

**CORRECTED PROOF  
GENERAL PURPOSE STANDING COMMITTEE NO. 4**

**Thursday 11 October 2012**

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

**POLICE AND EMERGENCY SERVICES, THE HUNTER**

**The Committee met at 2.00 p.m.**

**MEMBERS**

The Hon. S. Mitchell (Chair)

The Hon. A. Fazio  
Dr J. Kaye  
The Hon. T. Khan  
The Hon. C. Lynn

The Hon. P. Sharpe  
Mr D. Shoebridge  
The Hon. S. Whan

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**PRESENT**

**The Hon Michael Gallacher**, *Minister for Police and Emergency Services, Minister for the Hunter*

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**CHAIR:** I declare open to the public this hearing of the inquiry into budget estimates 2012-13. Today the Committee will examine the proposed expenditures for the portfolios of Police and Emergency Services, and the Hunter. The Hunter portfolio will be examined from 2.00 p.m. until 2.20 p.m.; the Police portfolio will be examined from 2.20 p.m. to 3.40 p.m., and the Emergency Services portfolio from 4.00 p.m. to 5.00 p.m. Government members will not be asking questions. Their allocated time will be divided equally between the Opposition and the crossbench members. I welcome Minister Gallagher and his accompanying officials to this hearing.

I advise that Commissioner Scipione, who was also scheduled to appear this afternoon, is now unable to attend due to a death in his family. Our sincerest condolences are extended to Commissioner Scipione and his family during this difficult time.

Before we commence with questions I will make some comments about procedural matters. In accordance with the Legislative Council's guidelines for the broadcast of proceedings, only Committee members and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photographs. In reporting the proceedings of the Committee you must take responsibility for what you publish or what interpretation you place on anything that is said before the Committee. The guidelines for the broadcast of proceedings are available on the table by the door.

Any messages from advisers or members' staff seated in the public gallery should be delivered through the Chamber and support staff, or the Committee clerks. Minister, I remind you and the officers accompanying you that you are free to pass notes and refer directly to the advisers seated at the table behind you. Transcripts of this hearing will be available on the web from tomorrow morning.

Minister, the House has resolved that answers to questions on notice must be provided within 21 days. I remind everyone to turn off their mobile phones. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. Minister, 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 ask all other witnesses, each in turn, to state their full name, job title and agency, and swear either an oath or an affirmation.

**WILLIAM ANTHONY TATNELL**, Senior Regional Coordinator, Department of Premier and Cabinet, affirmed and examined:

**CHAIR:** I declare the proposed expenditure for the portfolios of Police and Emergency Services, and the Hunter open for examination. There is no provision for a Minister to make an opening statement before the Committee commences questioning. We will begin with questions from the Opposition.

**The Hon. AMANDA FAZIO:** Minister, when was the last time you visited Maitland Hospital?

**The Hon. MICHAEL GALLACHER:** I have not visited Maitland Hospital since I came to government.

**The Hon. AMANDA FAZIO:** When was the last time you visited John Hunter Hospital?

**The Hon. MICHAEL GALLACHER:** I have not visited John Hunter Hospital since I came to government.

**The Hon. AMANDA FAZIO:** Minister, the Coalition promised \$20 million towards a new hospital for the Hunter. Less than \$1 million has been allocated to the new hospital in the 2012-13 budget. Why has not more money been allocated when the Government promised during the election campaign that the project would be fast-tracked?

**The Hon. MICHAEL GALLACHER:** I thank the member for her question. The Hunter region is benefiting from more nurses in 2012-13, receiving a share of the \$3.3 million allocated to the Hunter New England Local Health District to employ approximately 51 more nurses.

**The Hon. AMANDA FAZIO:** Thank you, Minister. I was not interested in the number of nurses employed in the Hunter.

**The Hon. MICHAEL GALLACHER:** This includes an additional \$528,000 for the Calvary Mater, Newcastle. This comes as part of—

**The Hon. AMANDA FAZIO:** Minister, I want to know about the construction of the new Hunter hospital.

**The Hon. TREVOR KHAN:** Point of order: The Minister is entitled to answer in the way that he is the question that has been put and he is also entitled to the courtesy of not being interrupted as he answers the question. I ask that the member be called to order.

**The Hon. AMANDA FAZIO:** To the point of order: I asked the Minister a very specific question about the new hospital that was promised for the Hunter, the capital expenditure and the construction of it. I did not ask the Minister about staffing arrangements in general for the Hunter New England Local Health District. I ask that the Minister be directed to answer my specific question about the new hospital that the Coalition promised the Hunter.

**CHAIR:** The Minister is being relevant and may answer the question as he sees fit, and should do so without interjection.

**The Hon. MICHAEL GALLACHER:** I think it is important that I have an opportunity to reflect on the budget commitment for health in the Hunter region.

**The Hon. PENNY SHARPE:** Haven't you got anything constructive to say about the new hospital?

**CHAIR:** Order!

**The Hon. MICHAEL GALLACHER:** A further \$338,000 for the Hunter New England Local Health District to employ more clinical nurse/midwife educators and clinical nurse/midwife specialists has also been provided. The Hunter region will benefit from a further \$2.6 million to provide more subacute rehabilitation

services at Belmont and Kurri Kurri hospitals under the third year of the National Partnership Agreement on Improving Public Hospital Services, bringing the total annual commitment to \$9.6 million. John Hunter Children's Hospital will benefit from \$1.4 million in additional neonatal and intensive care services. And to ensure we continue to provide leading health care the Hunter region will benefit from the capital program allocation for 2012-13 of \$23.2 million.

**The Hon. PENNY SHARPE:** Minister, of that \$23.2 million—

**CHAIR:** Order!

**The Hon. MICHAEL GALLACHER:** New capital works in 2012-13 include \$1.5 million to commence upgrades to Cessnock Hospital emergency department, at an estimated total cost of \$2 million; and refurbishment and expansion of the emergency department at Cessnock Hospital. The Hunter region will benefit from the following allocations to continue work on priority health care capital projects, including: \$7 million towards land acquisition at Waratah, adjacent to Calvary Mater Newcastle Hospital; \$1.5 million for cyclical maintenance at Newcastle Mater Hospital; and \$11.4 million to continue Raymond Terrace HealthOne, at an estimated total cost of \$15.2 million. And \$16.8 million will be allocated for planning and land acquisition required for the new Hunter Valley Hospital in 2013-14. I think those figures speak for themselves. I think it is an important reflection on an Opposition that simply tries to suggest nothing is being done when, in fact, just short of \$17 million has been provided thus far to commence this operation. I think it is going to be quite a significant addition to health resources in the Hunter region.

**The Hon. AMANDA FAZIO:** According to the latest figures, Calvary Mater, Newcastle, John Hunter and Maitland hospitals did not meet the national emergency access target for 69 per cent of patients to leave emergency departments within four hours. Why did those hospitals not get more funding to cope with the emergency department demand in the current budget?

**The Hon. MICHAEL GALLACHER:** That is a detailed question requiring a detailed answer and I will take that question on notice.

**The Hon. AMANDA FAZIO:** You would be aware that prior to the election Tim Owen, the member for Newcastle, indicated that a Coalition government would support the expansion of Newcastle Region Art Gallery. The Government has apparently allocated \$350 million over four years to the Hunter Infrastructure and Investment Fund. Why then have you broken your promise to the people of Newcastle and refused to find any money for the art gallery project?

**The Hon. MICHAEL GALLACHER:** I think it is important to again put on the record what a breath of fresh air Tim Owen is proving to be for the people of Newcastle. He is an outstanding member of Parliament who gives the people of Newcastle and, indeed, the outlying areas of the Hunter around Newcastle that degree of confidence that the new member for Newcastle—the first Liberal member of Parliament for the area—is getting on with the job. The Government is fully aware of calls to match the funding commitments of Newcastle City Council and the Commonwealth Government towards the development of the Newcastle Region Art Gallery. The proposed redevelopment has the potential to complement a series of major New South Wales Government initiatives aimed at revitalising the Newcastle city and surrounds.

A vehicle for consideration and assessment for this funding proposal is the Hunter Infrastructure and Investment Fund. Funding could also come from the Arts NSW grants or tourism sources. The Hunter Development Corporation has received a formal funding application from Newcastle City Council as part of a call for proposals for the Hunter Infrastructure and Investment Fund, which closed in August 2012. All proposals received are being assessed against a stringent set of evaluation criteria focused on the project being regional or subregional economic or social infrastructure. Successful projects will need to demonstrate how they contribute to the economic growth and liveability of the Hunter region, and the Newcastle Region Art Gallery redevelopment proposal is currently being considered in this process. The Hunter Infrastructure and Investment Fund will make recommendations to the Minister for Planning and Infrastructure in relation to allocations from the fund pursuant to a core process.

**The Hon. AMANDA FAZIO:** How much does it cost to catch a train from Central Station to Newcastle?

**The Hon. MICHAEL GALLACHER:** From Central to Newcastle, if you are going full-fare, single is about \$8.20; the concession fare is about \$4.10. From memory, if you want to jump across to Stockton when you get off at Newcastle it will probably cost you about another \$4.00.

**The Hon. AMANDA FAZIO:** When was the last time you caught a train to Newcastle?

**The Hon. MICHAEL GALLACHER:** I have not caught a train to Newcastle for some years. I have not caught a train from Sydney to Newcastle for some years.

**The Hon. STEVE WHAN:** What is your view of the debate in Newcastle over the future of the railway line in the centre of Newcastle? As Minister for the Hunter have you got a personal view on that?

**The Hon. MICHAEL GALLACHER:** Sadly, the member is not aware of the standing orders which prevent me from giving an opinion.

**The Hon. STEVE WHAN:** Have you got an official view on that then as the Minister responsible for the Hunter?

**The Hon. PENNY SHARPE:** Have you made any representations to the Minister for Transport in relation to—

**CHAIR:** Order! The question originally asked by the Hon. Steve Whan is out of order.

**The Hon. MICHAEL GALLACHER:** The second question I thought was in order, which was on the official view of the Government.

**CHAIR:** Order! The original question asked by the Hon. Steve Whan was out of order in relation to a personal opinion.

**The Hon. MICHAEL GALLACHER:** Of course, the issue of the railway line is central to the Regional Transport Plan set for delivery in mid-2013, and I thank him for giving me an opportunity to talk about this. The Government is also progressing towards the community consultation phase of the Newcastle urban renewal precincts study, which will make recommendations on planning and development initiatives to promote activity, including addressing the future of the city rail line. Further, the Hunter Region Transport Plan will also deliver a detailed plan for managing transport and accessibility in the Newcastle city centre.

**CHAIR:** The time for Opposition questions has expired. We will now move to the crossbench.

**Dr JOHN KAYE:** Minister, can you tell us how many Hunter public schools will see a reduction in their special needs funding under the new Every Student, Every School plan?

**The Hon. MICHAEL GALLACHER:** I thank the honourable member for his question, which obviously requires a very detailed answer from the Government. I will seek an answer from the Minister for Education and report back to you with that.

**Dr JOHN KAYE:** Have you had any representations from schools in respect of money that they have lost under the Every Student, Every School plan?

**The Hon. MICHAEL GALLACHER:** I am not aware of any representations being made to me, but, rest assured, any correspondence to me that I am made aware of I will most certainly bring to the attention of the Minister for Education.

**Dr JOHN KAYE:** More coalmines, more coal trains—and none of those coal trains have covers over them—coal-fired power stations, all of these are adding to the PM<sub>2.5</sub> and PM<sub>10</sub> microfine particle loads on the lungs of the people in the area which is covered by your portfolio. Can I ask what steps you have taken as the Minister for the Hunter to get covers put on the trains, to have improved monitoring of particularly PM<sub>2.5</sub>s, to get some kind of standard implemented on PM<sub>2.5</sub>s and to assess the health impacts on Hunter residents?

**The Hon. MICHAEL GALLACHER:** The expansion of the coal industry in the Hunter and Gunnedah basins will see a significant increase in the number of trains passing urban areas as well as the

delivery of expanded ship loading facilities at the port of Newcastle. The Government is conscious of the issues—all of us are. We are aware of the concerns that the community has regarding coal transport and the potential associated health impacts. The EPA has commenced operation of 14 new air quality monitoring stations in the upper Hunter in February 2012, which I am sure the member is well and truly aware of—

**Dr JOHN KAYE:** And how many of those measure PM<sub>2.5</sub>?

**The Hon. MICHAEL GALLACHER:** That would obviously require a detailed response from the Minister.

**Dr JOHN KAYE:** You will get back to us on that?

**The Hon. MICHAEL GALLACHER:** I will get back to you, but it is important to put onto the record that the Government is also proposing a new regulation under the Protection of the Environment Operations Act 1997, which will require holders of environment protection licences authorising coalmining and electricity generation in the upper Hunter region to pay a levy towards the cost of the monitoring program. The draft regulation is being released for public comment on 21 October.

**Dr JOHN KAYE:** If we go to Kooragang Island for a minute—or at least if we could go there metaphorically, because we would be concerned for our health if we did not—a cancer cluster, a new coal-loading terminal with 120 million tonnes of coal going out of the Port of Newcastle, the Portside Land development at Mayfield, the gas export terminal on Kooragang Island, the infamous Orica plant, with its three serious chemical leaks, being granted expansion, the Mastel plant at Mayfield being given planning permission—you would be aware no doubt that the residents of Mayfield and Stockton are extremely concerned about the kindling impacts of these industrial developments, each of which will add to traffic congestion, each of which will add to the air pollution load. What steps are you taking as the Minister for the Hunter to advocate on behalf of the residents of Mayfield and Stockton with respect to air quality, safety and traffic congestion?

**The Hon. MICHAEL GALLACHER:** As I indicated a few minutes ago in relation to air quality, that is something that the Government is very aware of, it is something that the community is very aware of and, of course, Mayfield is an area that does have a very rich history in terms of manufacturing as well as heavy infrastructure with the old BHP plant. Of course, the employment around that area and the traffic that now moves through that area have changed significantly over the last few years. There is a much greater awareness of the health concerns in relation to coaldust as well as chemical plants that are located in the nearby vicinity.

The Government is revitalising the former BHP steelworks site at Mayfield to cater for that forecast trade growth. It is trying to find a balance, and you would be aware of that. We have got a port that is worth about \$10 billion a year to the New South Wales economy and the national economy. It is about trying to get a balance. It is about getting a balance and it is about working with the community in the way that the local members do work with the community. The Mayfield Portside concept plan details the type of land use that the Newcastle Port Corporation proposes for the redevelopment of the Mayfield site, as you would be aware. The Minister for Planning and Infrastructure has approved the Mayfield concept plan following a stringent assessment process

**Dr JOHN KAYE:** Is there any attempt to do a cumulative analysis of the impacts of all these developments? Each has been addressed individually but one of the concerns raised by residents, you would be aware, is that there has been no assessment of the cumulative impacts. What are you doing as the Minister to ensure that happens?

**The Hon. MICHAEL GALLACHER:** That is a fair point you have raised, the cumulative concerns. I would be more than happy to raise your concerns with the Minister for the Environment as well as the Minister for Planning and Infrastructure to make sure that they are aware of the concerns that you have raised today.

**Dr JOHN KAYE:** My last question relates to the recent round of fighting between Mr Rob Tew, the former chairman of the Knights, and Nathan Tinkler, the chairman of the Hunter Sports Group [HSG]. As a keen Knights supporter no doubt you would be aware of the latest round relating to—

**The Hon. MICHAEL GALLACHER:** I am a Souths supporter.

**Dr JOHN KAYE:** I apologise for that.

**The Hon. MICHAEL GALLACHER:** Don't apologise: the CFMEU and I both support Souths.

**Dr JOHN KAYE:** You have much in common! There is \$350,000 this time round in an unpaid tax bill over the fact that HSG allegedly failed to complete its transfer of control or its assumption of control over the Knights at the scheduled 30 June date. What steps will the O'Farrell Government take to stop the Knights being consumed in yet another road of internecine fighting?

**The Hon. MICHAEL GALLACHER:** I am not aware of what point that dispute between the two parties is up to in terms of civil litigation, but it is important to the Government and indeed the people of New South Wales, in particular of that region, that the Newcastle Knights and what the team means to the people of Newcastle are not consumed by anything or any person. I am not aware of the specific details of where this civil dispute between the two is up to. I will take that on board and if there is an answer that I can give to it, given that it is a civil dispute between the two parties, I would consider it.

**Dr JOHN KAYE:** In broad terms does the Government accept the significance of the Knights to the Hunter region, that they are a social institution and that there are concerns about the team being now a privately run institution?

**The Hon. MICHAEL GALLACHER:** That is a debate that will continue in perpetuity in terms of private individuals or organisations purchasing football teams, soccer teams or any other team. The first part of your question was whether I believe that it is an important institution to Newcastle city and the entire region. Yes I do. If there is one thing that galvanises that region it most certainly is its passion for its team. It generates positive feelings if the team is doing well. There was a time when the Newcastle Knights first kicked off some years ago that the region was not doing as well economically as it is doing now. The success of the team was very positive in the hearts and minds of most people in that region.

**Dr JOHN KAYE:** Given that there are now fairly dark clouds over the financial future of HSG, will the Government stand by and protect the Knights from bankruptcy?

**The Hon. MICHAEL GALLACHER:** That is not a matter that falls within the purview of my portfolio. I would suggest that question would be better directed towards the Minister for Sport.

**Dr JOHN KAYE:** The Labor Party asked a number of questions about health cuts in the Hunter. I want to ask you some questions about education cuts in the Hunter. You would be aware that \$1.8 billion is disappearing from the education budget over the next four years—about \$1.7 billion from the public education budget. You would be aware that one aspect of that is the removal of the drug and alcohol unit from within the education department. Given the relatively high rates of alcohol abuse and drug abuse amongst school-aged children in the Hunter, what steps will you take as the Minister for the Hunter to provide quality information to public sector teachers in the Hunter to enable them to increase the resilience of their students against drugs and alcohol?

**The Hon. MICHAEL GALLACHER:** I will take that question on notice and get a response for the member.

**CHAIR:** Time has now concluded for the examination of the Hunter portfolio. We will move into the Police and Emergency Services portfolio.

**(The witness withdrew)**

**BRETT McFADDEN**, Superintendent, NSW Police Force,

**DAVID HUDSON**, Acting Deputy Commissioner, Corporate Services, NSW Police Force,

**CATHERINE BURN**, Deputy Commissioner, Specialist Operations, NSW Police Force,

**LES TREE**, Chief Executive Officer, Ministry of Police and Emergency Services, and

**NICK KALDAS**, Deputy Commissioner, Field Operations, NSW Police Force, sworn and examined:

**PETER FRANCIS SINGLETON**, Commissioner, New South Wales Crime Commission, affirmed and examined:

**The Hon. MICHAEL GALLACHER:** Madam Chair, could I seek advice from the Committee? It has been past practice, for as long as I have been a member of committees both in opposition and indeed in government, to ask the crime commissioner questions at the commencement of the estimates process and, once the crime commissioner is no longer required, that person is then excused. In the past it was Mr Bradley. Today we have Mr Singleton. I ask for a direction from the Committee in terms of whether Mr Singleton is required and whether he can be asked questions at the commencement.

**CHAIR:** We will begin with that. We will start with five minutes of questioning from Mr David Shoebridge.

**Mr DAVID SHOEBRIDGE:** Thank, Madam Chair. Commissioner, recently the threshold under which the Crime Commission can investigate matters, or the management committee can refer a matter for investigation, has been changed to remove the test that ordinary policing methods would prove to be ineffective. Can you explain how you believe that change will impact upon the operations of the Crime Commission?

**Mr SINGLETON:** The change was from a test of unlikely to be effective rather than proven to be ineffective and in fact reversed a change in the late 1980s. Originally that was a factor to be considered but not a test in the same sense. To answer your question, it will enable the commission to be deployed on the basis of a test focused on what the commission is able to bring to an investigation rather than on what the police are unable to bring, and that will improve the cooperation between the two agencies and should produce a better law enforcement outcome.

**Mr DAVID SHOEBRIDGE:** But is that not inevitably going to be major mission creep for the Crime Commission because with your secrecy provisions, your compulsory questioning powers, your ability to overcome rights against self-incrimination, there are many instances in which the powers of the Crime Commission are likely to be effective in terms of policing and crime investigation, but that does not mean it is appropriate?

**Mr SINGLETON:** The management committee will be entrusted with a three-pronged test focusing on the public interest and whether it is necessary to bring in the Crime Commission in order fully to investigate the matter. There is not likely to be much mission creep because the resources of the commission will be the ultimate limiting factor anyway, and almost all of our work is based on requests from police leading to a referral by the management committee. That is unlikely to change but it will enable the Crime Commission to investigate a few matters that it might not otherwise have been able to investigate. But they will have to be matters where an enhanced committee, with an independent chairman or chairwoman, is satisfied it is in the public interest and that we are needed.

**Mr DAVID SHOEBRIDGE:** So ultimately the test for citizens, the police, whoever, about whether or not they will be the subject of those secretive and extreme powers of the Crime Commission will be how many resources the Crime Commission has, rather than any kind of statutory restraint on when its powers can be used. Is that your evidence?

**Mr SINGLETON:** No, it is not. Firstly, our powers are not secret or secretive. They are in statute. Secondly, they are not extreme. There is no power that the Crime Commission has which a variety of other agencies does not have. Every power that we have is held in the same or approximately the same terms by other



agencies like the Independent Commission Against Corruption [ICAC], the Police Integrity Commission [PIC], and virtually every court and tribunal in the land. Indeed, some of those agencies have significantly greater powers than does the Crime Commission. Be that as it may, the community can be assured that the test is to be judged by a group of people led by an independent person, a retired judge, based on the public interest and the need to bring in the commission, taking into account a number of factors, which are put in the statute.

**Mr DAVID SHOEBRIDGE:** You say it is not secretive, but section 29 of the Act enables a cloak of secrecy to be placed over the operations, the questions, the functions and the documents of the Crime Commission. That does not apply in the same way to police, does it?

**Mr SINGLETON:** Section 29 has been repealed and replaced by section 80 in the new Act.

**Mr DAVID SHOEBRIDGE:** In almost the same terms.

**Mr SINGLETON:** It is almost the same but, just for the record, the police also operate in confidentiality when they are conducting a serious crime investigation. You do not expect to have members of the public, or the press, or politicians sitting in on a record of interview, an interview with a suspected person, or canvassing, doorknocking, looking for witnesses, and we do the same. It is necessary for operations to remain confidential, if they are to be effective. Those secrecy provisions, as they are called, are no greater than apply to a number of other agencies.

**Mr DAVID SHOEBRIDGE:** Save for the Crime Commission's interpretation that section 29 prevented the Commissioner of Police and the police from asking police about actions they had undertaken when they were being coopted by the Crime Commission. The same applies to section 80, I assume: it protects the Crime Commission even from questions by police, does it not?

**Mr SINGLETON:** No.

**The Hon. TREVOR KHAN:** Point of order: The member's time has expired.

**CHAIR:** The five minutes has expired that you originally requested.

**The Hon. AMANDA FAZIO:** Do you want more than that?

**Mr DAVID SHOEBRIDGE:** I would not mind having another couple of minutes, if that is possible.

**The Hon. AMANDA FAZIO:** As long as it comes off his first block of 20 minutes, we do not mind.

**CHAIR:** Would you like another five minutes?

**Mr DAVID SHOEBRIDGE:** I would. Commissioner, if the Crime Commission had previously used section 29 to prevent internal investigators from police asking officers who had been seconded to the Crime Commission, or members of the Crime Commission, for cooperation and affidavits, you think that would be wrong. Is that right, Crime Commissioner?

**Mr SINGLETON:** Well, that has not occurred. Section 29 is a provision that prevents staff from leaking confidential information. It is not a tool to be deployed. It cannot be wheeled out by the Crime Commission to prevent questions being asked by other agencies. It is a requirement of confidentiality imposed on the public servants who work at the Crime Commission and the rest of the staff, and others to whom information is imparted in confidence. Section 29 does not stand in the way—I am sorry, section 80 which, with respect, we should be discussing—of a variety of scrutiny agencies, such as the Police Integrity Commission, the incoming Inspector of the Crime Commission and others, from asking questions of Crime Commission members and staff.

**Mr DAVID SHOEBRIDGE:** What about questions in relation to investigations under part 8A of the Police Act? Are you saying that police have an untrammelled right to ask members of the Crime Commission and officers who are seconded to the Crime Commission queries and investigations, and indeed there is no statutory protection from the Crime Commission, or officers seconded to or members of the Crime Commission, to prevent them being asked questions and giving answers?

**Mr SINGLETON:** Of course questions can be asked, as you would understand.

**Mr DAVID SHOEBRIDGE:** Quite. It is more the answers that I am interested in.

**Mr SINGLETON:** When questions are asked by an authority that is not one of the scrutiny agencies for the Crime Commission or indeed by anybody who is not an authority at all—

**Mr DAVID SHOEBRIDGE:** Say, the police undertaking an investigation under part 8A.

**Mr SINGLETON:** Yes. The police do not have jurisdiction to investigate the behaviour of the Crime Commission in its official functions. Of course, if individual members of the staff of the Crime Commission commit an offence, they are, like any other citizen, subject to police investigation. But when it comes to an inquiry, investigation, audit or other form of scrutiny of the conduct of the Crime Commission, Parliament has determined a range of measures. They include the Police Integrity Commission, the Audit Office, the Ombudsman and now an Inspector of the Crime Commission. It is those agencies which have the proper duty to inquire and they are not precluded from a full inquiry by section 80.

**Mr DAVID SHOEBRIDGE:** Commissioner, there has been some substantial concern about the Crime Commission's use of the criminal asset recovery legislation and the circumstances in which those orders were obtained on the papers through the Supreme Court. Are you aware of that?

**Mr SINGLETON:** I am aware of a concern, or an expressed concern, and I am aware of newspaper articles.

**Mr DAVID SHOEBRIDGE:** Are you aware of the fact that Justice Patten, when he reviewed the Crime Commission, recommended more openness and in fact recommended that the criminal asset recovery orders should have to be argued on their merits before a judge. Are you aware of that?

**Mr SINGLETON:** I have read the whole of the Patten report.

**Mr DAVID SHOEBRIDGE:** Are you aware that was one of his recommendations?

**Mr SINGLETON:** I am aware of all of his recommendations.

**Mr DAVID SHOEBRIDGE:** And you are aware that his Honour also recommended that the costs allocations under the criminal assets recovery scheme should be subject to oversight by the court? Are you aware of that?

**Mr SINGLETON:** Yes, I am aware of all of his recommendations. I am not sure you used his precise words, but—

**Mr DAVID SHOEBRIDGE:** No, it is quite lengthy. What action has the Crime Commission taken to review past costs allocations or costs awards under the criminal assets recovery consent orders that were routinely being entered into by the Crime Commission prior to the Patten report?

**Mr SINGLETON:** You are asking whether we have conducted some—

**Mr DAVID SHOEBRIDGE:** Have you looked at whether or not you were giving overly generous costs provisions to the lawyers of criminals so they could use that money in other unrelated proceedings? That is the question.

**Mr SINGLETON:** Yes.

**Mr DAVID SHOEBRIDGE:** What was your conclusion?

**Mr SINGLETON:** That that was not occurring.

**Mr DAVID SHOEBRIDGE:** On what basis did you form that conclusion?

**Mr SINGLETON:** There are a few bases. One is when the decision of the Supreme Court in *New South Wales Crime Commission v Cook* was delivered on 10 November 2011, the Crime Commission conducted a review of all the criminal asset confiscation cases in the last two financial years, every single one, to assess what would have occurred had the reasoning in *Cook* been applied to all those cases. Secondly, the Police Integrity Commission was conducting an investigation into practices and procedures under the *Criminal Assets Recovery Act* by the Crime Commission. In the course of responding to that investigation a number of matters were reviewed by the Crime Commission with particular reference to whether or not there was any evidence that lawyers were paid for matters other than the ones the law permitted or in amounts that were not permissible.

**CHAIR:** The member's time for questioning has expired. Thank you for your attendance, Commissioner. You may withdraw.

**(The witness withdrew)**

**The Hon. STEVE WHAN:** Can you tell us who is speaking for the commissioner today?

**The Hon. MICHAEL GALLACHER:** If I can now have a chance to make a comment, the commissioner has asked me to pass on his apologies to the Committee. His mother passed away on Tuesday evening and he is dealing with personal matters in relation to that. Today we have the three deputies here with us. They can deal with their respective fields. Deputy Commissioner Kaldas is in charge of field operations, uniformed police, for example. Ma'am Burn is in charge of specialists, as you can see.

**The Hon. STEVE WHAN:** If there is a question I would specifically direct to the commissioner, would you suggest one person to direct that to?

**The Hon. MICHAEL GALLACHER:** It would depend on the nature of the question, and I might be able to handle it.

**The Hon. STEVE WHAN:** We will see how we go. Of course, the Opposition joins in commiserations to the commissioner on the death of his mother. My first question is to Deputy Commissioner Burn. Do you believe the Emblems report should be publicly released?

**The Hon. MICHAEL GALLACHER:** Before I ask Ma'am Burn to say a word in relation to that, since we are talking about Emblems, it is important that I assure all members that the Government is doing everything necessary to resolve the concerns around Strike Force Emblems and the matters it investigated. For the sake of clarity, I will quickly outline what steps are being taken to resolve those issues, but I say upfront that it should be obvious to all that these matters relate to sensitive police operations that include the use of confidential informants, telephone tapping powers and special legislative secrecy provisions. These are issues that should quite rightly be arbitrated not by me as Minister or indeed by the Premier, nor by members of a general purpose standing committee of the Parliament. Accordingly, today I request the Committee endeavour to contain its questioning to matters relevant to the budget estimates. In the interests of openness and transparency and to put to rest lingering—

**The Hon. STEVE WHAN:** This is certainly a matter that is relevant to the estimates.

**The Hon. MICHAEL GALLACHER:** I am happy for any witness to answer a question. In the interest of openness and transparency and to put to rest the lingering concerns of this decade-old matter, in May this year I asked the Inspector of the Police Integrity Commission, Mr David Levine, QC, to examine whether the recommendations of the NSW Police Force Strike Force Emblems report had been, first, properly dealt with; second, their release should be in the public interest; third, whether the release would prejudice any legal action or investigation by the Police Integrity Commission or the inspector's office; or, fourth, the release would not unreasonably reflect upon any individuals without their being afforded natural justice.

In addition, the Premier, who is responsible for the Police Integrity Commission, extended the scope of the inquiry and further asked the inspector to examine whether the Emblems report can be publicly released. I am advised that following the announcement of this review a number of further complaints and submissions had been made to the NSW Police Force, the inspector and to the New South Wales Ombudsman relating to issues around Strike Force Emblems. Accordingly, the Government has agreed and the Premier has announced that these further issues will all be referred to and thoroughly examined by the New South Wales Ombudsman.

Further, the Government has committed to giving the Ombudsman the powers he needs to work with the New South Wales Crime Commission and ensure it can assist in investigating these matters. The New South Wales Ombudsman has extensive royal commission powers, including being able to require the production of documents and information and being able to compel witnesses to attend and give evidence. If any other statutory impediments to the investigation are identified, the Government has committed to addressing those also. Additional funding will also be provided to the Ombudsman to establish a highly experienced and specialist team to conduct this investigation.

To reiterate briefly, the inspector of the Police Integrity Commission, David Levine, QC—a jurist who served on the bench for nearly 20 years, including 13 years on the Supreme Court—is reviewing the Emblems report and will make recommendations as to its public release and report on what happened with its recommendations. The New South Wales Ombudsman, Mr Barbour—who has over a decade of experience in the role of the Ombudsman, and over 25 years experience in administrative law, investigations and management—will be given the power and authority to review all other complaints that have arisen from the Emblems review. It seems that the Opposition, when in government, sadly did nothing to resolve this matter. We will do it once and for all.

This matter has been dragging on for a decade and it has fallen to this Government to take some simple, concrete, responsible steps to resolve it. As I said before, I have every confidence that Mr Levine is the appropriate person to conduct this inquiry and to bring some long overdue resolution to this matter. Accordingly, I will not canvass at this hearing the substance of any matters currently under consideration by the Inspector of the Police Integrity Commission or potentially by the New South Wales Ombudsman. Indeed, I will take the opportunity to table a letter from the Inspector of the Police Integrity Commission. The letter, dated 26 September 2012, is addressed to me and states:

I am informed that you will be appearing before the Budget Estimates Committee in relation to your portfolios on 11 October 2012.

I am of the view that it is highly desirable that the Emblems Inquiry which you have referred to me not be the subject of public discussion at this stage. It is my fairly realistic anticipation that my report will be delivered to you shortly before the end of October.

I also take this opportunity to table a letter from the Ombudsman dated 10 October. It states quite clearly his request:

... that all material and information in the possession of the NSW Police Force and its officers that is likely to be relevant to my inquiry be maintained in the strictest confidence.

The Ombudsman goes on further to state:

I would, in this regard, request your co-operation and the co-operation of your officers in not communicating or otherwise disclosing to any person, information or material of this nature.

This letter is addressed to the Commissioner of Police. It says further:

Any such communication or disclosure would have an adverse effect on the timeliness, efficiency and, ultimately, the integrity of my inquiry.

It should be abundantly clear that the Emblems matter involves complex and sensitive legal and operational issues that require careful consideration. The Government has taken steps to ensure that independent, eminent persons with the right powers and authority can consider and report on all of these issues. Therefore, I ask the Committee to respect the request of the Inspector and the Ombudsman to not publicly canvass the matters before their inquiries and to let the Inspector and the Ombudsman do their jobs and finish this matter once and for all. I ask that all members be very mindful today of the need for the integrity of these inquiries to be maintained. I am happy for Ma'am Burn, if she wishes, to add to those opening comments.

**The Hon. STEVE WHAN:** I would be delighted if she wanted to add to those opening comments. Specifically, as the person who had significant involvement in the Emblems inquiry, should the report be publicly released?

**Ms BURN:** It is not something I have any control over, whether or not that report should be released. It is not a question I can answer whether or not it should. I understand, obviously, Justice Levine is now examining whether it can be released.

**The Hon. STEVE WHAN:** Minister, did you have any prior contact with the authors of the two letters to ask them to write a letter in any form that you have received?

**The Hon. MICHAEL GALLACHER:** I have not asked either of those two people.

**The Hon. STEVE WHAN:** Did anybody in your office have contact or any role in soliciting either of those letters for these hearings?

**The Hon. MICHAEL GALLACHER:** Mr Levine was made aware I believe by my office, following a request from this Committee, that he was requested as a witness. He had discussions with my office about his appearing before an estimates committee hearing and subsequently then wrote to my office in the form that has been tabled. The Ombudsman and I spoke some weeks ago following a matter that I became aware of, which I referred to him in the normal course of events. Following public discussion in the media of recent times, I would assume there was a fair degree of awareness that people were wishing to discuss this.

**The Hon. STEVE WHAN:** Okay, Minister.

**The Hon. MICHAEL GALLACHER:** No, you have asked me a question. There was going to be some discussion on this matter in this format and Mr Barbour has prepared this letter of his own accord.

**Mr DAVID SHOEBRIDGE:** It says "confirm".

**The Hon. STEVE WHAN:** Minister, the letter you have given us from the Inspector of the Police Integrity Commission says:

... it is highly desirable that the Emblems inquiry which you have referred to me not be the subject of public discussion at this stage.

That does not mean that you should not comment on it at all. I believe it is perfectly reasonable that something that has been the subject of so much discussion be the subject of questions. On what advice was the decision by the Government based to refer this to Mr Levine and then to the Ombudsman based? Can you table the advice you were provided that suggested you should do that?

**The Hon. MICHAEL GALLACHER:** When I referred what matter, the original matter?

**The Hon. STEVE WHAN:** When you referred to Mr Levine the issue of whether the report should be released. What advice had you received regarding the report?

**The Hon. MICHAEL GALLACHER:** I will have to take that on notice, that part of the question in respect to the advice. But what occurred—and I have indicated this in the House, Mr Whan, I am sure, because I have continued to say it—is that following a motion being put at the biennial conference of the NSW Police Association and passed that this matter be investigated, I then looked at a body that I believed to be suitable to investigate this matter and, therefore, came to the conclusion at that time that the Inspector of the Police Integrity Commission—

**The Hon. STEVE WHAN:** Did you receive some advice that you should not release this report—legal advice or otherwise?

**CHAIR:** Order! The Hon. Steve Whan will cease interjecting. The Minister is answering the question.

**The Hon. PENNY SHARPE:** Point of order.

**The Hon. STEVE WHAN:** Point of order.

**The Hon. PENNY SHARPE:** It is perfectly reasonable for Committee members to ask the Minister questions that are relevant. If the Minister is drifting off on irrelevant matters just to fill in time, it is perfectly reasonable for Committee members to interrupt him to get back on point to get the answers to the questions we asked.

**The Hon. MICHAEL GALLACHER:** To the point of order.

**The Hon. STEVE WHAN:** A witness cannot speak to the point of order.

**CHAIR:** Order! The Minister I am sure is concluding his answer to the original question in a timely fashion. Then the honourable member will be able to ask another question.

**The Hon. MICHAEL GALLACHER:** In his interjection, Madam Chair, the Hon. Steve Whan incorrectly stated that I was going to seek to release the report. What I have always said—

**The Hon. STEVE WHAN:** I asked you what advice you had received in regard to releasing the report prior to your decision to refer it?

**The Hon. MICHAEL GALLACHER:** Sadly, this member keeps interjecting. I will correct him once and for all.

**The Hon. STEVE WHAN:** You are misrepresenting my question, Minister.

**The Hon. MICHAEL GALLACHER:** I have never stated that I would release the report.

**The Hon. STEVE WHAN:** I did not—

**The Hon. MICHAEL GALLACHER:** You just did.

**The Hon. STEVE WHAN:** Minister, you are now misrepresenting the question. I have asked you a very easy question. Do you think you can answer whether or not you got advice and, if so, will you table it?

**The Hon. MICHAEL GALLACHER:** I have never had an intention to release the report and I have never said that I would release the report. Therefore, I would not get advice as to the release of the report.

**Mr DAVID SHOEBRIDGE:** What about the recommendations?

**The Hon. STEVE WHAN:** Minister, in opposition you are on record calling for the Hazzard report into the Cronulla riots to be immediately publicly released. Why are you now contradicting the position you took in opposition on even more important reports?

**The Hon. MICHAEL GALLACHER:** Because, unlike the Opposition, which had nine Ministers for Police who presided over this investigation from its commencement in its early form as Operation Mascot to the time I became Minister, nine Labor Ministers did absolutely nothing. I became Minister and did something about it.

**The Hon. STEVE WHAN:** Minister, you are simply making a political comment with no foundation. It is not evidence to this Committee.

**The Hon. MICHAEL GALLACHER:** It is true.

**The Hon. STEVE WHAN:** I have contacted a number of our former Ministers who had knowledge of this. We can talk about why, but we will not. These simple questions are about your decision to refer this to Mr Levine and the Ombudsman, which you have not answered. I refer now to the additional resources that you mentioned the Ombudsman has asked for. What additional resources has the Ombudsman asked for and have they all been granted in full by the Government?

**The Hon. MICHAEL GALLACHER:** Can I address something you just said—

**The Hon. AMANDA FAZIO:** No, you can answer the question.

**The Hon. MICHAEL GALLACHER:** —that actually is a real concern?

**The Hon. STEVE WHAN:** No.

**The Hon. MICHAEL GALLACHER:** No—

**CHAIR:** Order!

**The Hon. MICHAEL GALLACHER:** The member may have inadvertently—

**Mr DAVID SHOEBRIDGE:** Madam Chair.

**The Hon. MICHAEL GALLACHER:** Madam Chair, he said that he spoke to former Ministers, who did nothing about these inquiries. They preside as chairman of the management committee of the Crime Commission and have secrecy provisions imposed upon them to not reveal anything from the Crime Commission. If they have in fact told him of matters relating to Crime Commission investigations, of which this was one, there may be serious questions that need to be asked not only of the member but, indeed, of the Ministers who have told him things within their knowledge.

**The Hon. STEVE WHAN:** Madam Chair.

**Mr DAVID SHOEBRIDGE:** There is a problem with the scope of the secrecy provisions in the Crime Commission.

**The Hon. STEVE WHAN:** The Minister is just making outrageous allegations.

**The Hon. PENNY SHARPE:** You are just trying to cover up all of this. Nice try, Minister.

**The Hon. STEVE WHAN:** Minister, it appears that you are simply trying to block any access to this. It simply appears that you are trying to block any questioning on this issue as well.

**The Hon. TREVOR KHAN:** Point of order: The member is entitled to ask questions. He is not entitled to make statements. I ask that he be directed to ask his questions and leave the statements for another forum.

**CHAIR:** I uphold the point of order. The member can continue asking questions.

**The Hon. PENNY SHARPE:** I have the letter now from the Ombudsman, which was directed to the Commissioner of Police and received by him yesterday, 10 October. I am not sure which deputy commissioner I should ask but my question is: Did the Commissioner's office or anyone in NSW Police solicit a letter from the Ombudsman in relation to discussion of this issue before the meeting today? I am not sure who is going to answer it. You might have to tell me.

**The Hon. STEVE WHAN:** Minister, would you like to nominate one of your officers?

**Mr DAVID SHOEBRIDGE:** Is there an acting commissioner?

**The Hon. MICHAEL GALLACHER:** No. I will have to take that on notice because you actually are asking a question on behalf of the Commissioner that these members here may not be in a position—

**The Hon. PENNY SHARPE:** Yes, it is a very clear answer.

**The Hon. STEVE WHAN:** Minister, one would hope that the—

**The Hon. MICHAEL GALLACHER:** I am very happy for you to ask any question in relation to the Emblems matter. And I say to Mr Shoebridge, I am very happy for you to ask questions—

**The Hon. STEVE WHAN:** You are anticipating what he might ask.

**The Hon. MICHAEL GALLACHER:** He has already indicated publicly what he is going to ask. But please be mindful of the specific matters in relation to the allegations as Mr Barbour and the Commissioner—

**The Hon. PENNY SHARPE:** I want to know whether your office has solicited the Commissioner of Police, or his office or Mr Tree's office have solicited the letter from the Ombudsman that arrived yesterday, just

in time for the Committee hearing, indicating that you do not want this matter discussed at this meeting, thereby providing a smokescreen so that we cannot actually deal with this matter?

**The Hon. MICHAEL GALLACHER:** I think that is a disgraceful slur on the integrity of the Ombudsman.

**The Hon. PENNY SHARPE:** No, I am asking whether—

**The Hon. STEVE WHAN:** It is a straightforward question for you, Minister.

**The Hon. MICHAEL GALLACHER:** No, no.

**The Hon. PENNY SHARPE:** Can I draw your attention to the letter?

**The Hon. MICHAEL GALLACHER:** It is a disgraceful slur to say—

**The Hon. PENNY SHARPE:** The letter said:

I am writing to confirm ...

**The Hon. MICHAEL GALLACHER:** —that the Ombudsman would be—

**The Hon. PENNY SHARPE:** Minister, the letter states:

Dear Commissioner

I am writing to confirm that I am conducting an inquiry into allegations ...

That suggests to me that there has been a discussion. I want to know who made the discussion and what the discussion was around the production of this letter prior to today's hearing?

**The Hon. MICHAEL GALLACHER:** I can only assume that you will have to ask those questions of the Commissioner of Police.

**The Hon. STEVE WHAN:** We would like to.

**The Hon. PENNY SHARPE:** We would like to do that.

**CHAIR:** Order!

**The Hon. PENNY SHARPE:** So you will take that on notice and report back to the Committee?

**The Hon. MICHAEL GALLACHER:** I will report back, but I take umbrage at any suggestion that the Ombudsman in any way—

**The Hon. STEVE WHAN:** Minister, nobody is—

**CHAIR:** Order!

**The Hon. STEVE WHAN:** Nobody is making inappropriate—

**The Hon. CHARLIE LYNN:** Point of order.

**CHAIR:** Order! Opposition members will be silent.

**The Hon. AMANDA FAZIO:** This will be a total waste of time.

**CHAIR:** Order!

**The Hon. CHARLIE LYNN:** But not wasted space. Point of order: Could you direct the members of the Opposition to allow the Minister to finish his answers in silence before they ask the next question.



**CHAIR:** I uphold that point of order. The difficulty being experienced by Hansard has been brought to my attention.

**The Hon. STEVE WHAN:** Deputy Commissioner Burn, how many people were named in the original affidavit for the Emblems investigation to secure the warrants?

**Ms BURN:** As much as I would like to be able to give a full account I cannot.

**The Hon. STEVE WHAN:** I am inviting you to.

**Ms BURN:** I cannot because of the secrecy provisions of the Crime Commission. Those provisions are legislated. It is a criminal offence and I cannot give you a full account; I cannot give an answer to that question.

**Mr DAVID SHOEBRIDGE:** Point of order: I seek the advice of the Clerks. The advice I was given very clearly from the Clerk is that the power of this parliamentary committee allows for questions to be asked and for answers to be given to the Parliament irrespective of the gag provisions in the Crime Commission which have so long been used to hide the truth in relation to this matter. I ask the witness be directed to answer the question given the advice of the Clerks about the power of this Parliament to overcome the gag provisions in the Crime Commission because up to date nobody else has.

**The Hon. AMANDA FAZIO:** To the point of order: I support the issue raised by Mr David Shoebridge. Parliamentary privilege takes precedent over any legislative provisions that may apply under the Crimes Act or any other Act. And we have the right to ask these questions and any answers you give are covered by parliamentary privilege.

**The Hon. TREVOR KHAN:** To the point of order: This inquiry is into and to report on budget estimates and related papers for the financial year—

**The Hon. PENNY SHARPE:** To the point of order: The member knows well—

**CHAIR:** I do not believe the Hon. Trevor Khan has concluded his comments on this point.

**The Hon. TREVOR KHAN:** —2012-13 presenting the amounts to be appropriated from the consolidated fund. We are all—

**The Hon. AMANDA FAZIO:** You can run as much interference as you like, you will never get a promotion and you will live on the back bench until the day you are out of here. Why don't you just give up?

**The Hon. TREVOR KHAN:** —aware that wide latitude is given but—

**The Hon. AMANDA FAZIO:** Saved by the bell.

**The Hon. TREVOR KHAN:** —what we are now going into—

**The Hon. AMANDA FAZIO:** You are a disgrace as chair of the Privileges Committee. You should resign.

**The Hon. TREVOR KHAN:** —is a substantive matter of many years ago and it is precisely the issues that have been raised by the Ombudsman—

**The Hon. STEVE WHAN:** You have raised two different points of order, Trevor.

**The Hon. AMANDA FAZIO:** If you don't believe in parliamentary privilege resign as chair of the Privileges Committee. You are a disgrace, an absolute disgrace.

**The Hon. CHARLIE LYNN:** Point of order.

**Mr DAVID SHOEBRIDGE:** We are already in one, you cannot do another.

**The Hon. PENNY SHARPE:** We have two going already.

**The Hon. AMANDA FAZIO:** You are a disgrace.

**Mr DAVID SHOEBRIDGE:** I ask the Chair rule on the point of order.

**CHAIR:** I am receiving advice from the clerks. The advice that I have been given is that in general terms statutory secrecy provisions have no effect on the powers of the Houses and their committees to conduct inquiries and to ask questions of witnesses. Nor is there any restriction on persons who have such information providing it to committees. It is the fundamental principle that the law of parliamentary privilege, including the powers of the House to compel an answer to any lawful questions, is not affected by statutory provision unless the provision alters that law by express words. Nevertheless, as the budget estimates inquiry must be held in public members should exercise caution about pursuing questions in relation to matters covered by statutory secrecy provisions and taking into account the consideration raised on page 17 of the manual. Ms Burn, you have indicated that you do not wish to answer.

**The Hon. STEVE WHAN:** She has indicated she does not feel she is allowed to answer.

**CHAIR:** You do not feel you are allowed to answer the question which is one of the objections that can be raised. Would the honourable member like to continue with the line of questioning? I note that as it is a very difficult issue it may be appropriate, if members wish to continue this line of questioning, that the Committee hold a deliberative meeting to discuss this matter in detail. The Committee can do that now if members insist on pursuing the line of questioning.

**Mr DAVID SHOEBRIDGE:** In light of the opinion you have read on to record from the clerks that the witness should again be asked to answer the question.

**The Hon. STEVE WHAN:** I will repeat the question. The witness has now heard the ruling and I invite her to answer the question in whatever way she sees fit.

**Ms BURN:** Could you repeat the question?

**The Hon. STEVE WHAN:** The question was: How many people were named in the original affidavit to secure the warrant for the Emblems task force?

**Ms BURN:** There are a couple of issues there.

**The Hon. STEVE WHAN:** How many people?

**Ms BURN:** I do not know what the Emblems investigation terms of reference were. I do not know what it investigated. I cannot answer that question based on the fact that I do not what Emblems investigated.

**Mr DAVID SHOEBRIDGE:** Deputy Commissioner, I am asking you questions about listening device warrant 266/2000, which was obtained on 14 September 2000. You authored a memorandum in relation to that on 13 April 2002 in which you explained why persons were named on that warrant; that is right, is it not? I will table and provide a copy to the witness of the memorandum.

**Document tendered.**

**The Hon. MICHAEL GALLACHER:** Can I indicate, before we go any further, I have never seen this document before but it is marked "highly protected" and I do not know without reading it—and I am not going to read it—

**Mr DAVID SHOEBRIDGE:** That is why I asked it be provided to the author of the document.

**The Hon. MICHAEL GALLACHER:** It is clear you are in possession of a "highly protected" document, as indicated by the marking, and I would assume it is authentic material. I do not know what is in this and I do not know if this should be discussed in light of what I read earlier and what is possibly a "highly protected" document.

**The Hon. AMANDA FAZIO:** Stop trying to hide behind it.

**CHAIR:** Order!

**Mr DAVID SHOEBRIDGE:** Madam Chair, I provided the document to the witness, who is the author of the document.

**The Hon. TREVOR KHAN:** In light of the circumstances I would say that this matter should go into a deliberative to consider the matters raised, including the showing of this document to this witness.

**CHAIR:** I uphold that point of order. I believe it is the best course of action for the Committee to now go into a deliberative. I ask all witnesses and members in the public gallery to exit the room and the media also.

**Mr DAVID SHOEBRIDGE:** We will have a nice quiet gag, will we?

**The Hon. PENNY SHARPE:** Can we confirm whether we lose hearing time as a result of this deliberative?

**The Hon. CHARLIE LYNN:** Yes. You made the rules, remember.

**The Hon. PENNY SHARPE:** No wonder you are so keen.

**The Hon. AMANDA FAZIO:** The extent to which you will go to cover up stuff is absolutely appalling. You are a disgrace, you really are.

*[Short adjournment]*

**CHAIR:** The Committee has resolved, in order to allow the witnesses and the Committee to obtain further information, that the aspects of the hearing relating to Emblems will be adjourned until Thursday 29 November 2012, from 4.00 p.m. We will now continue the hearing as scheduled, dealing with other matters related to the Police portfolio.

**Mr DAVID SHOEBRIDGE:** The further information was legal advice.

**CHAIR:** Yes. Mr David Shoebridge has eight minutes remaining.

**Mr DAVID SHOEBRIDGE:** Deputy Commissioner Kaldas, NSW Police produced a further standard operating procedure on the use of electronic control taser devices dated 1 June 2012.

**Mr KALDAS:** Yes.

**Mr DAVID SHOEBRIDGE:** And you had carriage of producing that amended document, is that right?

**Mr KALDAS:** I have line control, yes.

**Mr DAVID SHOEBRIDGE:** Deputy Commissioner, was consideration given, in the amending of the standard operating procedures, to putting in specific provisions limiting multiple taserings by police officers of any one suspect?

**Mr KALDAS:** I am not certain whether that was part of the terms of reference, and whether that specific issue was considered. I am happy to check that and get back to you. But what I can say is that the deliberations were quite comprehensive. And it is not set in cement; we are quite flexible. If an idea comes up or a notion comes up that we need to consider, we are certainly happy to revisit them at any time.

**Mr DAVID SHOEBRIDGE:** Do you think it would be appropriate to put in the standard operating procedures some kind of clear statement to officers that it is only in extreme situations of risk to personal safety that any officer is allowed to taser a suspect more than once?

**Mr KALDAS:** I would be happy to look at that, certainly.

**Mr DAVID SHOEBRIDGE:** In terms of the operation of the drive-stun of a taser, what are the circumstances in which it is considered acceptable for a police officer to drive-stun a suspect or a citizen with a taser?

**Mr KALDAS:** I have to declare I have not memorised the standard operating procedures, but they would usually be commonsense operating procedures where the person's safety is at risk, someone else's safety is at risk, the officer's safety is at risk, or they simply need to contain or arrest someone and it is difficult to do so without doing that.

**Mr DAVID SHOEBRIDGE:** Do you believe that it is appropriate for the drive-stun of a taser to be used on a citizen or a suspect who is already handcuffed and on the ground? Can you see circumstances where that would be appropriate?

**Mr KALDAS:** I would have to look at the totality of the circumstances, really, before I could answer that fairly.

**Mr DAVID SHOEBRIDGE:** Would it be fair to say it would be only in the most extreme circumstances, where a person was handcuffed and on the ground, that it would be appropriate for a police officer to then apply the drive-stun from a taser gun?

**Mr KALDAS:** The circumstances you are describing bear a resemblance obviously to the matter that is currently before the Coroner.

**Mr DAVID SHOEBRIDGE:** I am not asking you about that matter.

**The Hon. TREVOR KHAN:** Well, you are getting close to it, and I am going to take a point of order very shortly.

**The Hon. AMANDA FAZIO:** That's right, gag everything.

**CHAIR:** Order!

**Mr KALDAS:** I guess I am being asked to pass judgement on a set of circumstances, and there are a lot more questions that I would need answered before I could say definitively whether I would approve that or not.

**Mr DAVID SHOEBRIDGE:** Do you think the standard operating procedures should make it very clear though to police that where a suspect is restrained with handcuffs it is only in the most extraordinary circumstances that it would be appropriate for that suspect to be either tasered or drive-stunned?

**Mr KALDAS:** I think if the person was contained—that is, unable to go anywhere and not resisting and the police were able to cope with whatever resistance he was putting up—that would be the case. But I stress again I would really need to look at the entire circumstances before I can answer that.

**Mr DAVID SHOEBRIDGE:** Deputy Commissioner, are you aware of the fact that the manufacturer of taser puts a warning on its product that it should not be discharged at the chest because of the risk of cardiac arrest?

**Mr KALDAS:** I do not recall that specifically; but I accept that if that is what you tell me is the case.

**Mr DAVID SHOEBRIDGE:** Do you think it would be one of the essential things that police do when they are looking at their standard operating procedures about the use of tasers to look at the manufacturer's own warnings about the operation of the taser?

**Mr KALDAS:** I think that is one of the things they ought to look at certainly, but I am—

**Mr DAVID SHOEBRIDGE:** It would be essential, would it not?

**Mr KALDAS:** It should be one of the things they would look at. But they also, I am aware, do an environmental scan and see what other States and other jurisdictions have adopted, and to some extent what other jurisdictions' experience has been, and that also influences what we say.

**Mr DAVID SHOEBRIDGE:** I might ask you, Minister, as the Minister responsible: Do you think that if the manufacturer explicitly provides a warning about the firing of tasers at people's chest because of the risk of cardiac arrest that the standard operating procedures for NSW Police should pick up that warning? If not, why not?

**The Hon. MICHAEL GALLACHER:** I thank the member for his question relating to tasers. Tasers are a tactical weapon and have been used by police since 2008. The member asked for an opinion: whether I agree with an operational aspect relating to policing. I am mindful of the fact that I will not be entertaining an opinion; rather I will be making an observation. I suspect that we will see very shortly a report from the Ombudsman relating to his examination of the use of tasers. The Government, the Parliament and, I suspect, the wider community, including the NSW Police Force, will welcome that report by the Ombudsman in whatever form it comes because it will be an independent assessment of the deployment and use of every taser.

Many of the issues about which the member is asking I hope will be answered in the course of this inquiry by the Ombudsman for the simple reason that members have longstanding concerns about the utilisation of the taser, in particular, pointing it at the chest area. It is easy in hindsight to look at a police officer's actions, which quite often took place in a split second. If you start to give police officers two different types of training in relation to one weapon versus another you might find there are some difficulties for police. Again, this is an operational matter. I make my observations because the member asked me to make some observations about the use of tasers.

No doubt the standard operational procedures will be something at which the Ombudsman looks in assessing the training relating to the deployment and use of tasers. I welcome that report when it is finalised. However, at this stage I fully support the use of tasers by the police. I know that matters are currently before the court and I do not intend to go anywhere near them whilst they are being considered and nor does anyone else in this Chamber. But at this point in time if members asked me whether I supported the use of tasers by police and whether I was satisfied with their standard operational procedures my answer would be yes, until I am shown otherwise.

**Mr DAVID SHOEBRIDGE:** Deputy Commissioner Burn, do you still have responsibility for the Police Media Unit? If you do not, who has responsibility for the Police Media Unit?

**Ms BURN:** It comes under corporate services.

**Mr HUDSON:** I do currently.

**Mr DAVID SHOEBRIDGE:** How many people are in the Police Media Unit? What is the full-time equivalent?

**Mr HUDSON:** Approximately 35, from memory, in the Police Media Unit.

**Mr DAVID SHOEBRIDGE:** What is the budget for the Police Media Unit?

**Mr HUDSON:** I have taken over the portfolio as at 1 October—some 10 days ago.

**Mr DAVID SHOEBRIDGE:** If someone had been in the portfolio before you maybe that deputy commissioner could answer.

**Ms BURN:** I will take that question on notice because obviously I would like to make sure that we have the exact amount for you.

**CHAIR:** Minister and witnesses, for your information, the clock was stopped during our deliberative meeting so we still have another 40 minutes of questioning for this portfolio, equally divided. We will move now to the Opposition.

**The Hon. STEVE WHAN:** I direct my question to Deputy Commissioner Kaldas but I had intended asking the commissioner. This morning it was reported in the media that former member Steve Cansdell is not going to be charged with any offence for his admitted false statutory declaration. Can you inform us what advice was received from the Commonwealth about the fact that it felt there was no case to prosecute because it was a State matter, as was reported in the paper this morning?

**Mr KALDAS:** I have not read the advice from the Commonwealth Director of Public Prosecutions but it states, as you said, that there is insufficient evidence to proceed with charges. I am aware of that.

**The Hon. STEVE WHAN:** Are you able to table the advice?

**Mr KALDAS:** I could not see any reason not to, but I would say that that would be a matter for some advice from our legal area.

**The Hon. PENNY SHARPE:** So you will take that question on notice and if you can provide the information you will provide it?

**Mr KALDAS:** Certainly.

**The Hon. STEVE WHAN:** Are you aware of what advice was provided to the police service prior to the decision to refer this to the Commonwealth?

**Mr KALDAS:** My understanding is that matters of false swearing of affidavits or similar matters are not matters in which the police have the sole decision-making role; they are matters that normally the Attorney General, whether it is Federal or State, has the final say. I think, based on that, the matter was forwarded to the Commonwealth Director of Public Prosecutions with a full brief of evidence and the response was received.

**The Hon. STEVE WHAN:** Did the police receive any advice from police legal services about this issue?

**Mr KALDAS:** I understand the matter did proceed through the police prosecution branch.

**The Hon. STEVE WHAN:** Are you able to provide a copy of the advice provided to the police by your legal services and your prosecution branch?

**Mr KALDAS:** I do not own the prosecution branch but, again, if I may take that question on notice I will certainly endeavour to try to get the information to you, unless they advise us otherwise.

**The Hon. STEVE WHAN:** Does it concern you that there appears to be a loophole regarding false swearing of a statutory declaration? A person can swear a statutory declaration on a State issue on a Commonwealth form—as appears to have happened here—and then avoid prosecution?

**The Hon. MICHAEL GALLACHER:** Point of order—

**The Hon. AMANDA FAZIO:** Witnesses do not take points of order.

**The Hon. MICHAEL GALLACHER:** Madam Chair, the Minister can answer whatever question he wants, and the Minister is concerned that the witness is being asked to give a legal opinion. I would suggest that that is an improper question, or at least it is out of order.

**The Hon. STEVE WHAN:** Mr Kaldas, perhaps you could answer this question: Would it be a concern to you if there were a loophole that allowed people to get away with swearing false statutory declarations for State matters, such as speeding fines, on Commonwealth forms?

**The Hon. MICHAEL GALLACHER:** Madam Chair, now the member is asking for an opinion.

**The Hon. STEVE WHAN:** Minister, are you trying to cover up?

**The Hon. PENNY SHARPE:** Are you concerned that there is a loophole and would you be looking at taking action to close that loophole?

**The Hon. MICHAEL GALLACHER:** I am not aware of any; I am not a lawyer. But I will take that question on notice.

**The Hon. STEVE WHAN:** Mr Kaldas, are you aware of any other case where this has happened in New South Wales, where a person has sworn a false statutory declaration and where a Commonwealth form has been used and that person has not been prosecuted? Can you name one other case?

**Mr KALDAS:** No, I am not aware of any other case.

**The Hon. STEVE WHAN:** Minister, are you aware of another case?

**The Hon. MICHAEL GALLACHER:** No, I am not aware, but I am advised that Mr Cansdell—who you are referring to, obviously, by the suggestion of the case—filled out the statutory declaration form that was supplied by the State Debt Recovery Office with his infringement. This was incorrectly a Commonwealth statutory declaration form and therefore not appropriate for a New South Wales matter. The provision of false information on this form was therefore an offence under the Commonwealth law and not the New South Wales law.

**The Hon. STEVE WHAN:** Minister, are you saying that the fault in this case lies with another State government agency?

**The Hon. MICHAEL GALLACHER:** No, I am not saying "fault"; I am simply giving you the information that you are seeking.

**The Hon. STEVE WHAN:** Minister, will you be taking some action to ensure that State government agencies hand out the correct forms in future?

**The Hon. MICHAEL GALLACHER:** What I have indicated to the honourable member sitting next to you is that I will look at what she considers to be some loophole in the legislation and I will take that question on notice. Madam Chair, given that there appears to be no further questions in relation to Emblems would it be okay if Mr McFadden were allowed to leave the Committee?

**CHAIR:** Yes.

**(The witness withdrew)**

**The Hon. STEVE WHAN:** Mr Kaldas, are you aware of whether the police service investigated Mr Cansdell for criminal conspiracy as part of this investigation? I refer to statements which Mr Cansdell made where he admitted to the false statutory declaration. An article in the *Australian* states:

Mr Stoner said the MP for Clarence admitted to having a third party falsify a statutory declaration so he would not lose his driver's licence after a 2005 speeding offence.

I understand in the law that could be considered potentially to be conspiracy. Have you looked into that?

**The Hon. TREVOR KHAN:** So you are asking for another legal opinion?

**The Hon. STEVE WHAN:** No, I am asking if the police have investigated that. I am not asking the witness for an opinion. I am asking if the police have looked into that aspect.

**Mr KALDAS:** I am not aware of the exact details of the charges that were considered or what deliberations took place. If I can take that on notice, we will look into it. We will try to get back to you with an answer on that question.

**The Hon. STEVE WHAN:** I also refer to an article in the *Daily Examiner* which refers to a police officer in local area command and says of him:

He said the case was then likely to go to the Department of Public Prosecutions considering Cansdell's "standing in the community".

Were local police put under any pressure to move the decision on this up the line because of Mr Cansdell's standing in the community?

**Mr KALDAS:** No, I do not think that is the case. As I mentioned earlier, my understanding is for matters of false swearing of affidavits the police do not have the power to decide to charge. It is one that has to go for consideration in a legal sense to the Director of Public Prosecutions and possibly the Attorney General.

**The Hon. STEVE WHAN:** Have the police received any other allegations regarding false statutory declarations by Mr Cansdell?

**Mr KALDAS:** No, I am not aware of anything else.

**The Hon. STEVE WHAN:** Would you be able to check?

**Mr KALDAS:** We will certainly check, yes. We will have to take it on notice.

**The Hon. AMANDA FAZIO:** Minister, in relation to a local issue, how many written representations have you received from the member for Rockdale, John Flowers, regarding the re-opening of Rockdale police station? Will you make those letters available to the Committee?

**The Hon. MICHAEL GALLACHER:** I speak quite often to Mr Flowers. Virtually every time I see him in the Parliament he raises the issue.

**The Hon. AMANDA FAZIO:** I asked you about written representations.

**The Hon. MICHAEL GALLACHER:** Yes, I am aware of that. He most certainly is a very strong advocate for policing in and around Rockdale. I am not aware as I sit here now; I will have a look to see if correspondence is there.

**The Hon. AMANDA FAZIO:** In relation to issues raised by Mr Shoebridge about tasers, this morning the South Australian Police Commissioner stated:

South Australian police will not use a Taser in any circumstances where an offender isn't armed.

Are you aware of those comments?

**The Hon. MICHAEL GALLACHER:** No, I am not aware of those comments.

**The Hon. AMANDA FAZIO:** Would you consider a similar ban in New South Wales as an interim measure prior to both the recommendations coming from the coroner in relation to the matter currently being investigated and also as an interim measure prior to the Ombudsman's report on the use of tasers?

**The Hon. MICHAEL GALLACHER:** The fact is that tasers have reduced significantly the assaults upon police officers in this State.

**The Hon. AMANDA FAZIO:** That is not what I was asking.

**The Hon. MICHAEL GALLACHER:** You asked me to withdraw them.

**The Hon. AMANDA FAZIO:** I was asking if you would consider that matter as an interim measure. Just a simple yes or no will do.

**The Hon. MICHAEL GALLACHER:** I will await the findings of the Ombudsman in his report in relation to the use of tasers before I consider whether there needs to be change to the standard operational procedure or deployment but, as I sit here now, no. I support police. I support the fact that they deserve not to be assaulted in the workplace. I support the way in which they monitor in this State—stronger than just about anybody else I know—the use, the deployment, the unholstering of a taser in this State. I am very satisfied with the way in which police go about their duties. In relation to your earlier question about Rockdale, one of the problems that Mr Flowers has in relation to Rockdale is the ongoing fact that when you were in Government you closed the station and sold the station. You got rid of it.



**The Hon. STEVE WHAN:** And he promised to re-open it.

**The Hon. AMANDA FAZIO:** He promised to get a new one and open a new one.

**The Hon. MICHAEL GALLACHER:** You sold it.

**The Hon. STEVE WHAN:** What are you doing to implement his election commitment?

**The Hon. MICHAEL GALLACHER:** Keeping you out of government so you do not sell more stations.

**The Hon. STEVE WHAN:** I am pleased that Hansard will be recording the flippancy with which you regard Mr Flowers's election commitments. I am sure that the residents of Rockdale will probably not share your view.

**The Hon. MICHAEL GALLACHER:** Hansard does not record flippancy.

**The Hon. STEVE WHAN:** I understand that during Operation Spartan some 3,000 officers were involved, making some 555 arrests and laying 908 charges. Are you able to update us on the progress of those charges and how many persons charged under that operation are in custody in one way or another?

**Mr KALDAS:** I would have to take that on notice. I have not memorised how many of them have been dealt with at court, but my sense is that a lot of them would still to be going through the courts and have not finalised yet.

**The Hon. STEVE WHAN:** Have none finalised that you are aware of?

**Mr KALDAS:** I did not say that. I think some of them would have been finalised by now and a result obtained, but I think the majority of them would still be before the court.

**The Hon. MICHAEL GALLACHER:** To assist the honourable member in his questioning, since its commencement and up until 2 October Operation Spartan has made 522 arrests, laid 970 charges and seized or located 49 firearms. That is quite a considerable effort by those officers and one that I am sure all honourable members in this chamber would congratulate them for. They have also conducted nearly 6,000 person searches and over 2,000 vehicle searches. That is an outstanding result.

**The Hon. STEVE WHAN:** Mr Kaldas, since Operation Spartan commenced we have continued to see a serious amount of gun crime in the past nine months. There have been 115 shootings this year. What else needs to be done to tackle that?

**Mr KALDAS:** I guess complacency is our biggest enemy in a sense. We have continued Operation Spartan. There are also quite a number of arms of State Crime Command that carry out duties in this space. Even though everyone's eyes glaze over when we mention statistics, I have to say we have studied the statistics for the past eight, nine or 10 years and while there are certainly spikes the reality is that it has been overall quite steady over the past 10 years. There was a major spike in 2003 as I understand. That was a result of a particular war between two organised crime families. That did die down. There have been spikes. There was certainly a spike in January this year. That was one of the reasons why we started Operation Spartan and it has been going ever since.

I do not think there are any easy fixes. I think there is a culture of shooting up instead of perhaps punching each other which may have existed in years gone by. We do a whole lot in terms of reaching out to communities. We do a whole lot of engagement with communities to try to influence their behaviour—communities that we perceive may be susceptible to this sort of thing—but there is no easy answer unfortunately.

**The Hon. MICHAEL GALLACHER:** I can assist the Deputy Commissioner in relation to that. I think all in this chamber would agree that the level of violence we have seen over the past few years and that continues to the present day on Sydney streets is simply unacceptable. That is why the Government is working closely with the police force to put police resources where they are needed most and to introduce new laws to

bring an end to the spate of gun and gang-related violence. Recent Bureau of Crime Statistics and Research figures—I think it is important to consider these—show that, despite peaks in some months and in some areas of Sydney, drive-by shooting incidents were stable over the past 24 months to June of this year. For the past two years things have been quite stable. I think it is fair to say that this is as a result of the hard work of the New South Wales Police Force.

The police force's Operation Spartan is actively working to prevent shootings. Operation Spartan of course as I indicated has made some significant arrests. Police have also established Strike Force Kinnarra to investigate a series of shootings that police believe may be related to a feud between the Hells Angels and the Nomads outlaw motorcycle gangs. In total, Kinnarra on top of Spartan has made 43 arrests and laid 146 charges. They have also seized 13 firearms, about 2,500 rounds of ammunition and a significant quantity of drugs. The Government is also backing the State's police officers by introducing new laws to make it easier for police to put crooks behind bars, restrict the sale of ammunition and strengthen officers—

**The Hon. STEVE WHAN:** Minister, I know you like reading out your answers but I was quite happy with Deputy Commissioner Kaldas's answer.

**The Hon. MICHAEL GALLACHER:** We are getting on with the job and we will continue to do so. Madam Chair, I can talk about Operation Raptor if members would like me to. It is very interesting, of course.

**The Hon. PENNY SHARPE:** You can tell us about it next week.

**CHAIR:** Thank you, Minister.

**The Hon. STEVE WHAN:** Minister, I would like to direct another question to Deputy Commissioner Kaldas. The Minister just mentioned in his response outlaw motorcycle gangs. So far under the revised legislation in place, there have been no gangs that have actually been prescribed. What action is being taken at the moment by the police towards that? Is the legislation being utilised?

**Mr KALDAS:** I do not have line control of the gang squad.

**The Hon. STEVE WHAN:** To whom should I be directing that? Is that Deputy Commissioner Burn?

**The Hon. MICHAEL GALLACHER:** Me.

**The Hon. STEVE WHAN:** Deputy Commissioner Burn, would you like to answer that?

**Ms BURN:** No, please.

**The Hon. MICHAEL GALLACHER:** I will make some opening comments. I am happy to confirm.

**The Hon. STEVE WHAN:** No, I would like your deputy commissioners to answer it. I like their brevity, I have to say.

**The Hon. PENNY SHARPE:** If you wanted your dixer, you should have got your members to agree to time for Government questions. You have waived those.

**The Hon. MICHAEL GALLACHER:** Madam Chair—

**CHAIR:** Order! The Minister is entitled to answer.

**The Hon. MICHAEL GALLACHER:** This is a question directly about the Government's legislation in relation to outlaw motorcycle gangs.

**The Hon. STEVE WHAN:** No, it is actually about the police's implementation and use of that legislation.

**The Hon. MICHAEL GALLACHER:** I will give you a five-second snapshot and you can go from there.

**The Hon. STEVE WHAN:** I will keep you to five seconds. Go ahead.

**The Hon. MICHAEL GALLACHER:** I am happy to confirm that the NSW Police Force is well advanced in preparing an application under the revised criminal organisations control legislation. However, I will not comment on the likely target of that application or speculate when it will be lodged. But it is well underway.

**The Hon. STEVE WHAN:** Deputy Commissioner Burn, is there anything you would like to add?

**Ms BURN:** There is nothing I can add, thank you.

**The Hon. MICHAEL GALLACHER:** But we are doing more in relation to consorting.

**The Hon. PENNY SHARPE:** Do a dixer next week. You will have plenty of time.

**The Hon. STEVE WHAN:** Minister, there have been reports in the newspapers recently about effectively, for want of a better description, open warfare in the upper echelons of the NSW Police Force over who is going to succeed the current commissioner. Does that worry you?

**The Hon. MICHAEL GALLACHER:** Look, as I have said before, there has always been competition within the Police Force, and a competition of ideas and a competition of direction with the NSW Police Force. You know, even when I joined the NSW Police Force, there was always that competition within the Police Force. I think that is a healthy thing to have that competition within the senior ranks, right down to superintendent. They all want to succeed, to one day become the Commissioner of Police and I think that is to be commended.

**The Hon. STEVE WHAN:** Minister, under your watch the Police Force does not appear to be putting forward its usual united front in many of these issues, does it?

**The Hon. TREVOR KHAN:** It is a police force. That is why.

**The Hon. AMANDA FAZIO:** No-one asked you anything.

**The Hon. STEVE WHAN:** Minister, under your watch we have a Crime Commission with identified levels of corruption, we have the Police Integrity Commission with problems, we have got the Strike Force Emblem's issues that we are coming back to in future weeks, and we have these arguments over who is going to succeed. Really, isn't policing appearing to be very poorly led by you as the Minister?

**The Hon. MICHAEL GALLACHER:** I know you have not written that question. I know you are far more sensible than to ask such a silly question.

**The Hon. TREVOR KHAN:** That is a big assumption.

**The Hon. MICHAEL GALLACHER:** I am being generous. It is a Thursday and it has been a long week. You spoke about corruption at the Crime Commission. That actually occurred when you were in government. You were a Minister. That was all on your watch. I am the one who is actually fixing it by putting a new structure for the Crime Commission in place. I actually think that if you look at the records of the NSW Police Force in terms of the arrests, in terms of the clear-ups, in terms of community confidence, they have never been higher. They have never been higher than they are today.

**The Hon. STEVE WHAN:** Yet we have had police protesting on the streets against you, Minister.

**The Hon. MICHAEL GALLACHER:** Because tough decisions do affect some people and they do look at it in that context. But do you know what? I never walked away from the negotiating table. I sat with the association personally and negotiated an outcome. They were not happy with it, but as a result of their negotiation with the Government, they actually were able to get a far better deal than we originally put. I am very satisfied with what we have been able to achieve for injured cops.

**The Hon. PENNY SHARPE:** Minister, can you confirm that the police Rail Vandalism Task Force is no longer operational?

**The Hon. MICHAEL GALLACHER:** The Rail Vandalism Task Force? I will have to take that on notice.

**The Hon. PENNY SHARPE:** So you do not know.

**The Hon. MICHAEL GALLACHER:** I do not know if the task force is still operational. It may well be that one of the operational people here can say.

**The Hon. PENNY SHARPE:** Deputy Commissioner Kaldas looks as though he knows. If he could tell me, that would be terrific.

**Mr KALDAS:** It has now become part of the Police Transport Command headed up by Assistant Commissioner Max Mitchell. It will be 610 strong eventually. It is around the 300-mark now, but it has been absorbed into that. It fits quite neatly into the type of work they do.

**The Hon. PENNY SHARPE:** Is it meeting? When was the last time the task force met?

**Mr KALDAS:** I would have to take that on notice. I am not certain. But it is certainly one of the mission statements, if you like, for the new transport command. It will be very much a part of their business. It probably makes sense, seeing that the bulk of their time will be on trains and bus stations and so on.

**The Hon. PENNY SHARPE:** The statistics are now available online, which I am very pleased about, around the Police Transport Command, indicating that there is 301 in authorised strength with an operational full-time equivalent [FTE] of around 272. Is that correct?

**Mr KALDAS:** I think that is correct, yes.

**The Hon. PENNY SHARPE:** The Minister for Transport gave a figure at estimates on Tuesday of 328 without stating whether that was authorised strength or operational full-time equivalent. Are you able to clarify that for me?

**Mr KALDAS:** I would have to check the exact figures. There are some over-strength not-to-be-deleted positions at the moment, but certainly the vision is over the next 2½ or three years the numbers will expand from 301 to 610. [*Time expired.*]

**Mr DAVID SHOEBRIDGE:** Deputy Commissioner Kaldas, when you are looking at that Cansdell matter, can you look to see whether or not consideration was given to charging Mr Cansdell with perverting the course of justice, either a conspiracy or an attempt, under section 319 of the Crimes Act?

**Mr KALDAS:** I am happy to find that out, whether that was considered or not.

**Mr DAVID SHOEBRIDGE:** If it was not considered, could you provide some advice as to why it was not considered?

**Mr KALDAS:** Certainly.

**Mr DAVID SHOEBRIDGE:** Thank you. Either Deputy Commissioner Hudson or Deputy Commissioner Burn, in relation to the Police Media Unit, what, if any, review has been undertaken of the actions of the Police Media Unit following the findings in relation to the Adam Salter coronial inquiry?

**Mr HUDSON:** Are you referring particularly to the media unit policy, or the actions of the media unit?

**Mr DAVID SHOEBRIDGE:** Either the actions of the media unit or the policy of the media unit, given the nature of the information that was released through the Police Media Unit following that incident.

**Mr HUDSON:** The media policy is currently under review. It is in its final draft form. There have been recommendations made to the content of the media policy that came out of a review process in relation to critical incidents and the investigation of critical incidents, including the media policy in relation to that. The revised critical incident guidelines have been released and are currently the guidelines which we operate under.

**Mr DAVID SHOEBRIDGE:** Can you provide the Committee with a copy of those revised guidelines?

**Mr HUDSON:** Yes, certainly. They went live approximately a month ago.

**Mr DAVID SHOEBRIDGE:** Do those revised guidelines make it clear that the obligation of police, when releasing information to the public, is to give a balanced picture to the public on the basis of the information the police have to hand?

**Mr HUDSON:** My recollection is the guidelines refer to the revised policy, which has not been released. Otherwise, if the guidelines were very specific, every time something changed in the media policy, the guidelines would have to be changed. They refer to the media policy, which is still in draft form, and once that is ratified there will be changes made to the way that police deal with critical incidents through the media.

**Mr DAVID SHOEBRIDGE:** So the current guidelines under which the Police Media Unit is operating refer to a policy that is not in place yet? Is that the situation?

**Mr HUDSON:** No. The guidelines refer to the media policy and that any communication in relation to a critical incident must be done in conjunction with the media policy.

**Mr DAVID SHOEBRIDGE:** Is there a media policy in place at the moment?

**Mr HUDSON:** Yes, there is.

**Mr DAVID SHOEBRIDGE:** Can you provide the Committee with a copy of that?

**Mr HUDSON:** Certainly.

**Mr DAVID SHOEBRIDGE:** Does that media policy make it clear that the overriding obligation for the NSW Police Force, when releasing information about critical incidents, is to provide a balanced picture to the public about the actions of the police?

**Mr HUDSON:** I think, as I said, the media policy, which will replace the current one, is in draft form.

**Mr DAVID SHOEBRIDGE:** I am asking about the current one. Does it give that obligation to provide a balanced picture to the people of New South Wales about the actions of the NSW Police Force?

**Mr HUDSON:** I believe the current policy refers to an accurate picture of what has occurred, and information in relation to what is known. However, I will take that on notice and we will provide a copy of the media policy.

**Mr DAVID SHOEBRIDGE:** And can you provide a copy of the revised policy, even in draft form?

**Mr HUDSON:** It is in draft form. I would have to get advice from the Director of Public Affairs as to when it will be released.

**Mr DAVID SHOEBRIDGE:** I am content with that.

**Mr HUDSON:** That can certainly be provided.

**Mr DAVID SHOEBRIDGE:** Do you believe it should be the overriding obligation, when the NSW Police Force is providing information about a critical incident particularly when someone has died, to give a truthful and balanced account on the basis of the information in the hands of the police?

**Mr HUDSON:** I agree totally that we need to give a truthful account. Whether it is balanced or not, in the early days of a critical incident, you can only say what the facts are. I think that is what the policy says and that is appropriate.

**Mr DAVID SHOEBRIDGE:** Are you not concerned that when you reviewed the actions of the NSW Police media unit following the death of Adam Salter the police media unit and police communications gave a deeply unbalanced picture of what occurred?

**The Hon. MICHAEL GALLACHER:** I am quite happy to have questions about the police media policy, however when it relates to a matter that is currently before the Police Integrity Commission—and the Salter matter still is in that we are awaiting the final report and the media policy obviously would play a part in that given the criticism of it—it is probably a bit unfair to ask the deputy commissioner his views in that regard.

**Mr DAVID SHOEBRIDGE:** I withdraw that question. Has the police media unit or those responsible for it undertaken a review of the actions of the police media unit in relation to the Adam Salter event? Has a review been undertaken and if not, why not?

**Mr HUDSON:** The review of the media policy was encompassed in the overall review of the critical incident guideline policy, and the actions of all police are dictated by that policy. That incorporates the public affairs branch or the police media unit.

**Mr DAVID SHOEBRIDGE:** Minister, have either you or any member of the Government, to your knowledge, received advice from NSW Police to the effect that a royal commission into sexual abuse in the Catholic Church and other institutions should not be undertaken because it may prejudice police investigations or prosecutions?

**The Hon. MICHAEL GALLACHER:** I do not recall receiving information in relation to prejudicing cases. However, I will take that on notice as there may have been some reference to it in correspondence, but I do not recall it.

**Mr DAVID SHOEBRIDGE:** Not to your knowledge?

**The Hon. MICHAEL GALLACHER:** No.

**Mr DAVID SHOEBRIDGE:** But you will make further searches?

**The Hon. MICHAEL GALLACHER:** Yes.

**Mr DAVID SHOEBRIDGE:** Do you know on what possible bases, then, the Premier indicated that a royal commission should not be held in New South Wales because it may prejudice ongoing police investigations? If you are not aware of that, is any serving member of the Police Force aware of information that has been provided to the Premier that would found that statement by him?

**The Hon. MICHAEL GALLACHER:** I can only answer it in my context and, as I said to you, I will look through what I have to see if there is anything. But I am not aware of anything that has been raised with me.

**Mr DAVID SHOEBRIDGE:** Deputy Commissioner Kaldas, have any concerns been raised with you and have you raised any concerns with the Premier or any member of the Government about the possibility of a royal commission into sexual abuse in the Catholic Church and other institutions prejudicing any ongoing future police prosecutions?

**Mr KALDAS:** No.

**Mr DAVID SHOEBRIDGE:** In relation to the review of taser uses, there is a regional review process, is that right?

**Mr KALDAS:** Yes.

**Mr DAVID SHOEBRIDGE:** Can you explain briefly how that regional review process occurs?

**Mr KALDAS:** Sure. If I start at the beginning, the officers involved receive fairly comprehensive training. They are made aware as part of their training that they have to review the standard operating procedures. We also have the actual recording of the taser itself and, when an incident happens, you are

absolutely right, there is a review process that goes up to and including assistant commissioner level. Certainly one that may be contentious is reviewed by an assistant commissioner—normally Alan Clarke, who is the commander of the area that has oversight of that. Following all of that we fall into a checks and balances regime where the Ombudsman reviews pretty much everything we do in this space and will report fairly regularly on what we are doing.

**Mr DAVID SHOEBRIDGE:** Could you provide, probably not of your own memory but on notice, the number of cases where there have been findings of a breach of the policy or any disciplinary action taken?

**Mr KALDAS:** I am certainly happy to take that on notice and we will get back to you. But my sense is that it is not a large number.

**Mr DAVID SHOEBRIDGE:** Minister, do you know how many officers are currently classified as partially incapacitated while continuing to work for NSW Police?

**The Hon. MICHAEL GALLACHER:** I will take that on notice but I am not sure whether the deputy commissioner for human resources may be in a position to tell you. He may have to take that on notice as well.

**Mr HUDSON:** I would have to take that on notice. I am unaware.

**Mr DAVID SHOEBRIDGE:** Given the significant reductions in police officer entitlements to death and disability benefits when they are partially incapacitated, is the NSW Police Force keeping an eye on the number of partially incapacitated police who are remaining at work?

**Mr HUDSON:** We certainly are and we are looking for opportunities to appropriately deploy those people into worthwhile work where they have opportunities for promotion, and going through a process of identifying positions where they can be best utilised within the Police Force into the future.

**Mr DAVID SHOEBRIDGE:** Are there more partially incapacitated officers being returned to work now than there were before the implementation of the amended death and disability policy?

**Mr HUDSON:** Due to the limited time I have been in this position I would have to take that on notice and get back to you, but I am certainly prepared to do that.

**Mr DAVID SHOEBRIDGE:** When you take that review, what are the projected numbers in light of the changes to the death and disability policy?

**Mr HUDSON:** Certainly, we will get that information.

**Mr DAVID SHOEBRIDGE:** Has it been expressed to you or to Deputy Commissioner Burn the concern that particularly police officers suffering mental difficulties, mental disabilities to some extent, because of their actions are remaining at work and remaining on duty longer as a result of the amended death and disability policy, because they do not have the same exit entitlements as they used to under the previous policy?

**Ms BURN:** Yes, those concerns have been raised. It is a concern to hear that. However, our response has been to put in place a workforce improvement program and part of that contains what we call supportive leadership. We are trying, in conjunction with our association, to work with a supervisor level, the sergeants at the local area commands, to focus on identifying if any officer is having trouble or in trouble.

**Mr DAVID SHOEBRIDGE:** Because you cannot rely on self reports, can you?

**Ms BURN:** Not totally, because they do not want to report because there is a stigma or for whatever reason. Not totally. We understand that. The supportive leadership program is specifically identified to work with those people to identify whether there are mental health issues, and there is a whole range of other strategies in part of the workforce improvement program. That is not our message at all. If people are suffering, they need to come forward and we need to help them. There are some situations where we know that potential trauma will occur—a critical incident, for instance; some traumatic event like going to a fatal car crash—and we put things around those people automatically, and then we monitor. There is still the supportive leadership, to always know what is going on with your staff members so that we can try to identify those signs if they are not self-reporting.

**The Hon. MICHAEL GALLACHER:** I can add to that if you like in relation to injury management.

**Mr DAVID SHOEBRIDGE:** No, it is okay, thank you.

**The Hon. MICHAEL GALLACHER:** You would not like more information?

**Mr DAVID SHOEBRIDGE:** It is a very real concern among serving police that there will be more officers on duty with quite significant mental trauma because they are scared to notify about their disability because they know their entitlements, if they are exited out, have been gutted by the changes to the death and disability policy. That is right, is it not?

**The Hon. MICHAEL GALLACHER:** I will assist in this regard, because \$15 million has been allocated over three years for the establishment of an injury management fund. The funding project is to help reduce injuries and better support the rehabilitated injured officers, to help them return to duty where possible. It is important to put this into perspective. The Police Force is using its funding and existing funding to trial and evaluate a number of new injury management initiatives, including significant new training being rolled out statewide on leadership and injury management and prevention and the development of a psychological job analysis tool to better allocate injured officers meaningful and productive work within front-line commands. That is a very important tool indeed for those injured officers coming back to work.

Another is the trial of the new guidelines for the deployment of injured officers, including the redesign of existing job duties and deployment models; the recruitment of an additional seven injury management advisers to work directly with injured officers; the creation of a human resources support team based on a successful trial in Coffs Harbour and Clarence in 2010 to mentor commands through the State in best practice with regard to returning officers to work; the evaluation of the existing wellcheck, psychologist and injury management programs and policies to assess their effectiveness or otherwise; and the leadership and resilience research being undertaken in partnership with the Australian National University to determine a range of measures to influence the recruitment of individuals who best fit the rigours of policing.

**Mr DAVID SHOEBRIDGE:** Deputy Commissioner Burn or Deputy Commissioner Hudson, in relation to those partially incapacitated officers who remain on duty and have indicated they have suffered from mental trauma, what is the policy in allowing those officers access to their appointments, most particularly, their tasers and Glock weapons?

**Mr HUDSON:** If a police officer is exposed to an incident that shows cause for some trauma and that caused them to seek medical assistance, or they are identified by a supervisor as having suffered from some trauma, prior to resuming full duties they are required to undergo a re-training shoot, known as a stress shoot, to determine their capabilities of operating their firearms and appointments under stress conditions. Once cleared by a medical practitioner they are able to resume full duties.

**Mr DAVID SHOEBRIDGE:** My next question is probably best directed to you, Commissioner Kaldas. Do you know how many complaints have been received about drug fumes leaking from drug safes in local area commands over the past 12 to 24 months?

**Mr KALDAS:** I am aware of one complaint, but I am not aware of the full details of it. I am happy to take that question on notice and get back to you.

**Mr DAVID SHOEBRIDGE:** Could you provide some details about any complaints relating to drug fumes from the Greenacre police station?

**Mr KALDAS:** Certainly.

**Mr DAVID SHOEBRIDGE:** Minister, what steps are you taking to ensure that police officers are not exposed to fumes from drugs kept in drug safes that are not in a secure environment, that is, those drug safes that leak fumes when they are opened or not?

**The Hon. MICHAEL GALLACHER:** Of course, this matter first arose during the term of the previous Government. Steps have been taken to address that issue within the organisation. As the deputy commissioner has indicated to the Committee, at least one matter has been brought to his attention. From my



recollection, no matters have been brought to my attention that have warranted my involvement. However, if they are raised with me, if they were to be raised with me by the association or otherwise, I would take steps to address those issues.

**Mr DAVID SHOEBRIDGE:** What about the very large drug safe at Central Sydney police station that is in the basement of that station, which is not ventilated and opens on to work areas immediately outside?

**The Hon. MICHAEL GALLACHER:** Mr David Shoebridge has better experience on drug matters than I do in relation to ventilation at Central. Be that as it may, I will seek some advice in relation to that matter. If what you say is correct I am sure there will be some means by which I can examine that matter and report to the Committee.

**Mr DAVID SHOEBRIDGE:** Are you aware that a number of officers have gone off duty because they say—indeed, they have supporting medical evidence—that they have suffered from significant physical injuries as a result of drug fumes from the drug safe at Surry Hills?

**The Hon. MICHAEL GALLACHER:** Can you give me an indication when that was, Mr Shoebridge?

**Mr DAVID SHOEBRIDGE:** It was approximately three to four years ago.

**The Hon. MICHAEL GALLACHER:** I will find out and come back to you on that issue.

**Mr DAVID SHOEBRIDGE:** If you are made aware of those issues could you advise the Committee what you will be doing to ensure that the occupational health and safety of those officers is protected?

**The Hon. MICHAEL GALLACHER:** In that momentary flash of time between you asking me the first and second questions, I now have a bit of advice. I am aware now that matters concerning the issues you raised followed an audit of a drug safe by a number of officers in 2009. I assume by the time frame that that is probably the same one?

**Mr DAVID SHOEBRIDGE:** That would be it.

**The Hon. MICHAEL GALLACHER:** I have been advised that the NSW Police Force is involved in legal action concerning this matter. I understand that the matter is set down for hearing commencing in February 2013. Given the ongoing nature of this matter, it would not be appropriate for me to comment further at this time.

**Mr DAVID SHOEBRIDGE:** My next question is directed to either Deputy Commissioner Burn or Deputy Commissioner Hudson. Of the 460 police properties reported in 2011 as being affected by asbestos or other hazardous materials, how many still have not had work completed to remove the hazardous materials?

**The Hon. MICHAEL GALLACHER:** Before we go to that point, Mr Shoebridge, during the last estimates hearings you had a considerable amount to say about Ma'am Burn's involvement. Of course, as a result of the Ombudsman inquiry she now has been vindicated of any of the allegations you made. Would you now like to take this opportunity to withdraw those comments that you made about Ma'am Burn under parliamentary privilege last time?

**Mr DAVID SHOEBRIDGE:** I ask that the question be put to whichever deputy commissioner can provide the answer.

**Mr HUDSON:** I can indicate that I will have to take on notice the question relating to direct numbers of properties and get back to you because of the short time I have had in the portfolio. I can indicate that the overall property portfolio of the Police Force is 1,500 properties—residences and police stations. Over 90 per cent of those have been inspected for asbestos and hazardous materials. A number of inspections are ongoing. They were undertaken on a risk-based approach. Over 100 still have to be done and arrangements are being made to inspect those premises. However, in relation to the particular number, people are moved out of any premises identified as being at risk and work is undertaken. Of the 460 you mentioned, I would have to take that question on notice and get back to you in relation to what strategies have been put in place for those properties. I will take that question on notice and get back to you.

**Mr DAVID SHOEBRIDGE:** Thank you.

**CHAIR:** That concludes the examination of the Police portfolio. I thank the deputy commissioners for their attendance this afternoon. The Committee will take a short adjournment before resuming with the Emergency Services portfolio.

**(The witnesses withdrew.)**

*[Short adjournment]*

**STEVEN JOHN PEARCE**, Acting Commissioner, NSW State Emergency Service,

**SHANE ALAN FITZSIMMONS**, Commissioner, NSW Rural Fire Service, and

**GREGORY PHILLIP MULLINS**, Commissioner, Fire and Rescue NSW, sworn and examined;

**CHAIR:** We will now commence examination of the Emergency Services portfolio. We have one hour of questioning, divided into 30 minutes for the Opposition and 30 minutes for the crossbench. We will commence with the Opposition.

**The Hon. MICHAEL GALLACHER:** Madam Chair, Steve Pearce, who is the Deputy Commissioner for the State Emergency Service, is here in his capacity as acting commissioner.

**The Hon. STEVE WHAN:** Minister, when do you expect to release the next stage of your proposals to change the funding model for Emergency Services?

**The Hon. MICHAEL GALLACHER:** Give me a couple of minutes and I will get that information for you. It is an important issue not only for the New South Wales Government but, indeed, for Emergency Services as well as the people of this State. We are committed to a review of the funding arrangements for Emergency Services. The way we currently fund these services in New South Wales is complicated, inefficient and unfair, as you would be aware being a former Minister. Taxing insurance increases the price of insurance and can lead some people to underinsure and others simply not to insure at all. The system is unfair also because people who are either non-insured or uninsured do not contribute to funding our Emergency Services yet still receive the same coverage and protection as those who pay insurance. I am advised that New South Wales property owners who insure their properties are subsidising those who do not and, of course, I am advised also that we have one of the highest rates in the nation.

In light of all this the Liberal-Nationals Government made a commitment prior to the 2011 election, whilst in opposition, to review the emergency services levy so as to provide greater fairness, transparency and accountability. On 5 July this year the Treasurer and I announced a call for public submissions and at the same time we released what is known as the "Funding Our Emergency Services" discussion paper—a discussion paper designed, unsurprisingly, to generate discussion about how to improve funding to these vital services. The submissions were due to close on Monday 8 October; however that date has been extended to 31 October to give the community more time to look at the proposals. I can advise the Committee that the Government will closely consider community feedback before making its decision on a new model.

**The Hon. STEVE WHAN:** Minister, do you think it is reasonable that your discussion paper failed to outline estimates for what a new model might cost for ratepayers or government? Do you think it is reasonable that your discussion paper failed to provide a balanced argument, including the advantages of the current system versus the proposed new systems?

**The Hon. MICHAEL GALLACHER:** What is evidenced by your question is exactly what we are seeking to do; that is, to have a discussion in this State about the system. You view it a particular way and that is your prerogative, but we do not. We think it is sufficient to warrant a reasonable discussion amongst the people of this State about the future funding of that model. By virtue of the fact that it was the first question you asked in estimates we have achieved exactly what we sought to do.

**The Hon. STEVE WHAN:** The system you are advocating in your paper is strongly advocated by the insurance industry. Are you aware that in the two years leading up to the election the Insurance Council donated \$252 to the Labor Party, which said it would keep the current system, and more than \$54,000 to the Coalition that before the election announced it was going to consider a change to the policy. Does the Coalition have some secret deal with the insurance industry?

**The Hon. MICHAEL GALLACHER:** Cheap shots are not what we are after here today. It is about information to the public and putting forward a discussion paper to invoke the discussion. I thought the member was genuine in his initial comments but I now see that he has gone back to form. We will continue to invite the public to participate in that discussion process and we will ensure there is ample opportunity for organisations, private citizens and everybody else in between, to participate in the debate.

**The Hon. STEVE WHAN:** What research has the Government undertaken to model the application and impacts of changing to a new emergency services funding model?

**The Hon. MICHAEL GALLACHER:** The report or discussion paper is in itself comprehensive.

**The Hon. STEVE WHAN:** The discussion paper does not have any modelling of the costs in it.

**The Hon. MICHAEL GALLACHER:** The discussion paper is in itself quite comprehensive in the modelling and specific aspects of it. If the member is not satisfied with the amount of information that is provided in the discussion paper I will take that question on notice and seek an answer for him.

**The Hon. STEVE WHAN:** Are you aware of whether the Government has undertaken any independent modelling work to go with the discussion paper?

**The Hon. MICHAEL GALLACHER:** I am not aware but it may have occurred. I will seek an answer from the department. I will take that question on notice.

**The Hon. STEVE WHAN:** Could you provide any modelling that has been undertaken?

**The Hon. MICHAEL GALLACHER:** If there is some there that is consistent with the member's question I will seek to provide it.

**The Hon. STEVE WHAN:** Are you aware of modelling commissioned by the Insurance Council regarding alternative models for rate-based levies? Have you read that?

**The Hon. MICHAEL GALLACHER:** No.

**The Hon. STEVE WHAN:** Are you aware that it exists?

**The Hon. MICHAEL GALLACHER:** It may well have been any number of documents I have read. I am not sure which one you are talking about. Which year?

**The Hon. STEVE WHAN:** It was undertaken by Deloitte on behalf of the Insurance Council Australia in conjunction with the current discussions that are going on.

**The Hon. MICHAEL GALLACHER:** I have not read any of the submissions that have come in at this stage.

**The Hon. STEVE WHAN:** Would it concern you to know that under the Deloitte modelling for the Insurance Council rural property owners will be between \$219 and \$1,000 a year worse off by a change to a property based levy?

**The Hon. MICHAEL GALLACHER:** This is why you have the discussion. You put out a paper that has modelling and you encourage people to identify the strengths and weaknesses in the discussion paper and to put forward alternative models. That is exactly what the Government is doing.

**The Hon. STEVE WHAN:** If the system ended up with those increased costs do you believe that it would be a fair system?

**The Hon. MICHAEL GALLACHER:** I will not cast judgement on the matter of the final model until the discussion period is finished and the Government has had an opportunity to consider it and put forward a model that we would take to the people.

**The Hon. STEVE WHAN:** You do not want to take the opportunity now to give rural land owners, who make up a large proportion of Rural Fire Service volunteers, a commitment that they will not be worse off under this system?

**The Hon. MICHAEL GALLACHER:** There are myriad views in relation to this discussion paper. That is why we asked for submissions and extended it until the end of October to give everyone, including rural

landholders, those involved in business in metropolitan areas and people who live in large towns in regional and rural New South Wales an opportunity to participate.

**The Hon. STEVE WHAN:** Commissioners, concerning the review of the fire service levy, what role do you have in any steering committee or equivalent working group considering this change?

**Mr MULLINS:** I am not involved in any steering committee or working parties on the change.

**The Hon. STEVE WHAN:** What consultation have you had or are you expecting to have as the Government moves through the recommendations that are likely to come from this process?

**Mr MULLINS:** There were informal discussions with Treasury officials and other people prior to the review and we are taking the position that it is a policy matter for government. At the expiry of the consultation period we are sure we will be consulted.

**Mr FITZSIMMONS:** I would answer similarly.

**Mr PEARCE:** I have been on a working group to assist with some subject matter expertise on State Emergency Service operations, but again I agree with Commissioner Mullins' answer.

**The Hon. STEVE WHAN:** Commissioner Fitzsimmons, if there were a move to a rates-based model, would you be satisfied that your budget was flexible enough to respond to our future needs? I quote the response made to the Victorian bushfires royal commission where government at the time significantly increased the funding available for the Rural Fire Service budget. Do you think that a model which has to be set with rates in advance will provide the same degree of flexibility?

**Mr FITZSIMMONS:** I do not know whether I would be in a position to answer that question, given that I am not sure what the new model looks like yet. At the moment, as I understand it, the discussion paper is putting up a number of options.

**The Hon. STEVE WHAN:** Minister or Mr Tree, how far in advance would the rate have to be set if you moved to a property based system of funding emergency services?

**The Hon. MICHAEL GALLACHER:** Again I make the point, Mr Whan, that we are in that phase of discussion with the community. I do not want to be running commentary about what may or may not be the final outcome relating to it. There is a strong undertaking from the Government that we will not be reducing funding for our emergency service personnel.

**The Hon. STEVE WHAN:** Other than what you have reduced it by this year with the funding cuts?

**The Hon. MICHAEL GALLACHER:** There is ample opportunity to discuss that today.

**The Hon. STEVE WHAN:** As we will if we have time. Minister, your paper only suggests options based around a property-based levy. In the questions in the paper it does not give people an option to comment on alternatives. Is it not a bit cheeky to tell us here today that all other options are on the table?

**The Hon. MICHAEL GALLACHER:** They are on the table. I look forward to your submission. I am sure that it will be as comprehensive as one could expect coming from the Opposition. I look forward to your alternative funding models. Whilst that discussion is taking place it would be disingenuous of me if I were to suggest in any way that the Government had made up its mind in relation to that model. That is why we are further extending this discussion phase to give everyone, including the Opposition, an opportunity to participate.

**The Hon. STEVE WHAN:** Minister, your comments in the House on this issue and your public comments make it clear that you are not willing to consider retaining the current model. Would that be a fair representation?

**The Hon. MICHAEL GALLACHER:** At the end of the day, when the submissions are received from various organisations, communities and individuals, the Government will be in a position to comment. This is a commitment that we gave in opposition. We have complied with that commitment to have this discussion paper,

to have this review, and we are getting on with it. We are doing it in such a way that it invites public participation in the discussion before a final position is put.

**The Hon. STEVE WHAN:** Would you say that retaining the current model is an option or is not an option?

**The Hon. MICHAEL GALLACHER:** As I have said, we put forward a discussion paper. It is now up to individuals to put forward either additions to what they consider the discussion paper presents or indeed alternative models. It will then be a matter for the Government to look at that. But we want fairness and equity because those matters continued to be raised with us as we moved around the State when in opposition. In opposition we said we would conduct a review. We have done that.

**The Hon. STEVE WHAN:** Commissioner Fitzsimmons, last year in estimates I asked questions about funding for fire control centres and trucks. At that time the budgets had not been finalised and you and the Minister were not able to give me that information. Are you able to tell us now how many fire control centres and new fire sheds and how many trucks will be rolled out this year, and give us a comparative figure for the previous year?

**Mr FITZSIMMONS:** I will take on notice the detail of that question regarding the breakdown of figures from the previous year. The budget is to be formally communicated shortly but I would be expecting to see expenditure on tankers, stations and control centres somewhere in the order of \$9.7 million, and on firefighting appliances in the order of \$30.1 million.

**The Hon. STEVE WHAN:** For that \$30.1 million how many new or refurbished appliances would you expect to be rolled out?

**Mr FITZSIMMONS:** I will have to take that on notice and give you a breakdown on the structure because, as you are aware, we have across the State a fairly comprehensive fleet of just under 7,000 apparatus and just under 4,000 of those are firefighting appliances, and the average age of that fleet is now in the order of 12 years. We are seeking, in the disbursement of firefighting appliances and other vehicles this year, to incorporate other priority needs for districts as well, like group officer vehicles, communications vehicles and what have you. So there is a combination of apparatus in that fleet. But I will be able to get you a breakdown of the indicative apportionment.

**The Hon. STEVE WHAN:** How do the allocations that you have just mentioned compare with those for the previous year? Are they more or less?

**Mr FITZSIMMONS:** It is more this year in terms of the allocations of money this year.

**The Hon. STEVE WHAN:** Are you able to provide on notice the number of fire control centres that have been built, or at least commenced, in each of the past five years?

**Mr FITZSIMMONS:** I will take that on notice. I will be able to give you a breakdown on that.

**The Hon. STEVE WHAN:** Commissioner, firefighters in the Chifley zone tell me they believe they are due to have a new fire control centre built in the coming year or so. Will that be on the agenda?

**Mr FITZSIMMONS:** I will take that on notice. However, we are well aware of the need to invest in Bathurst, and we have prioritised some money in this year's allocation. As you would appreciate, often it is about allocating money in increments over a number of years in order to enable those programs to be built. But I will be able to give you a detailed breakdown after the session.

**The Hon. STEVE WHAN:** You recently engaged in a round of redundancies in the Rural Fire Service. Are you able to tell us how many voluntary redundancy applications you have accepted, if that is finalised?

**Mr FITZSIMMONS:** Yes, I can. We went through a process of expressions of interest to assist in meeting our budgetary measures, particularly in relation to labour cap expenses, and 24 voluntary redundancies have been offered. I understand we have had acceptances on those 24 redundancies, with the completion dates varying over coming weeks, subject to business requirement.

**The Hon. STEVE WHAN:** What is the estimated saving in wages that you will achieve from that?

**Mr FITZSIMMONS:** I will take that particular detail on notice, if you wish, but for the overall four-year program it has been quite public: it is \$11.7 million over the four-year budget period.

**The Hon. STEVE WHAN:** Are there other measures that you are putting in place to achieve that \$11.7 million in savings?

**Mr FITZSIMMONS:** Yes. We have undertaken a host of measures: looking at vacancies, looking at staff turnover and other workforce management issues and a review of temporary and contractor employment. In my discussions with our local Public Service Association members we are looking at all manner of options as we look forward over the next three years at what other things we might be able to do collectively in order to address those savings, and that feedback has been sought from both Public Service Association members and the broader membership of the organisation.

**The Hon. STEVE WHAN:** What is the breakdown of the 24 voluntary redundancies that you have offered and have been accepted? Where are they coming from within the organisation?

**Mr FITZSIMMONS:** It is principally centred around the greater Sydney area, most notably the organisation's head office, and some realignment of the region east office based in Sydney and, from memory, three others that are located outside the head office environment geographically.

**The Hon. STEVE WHAN:** Three other positions?

**Mr FITZSIMMONS:** Three other positions. There was one on the mid North Coast, which was a role attached to head office administration. No voluntary redundancies or positions have been removed from what could be described as our frontline areas, that is, the local district office management areas. Two positions have gone out of some regional administration or support areas in Batemans Bay and Young.

**The Hon. STEVE WHAN:** What role did they play?

**Mr FITZSIMMONS:** I would have to take that on notice. From memory, it was community safety or support areas.

**The Hon. STEVE WHAN:** How many unfilled positions have you deleted as part of the savings? Are there unfilled positions that you have decided not to fill?

**Mr FITZSIMMONS:** We always, as a matter of routine, review vacancies and reprofile positions or reprioritise positions in the areas and locations they are needed most. As a matter of fact, there are a number of vacancies on which we are going ahead with advertisement and recruitment at the moment in what we regard as priority or important areas across the State.

**The Hon. STEVE WHAN:** For those people who are largely in the Homebush Bay office, what are you going to be doing less of as a result of those positions going?

**Mr FITZSIMMONS:** We have taken a look at the way we are conducting business. In the expression of interest process I have looked at those who were interested in a voluntary redundancy or those who were interested in employment mobility or a change in role or location, and we have sought to realign some of the functions and create greater synergies in certain areas. So it is actually about maintaining and continuing with services to most importantly our volunteers and also the broader community. I do not expect to see any adverse impacting in that regard as a result of the actions taken.

**The Hon. STEVE WHAN:** Does it concern you that when the Government is looking at a new funding model for emergency services for the fire service levy it will be setting that at a lower level than you might have had because of the cuts which are being undertaken, and that in the long term that will constrain your budgets?

**Mr FITZSIMMONS:** Would you say that again?

**The Hon. STEVE WHAN:** The Government will make a calculation when it sets a new model to replace the fire services levy of how much it needs to raise. It obviously will need to build into that its losses of tax and the cost of collection. But for the fire services it will be set at a level that is now lower than it might have been because of the savings that you have been asked to achieve, most of which are being passed back to insurance companies. Is that a concern?

**The Hon. MICHAEL GALLACHER:** Madam Chair, the witness is being asked to answer a question based on a hypothetical of what may or may not occur in the future. I think it is unfair to be putting hypothetical positions of what may or may not occur in the future.

**The Hon. STEVE WHAN:** Minister, you are saying you are going to move to a new system of funding. You have to actually make a calculation of how much you are going to raise for that, and you have just cut funding for the fire services.

**The Hon. MICHAEL GALLACHER:** But as I have indicated, the budget that we are discussing is the one that we have on hand, not a forecast of what may or may not occur in the future.

**The Hon. STEVE WHAN:** Minister, as you well know from being on this side of the table, budget estimates can range over the entire portfolio.

**The Hon. MICHAEL GALLACHER:** But not hypotheticals.

**Mr DAVID SHOEBRIDGE:** I thought there was a question about the extent to which the savings in this year's budget are reflected in a reduction in the levy.

**The Hon. STEVE WHAN:** In the base, in a future base. Is it a concern that your future base is now lower because of the savings that you have been asked to achieve?

**Mr FITZSIMMONS:** I think it is clear and it is evident that what has been published is our allocations in certain programs, and the one that you are referring to at the moment would be in the labour expenses area. They have been programmed out over the four-year period incorporating the projected savings requirements, and that is what we are working to.

**The Hon. STEVE WHAN:** You mentioned before that the average age of the fleet of vehicles is 12 years. Are you expecting that average age to change over the next couple of years as a result of Government funding cuts? Are you expecting that to go up?

**Mr FITZSIMMONS:** We have some comprehensive business cases in with Government at the moment regarding fleet programs and other building programs. We are mindful of the need to have a more comprehensive and well-defined fleet management strategy and we are working on that.

**The Hon. STEVE WHAN:** I am not sure that answers my question. Are you expecting the average age of the fleet to change?

**Mr FITZSIMMONS:** Yes.

**The Hon. STEVE WHAN:** Up or down?

**Mr FITZSIMMONS:** Depending on where you are, the average age would probably increase, depending on the amount of turnover and replacement that we have on some of those models. But can I qualify that answer by saying that we are having a serious look at the viability of the fleet management program organisationally. The average kilometres per annum that a lot of our appliances do might be down to around only 3,000 kilometres per year. It hardly seems plausible that you would seek to turn those vehicles over and dispose of them in a 15-year program.

**The Hon. STEVE WHAN:** Targeting an average age which you have had for at least the last four or five years or a decade, do you think you are now going to potentially change the target for the average age of the fleet that you want to have?



**Mr FITZSIMMONS:** One of the things is that defining the fleet profile and the fleet age has been a challenge over history and there has been this national target of keeping it to an average age of less than 15 years. But what I am keen to do is look at a broader statewide viability of fleet where we can have programs that see perfectly serviceable, well-maintained vehicles going out to something like, say, 25 years of age, depending on the role and location of a particular brigade and function, and particularly in those areas where usage rates and kilometres on vehicles are very low—they are literally hundreds of kilometres—

**The Hon. STEVE WHAN:** Twenty-five years is a really significant difference in the potential age of vehicles which are being used in your organisation. Is this being driven by the Government cost-cutting?

**Mr FITZSIMMONS:** No. As a matter of fact, one of the things I have been working on for a while now with the organisation is to have a comprehensive review of the fleet profile and the fleet need.

**The Hon. STEVE WHAN:** When did that start?

**Mr FITZSIMMONS:** In earnest it has been going on probably for the last two years or three years.

**The Hon. MICHAEL GALLACHER:** When you were in government, Steve.

**Mr FITZSIMMONS:** It is more consultative at the moment but it is reflected—

**The Hon. STEVE WHAN:** My suspicion is it is about the Minister's cuts. I will move on to Commissioner Mullins. What is your response to complaints by the union about the new uniforms?

**Mr MULLINS:** I am glad you asked. I have corresponded with the union today. The background on this: people may not be aware that the uniforms firefighters wear, particularly when they go into burning buildings, need to protect them from a range of things. One of them is a phenomenon called flashover, where all of the contents in a room flash to flame, and unfortunately, or fortunately—whichever way you look at it—our response times are very good and we are finding that more and more our firefighters are arriving before flashover and potentially can be caught. Overseas, firefighters have been killed as a result of this. Our safety record is one of the best in the world and we want to keep it that way. Recently Australian New Zealand Standard 4697, which sets the standard for the firefighting uniform, was changed. It is the same thermal and heat standard but it must be provided by a single uniform, not two layers, which is what we used to rely upon. So the requirement was to change the uniform. We were allocated \$17 million for that program.

**The Hon. STEVE WHAN:** Yes, I remember it.

**Mr MULLINS:** You signed it, thank you. We had a very comprehensive tender process. The Fire Brigade Employees Union was involved in that every step of the way; they were part of the tender committee. There is a key issue with the uniforms. Everywhere in the world that they have introduced uniforms with this high level protection from what is on the outside, flames, steam, heat, and if you make uniforms thicker, provide more protection—as we sit here most of us are giving off 37 degrees of heat; I am probably 38 at the moment—you cannot release your metabolic heat as easily. So firefighters get hotter as a result of these uniforms. It has happened in the Northern Territory, Queensland, South Australia and Victoria, which all have uniforms to these standards.

When these uniforms started to be rolled out in June this year it was cool weather and it was not noticed. As the temperature went up some people were saying, "We are getting quite warm". One of the key reasons that the uniforms are warmer is that they have a new layer called a moisture barrier. One of the dangers to firefighters is superheated steam—you spray water on the fire and it flashes to steam and it can burn you. We had recommendations from Wollongong university not to include the moisture barrier in the uniform. The Fire Brigade Employees Union advised me that they would ban the uniforms if we did not include that layer. We made the decision and I made the decision that we would include that. That is the key reason that they are hotter: because you cannot release the metabolic heat; the moisture barrier makes them hotter.

I am bemused: I had a letter today from the Fire Brigade Employees Union saying, "Hey, these uniforms are hotter and we are not happy". They have known every step of the way. But I have to say they have been a partner in this process and have been very good. Unfortunately, we have found other issues with the uniforms. The zippers, which apparently conform to an Australian standard, were supposed to be identical to

those in the last uniform. We have had a 4 per cent failure rate—so a 96 per cent compliance rate. We have tested every uniform in the State over the last four days. That is of concern.

**Mr DAVID SHOEBRIDGE:** That is a hell of a lot of zippers.

**Mr MULLINS:** Lots of zippers. We put out a video instructing firefighters how to test them at the beginning of every shift as the new shift comes on. We have coordinated it from Sydney, spoken to every station. As I say, there is 96 per cent compliance but the 4 per cent non-compliance is not acceptable to me. I have formed an expert panel to advise me. It comprises Wollongong university, Queensland Fire and Rescue, the South Australian Metropolitan Fire Service and an independent chair, John Isaacs, who chairs our audit and risk committee. I have invited the FBEU to participate in that. They will not reply and have not replied, despite six emails and a couple of phone calls.

We are dealing comprehensively with the issues. I remember when we rolled out the former uniform it was exactly the same thing: these things are hotter; we have got two layers now and it takes longer to put on. They are identical issues to the issues we had last time. But I am concerned about some apparent quality control matters. Pacific Brands executives are flying from Melbourne tomorrow to meet with me in the morning. We have spoken to them and they are more than ready to deal with the problems that we have identified.

The other issue is what you wear below the uniform. The pants are 330 grams per square metre; we are reducing that to 240 grams per square metre, which will keep them cooler. The union wrote to me and said, "That's great. We told you to do that last week but now you've done it we might not like it and we might ban them". So I am bemused. But up until now we have been working in partnership with the FBEU and I am sure when they know the measures that I have taken, which I have told the workforce about, they will be satisfied.

**The Hon. STEVE WHAN:** One quick question for the SES: Mr Pearce, is there any truth to a strange rumour that I have heard that the SES is looking at changing its name and has employed a consultant to look at it?

**Mr PEARCE:** No, there is no truth in that whatsoever.

**Mr DAVID SHOEBRIDGE:** Commissioner Fitzsimmons, is it true that your analysis suggests we are going to have a severe bushfire season over the coming season?

**Mr FITZSIMMONS:** The forecast is indicating that we are going to have one of the most challenging seasons we have seen in quite a few years. That is largely reflective of the past two years being the two wettest consecutive seasons that we have seen.

**Mr DAVID SHOEBRIDGE:** Large amounts of grass growth and undergrowth.

**Mr FITZSIMMONS:** Correct. The forecast now is influenced predominately by a return of El Niño, which typically means warmer and drier conditions.

**Mr DAVID SHOEBRIDGE:** Commissioner Mullins, is that the same analysis that you have undertaken?

**Mr MULLINS:** Absolutely. We work in close partnership with the Rural Fire Service. They are the lead agency in bushfire matters and we support them, particularly in urban areas. We are both partners to the Cooperative Research Centre for Bushfires, or the Bushfire CRC, which provides analysis. Also the Bureau of Meteorology has given briefings to all of the emergency services. The fuel levels are very high in the west of the State particularly and the indications are for hotter, drier weather.

**Mr DAVID SHOEBRIDGE:** Have you looked at some of the research that was tendered in the Victorian bushfire inquiry which suggested that recently logged forests with large amounts of woody regrowth are a particular fire hazard? Have you had a look at that?

**Mr FITZSIMMONS:** Not specifically. Is there a question?

**Mr DAVID SHOEBRIDGE:** Have you had a look at that research is the question.

**Mr FITZSIMMONS:** Not specifically, no, but I am familiar with some of it. I do not know which author you are talking about.

**Mr DAVID SHOEBRIDGE:** I believe there are academics at the Australian National University [ANU] as well as academics in one of the Melbourne universities who have published that material. Have you had any discussions with Forests NSW about its logging practices and the impact of logging practices on vulnerable communities at the edges of State forests?

**Mr FITZSIMMONS:** Have we had discussions with forestry?

**Mr DAVID SHOEBRIDGE:** Yes, Forests NSW.

**Mr FITZSIMMONS:** We work collaboratively at the State level and at a local level with forestry and private foresters and all other key land management agencies in relation to assessing risk across the landscape. We take a tenure blind approach to the assessment of that risk and the measurement of that risk. Then for each given area, and there are 68 separate local bushfire management committees across the State, we look at that through a local bushfire risk management plan. Resulting from that bushfire risk management plan, based on risk, we then determine the suite of treatments that are necessary to address that risk in any given local area. That incorporates forests both logged and post-logging and growing and mid-growth and what have you. They are incorporated into the suite of assessments in looking at risk and then in determining what are the treatment regimes to address that risk.

**Mr DAVID SHOEBRIDGE:** Have you reviewed the research that also came out primarily from the ANU but also from an academic in Victoria that showed that one of the prime reasons why the fires stopped in the severe fire season in Victoria was the fire running into temperate forests which have been protected as national parks and therefore have a greater degree of moisture at the undergrowth level? Have you looked at that research?

**Mr FITZSIMMONS:** I am familiar with research in a similar vein that talks about different forest types and different vegetation types and applies different fire frequency threshold regimes to those vegetation types and the effects of different vegetation growth patterns post fire, whether that is planned or unplanned. They are the sorts of things that we are seeking in the current independent hazard reduction panel review that is going on statewide. I am a member of that committee. It is being chaired by Les Tree from the Ministry. We have had two public meetings already but that is not one of the things that has come up in those public meetings yet.

**Mr DAVID SHOEBRIDGE:** Has it come up in your organisation's search through the literature and the responses following the Victorian bushfires?

**Mr FITZSIMMONS:** I cannot put my hand on it and say yes but I would say that we comprehensively review and incorporate into our risk management tools and our treatment regimes a whole host of literature. If you can be more specific afterwards I am happy to take that on notice.

**Mr DAVID SHOEBRIDGE:** I am more than happy to provide you with the specific references on notice.

**Mr FITZSIMMONS:** It would not surprise me if we have got it.

**Mr DAVID SHOEBRIDGE:** Commissioner Mullins, is there a process being undertaken at the moment to review the attendance management policy?

**Mr MULLINS:** Yes, there is.

**Mr DAVID SHOEBRIDGE:** Is that a matter that you are working on in conjunction with the union or is it a matter in which there is a dispute with the union?

**Mr MULLINS:** We thought we were working in conjunction with them but we ended up in the industrial commission. The background to this is that in 2008 there was an award. When we resolved the award through arbitration there was an agreement with the Fire Brigade Employees Union [FBEU] that they would

work with management to reduce average sick leave to 87 hours per employee. Unfortunately, last year—so ending in June this year—the average sick leave had increased to nearly 120 hours per employee.

Our overtime budget last year blew out by nearly \$8 million because we have safe and effective crewing levels. When we run out of relievers, who are based on 87 hours, the numbers we have, we have to bring people in on overtime off shift. We had a huge overtime bill. We said to the union we have the ability under the award to review our attendance management protocols. I have to say the FBEU banned that for eight months. They would not allow people to be spoken about if they kept taking Friday nights off or took days off after long weekends or whatever. They thought that was outrageous. I think at where my wife works and everybody else I know outside the fire brigade that is just normal for managers but not in the fire brigade apparently. We were able to get over those bans with assistance from the industrial commission.

We flagged with the FBEU that we would really need to work hard on attendance management. We put to them a proposed alternative. I had a couple of phone calls and discussions with the union secretary about that. Next thing we were in the industrial commission and there was a dispute before any feedback whatsoever from the FBEU, which really disappointed me. But I have to say a reassuring thing is that we have been putting out information to all employees about sick leave trends. The day after the first information sheet went out we saw a major reduction in sick leave, and that has been sustained. What that says to me is what I have always known: Firefighters, the men and women who are on the red trucks, are fantastic people who do the right thing largely. We are having an impact without an attendance management protocol of any substance.

**Mr DAVID SHOEBRIDGE:** If that reduction is maintained there will not be a requirement to review the attendance management policy. Is that right?

**Mr MULLINS:** There will be because unfortunately it is still at unacceptable levels. We did some calculations last week and it would still be around 108 hours per employee per year. It is not sustainable and it is not acceptable.

**Mr DAVID SHOEBRIDGE:** Given that both the Rural Fire Service and Fire and Rescue are predicting a particularly harsh and challenging fire season, are you concerned whether with budget cuts this year you will have sufficient resources to deal with the challenges?

**Mr MULLINS:** Is that directed to me?

**Mr DAVID SHOEBRIDGE:** It is probably first of all directed to Commissioner Fitzsimmons but then to you to the extent that you deal with those urban threats.

**Mr FITZSIMMONS:** I would say, as I said probably this time last year: With each year that goes on the Rural Fire Service and its volunteers have never been better equipped. I think that is reflected in the ongoing investment in their equipment, in their infrastructure, whether it be their fleet or whether it be their fixed infrastructure, and certainly the other technological support and specialised assets. The savings measures that we are obligated to be complying with like the rest of government, I have made sure in our review that those things do not compromise the ongoing development and investment into the equipment and other wherewithal for volunteers to go about doing their job effectively. The simple answer is today we are better equipped and better resourced than we ever have been in the history of the organisation.

**Mr MULLINS:** Similarly, we have budget reductions in certain areas; we have increases in others. There are ups and downs.

**Mr DAVID SHOEBRIDGE:** On the whole over the past 12 months it has been downs though?

**Mr MULLINS:** The budget?

**Mr DAVID SHOEBRIDGE:** Yes.

**Mr MULLINS:** It has actually come up a bit, with escalation. However, there is a labour costs cap. I am working through that. I have been given a lot of leeway to decide where to make those savings. One of the key areas we just discussed was attendance management. I cannot see any impact on our front-line capability in what promises to be a pretty severe fire season, as we saw last Friday. At Wyee and Pretty Beach, both of our services were working together.

**Mr DAVID SHOEBRIDGE:** Minister, if it is an intense fire season and a substantial amount of labour is required from both the Rural Fire Service and Fire and Rescue and the wage cap looks like it may be breached, do you have any discretion from the Government to allow for additional resources to meet the fire threat?

**The Hon. MICHAEL GALLACHER:** There is no doubt that if there is a difficulty being experienced by any of our three commissioners who are here, or all of them, in providing a response—remember that last year we were predicting a horrendous fire season and we ended up with a horrendous flood season; it is the fickle nature of nature—obviously the Government would have an ear to that. We would be prepared to sit down and give assistance. The important thing though to realise in relation to our labour expense cap is that, unlike previous regimes that have tried to take from one and give to the other, we are trying to equitably put a labour expense cap right across government. It is about living within our means. It is about realising that there is no such thing as a money tree and that you cannot keep plucking \$50 and \$100 notes from it.

We have only a certain amount of money coming into the State, either by the generosity, and I say that in inverted commas, of our Federal Government, or indeed our own ability to actually get money into the State to provide these services. We are asking each of the commissioners, irrespective of whether we are talking about my portfolio or indeed people across government, to look at their own organisations and to see where they believe the expenses can be saved, not just for government but indeed for the State.

**Mr DAVID SHOEBRIDGE:** According to the discussion paper of your Government on emergency services funding, which I think you are the co-author of—

**The Hon. MICHAEL GALLACHER:** Yes.

**Mr DAVID SHOEBRIDGE:** —at the moment, 49 per cent of the insurance levy is paid for by business. Do you recall that figure?

**The Hon. MICHAEL GALLACHER:** Yes.

**Mr DAVID SHOEBRIDGE:** And about 45 per cent of the levy is paid for by owners or occupiers of residential properties, and about 6 per cent of the levy is paid for owners or occupiers of rural properties. Is that so?

**The Hon. MICHAEL GALLACHER:** I do not have the document in front of me, but from my recollection it is.

**Mr DAVID SHOEBRIDGE:** In the discussion paper, you do not ask anyone to comment on the retention of the existing levy. Is there a reason you do not ask, as one of the options, anyone to comment on the retention of the existing levy?

**The Hon. MICHAEL GALLACHER:** You might have missed the answer I gave earlier to Mr Whan, but I in fact did detail—I thought quite extensively—that the whole idea of the discussion paper was to put alternatives to what they currently are.

**Mr DAVID SHOEBRIDGE:** But one of the alternatives that is not put—and one would think it would be one of the most obvious alternatives—is to retain the existing levy.

**The Hon. STEVE WHAN:** Retain the status quo.

**The Hon. MICHAEL GALLACHER:** That is, by extension, automatic.

**Mr DAVID SHOEBRIDGE:** Then why was it not included in your consultation paper, the retention of the existing levy?

**The Hon. MICHAEL GALLACHER:** We are not prescribing a formula that says that if someone wants to put in a submission and if they in fact put forward a suggestion that we retain the status quo, as the Hon. Steve Whan says, they will be somehow struck out of the consultative process.

**Mr DAVID SHOEBRIDGE:** Minister, the only two options that are put forward in terms of replacing the insurance levy are a broad based property levy on a flat fee per property and a pro rata fee per property, would that be right? They are the only two options considered in the consultation paper?

**The Hon. MICHAEL GALLACHER:** Without having the paper in front of me, that is my recollection.

**Mr DAVID SHOEBRIDGE:** Are you aware that on the consultation paper's own modelling, if you go from a levy on business to a levy on a broad based flat fee per property, the proportion of the funding that will be provided by business will go down from 49 per cent to just 10 per cent of the funding. Are you aware of that?

**The Hon. MICHAEL GALLACHER:** And, again, I am thrilled to actually see that exactly what Mike Baird and I and the Government had sought to achieve—that is, a discussion on the modelling—is now being elucidated by your own contribution today. That is exactly what we want people to do—put forward their thoughts. Obviously you are now starting to put down your thoughts in relation to one of the models to put forward.

**Mr DAVID SHOEBRIDGE:** But it is not only that businesses will go down from contributing 49 per cent of the levy to 10 per cent, but that slack will be picked up almost entirely by householders, ordinary householders, who will go from paying 45 per cent of the levy up to 80 per cent of the levy. Under that model, which is being put forward by your Government, there is a quarter of a billion dollar annual shift in fees.

**The Hon. MICHAEL GALLACHER:** No.

**Mr DAVID SHOEBRIDGE:** From businesses to ordinary households. How do you think that is fair?

**The Hon. MICHAEL GALLACHER:** By your inference, we are putting that model up by Government. All we have done is put models out for discussion. We have not backed one model over another. We are simply complying with an election commitment that we gave. That is the starting point to all of this. When in opposition, we said we were going to do something about ensuring that there was a discussion paper looking at alternative modelling and to have a debate. We are doing that now.

**Mr DAVID SHOEBRIDGE:** Let us continue the debate. That is one of your options—to go to a flat broad based property tax, which will result in a quarter of a billion dollar slug to households and a quarter of a billion dollar saving for businesses. The other option is an ad valorem or sliding scale based on the value of the property. Do you agree with that? That is the only other option.

**The Hon. MICHAEL GALLACHER:** It is one of the options in the paper, not one of the options by Government. It is one of the options in the paper.

**The Hon. STEVE WHAN:** It is your paper.

**Mr DAVID SHOEBRIDGE:** It is a Government options paper, is it not?

**The Hon. MICHAEL GALLACHER:** Yes, but the Government is not saying, "This is the model."

**Mr DAVID SHOEBRIDGE:** The only two options you have put out are a broad based tax and a broad based ad valorem tax. Is that correct?

**The Hon. MICHAEL GALLACHER:** In an effort to have a discussion in relation to it.

**Mr DAVID SHOEBRIDGE:** In terms of the ad valorem tax, are you aware that the contribution from business, if it replaced the insurance levy, would go down from 49 per cent to just 13 per cent, even with an ad valorem tax. Did you consider that before you put that option out to the people of New South Wales?

**The Hon. AMANDA FAZIO:** No, because he is no good at maths.

**The Hon. MICHAEL GALLACHER:** I think it is only fair that the options are available for the people of New South Wales to look at in totality, and that is exactly what we have done. As I look forward to

the Australian Labor Party's submission, I now look forward to The Greens submission. I suspect yours is maybe even going to be the same. Who knows? But at least you have now got an opportunity to participate in it.

**Mr DAVID SHOEBRIDGE:** Minister, before you signed off on the consultation paper—there is a nice photograph of you on page two of it—

**The Hon. MICHAEL GALLACHER:** Yes, it is a good one.

**Mr DAVID SHOEBRIDGE:** —did you consider the fact that on the ad valorem scale you would see the contributions paid by householders go from 45 per cent up to three-quarters of the levy? That is another \$200 million cost shift from business to households.

**The Hon. MICHAEL GALLACHER:** Mr Shoebridge, I cannot believe that we are being criticised by inference from you.

**Mr DAVID SHOEBRIDGE:** I am criticising the models you have put forward.

**The Hon. STEVE WHAN:** Yes.

**Mr DAVID SHOEBRIDGE:** The only two models are a big gift to business at direct expense to householders.

**The Hon. MICHAEL GALLACHER:** And we have been completely open and honest in terms of putting those two models and that discussion paper forward, which is quite extensive. You know that.

**The Hon. STEVE WHAN:** It is not extensive at all.

**Mr DAVID SHOEBRIDGE:** Nowhere in that discussion paper, Minister, do you see any statement that the effect of the models that you are putting out is a massive slug on householders and a massive gift to business. Nowhere in the discussion paper ever do you see that. Can you explain that? The effect of these things is never put out.

**The Hon. MICHAEL GALLACHER:** Mr Shoebridge, the fact is that it is open to the public to look at. You have seen it. Other people have seen it. Mr Whan has seen it. Other groups have seen it.

**Mr DAVID SHOEBRIDGE:** But why did you not look at this before you put it out?

**The Hon. MICHAEL GALLACHER:** We are not hiding it.

**The Hon. STEVE WHAN:** Did you read it?

**The Hon. MICHAEL GALLACHER:** We put it out there because that was the model that was put forward.

**The Hon. AMANDA FAZIO:** Who wrote it?

**Mr DAVID SHOEBRIDGE:** Did you look at the effect of these models? Did you look at the effect of either of these models—either the flat fee or the ad valorem fee—before you put it out? Did you look at that yourself before you signed it off and got your mugshot on page two?

**The Hon. MICHAEL GALLACHER:** Yes. We have looked at it extensively. Of course we are satisfied that what we have sought to achieve—and that was satisfying an election commitment to look at alternative models, to have a debate on it and to have a discussion on it—is now being met. The Government's position—

**Mr DAVID SHOEBRIDGE:** How could you be satisfied that a model that sees a big annual slug—a quarter of a billion dollar annual slug on householders—is in any way appropriate to put out for consultation without even being honest with the public when you put your consultation paper out about the effect of it?

**The Hon. MICHAEL GALLACHER:** David, you are being dishonest in the sense of saying we are not being honest. We have put this model out there for discussion. We have not tried to introduce it.

**Mr DAVID SHOEBRIDGE:** But you have failed in the consultation paper, Minister, to point out that there is this quarter of a billion dollar slug.

**The Hon. MICHAEL GALLACHER:** How can you fail in a consultation paper?

**Mr DAVID SHOEBRIDGE:** Because it is nowhere in there. Nowhere in the consultation paper do you see the Government being honest with this huge cost shift from business to households.

**The Hon. MICHAEL GALLACHER:** I make the point, David, that there is ample opportunity for The Greens to put their submission forward, and that will be included among all submissions received in relation to this issue—exactly what the public would expect.

**Mr DAVID SHOEBRIDGE:** Did you consider the fact that on your own figures approximately 54 per cent of callouts for the services of Fire and Rescue are for businesses? Did you consider that fact before you put out your funding model?

**The Hon. MICHAEL GALLACHER:** It is not putting out our funding model.

**The Hon. STEVE WHAN:** It is a government paper.

**Mr DAVID SHOEBRIDGE:** Put out the two options.

**The Hon. MICHAEL GALLACHER:** It is a discussion paper. The discussion paper has been broadly canvassed within government and that is now open and been broadly discussed within the public domain, and I stand by that.

**Mr DAVID SHOEBRIDGE:** Do you think it would be fair at all for a levy to be imposed for the purpose of funding priorities which sees householders paying 80 per cent of the levy and businesses receiving 54 per cent of the services? Do you think that is a fair situation?

**The Hon. MICHAEL GALLACHER:** As I said at the start of this debate, while in opposition it was our view that we needed to have a discussion paper that looked at alternatives but also invites submissions from the public and from other interested parties to participate. It is not a question of: Do you think this is fair versus that is fair?

**Mr DAVID SHOEBRIDGE:** Of course it is.

**The Hon. MICHAEL GALLACHER:** No.

**Mr DAVID SHOEBRIDGE:** So fairness is no part of it, is that it?

**CHAIR:** Order! The Minister is answering the question.

**The Hon. MICHAEL GALLACHER:** It is late in the afternoon; they are obviously getting a bit tetchy. The fact is we have put an opportunity out there for the public to express their views and we are now consulting with the public and we are now being attacked for asking the public to participate. We have even gone further. We have extended the date for submissions to ensure that more people who have missed will have an opportunity to put a submission in. I have never been criticised before for public consultation. Today is a red letter day.

**Mr DAVID SHOEBRIDGE:** Do you understand that the criticism is not for asking questions. The criticism is your consultation paper failing to spell out at all that there is a huge cost shift in both of the models being proposed by your Government from business to households? Do you understand that is the nature of criticism?

**The Hon. MICHAEL GALLACHER:** No, I do not understand it is the nature of your criticism.



**Mr DAVID SHOEBRIDGE:** Is it because you have not looked at the cost shift?

**The Hon. MICHAEL GALLACHER:** We have looked at this issue. It is now open to you and others and other community groups to look at this and consider alternatives, if not support this, or indeed even status quo.

**Mr DAVID SHOEBRIDGE:** Did you get any advice on the proposed funding models from the Treasurer or the office of the Treasurer?

**The Hon. MICHAEL GALLACHER:** I would be mindful of what I am bound in terms of Cabinet. I will take the question on notice and respond back to you.

**Mr DAVID SHOEBRIDGE:** Could you provide the same response in relation to the Minister for Finance and Services or the office of the Minister—either the Treasury or the Finance Department?

**The Hon. MICHAEL GALLACHER:** If I am able to answer that question, I will.

**Mr DAVID SHOEBRIDGE:** I understand. I am not asking you to breach Cabinet confidence. And could you convey the substance of that advice, if you are unable to answer it?

**The Hon. MICHAEL GALLACHER:** Yes.

**(The witnesses withdrew)**

**The Committee proceeded to deliberate.**

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