE:** A majority independent panel.

**The Hon. ADAM SEARLE:** When did the Attorney receive the panel's recommendations?

**Mr THOMAS:** The date, do you mean?

**The Hon. ADAM SEARLE:** Roughly. I mean, if there is a date—I am happy for you to take it on notice.

**Mr THOMAS:** Can I take that on notice?

**The Hon. ADAM SEARLE:** Was it a few weeks ago, a few months ago?

**Mr THOMAS:** The announcements were made prior to the end of the financial year and the report received prior to that. If I take the date on notice I will get back to you.

**The Hon. ADAM SEARLE:** Will the report of the panel be released publicly?

**Mr THOMAS:** That is a matter for the Attorney to make a determination on. He has released it to CLC NSW.

**The Hon. ADAM SEARLE:** Given that the centres received advice on their funding levels with less than nine weeks to go before that funding expired, is there a proposal to adopt a different timetable for the next tender to make sure that if there are funding reductions they have more notice of them?

**Mr THOMAS:** There is. Also, as you will be aware, the CLC funding program is a combination of money provided by the New South Wales Government, money provided by the NSW Public Purpose Fund and about \$13 million provided by the Commonwealth Government. Unfortunately for the CLC sector, those funding cycles have been on different timetables. The Commonwealth funding ends at the end of this current financial year and there is a new national partnership agreement process to renew that funding arrangement. The intention is for the next funding cycle to bring all of those three funding sources together into the same calendar period.

**The Hon. ADAM SEARLE:** That would be useful.

**Mr THOMAS:** Very useful, with much more notice for people.

**The Hon. ADAM SEARLE:** The panel undertook to make funding for some centres conditional on the centres revising their deliverables. None of the panellists actually worked in the Community Legal Centres field. How confident are you that those recommendations are well founded, based on the lived experience of what CLCs actually do?

**Mr THOMAS:** My understanding of the panel's deliberations is that an ability to look across applications that it was getting from multiple CLCs allowed it to make some comparisons around the level of activity and service delivery happening in some centres to others. Community Legal Centres NSW has had further discussions with the Attorney General about some of those targets and I am pretty comfortable that most of those CLCs are reasonably comfortable with the targets they have got.

**The Hon. ADAM SEARLE:** What are some of those changed targets or revised deliverables? What sorts of things are we talking about?

**Mr THOMAS:** Numbers.

**The Hon. ADAM SEARLE:** Numbers of what, people seen?

**Mr THOMAS:** People seen and services delivered.

**The Hon. ADAM SEARLE:** We are talking about increases in the number of people seen?

**Mr THOMAS:** That is right.

**The Hon. ADAM SEARLE:** Do you have any examples—do not name the service—of some of the things we are talking about?

**Mr THOMAS:** I do not have them with me though. I can take that on notice.

**The Hon. ADAM SEARLE:** You can provide some examples on notice. Recommendation 9 of the Cameron review addressed the issue of the perception of a conflict of interest with your organisation. Your organisation is a recipient of funding from the Government as well as a decision-maker on the application of funding requests. How do you see that recommendation? Do you think there is a perceived conflict of interest with Legal Aid and how might that be addressed or removed?

**Mr THOMAS:** We were one of the contributors to the Cameron review and supported that recommendation, if I can be frank. There is a challenge, I suppose, with being the administrator of contracts and the funder or organisations, and trying to work in partnership with those same organisations to deliver services on the ground. Those two things have some inherent difficulties to manage. Without naming organisations, there have been times in the past 18 months where I have had to make management decisions about performance questions of certain CLCs, appoint investigators, auditors, those kinds of things, that you would normally do in any kind of funding program.

It skews the relationship then on the ground when I have a service delivery conversation, discussion with those organisations about their services. There is a difference between a funder-provider, if you like, in terms of that relationship, and a service partner relationship. It does cause tension. We try to manage that tension through regular communication between the CLC program in Legal Aid and CLC NSW. In the past year we have embarked on what we call a collaborative service planning exercise with CLCs and others in the legal assistance sector. That has involved us looking at how we provide services across New South Wales delineating very clear service boundaries with agreements between all parties about where those boundaries sit.

Further, this year we will do some detailed planning about the services we provide together in those geographical areas so that we are pretty clear about who does what, what the role of one another is, and we have mechanisms to resolving disputes or having further discussions around planning. We are trying to deal with, I suppose, those inherent tensions that arise through that funder-provider relationship by structuring the relationship we have with CLC NSW, the relationship we are trying to put in place for service planning and in the relationship we have locally between one of our offices and the CLCs that they work with. There is an inherent tension.

**The Hon. ADAM SEARLE:** Recommendation 11 of the review suggested that the New South Wales Government should invest in the development of an outcomes measurement framework. Do you know whether or not the community legal sector will be involved in facilitating the development of any outcomes framework?

**Mr THOMAS:** My understanding is CLC NSW has a plan to develop that outcomes framework. I understand it has some additional funding from the Government to work with it in developing that plan. I also understand its national body is working on a national plan.

**The Hon. ADAM SEARLE:** Can you tell us what that level of funding is it has received from the Government to participate in that process?

**Mr THOMAS:** My understanding is \$100,000, but if I take that on notice I will come back with that.

**The Hon. SHAOQUETT MOSELMANE:** I ask questions in relation to justices of the peace [JPs]. Several years ago the department directed that New South Wales JPs could no longer witness proof of life forms for recipients overseas social benefits. This was to be reviewed and there was supposed to be a discussion paper. What has happened?

**Mr COUTTS-TROTTER:** I am sorry, I have no knowledge of that. I am looking to Ms D'Elia. We can take it on notice and give you a response, Mr Moselmane.

**The Hon. SHAOQUETT MOSELMANE:** If you would. My follow up question is that under the new introduced regime all applications to renew a JP's registration must be done on line. I understand many JPs—who are wonderful people—sometimes are not computer literate. Will you make some allowance for those wonderful JPs so that they are not put in a situation where they cannot undertake their job?

**Mr COUTTS-TROTTER:** I will take that on notice. The point is made and understood.

**The Hon. SHAOQUETT MOSELMANE:** Section 19 of the West Australian Justices of the Peace Act 2004 provides no action lies for anything that a person does while performing duties as a JP unless a person acts corruptly or maliciously. In New South Wales there is no indemnity provided for JPs. What is wrong with the West Australian model?

**The Hon. NIALL BLAIR:** It is a policy.

**Mr COUTTS-TROTTER:** Yes, that is a policy question.

**The Hon. SHAOQUETT MOSELMANE:** I am asking that policy question.

**The Hon. ADAM SEARLE:** What are the pros and cons? What advice has the Government provided?

**The Hon. NIALL BLAIR:** You can ask him if they have been asked to provide advice for that.

**The Hon. SHAOQUETT MOSELMANE:** Can you provide advice on that? Thank you for the assistance.

**The Hon. ADAM SEARLE:** Have you been?

**Mr COUTTS-TROTTER:** I do not know whether we have been, but I will find out and respond on notice.

**The Hon. SHAOQUETT MOSELMANE:** In August last year a consultation paper was released about JPs. Nothing has been heard since. Has anything happened? When will we expect a response to the consultation paper?

**Mr COUTTS-TROTTER:** I am sorry, I am looking to see if I have any information on this. Again, I am sorry, I will have to take that on notice.

**The Hon. SHAOQUETT MOSELMANE:** That concludes the JP questions.

**Mr DAVID SHOEBRIDGE:** The witnesses have taken many questions on notice. It has been quite a long day. The committee could proceed for another 12 or 13 minutes, but my proposal is, unless the Government is keen to fill the next 30 minutes with questions, that we thank all the witnesses for their cooperative behaviour and responses and we proceed to a deliberative, then we will advise them whether or not they will be recalled at 6.30 p.m.

**(The witnesses withdrew.)**

**The Committee proceeded to deliberate.**