GENERAL PURPOSE STANDING COMMITTEE NO. 4

Wednesday 26 October 2011

Examination of proposed expenditure for the portfolio area

ATTORNEY GENERAL, JUSTICE

The Committee met at 2.00 p.m.

MEMBERS

The Hon. M. R. Mason-Cox (Chair)

The Hon. J. Barham
The Hon. A. R. Fazio
The Hon. T. J. Khan
The Hon. C. J. S. Lynn
The Hon. A. Searle
The Hon. P. G. Sharpe
Mr D. M. Shoebridge

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PRESENT

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

Department of Attorney General and Justice
Mr Laurie Glanfield, *Director General*

Corrective Services New South Wales
Mr Ron Woodham, *Commissioner*

Juvenile Justice New South Wales
Mr John Hubby, *Chief Executive Officer*

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CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS

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

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

CHAIR: I declare the hearing for the inquiry into budget estimates 2011-2012 open to the public. I welcome the Attorney General and accompanying officials to the hearing. Today the Committee will examine the proposed expenditure for the portfolios of Attorney General and Justice. Before we commence I will make some comments about procedural matters. In accordance with Legislative Council 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 photos. In reporting the proceedings of the Committee members of the media must take responsibility for what they publish or what interpretation they 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 attendees in the public gallery should be delivered through the Chamber and support staff or Committee clerks. Attorney, I remind you and the officers accompanying you that you are free to pass notes and refer directly to your advisers whilst at the table. The Committee has agreed that the Attorney General portfolio will be examined from 2.00 p.m. to 4.00 p.m. and the Justice portfolio will be examined from 4.00 p.m. to 6.00 p.m. Transcripts of the hearing will be available on the website from tomorrow morning. The return date for questions on notice will be within 21 days. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. Attorney, I remind you that you do not need to be sworn as you have already sworn an oath of office as a member of Parliament.

LAURIE GLANFIELD, Director General, Department of Attorney General and Justice, sworn and examined:

CHAIR: I declare the proposed expenditure for the portfolios of the Attorney General and Justice open for examination. As there is no provision to make an opening statement before the Committee commences questioning we will begin with questions from the Opposition.

The Hon. ADAM SEARLE: Attorney, in answer to question No. 769 in the Legislative Assembly you indicated that matters were not proceeded with by the Office of the Director of Public Prosecutions as a result of representations from the New South Wales Crime Commission, including Mark Standen. Are you able to indicate which two matters they were?

Mr GREG SMITH: There were no representations that I was aware of from Phillip Bradley—Mark Standen was probably the head investigator in the matter. But there was a matter to do with a fellow who was named as a co-accused with Standen in his ultimate trial, whose name was Kinch, and there was a recommendation I received from Bradley to no bill those proceedings, which I did.

The Hon. ADAM SEARLE: You are not aware of any representations from the Crime Commission that emanated from Mr Standen particularly?

Mr GREG SMITH: Not that I remember at the moment.

The Hon. ADAM SEARLE: Are you aware of any other matters that were not proceeded with by the Director of Public Prosecutions as a result of representations from the Crime Commission other than that to which you refer in your answers?

Mr GREG SMITH: No.

The Hon. PENNY SHARPE: Attorney, can you confirm you attended a forum on 18 September, titled Religious Vilification … will it be illegal, telling the truth about homosexuality in Islam?

Mr GREG SMITH: A forum—was that run by Family Voices?

The Hon. PENNY SHARPE: Yes.

Mr GREG SMITH: Yes, I did.

The Hon. PENNY SHARPE: The file lists you as the guest speaker at the forum in your capacity as New South Wales Attorney General, is that correct?

Mr GREG SMITH: That's what they might have said. I made it clear to them that I was speaking from a personal point of view.

The Hon. PENNY SHARPE: I can show you a copy of the invitation, if you need one.

Mr GREG SMITH: Yes, I have seen the invitation. I did not have anything to do with the production of the invitation.

The Hon. PENNY SHARPE: Can you provide the Committee with a summary of your presentation on this issue?

Mr GREG SMITH: I have no written summary.

The Hon. PENNY SHARPE: Do you recall what you said at that forum?

Mr GREG SMITH: It was a similar—

The Hon. TREVOR KHAN: Point of order. Plainly the Attorney General has indicated that he appeared in a personal capacity. I raise the issue as to how this falls within the purview of budget estimates, if he

attended in a personal capacity. Are we simply going to go, with every witness who appears here, into an exercise of what they do in a personal capacity as opposed to an official capacity as a Minister of the Crown?

The Hon. PENNY SHARPE: Further to the point of order: I have a copy of the invitation right here. It clearly states the guest speaker is the Hon. Greg Smith, New South Wales Attorney General. I believe that it is perfectly reasonable for the Committee to be asking these questions, given the way in which the Attorney was billed in relation to this function.

Mr DAVID SHOEBRIDGE: Further to the point of order: I personally received one of those invitations through my parliamentary pigeon hole, delivered, and it was clear to me, when I saw it, that the invitation at least was that these were statements being made by the New South Wales Attorney General.

The Hon. TREVOR KHAN: Further to the point of order: The Attorney General has already indicated he appeared in a personal capacity and he has also indicated he had nothing to do with the preparation of the invitation. That is the end of the matter at that point, in my submission. What the Hon. Penny Sharpe seeks to do is to verbal the Attorney General with a document that he did not create.

The Hon. ADAM SEARLE: Further to the point of order—

CHAIR: I am ready to rule on the point of order. Given the nature of the invitation I am willing to allow the question to stand and the Attorney to give an answer in that respect.

Mr GREG SMITH: I do not have a summary.

The Hon. PENNY SHARPE: You cannot recall what you said at that forum?

Mr GREG SMITH: It was along the lines of a speech I had given earlier at the University of Sydney Law School where I was talking about whether I thought we should have a religious vilification law and it looked at the area of religious discrimination in Australia; it looked at the Constitution, section 116 of the Commonwealth Constitution, dealing with decisions where that section had arisen for interpretation, and it looked at a comparison between our Anti-Discrimination Act and the similar Acts for other States and a decision in Victoria particularly to do with—I don't know the full name of the case, but it is called 'The Two Dannys' case—where they had been accused of religious vilification over a seminar they ran in which they talked about certain aspects of the *Koran*, I understand, where the Victorian Civil and Administrative Tribunal [VCAT] had ruled that they had vilified and then the Court of Appeal of Victoria had overturned that and said they had not. I also had an article published in *Quadrant* this month, which has a summary of the speech again, if anyone wants to have a look at that.

The Hon. PENNY SHARPE: Was the speech written, the speech that you gave to this forum?

Mr GREG SMITH: The speech to the forum, to the university?

The Hon. PENNY SHARPE: No, St Anne's Ryde Anglican Centre.

Mr GREG SMITH: No, I had bits and pieces from the original speech; I was just highlighting certain bits that I wanted to talk about. I also added some passages on another Victorian decision of the VCAT.

The Hon. PENNY SHARPE: Would you be willing to take on notice the written aspect of that speech and provide it to the Committee?

Mr GREG SMITH: If I can find it, I will make it available. I am not frightened about anything that I have said.

The Hon. ADAM SEARLE: Mr Attorney, do you have any plans for law reform in the area of religious vilification?

Mr GREG SMITH: No.

The Hon. ADAM SEARLE: Do you have any planned changes to the Anti-Discrimination Act.

Mr GREG SMITH: No.

The Hon. ADAM SEARLE: Are you committed to maintaining the existing rights therefore for same sex couples in New South Wales?

Mr GREG SMITH: Yes, that is the law.

The Hon. ADAM SEARLE: Are you committed to maintaining the law in its current form in relation to that subject matter?

Mr GREG SMITH: Yes.

The Hon. ADAM SEARLE: In relation to question 0945 in the Legislative Assembly, you said that a complaint against Mr Nigel Hadgkiss was dealt with in accordance with the relevant policies and procedures of the Office of the Director of Public Prosecutions and that appropriate action had been taken. Are you able to inform the Committee what action was taken in relation to that matter?

Mr GREG SMITH: My understanding is that the director counselled him.

The Hon. ADAM SEARLE: Are you aware if there have been any other complaints against or concerns expressed against Mr Hadgkiss?

Mr GREG SMITH: No.

The Hon. ADAM SEARLE: Mr Attorney, are you aware of the Government's wages policy that is estimated to save $2 billion over the forward estimates?

Mr GREG SMITH: Yes.

The Hon. ADAM SEARLE: Are you able to indicate what savings will be coming out of your portfolio or agency budgets?

Mr GREG SMITH: I defer that to Mr Glanfield—he would have more idea—but quite substantial savings and particularly from Corrective Services I think.

The Hon. ADAM SEARLE: I want to hear something in relation to the Attorney General's side, then I will direct those comments to Mr Glanfield.

Mr GLANFIELD: In terms of the Attorney General's division of the department there are very limited savings and changes being made. I think it is probably appropriate that I address the issue of voluntary redundancy, given the discussion that occurred yesterday. I think there is some confusion about exactly what policies are being applied. In the publication it talked about a number of 489 for the department. That was actually an estimate for the whole of the Attorney General and Justice cluster but the—

The Hon. ADAM SEARLE: That includes the 350 in corrections, is that right?

Mr GLANFIELD: That is what I am just about to get to. The fact of the matter is, though, and I need to give the background to this, there are two aspects to voluntary redundancies. The Government brought in a policy of voluntary redundancy, ultimately leading after three months to potential compulsory redundancy, directed towards those officers who were not in a funded position who had been declared excess and had simply effectively been taken off the books but were still being paid. That was what was being discussed yesterday. In relation to our voluntary redundancies, the vast bulk of all those redundancies, 450 of them in fact—it is only an estimate—relate to Corrective Services and what we are doing in Corrective Services is, we had three areas that had been closed, three prisons, that equated to about 250 positions and also there were negotiations with the union about industrial reforms that equated to a reduction of 350 positions, so 600 all up.

We sought expressions of interest across the board of Corrective Services and our intention of course was to try to find people who were interested in leaving voluntarily—no compulsion whatsoever—and that would enable us to minimise, if at all, the need for anyone to be forcibly made redundant. We had more than 800 expressions of interest and at the moment we are working through that process. The suggestion that anyone who put their hand up for voluntary redundancy under that program might be made forcibly redundant is simply

misleading. A large number of the additional 600 positions will come from putting permanent people into casual positions, positions that have basically been filled by casual or temporary staff.

For the Attorney General's department, Corrective Services has been the single significant area for savings to be made—a bit short of $40 million—and there is a one-off allocation, you will hear about later. Of about $36 million this year—to enable that transition to occur in relation to Corrective Services, but in terms of contributing to the Government's wages policy, basically we are just in the same position as any other agency. There is a salary increase that we will meet and there are efficiency dividends and savings that we will meet through efficiency changes within the organisation, but we do not expect to see many staff at all lose their positions through that.

The Hon. ADAM SEARLE: To return to the question of the $2 billion total savings estimate, you are unable to put a figure for the Attorney General's—

Mr GLANFIELD: No, but I think that is related to the 2.5 per cent. So basically, no, we do not have to produce any further savings to meet that.

The Hon. ADAM SEARLE: I understand what you say about voluntary redundancies. Leaving aside the jobs in corrective services, are you able to give any indication as to where the other persons who may take voluntary redundancies are likely to come from?

Mr GLANFIELD: In fact, some have already come. I should say in relation to corrective services I think at this stage 250 people have already accepted voluntary redundancies and gone out of their number. In relation to the Attorney General's Department, in the number that we provided in that amount published yesterday, five of those are people who were excess back at the start of June and they took voluntary redundancies and so they were included in it. We have a number of other single individuals in various areas who we expect may take voluntary redundancies during the rest of the year, totalling 11. That 11 includes those five who have already taken voluntary redundancies. At this stage they are in areas where there have been some restructures or changes. As a result of that we expect to offer voluntary redundancies to a number of individuals, but it is a very small number.

The Hon. ADAM SEARLE: Less than 10?

Mr GLANFIELD: That is what I just said. It is 11 all up, so it is six on top of the five who were declared excess prior to 30 June.

The Hon. ADAM SEARLE: Will any of those jobs be in the local courts area?

Mr GLANFIELD: No, I do not expect any in local courts. In fact, local courts are a very stable establishment now. Last year with the union we negotiated a fully funded establishment across all our courts in the whole State, and that agreement stands. If a vacancy occurs we fill it as quickly as we can.

The Hon. ADAM SEARLE: Minister or Mr Glanfield—whoever is the most appropriate—how many courts are there across New South Wales?

Mr GLANFIELD: About 155.

Mr GREG SMITH: That is local courts.

Mr GLANFIELD: Local courts, yes.

The Hon. ADAM SEARLE: Is the Government giving consideration to the consolidation of any of those courts in terms of their operation?

Mr GLANFIELD: No. There are no proposals to close any courts. I should say that we do from time to time consider whether we need to establish a new court somewhere because populations move. It is the same with the resourcing of local courts. We try to make sure that our resources are where our clients are. We have no intention of closing anything but, on the other hand, we may well look at opening new courts. In some cases, now we are looking at opening shopfronts rather than whole courthouses.

Mr DAVID SHOEBRIDGE: So you get tried on the street?

Mr GLANFIELD: No, you still get tried in a courtroom. But the vast majority of people who come to a courthouse are not there for criminal trial purposes. We try to ensure that we are providing a service. Many people come there for a range of other services.

Mr GREG SMITH: That is right. They might want to get a birth certificate or something like that.

Mr GLANFIELD: There is a range of different things. In those areas where we are not currently servicing it well we are looking at whether we might establish a shopfront.

The Hon. ADAM SEARLE: Just to be clear, you are not planning to consolidate the operation of any local courts?

Mr GLANFIELD: No.

The Hon. ADAM SEARLE: And you have no plans to close any of the local courts?

Mr GLANFIELD: No.

Mr GREG SMITH: That is right.

The Hon. ADAM SEARLE: Can you rule that out for the next four years?

Mr GREG SMITH: Certainly my current intention is not to close any courts. I think quite a lot of courts were closed under the previous Government, particularly trial courts in smaller country centres, but we have no plans to close any more.

The Hon. ADAM SEARLE: Minister, in March 2010 you indicated that a review of charge bargaining guidelines should be undertaken. In answer to question 445 in the Legislative Assembly, when you were asked whether you proposed to alter or review the guidelines for the Office of the Director of Public Prosecutions in relation to charge bargaining, you indicated no. Are you able to indicate what changed your mind in such a short time?

Mr GREG SMITH: If I remember rightly, back in 2010 the proposed amendment to the Crimes (Sentencing Procedure) Act was requiring Crown prosecutors or persons who were representing the Crown on a plea of guilty to file a certificate with the court verifying that there had been consultation with the victims, but also that the agreed facts constituted a fair and accurate account of the objective criminality. The Crown prosecutors were up in arms about that and I was aware of that. It showed a lack of understanding by those proposing that. Often if a victim of crime does not want to give evidence, to get a statement of facts together that the perpetrator is prepared to plead to you often might have to remove the presence of a knife from the statement of facts, or something like that.

Otherwise there is no plea of guilty, there is no trial—there is a no bill. But you get a result if you can get a plea to a lesser charge with perhaps less serious facts. But they were the provable facts. The original suggestion did not ask for the provable facts, it just asked that it constitute a fair account of the objective criminality. Therefore, the words "or have otherwise been settled in accordance with the applicable prosecution guidelines" were added. Putting the alternative solved the problem because the prosecution guidelines, as I understand them, allow for a summary of facts that represent what can be proved.

The Hon. ADAM SEARLE: I think your indication in 2010 that the guidelines should be reviewed was in the context of your criticism of what you termed "plea bargaining". You were being critical that the Office of the Director of Public Prosecutions was engaging in plea bargaining in criminal matters.

Mr GREG SMITH: I am sorry, but I do not understand that I ever criticised plea bargaining—or charge negotiation, as it is fashionably called at the Office of the Director of Public Prosecutions.

The Hon. ADAM SEARLE: Charge bargaining.

Mr GREG SMITH: Charge bargaining. I think I was just attacking this proposal to, as it were, remove some of the independence of Crown prosecutors proposed by the Government at that time. I was concerned that there had already been a fair bit of reduction of independence during that last term.

The Hon. ADAM SEARLE: But do you recall calling for the guidelines to be reviewed in March 2010?

Mr GREG SMITH: The guidelines are probably 200 or 300 pages long so I do not think I ever called for all of them to be reviewed. I think it was just this particular one about charge negotiation and it was a question of how far they had to go while naturally taking into account the views of the victim whose sensitivities must be always respected. But who is the victim sometimes and who represents the victim sometimes were issues that I do not think were being addressed properly. I heard that all they were going to do was make the Crown sign an undertaking that the facts were an objective summary of the evidence in the case, and that is what I wanted to change. I am happy with the compromise that was ultimately agreed to. [*Time expired.*]

Mr DAVID SHOEBRIDGE: Minister, late last year the Parliament passed the Court Suppression and Non-publication Orders Act 2010. Do you know how many, if any, injunctions have been made under that Act since it was passed?

Mr GREG SMITH: No, I do not.

Mr DAVID SHOEBRIDGE: In particular, do you know of any so-called super injunctions that actually injunct even the publication of the injunction having been made? Do you know whether any of those have been made under that Act?

Mr GREG SMITH: No, I do not.

Mr DAVID SHOEBRIDGE: Is the Government reviewing any of those so-called super injunctions being made to ensure that the public interest is being served by the dissemination of information?

Mr GREG SMITH: I am not conscious of a current review. I am conscious of criticism of that legislation and the idea of super injunctions but I have not received any representations. I have just heard it orally—or maybe in the media, I am not sure. But as far as I am aware, there is no current review.

Mr DAVID SHOEBRIDGE: If a super injunction was made would you undertake to review it to see whether the nature of the material being the subject of the super injunction was properly suppressed by the super injunction?

Mr GREG SMITH: It is not really my role to determine whether the courts are properly exercising their discretion. I would not be doing that unless there were complaints being made that legislation that had been passed was not achieving its purpose.

Mr DAVID SHOEBRIDGE: But you do agree there is a concern at least at one level that the courts now have the power not only to issue the injunction but also to prohibit the public from even knowing that an injunction has been issued by the courts?

Mr GREG SMITH: I have heard there is concern, yes. But I heard, or I thought, it was more in connection with England than here over the recent News Ltd scandal involving the tapping and hacking, and all that sort of thing. My recollection, and it might be faulty, seems to be that there was concern over the use of those powers in England, but I am not sure of an example that said those powers had been used here.

Mr DAVID SHOEBRIDGE: You may not have heard about it because it may be covered by a super injunction.

Mr GREG SMITH: It may be, yes. I do not know. Do you have an example that you can talk about without breaching confidentiality?

Mr DAVID SHOEBRIDGE: No. If I did have an example it would almost certainly be covered by a super injunction. But it is a substantial question of public interest.

Mr GREG SMITH: Oh yes.

Mr DAVID SHOEBRIDGE: The capacity of the courts not only to injunct the dissemination of information but also to prohibit people knowing that there has been the injunction, is it a matter that you will take on board to review?

Mr GREG SMITH: If I received representations that set out injustices caused by that, or lack of candour that the public is entitled to have, then I would look at it, yes. I would have somebody give me a report on it.

Mr DAVID SHOEBRIDGE: Do you accept that there is a requirement for proactiveness from you, given that those who are the subject of such an injunction would not be able, under the terms of a standard injunction like that, even to tell you about the presence of the injunction? Do you accept that there is a requirement for proactive monitoring by the Government in relation to these super injunctions?

Mr GREG SMITH: The legislation you are talking about is certainly not something that I have looked at closely recently. It probably went through Parliament in that rush that usually occurs at the end of the year when bills may not be scrutinised as closely as they were earlier in the year. That was my experience over the previous Government with that sort of legislation.

The Hon. PENNY SHARPE: We are living the experience right now, Attorney.

Mr GREG SMITH: I have done my utmost to encourage freedom of speech, in a sense, and freedom of publication. I brought in the first shield laws in this State, or in any State, to give journalists protection.

Mr DAVID SHOEBRIDGE: Not as good as the bill that was first moved, obviously, for journalists.

Mr GREG SMITH: It was as good as the bill that was first moved by George Brandis. I am not going to cover bloggers who may represent terrorist organisations or criminal organisations or who may just be ratbags. I am protecting bona fide journalist who actually receive money from a publication that is respected in the community and available to the public generally. That is what my shield laws cover. I know they might be a bit different from yours, or from the ones moved by The Greens in Canberra before you moved yours.

Mr DAVID SHOEBRIDGE: Do you accept that bloggers—those commenting and those who are quite active commentators, including on the actions of your Government—are not covered by the shield laws that you moved in the first session of Parliament this year?

Mr GREG SMITH: I accept that they are not covered by them, and I do not know that there is a public interest in covering them. That is why I kept them out.

Mr DAVID SHOEBRIDGE: Is it the position of the Government that that new media, that expanding area of new media, is not worthy of the same level of protection that the so-called traditional print and electronic media are worthy of?

Mr GREG SMITH: I think the problem is that there is very little sanction against those people and very little discipline, whereas a journalist can be sacked if he has a job with the *Sun-Herald* or the *Daily Telegraph* or something like that and he or she publishes something that is inappropriate or that has to do with the work of criminals. I have seen examples in the past in my experience as a criminal lawyer where journalists have been used by corrupt people to name an informer so as to destroy a prosecution. There is the matter of *Cornwall v the Independent Commission Against Corruption* in which I had some involvement because I worked there at the time.

Mr DAVID SHOEBRIDGE: Would you accept that there is a discretion in even your shield laws?

Mr GREG SMITH: Yes.

Mr DAVID SHOEBRIDGE: And that discretion would be available to cover those instances in which you say it would be inappropriate to give that kind of protection to bloggers and commentators on social media.

Mr GREG SMITH: Yes, there is a discretion.

Mr DAVID SHOEBRIDGE: Why is that not satisfactory?

Mr GREG SMITH: Can I answer the question, please?

Mr DAVID SHOEBRIDGE: Yes.

Mr GREG SMITH: There is a discretion. I think it is an important discretion because I think this shield law is exceptional. For centuries, or perhaps a century, journalists have not enjoyed the privilege and some have been carted off to prison, others have been fined heavily for contempt and matters of that sort, and some of them ultimately have had their careers damaged because of their publications and refusal to name. It is not right that their publication of the news should be inhibited by fears of being sent to jail—things of that sort. But in relation to people who do not have that responsibility, who just want to have an opinion out there to attract 200 or 300 or even two or three others who would like to read their blogs, I do not see why they are entitled to that sort of protection.

Mr DAVID SHOEBRIDGE: But why do you not see that contributors to a website like Crikey would be entitled to that protection? Why did you not extend the shield laws to include protections to those kinds of contributors who play a large part in engendering public discourse here in Australia?

Mr GREG SMITH: I did not think it was the right thing to do.

Mr DAVID SHOEBRIDGE: So on your analysis, Mr Attorney, it would be okay for contributors to Crikey to be carried off to jail to have their sources disclosed. That is an expendable social practice in your mind.

Mr GREG SMITH: I am not aware of Crikey publications being of the nature that anybody would bother asking who was the source of that information.

Mr DAVID SHOEBRIDGE: And it is with that kind of contemptuous response that you choose not to protect those kinds of new media sources?

Mr GREG SMITH: No, it is just that I had a subscription to Crikey for a while and I did not continue it because I did not think it was worth continuing. I am sorry, there is some useful stuff in it, but it is largely gossip.

Mr DAVID SHOEBRIDGE: But it is not on that kind of personal view that you are determining whether, as a matter of public interest, contributors to new media should or should not be covered by shield laws.

Mr GREG SMITH: It is not just my view. I do not bring in any legislation unless Cabinet agrees with it, and Cabinet is a robust group. Unless I could put up compelling arguments to cover Crikey and other bloggers, I would not get it through.

Mr DAVID SHOEBRIDGE: Did you try?

Mr GREG SMITH: I would not try at the moment. You have not convinced me.

Mr DAVID SHOEBRIDGE: Not with your Cabinet, I am sure, Mr Attorney. On a different tack, how many acting justices are there currently in the New South Wales Supreme Court?

Mr GREG SMITH: I do not know.

Mr DAVID SHOEBRIDGE: I do not expect you to have the exact figure to hand. I wonder whether Mr Glanfield is in a position to answer it.

Mr GLANFIELD: We would take that on notice, but can I say that, following a High Court decision, we have endeavoured to keep the number of acting judges in the Supreme Court and the District Court and also acting magistrates to the minimum that is necessary. Although there is a legislative restriction on appointment for 12 months, and we appoint quite a number of them for 12-month periods, they are used only when in fact

they are needed. Many of them might only sit for a couple of weeks during the year. It is a fairly small number though.

Mr DAVID SHOEBRIDGE: Could you take that on notice?

Mr GLANFIELD: We will.

Mr DAVID SHOEBRIDGE: I would like the number of acting judges, justices and magistrates.

Mr GLANFIELD: In the Supreme Court?

Mr DAVID SHOEBRIDGE: In the Supreme, District and Local courts and a comparison of the last financial year with the prior financial year, so we can see the change—or calendar year will be fine.

Mr GLANFIELD: Okay. It is going to be a very similar number.

Mr DAVID SHOEBRIDGE: What strategies has your Government instituted, Mr Attorney, to reduce the number of acting judges and ensure that, so far as possible, tenure is protected in the Supreme Court?

Mr GREG SMITH: We believe in tenure. We have not specifically looked at reducing the number because there is a number of reasons for having acting judges. One might be that somebody is on sabbatical leave or there might be a series of judges on sabbatical leave and you need to replace them temporarily. Another might be that a judge has been lent to the Court of Appeal, for example, from the puisne judge level, or even sometimes interstate or to the Land and Environment Court and vice versa, or someone from the District Court might be lent to the Supreme Court, or someone from the Local Court might be lent to the District Court.

They are only for temporary periods. My aim is to fill all vacant positions as and when they become vacant, generally avoiding the Christmas holidays so that they start when the term starts. Every vacant position that I am aware of at the moment is either being filled now or will be filled by the start of the next term. Normally heads of jurisdiction request that judges be made acting judges. It might be that these former judges have particular talents that have been hard to replace. That talent may not have to be used very often so they bring them in to do a particular case.

Mr DAVID SHOEBRIDGE: Are you aware of criticisms, including from the High Court, about the practice of appointing acting justices in the Supreme Court of New South Wales?

Mr GREG SMITH: I think the High Court's criticism was levelled more at a situation where you had more acting judges than permanent judges, or the numbers were very close. We have nothing like that.

Mr GLANFIELD: In fact they were not critical of the practice in New South Wales because they found it did not actually jeopardise the integrity of the courts. However, that High Court case did indicate that if we were to appoint so many acting judges as to flood the composition of the court there would then be a question about the integrity of the court and under the Kable principle that would affect the question of constitutional issues under chapter III. From the point of view of New South Wales we had endorsement of the practices. If you went back quite a few years there had been a practice of appointing a large number of barristers as acting judges. That ceased quite a number of years ago. Almost all are former judges or former magistrates.

Mr DAVID SHOEBRIDGE: Is the intent to retain that structure for the appointments?

Mr GLANFIELD: Absolutely.

Mr GREG SMITH: Yes.

The Hon. JAN BARHAM: Can you provide the figure for the actual expenditure on litigation associated with Aboriginal land claims in the financial years 2009-10 and 2010-11?

Mr GREG SMITH: I will take that on notice. We do not have the figures at the moment. It is quite possible it is not our department's responsibility. I think the Department of Primary Industries normally deals with Aboriginal land claims. If we have the figures we will make them available, but I think perhaps the Minister for Primary Industries might be the one.

Mr DAVID SHOEBRIDGE: You are just hoping it is not from your budget, are you not?

Mr GLANFIELD: I can say that it is not from our budget, but the Crown Solicitor's Office may well have done some work. In fact if they are doing that as solicitor and client, the client would be the one who had that information so you would need to go to the principal department, and that is not us.

Mr DAVID SHOEBRIDGE: What is the current status of the review of victims compensation laws in New South Wales?

Mr GREG SMITH: I will have to take that on notice. Mr Glanfield may be able to answer.

Mr GLANFIELD: I can answer that. At the moment we are just about to go out to tender to identify some consultants to assist us on the review. Our intention is to do a thorough consultative review, but I think we need some outside assistance to look at how the whole compensation scheme is working.

Mr DAVID SHOEBRIDGE: Attorney, noting that you made a contribution to Parliament some weeks ago about the institution of the review, did you intend to have public consultation with stakeholders about the victims compensation scheme?

Mr GREG SMITH: Yes. I think the emphasis I put on it a few weeks ago was about perhaps changing the practice at the moment where victims often have to carry bills from doctors and others for some time—perhaps years—before they get the money from the State. We were going to institute a system of paying the bills as they come in, if it appears to be a legitimate claim, which at least relieves the tension particularly if it is your own doctor and you see them for other things; you do not like to have a bill outstanding. We are committed to ensuring the best possible outcomes for most victims of crime. We have to look at how the scheme is funded. That is the other aspect. We have inherited a black hole in that area. As I understand it, the amounts continue to grow and it is well over $250 million a year now. We have to find another way of funding it because it is just getting too big. The previous Government made some amendments last year, I think, which caused somewhat of an outcry from victims and particularly from their solicitors. I think you and I attended a forum in the theatrette in Parliament that I gather was aimed at trying to reduce this growing deficit.

Mr DAVID SHOEBRIDGE: In your contribution to the House you said you were concerned about the financial sustainability of the victims compensation scheme.

Mr GREG SMITH: That is right.

Mr DAVID SHOEBRIDGE: Is the purpose of the review to look at cutting benefits or to find additional revenue streams in order to ensure that the benefits for victims under the victims compensation scheme are not reduced?

Mr GLANFIELD: That is a question for the review to look at. In fact some changes have already been made that have attempted to increase the revenue into the fund. As the Attorney said, the fund has liabilities somewhere in excess of $250 million and we are spending in the order of $65 million a year, so the purpose of this review is to look at financial sustainability. Amendments were made to the Criminal Assets Recovery Act and 50 per cent of the proceeds under that Act are now paid into the fund, and there were also increases in the levy last year, which was doubled. That is producing additional revenue but we need to look at a way in which we can effectively create sufficient revenue to have a sustainable fund.

Mr DAVID SHOEBRIDGE: You have got to my next question. What is the additional revenue that has been obtained for the fund under the levy that was instituted at the end of last year?

Mr GLANFIELD: I will take that on notice and get the exact figure. It has certainly been an increase.

Mr DAVID SHOEBRIDGE: A significant increase?

Mr GLANFIELD: Millions of dollars, yes, not tens of millions.

Mr DAVID SHOEBRIDGE: Can you also include in the answer any impacts of recent changes that remove the levy from section 10 matters where charges have been found to be proved against a person but are dismissed under section 10?

Mr GLANFIELD: If we have that. We may have some figures on that.

Mr DAVID SHOEBRIDGE: Has the revenue stream from the changes to laws relating to the confiscation of assets increased the revenue into the victims compensation scheme?

Mr GLANFIELD: Not yet, but in a sense that was prospective because it will apply to new confiscations. Generally most of those confiscations come through the Crime Commission, so we would be looking at that increasing over time.

Mr DAVID SHOEBRIDGE: In terms of the revenue from the Crime Commission, has there been a review by your department of the practice of the Crime Commission in entering consent orders and the recovery of criminal assets through consent orders that are not being reviewed by the Supreme Court?

Mr GREG SMITH: No. I understand that is what the Police Integrity Commission is doing in its current hearings or it is part of their charter to examine the practice. It is a matter for the police Minister; it is not in my portfolio.

Mr DAVID SHOEBRIDGE: What is the estimated time for the initial paper on Bail Act reform done by Justice Sperling?

Mr GREG SMITH: I am expecting a report in November.

The Hon. CHARLIE LYNN: Attorney, can you inform the Committee about the work development order scheme and in particular give examples of how it has helped bring about positive behavioural changes?

Mr GREG SMITH: The work development order scheme enables severely disadvantaged people to work off their fines. Work development orders give the homeless, mentally ill and people with serious addictions to alcohol, illicit drugs and other volatile substances the chance to clear their debts by engaging in unpaid work or educational and therapeutic programs. I believe that the use of work development orders will divert more people from the criminal justice system and will save taxpayers' money. There are three main benefits of work development orders: first, to help bring about positive behavioural changes; secondly, to encourage people with mental health issues to engage in treatment; and thirdly, to encourage people with addictions to alcohol, illicit drugs and other volatile substances to undergo rehabilitation.

On the subject of positive behavioural changes, the statistics on re-offending are particularly encouraging. My department coordinated an evaluation of the work development order scheme, with the assistance of the State Debt Recovery Officer, BOCSAR and the University of Wollongong, which carried out independent research on the work development order scheme. The evaluation report showed that 82.5 per cent of participants had no further fines or penalties referred to the State Debt Recovery office for enforcement. About 40 per cent of these people were previously serial offenders, having had four or more enforcement orders made against them in the two years prior to being issued with a work development order scheme.

Although preliminary, these results are outstanding, given the cohort of work development order scheme participants, which includes people with significant disabilities such as mental illness, or other disadvantage. The independent research by the University of Wollongong reported that the work development order scheme was significant in bringing about positive behavioural changes and pro-social attitudes to authority and offending. For people who had little income or no capacity to pay existing fine debt, fines became meaningless. As fines become meaningless, there is little incentive to stay within the law. This was particularly true of young people who felt defeated by their situation. As one participant put it:

> I thought "Just put it on my tab—add it to the collection. If I can't afford a train ticket, what makes them think I can afford a $150 fine?"

However, once given a way out of unpayable debt, most work development order scheme recipients responded with a renewed commitment to clean living: buying train tickets, parking legally and generally trying to stay clear of trouble. One participant said:

> Right here today, for the first time in 20 years, I am not on bail, or bond or on a charge. This is my last chance to be a cleanskin—it all balances on the WDO. It means my life.

Another said:

> The WDO gives me a clean slate—the ability to be normal again ... This is the best opportunity I have got to be someone without problems.

This renewed commitment to law-abiding behaviour is one of the most exciting findings of the work development order scheme evaluation, and the reason why the scheme should be recognised as one of the most significant diversionary schemes in place in this State. One remarkable success story concerned a man in his late 40s who had a long history of incarceration. He said:

> Having the WDO has opened up a whole new world for me, as I never expected to be able to get my licence back because of my participation in a program. I can now look for employment that requires having a licence, because every interview I have gone for lately asks for own transport or a drivers licence. Once I have some driving lessons I will be able to borrow my sister's car and go for my driving test. It's given me more freedom financially by reducing my debt, and more freedom to travel to see my family once I start driving as they live all over New South Wales My self esteem is lifted because I never ever thought I would be able to get my licence because of all the fines I have, I had given up on it. But now with the WDO opportunity it makes a big, big difference. It makes me feel like a man again.

Most criminal justice diversionary schemes are available only to people who have committed crimes so serious that they have been summonsed before the court. The beauty of the work development order scheme is that it is available to people at their earliest point of contact with the criminal justice system, that is, when a penalty notice is issued. The scheme is giving people the opportunity to turn their lives around before they spiral out of control. It gives people the opportunity to change tack before they end up in deeper trouble. I could go on.

The Hon. TREVOR KHAN: Please do.

Mr GREG SMITH: I will. Encouraging treatment of mental issues is a very important area that both sides of politics are interested in, particularly our side. We are looking at ways to improve things. Another positive outcome of the work development order scheme is the way it has encouraged people with mental health issues to engage in treatment. Not long after the work development order scheme commenced, the Schizophrenia Fellowship reported that it was making a big difference for people with serious mental health issues by reducing stress, and providing an environment for engagement between mental health consumers and service providers. It was of the view that the work development order scheme was likely to reduce the likelihood of acute admissions for these people.

This early feedback was confirmed by both the online survey of all participating organisations and health practitioners, and the University of Wollongong study. Approved organisations and health practitioners reported tangible mental health benefits for their clients. This was partly because the work development order scheme relieved them of the stress and anxiety associated with unpayable fine debt. The following quotes from mental health practitioners interviewed by the University of Wollongong illustrate the value of a work development order scheme for people with mental health issues:

> Engaging around half of our clients in treatment is really hard; usually there is denial and embarrassment about their illness, and the illness itself brings about a lack of 'reality' about their situation; plus then we offer them treatment that they don't like … [However] When I say 'I could help you get your licence back', all of a sudden we have got engagement. Everything else we offer seems like a compromise with side effects—the WDO is the most concrete and effective way of getting compliance with treatment I've seen. There is nothing else like it. Clients get quite excited about it

Just as the work development order scheme is working as an early criminal justice diversionary scheme, it is also working as an early intervention strategy for mental health treatment. As one mental health practitioner put it:

> A WDO can easily be thought of as an early intervention for mental illness. If you can prevent and reduce symptoms of mental illness with a WDO and the treatment that it engages the clients in, this will reduce the cost to Government down the track in a big way. Alcohol, smoking, violence anti-social behaviour—you name it.
>
> It is sometimes the only thing which can entice a difficult client to treatment and the quick results show a client that their efforts are rewarded.

In relation to encouraging drug and alcohol rehabilitation, in light of the astounding success of the work development order scheme as a means of developing pro-social behaviour, and as a means of encouraging

people to engage in treatment, the Government decided to expand its operation to those in the grip of alcohol and drug addiction—two major precursors of crime. When the work development order scheme was a pilot scheme, drug and alcohol addiction was not a ground of eligibility for a work development order, but drug and alcohol treatment was an activity that could be undertaken as part of a work development order. The evaluation found that just as work development orders provided an incentive for participants to undertake mental health treatment, they also encouraged participants to engage in drug and alcohol rehabilitation. Often people suffer from the three problems.

There is a strong link between drug addiction, alcohol abuse and participation in crime. For instance, an Australian Institute of Criminology study found that more than half of all male prisoners surveyed said that all or most of their offending could be explained by their illicit drug use. Another study found that 71 per cent of detained juveniles were intoxicated at the time of their last offence, 44 per cent of burglars attributed their crimes to the need to obtain money to buy drugs, and almost one-third of youths who had been charged with assaulting others, attributed the offence to being drunk or high at the time.

International research also demonstrates the nature and extent of alcohol-related crime more generally, including alcohol-related violence. In light of those grim findings the Government had no hesitation in extending the grounds of eligibility for the work development order scheme to those with serious addictions to drugs, alcohol or volatile substances. It is much better to encourage someone into treatment as early as possible, than wait till their criminal behaviour escalates into serious drunken or drug fuelled assaults. It also makes a great deal of sense, from a justice perspective. As one drug and alcohol case manager commented:

> Why I love the program is that most if not all of these guys' fine debt is a product of their alcohol and drug addictions, and they're eating into that debt through treatment. There's a symmetry to it—a justice.

Extending the work development order scheme to young people with drug and alcohol addictions makes much more sense than waiting till they turn up in the adult criminal justice system, with addictions of 10 or more years standing. The following work development order case study from a drug and alcohol treatment centre illustrates how quickly a young person's life can spin out of control, and the way the work development order can help turn them in the right direction:

> Michael (name changed) who was 16 years of age had been homeless and living on the streets for 3 months. He came from a loving family but felt his family were too strict and left to find freedom which he felt he could find with his peers. In this relatively short time he was exposed to extreme violence where he witnessed his best friend being stabbed with a sword and placed into a coma. He was involved in street crime and had spiralled into a foreign world where drug taking was a daily event. He was living in and out of crisis refuges, on the streets and in temporary squats. Due to the huge number of fines he had incurred through State Debt, staff from [the Drug and Alcohol centre] encouraged Michael to participate in the WDO program. Michael happily agreed to participate in counselling and case work to have his fines removed which enabled staff to work with him on a regular basis. Although he was often unsettled at the program, staff were able to encourage him to contact his juvenile justice officer, attend court and give him the strength to continue to contact his family who missed him dearly. Michael has now had all his fines removed, finished his probationary period successfully and returned home to live with his family.

A Hollywood ending; the community benefits. I will finish on this subject shortly. It is clear that the work and development order program is a shining example of another successful step taken by the Government to reduce recidivism in New South Wales, by directly addressing the underlying causes of criminal behaviour—in particular, drug and alcohol abuse. By helping to bring about positive behavioural changes in people, encouraging treatment for people with mental health issues, and encouraging rehabilitation for alcohol and drug abuse, we are able to feel major benefits, both economic and social, in the community. An evaluation has concluded that the work and development order scheme is a significant success. The scheme has reduced reoffending and secondary offending; provided a strong incentive for people to engage in unpaid work, educational and vocational courses, and mental health and drug and alcohol treatment; improved mental health outcomes; built job skills and opened up employment opportunities; and reduced cost to government and non-government agencies.

The Hon. TREVOR KHAN: Attorney, I think the final question asked by Mr David Shoebridge related to the Bail Act. Are you able to indicate to the Committee what the current trends are with regard to bail and whether the Government is considering any reform of the bail laws in New South Wales?

Mr GREG SMITH: It is a very topical issue; there was an excellent piece in the *Sydney Morning Herald* today by Geesche Jacobsen in which she referred in some detail to a submission by the Chief Magistrate to the bail review, setting out the magistrate's perspective on problems. A Bureau of Crime Statistics and Research report on trends in bail and sentencing outcomes in New South Wales criminal courts between 1993 and 2007 revealed that in local courts the proportion of defendants refused bail doubled during those years,

from 3.6 per cent to 7.6 per cent. In the District and Supreme courts the proportion of defendants refused bail during that period also doubled, from 23.8 per cent to 47.6 per cent.

A Bureau of Crime Statistics and Research report on the use of unconditional bail before trial in New South Wales between the years 1999 and 2008 found that over the past decade there has been a marked reduction in the number and percentage of cases where bail is dispensed with, from 60.3 per cent in 1999 to 44.9 per cent in 2008; and that, while there has been some increase in the percentage, 3 per cent, and number of defendants refused bail, the main change has been a rise in the number of defendants placed on bail rather than released unconditionally.

Another trend has been the increase in the number of juveniles being held in custody pending a court outcome—that is, being held on remand. Between 2007 and 2008 the juvenile remand population in New South Wales grew by 32 per cent, from an average of 181 per day to 239 per day. In 2009 there was a downward trend in the juvenile remand population, and this continued to the end of 2010. Remand numbers spiked in March 2011, to 261, and in July of 2011, to 241. On Saturday night 23 October 2011 there were 197 young people held on remand. The average number of juvenile remandees per day in 2010-11 was 193, and this is still higher than the daily number in 2007.

The juvenile remand rate continues to be characterised by significant fluctuations and remains at an unacceptably high level. Fifty to 60 per cent of young people in detention centres are held on remand; 90 per cent of admissions to detention centres are remand admissions; and approximately 82 per cent of young people remanded in custody do not receive custodial sentences. Pressure is being placed on the remand population by an increase in both the number of juveniles placed on remand and the average length of stay on remand. Increases in the remand population are also occurring among adults. As at 16 October 2011, 2,671 people were in full-time custody on remand, awaiting trial or sentence. This is an increase of 86 per cent over 10 years since 30 June 2010, when only 1,433 people were in full-time custody on remand.

We have commenced the Bail Act review, and on 8 June I asked the Law Reform Commission to undertaken a review of bail law in New South Wales. I am concerned that the Bail Act may have moved away from the spirit and intent of the original legislation—as was reflected in the comments made by the Chief Magistrate, Graeme Henson, reported in the newspaper today. This was to ensure attendance at a hearing or trial, to stop defendants from committing further offences and to prevent interference with witnesses. In announcing the review I was also conscious of the number of people on remand, especially juveniles. I also have concerns about the complexity of bail law in New South Wales and I know these concerns are shared by members of the legal profession and the bench. Bail laws should be as clear and straightforward as possible.

The terms of reference for the review incorporate issues such as: the objects of the Bail Act; the factors to be considered and presumptions to be applied in bail determinations; the consequences of breaching bail; the desirability of maintaining section 22A of the Bail Act; and the application of bail laws to young people and Aboriginal people and Torres Strait Islanders. The Law Reform Commission can also consider the bail laws of other jurisdictions and any additional bail-related matter. A retired Supreme Court judge, the Honourable Hal Sperling, QC, is leading the New South Wales Law Reform Commission project, with the assistance of its chair, former Justice James Wood, and is due to report next month.

I would like to make a few comments on the juvenile remand population. I am advised that the heads of justice agencies were asked to look into the issue of increases in the number of juveniles being held in remand, and to identify the causes of the increase. As part of this process, advice was sought from the Bureau of Crime Statistics and Research, which identified two major correlating factors: increased policing of bail conditions, which I think is due to the old State Plan, which we have ditched; and changes made to the Bail Act 1978 in 2007 to prevent the making of repeat bail applications in the same court. I might continue with more comments on that matter later, if that is the end of this period.

CHAIR: You may finish your answer if you wish, Attorney. Is it a long answer?

Mr GREG SMITH: It is a fairly long answer.

The Hon. PENNY SHARPE: You could table it, Attorney, if you would like to do that.

Mr GREG SMITH: I do not want to table it. It is too precious for that.

Mr DAVID SHOEBRIDGE: I will ask some questions about it.

[*Short adjournment*]

The Hon. ADAM SEARLE: The Criminal Case Conferencing Trial Act was designed to promote more efficient trials. In June this year the Criminal Case Conferencing Trial Amendment (Extension) Regulation extended the trial from 1 July this year to 1 July next year.

Mr GREG SMITH: Yes.

The Hon. ADAM SEARLE: Very recently in the *Government Gazette* another Criminal Case Conferencing Trial Amendment Regulation appears to undo that and ended the trial on 8 October this year.

Mr GREG SMITH: Yes.

The Hon. ADAM SEARLE: Can you explain what caused the change of policy?

Mr GREG SMITH: The evaluation of criminal case conferencing, which was done by the Bureau of Crime Statistics and Research [BOCSAR] under the previous Government, was quite negative in its practicality. It has been difficult to get funds. The DPP had some funds allocated in a previous budget because it was a pilot scheme, but I could not get the funds for this current year because of the inability to satisfy that the system was working. I am conscious, from my previous career, of the amount of effort that has been made over the years to try to reduce the number of late pleas before trial. It reached the stage where 50 per cent of Sydney District Court trials were pleading on the last day or the day before the trial. That was costing a fortune in the sense that the case had to be prepared, witnesses brought in and things like that and then it would go off with a plea of guilty. As I understand it, no discernible increase in early pleas can be demonstrated. So we are back to the drawing board. Those matters currently part heard or involved in the process will finish, but otherwise the system will stop, as I understand.

The Hon. ADAM SEARLE: You said that you could not get the necessary funding to continue the trial. How much funding was needed?

Mr GREG SMITH: It was not an enormous amount. I do not know. I think it was about $1½ million. It might have been $2 million, but the DPP could not afford to keep it going without that funding. Over the years it has been cut back quite a bit and it is a strain, and that is a lot of money. Therefore, we cannot show that it has any practical value in the sense of early pleas, although the DPP and Legal Aid would have liked to have kept it going just to give it more of a chance. That is where it is at the moment. If more funding becomes available or some new proposal is put forward that is similar to what has been done and might work, we will consider it.

The Hon. ADAM SEARLE: You indicated that BOCSAR had reviewed the scheme and that its evaluation was negative. Is that review publicly available?

Mr GREG SMITH: I think it is. I am not sure. We will check that.

The Hon. ADAM SEARLE: Budget Paper No. 3, page 2-38, indicates that funding in the Office of the Director of Public Prosecutions for prosecutions will increase only by 2.6 per cent this year, while inflation for the same year ended 30 June 2011 was 3.6 per cent. Effectively, that is a cut to the DPP, is it not?

Mr GREG SMITH: Sorry, you said it would go up 2.6 per cent, and then what was the second one?

The Hon. ADAM SEARLE: The second one was that inflation for the past year was 3.6 per cent. What I am putting to you is that funding for the DPP for prosecutions has gone up by less than inflation, which is, in fact, a small cutback?

Mr GREG SMITH: I would be surprised if that is even right. I think they have to make other efficiency cuts, which go across the public sector. But this has been a characteristic of budgets for some years that I have been aware of. Each year when I was at the DPP we seemed to be worse off, and that has not changed. I hope to change it. I think the community would hope to change it, but the money is just not there.

The Hon. ADAM SEARLE: At page 36, in NSW 2021—your Government's version of the State Plan—one thing your Government intends to do is to establish a Commissioner of Victims Rights. Is that still part of your plan?

Mr GREG SMITH: Yes, but it has not got high priority at the moment. We are waiting for a report from the Victims Advisory Board. Some negative suggestions have been made that the proposal is not necessary, but I will wait to see what the Victims Advisory Board says.

The Hon. ADAM SEARLE: That part of the plan may fall away?

Mr GREG SMITH: It may or it may not. There are divided opinions on it. I am not aware of any Government that has ever put into operation every policy it has talked about before elections—certainly not the previous Government. If you like, I can rattle off a few matters in the criminal justice area that never occurred.

The Hon. PENNY SHARPE: Minister, could you outline to the Committee which ones in your portfolio you believe may or may not be implemented?

Mr GREG SMITH: I do not know of any at the moment.

The Hon. PENNY SHARPE: Except for the one you just mentioned.

Mr GREG SMITH: I do not know. There is the possibility of the one allowing victim impact statements from the family of victims in homicide cases to be used in sentencing. Under the law at the moment they are not able to be used. There seem to be divided opinions over that issue among victim groups. We are consulting on that.

The Hon. ADAM SEARLE: Minister, recently the Parliament passed the Work Health and Safety Act, one of the features of which is to transfer criminal jurisdiction in category 2 occupational health and safety matters from the Industrial Court of New South Wales to the District Court?

Mr GREG SMITH: Yes.

The Hon. ADAM SEARLE: Recently you and the Minister for Finance and Services jointly announced what the transition period will be—that is, new matters will start on 1 January in the District Court and matters already in the Industrial Court will stay there. Have you had any discussions with your agency or with the Chief Judge of the District Court about the resourcing impact the new jurisdiction will have on the District Court?

Mr GREG SMITH: Yes, I have had several.

The Hon. ADAM SEARLE: Are able to tell the Committee what the workload impacts are estimated to be?

Mr GREG SMITH: No, I do not know what the workload impacts are expected to be. But naturally it will have some impact, and the Chief Judge will always want more resources.

The Hon. ADAM SEARLE: You anticipate my next question. Has the Chief Judge of the District Court given your agency any advice about the additional resources, if any, he thinks will be necessary to deal with the new jurisdiction?

Mr GREG SMITH: I am not aware of any final figure on that. I think it is one of these "wait and see how it goes" situations. There are some areas in the District Court that have fallen away, such as civil work. There are other factors that might make more judges available. I am not sure yet. There are a number of acting judges there who might be able to work more often. I expect that they will require more resources.

The Hon. ADAM SEARLE: You do not have any specific idea about what that resourcing means?

Mr GREG SMITH: No. I do not think it is a lot. The people-smuggler trials are causing a lot of trouble. I gather they are using a lot more resources than expected for those trials and we do not get any money from the Commonwealth for that.

The Hon. ADAM SEARLE: On 14 October you, the Minister for Finance and Services, and the Minister for Fair Trading made a joint reference to the Standing Committee on Law and Justice to inquire into and report on consolidating tribunals in New South Wales. Attached to that was a brief issues paper. Are you able to indicate who drafted that issues paper, or which agency?

Mr GREG SMITH: No, I am not. I think it might have been Minister Pearce's agency—it was not ours.

The Hon. PENNY SHARPE: Could you take that on notice and report to the Committee which agency it was?

Mr GREG SMITH: Yes. We can certainly say it was not ours.

The Hon. ADAM SEARLE: The discussion paper canvasses a whole range of potential options for consolidating tribunals in New South Wales and talks about the experience of other jurisdictions, in particular in Victoria. Planning and land valuation disputes are one of the areas that was merged into the Victorian Civil and Administrative Tribunal or the Queensland Civil and Administrative Tribunal. Are you aware of any plan to put planning matters into any consolidated tribunal in this State?

Mr GREG SMITH: No.

Mr DAVID SHOEBRIDGE: "New CAT."

Mr GREG SMITH: We have our Land and Environment Court, which has an exceptional reputation. We do not pretend we can do better than that, so we are not going to change it.

The Hon. ADAM SEARLE: You have indicated that your agency did not draft this document.

Mr GREG SMITH: I am told that Minister Pearce's agency did.

The Hon. ADAM SEARLE: Are you aware if your agency was asked for any input into the content?

Mr GREG SMITH: We had discussions as to the issue. I assume that my officers would have been shown the draft before it went out.

The Hon. ADAM SEARLE: On page 7 there is a discussion in the context of potentially merging part of the Administrative Decisions Tribunal [ADT] and the Industrial Relations Commission. It says that only about 23 per cent of discrimination matters in the Administrative Decisions Tribunal are employment related. Are you able to indicate whether they are current statistics, because that is very different to information I have understood historically?

Mr GREG SMITH: No, I am not.

The Hon. ADAM SEARLE: Are you able to take on notice what the percentage of discrimination matters in the ADT are employment related?

Mr GREG SMITH: We will take that on notice.

The Hon. ADAM SEARLE: The only reason I ask is that in previous annual reports of the ADT it does not seem to be specifically identified.

CHAIR: We now turn to crossbench questions.

Mr DAVID SHOEBRIDGE: In terms of that review into potential super tribunals that instituted the "New CAT" review—as Mr Searle likes to refer to it—how many of those tribunals fall within your jurisdiction or are covered by your department?

Mr GREG SMITH: Directly the Administrative Decisions Tribunal and I suppose the Industrial Relations Court. I know, in a sense, that is not an administrative tribunal but I am responsible for the

appointment of the judges and the deputy presidents. For some of the medical tribunals I appoint the chair and deputy chair, or I have a say in the nominations and ultimately I have to agree. There is no connection between that and the merger. They are the main ones.

Mr DAVID SHOEBRIDGE: To the extent that you have any oversight of those tribunals, do you undertake to allow the heads of those jurisdictions to make a frank submission to the committee without reference to the department or to you?

Mr GREG SMITH: They are independent as far as I am concerned. I do not see why they would have to refer them to me. I assume I will get to see a copy of them. As far as I am aware, they all support this proposal. The president certainly does.

Mr DAVID SHOEBRIDGE: They will be entitled, to the extent you have a say in it, to make a submission directly, without having to get such submission passed through the department or signed off by any other officer.

Mr GREG SMITH: I am all for independence, if I can be. I am not going to interfere if it is inappropriate—as it sounds like it would be.

Mr DAVID SHOEBRIDGE: In terms of resourcing for the Office of the Director of Public Prosecutions [DPP], in the last 12 months are there any trials that have been adjourned or trial dates lost because of the unavailability of prosecutors from the DPP due to budget constraints?

Mr GREG SMITH: Not that I am not aware of.

Mr DAVID SHOEBRIDGE: Could you undertake to review that and answer it on notice with a degree of comfort?

Mr GLANFIELD: We have not been notified of it. I guess that would be my answer.

Mr GREG SMITH: I can only talk since April.

Mr DAVID SHOEBRIDGE: I am happy for it to be broken down pre and post April.

Mr GREG SMITH: We can have a look.

Mr DAVID SHOEBRIDGE: Minister, you spoke earlier about section 22A of the Bail Act and some of the concerns that have expressed broadly about how that has led to a substantial increase in the remand population in New South Wales. Are you concerned that one of the only submissions that spoke in favour of retention of section 22A came from the newly appointed Office of the Director of Public Prosecutions?

Mr GREG SMITH: I am not concerned, no. The DPP is independent. The director would take a collegiate view from his officers and that might be how they see it. Prosecutors may take a different position from what I would take as Minister.

Mr DAVID SHOEBRIDGE: Do you have any position as to section 22A of the Bail Act?

Mr GREG SMITH: I had made comments when I was Leader of the Opposition—shadow Minister. I was never Leader of the Opposition.

The Hon. ADAM SEARLE: You have no aspirations in that direction, Mr Attorney?

Mr GREG SMITH: I am sure Mr Robertson fills that job better than I would want to. It seemed to me that it was leading to an inordinate number of people being refused bail and it was worthy of examination. Originally, section 22A, as I recall it, only applied to Supreme Court bail applications. I remember the old days when experienced criminal lawyers would go judge hunting, as it were, and they could get cases listed much quicker than they can these days and they could predict almost who would be sitting in bails. I think the amendment for Supreme Court bails occurred in the early 1990s. It was only in 2007, I think, that was changed and it had this immediate impact. I do not know that it was a desirable impact because I understand a number of

people were being refused bail who, if had they been convicted, could not have received a jail sentence. To me, that is bizarre.

Mr DAVID SHOEBRIDGE: Indeed. In the last decade there effectively has been a law and order auction in New South Wales, often inflamed by talkback radio and elements of the media. Do you have a strategy to implement the recommendations of the review and deal with what may well be an inflammatory response from elements to any pulling back from that law and order auction?

The Hon. TREVOR KHAN: There was not one at the last election.

Mr GREG SMITH: It is up to the Cabinet, of course, as to what ultimately happens to any recommended legislation. I would hope that I can adopt most, if not all, of the recommendations when they come forward. But I have to see them first. From what I have heard of the published submissions—and they are what they say they are, submissions—most of them have favoured the deletion or serious amending of section 22A and they have talked about taking away presumptions against bail. There has been some suggestion of e-bail and that is something we would look at seriously as well. I hope we will get an improved bill, draft bill, out of this. I felt the draft bill that was circulated before the election was too harsh. I am hoping for something that adheres more to the original intention of bails, as expressed in the original Bail Act.

I know that there might be some media reaction but I have not really concerned myself much about that. My whole philosophy of doing away with the law and order auction and saying we have to concentrate more on rehabilitation and getting down recidivism was always potentially likely to lead to an attack on me. But there has been very little, in fact. In the main, the previous Government seemed to come along with a lot of those views ultimately too. Whilst there always will be criticism, I am sure, of cases where bail is granted and someone seems to have been a serial offender, such as a car stealer offending Skye's law and matters of that sort, I think those are exceptional cases and most bail decisions are probably right.

Mr DAVID SHOEBRIDGE: On the assumption you get the report sometime in November, will you commit to a timetable for a response, at a minimum, in the first half of next year?

Mr GREG SMITH: I would like to, but I will not commit. I would like to have it early next year some time. It just depends on what other work we have, what other priorities and what the recommendations are. If the recommendations are hard to sell to my own Cabinet or my own joint party room, then maybe it will not get through as quickly or maybe we will do it in stages. I do not know.

Mr DAVID SHOEBRIDGE: It is looking like a difficult task. Do you know, Mr Attorney, if there have been any prosecutions commenced or advised to you under the new extraterritoriality provisions in relation to overseas commercial surrogacy?

Mr GREG SMITH: No, I do not know. I do not think so. I have not had any reported to me.

Mr DAVID SHOEBRIDGE: Could you take that on notice and review that?

Mr GREG SMITH: Yes.

Mr DAVID SHOEBRIDGE: Has any review been undertaken of that fairly controversial change to the law last year?

Mr GREG SMITH: Not as far as I am aware. I certainly have not directed one.

Mr DAVID SHOEBRIDGE: Is there any concern in the department that the best interests of children might have been lost in the course of those prosecutions?

Mr GREG SMITH: I do not know what the department thinks. I had my own views on that bill but it is now the law. So I will follow the law as it is in place. I have heard some criticism in the media, I think, concerning a film star or somebody and how it might have impacted on her. I just wondered where that was going but it does not seem to have developed any further.

Mr DAVID SHOEBRIDGE: I refer to the Ombudsman's review of parts 2A and 3 of the Terrorism (Police Powers) Act, which I think was delivered in August. Given that the powers related to preventative

detention have never been used in New South Wales—in fact, anywhere in Australia—what, if any, consideration has been given to the removal of these obviously unnecessary laws?

Mr GREG SMITH: None, as far as I am aware. We must always be conscious of the potential for terrorist acts. There are still matters, I think, coming before the courts involving terrorism. I have heard of one matter in Victoria recently involving a conspiracy to blow up the Lucas Heights nuclear reactor, which is a frightening thought.

Mr DAVID SHOEBRIDGE: All of which are dealt with under existing criminal laws and none of which have required the use of the draconian terrorism laws that were put on the books.

Mr GREG SMITH: That is right, so no-one has been inconvenienced or treated in a harsh way because of it.

Mr DAVID SHOEBRIDGE: Do you accept that the retention of those laws on the statute books leaves in place the capacity of the State to use those powers, which clearly are unnecessary given the examples you cite?

Mr GREG SMITH: I do not accept they are clearly unnecessary. I would be reluctant to change any of those laws unless a good case could be made for it. My main concern is to ensure the safety of our people.

Mr DAVID SHOEBRIDGE: I turn to the graffiti laws that the Government has been attempting to get through Parliament. Was there any consultation with your department or with you about the proposed terms of those graffiti laws?

Mr GREG SMITH: I think I took advice. They took part in a Cabinet minute process. I am not sure that we discussed it in any great detail. There has been discussion about the setting up of the graffiti hotline. There has been discussion about the retention of Graffiti Action Day and discussion about assisting local councils that previously had not been assisted. When we were in the drafting stages there was some discussion about the implementation of the P-plate provisions and that sort of thing. That is all I recall. There was no brawl, no argument.

Mr DAVID SHOEBRIDGE: Do you accept that the pattern of laws, putting more juveniles before the courts, is contrary to your oft-repeated statements about removing juveniles from the criminal court system and taking a different and fresh approach to juvenile justice in New South Wales? It is directly contrary.

Mr GREG SMITH: I do not accept it is directly contrary. I think the graffiti situation is in plague proportions. It is a very serious area of potential criminality. It is a bad crime in itself and it leads to worse crimes—that is my belief. By putting them before the court, in a sense, we are helping to save them from a life of crime.

Mr DAVID SHOEBRIDGE: It is directly contrary to your work development order. [*Time expired.*]

CHAIR: Attorney, do you want to continue your answer in relation to the Bail Act or would you like a fresh question?

Mr GREG SMITH: I think I was talking about the juvenile remand population. More recent research by the Bureau of Crime Statistics and Research found that, on average, those juveniles being refused bail by police were those with a high risk of reoffending and few of those refused bail had a low risk of reoffending. The Hon. Hal Sperling, QC, will carefully consider the available evidence and come to his own conclusions. An appropriate balance must be struck. As the Bureau of Crime Statistics and Research stated in its research:

> Detaining juveniles who are at low risk of re-offending may cause psychological harm, disrupt the child's family life and/or harm their school performance. Releasing juveniles who are at high risk of re-offending puts the general community at risk.

Bail conditions are also a key consideration; they are an important means of protecting the community and ensuring a person does not offend again while he or she is awaiting trial. It is therefore necessary, and appropriate, that police seek to ensure that such conditions are observed. However, onerous bail conditions may make it difficult for young people to comply due to their complex needs and/or lack of understanding.

It is also worth keeping in mind that an accused person has rights under the Bail Act 1978 to seek a review in relation to conditions of bail. Section 22A of the current Act provides that a court is to refuse an application for bail if an application has already been made and dealt with by the court, unless there are grounds for a further application. The grounds for a further application include instances where the person was not legally represented when the previous application was dealt with or where there are new facts or circumstances which were not presented in the previous bail application. The provision does not prevent a person from seeking a review of a bail decision in a higher court. An accused person can make a fresh application for bail if he or she has new information to present to the court.

Juvenile Justice is currently using the Bail Assistance Line and intensive bail supervision in an attempt to reduce the juvenile remand population. The Bail Assistance Line is an after-hours service for police who are considering granting conditional bail to young persons who are in their custody but who cannot be released as they cannot meet their bail conditions. The Bail Assistance Line was established as a result of Justice Wood's Special Commission of Inquiry into Child Protection Services in New South Wales. The service aims to reduce the increasing numbers of young people being held on remand who can be safely supervised on bail in the community more cost effectively and efficiently.

The period between arrest and sentencing presents a unique window of opportunity for Juvenile Justice to intervene effectively, with the cooperation of other agencies such as Community Services and the New South Wales Police Force, in order to divert young people from unnecessary incarceration. Police contact the Bail Assistance Line when they are considering conditional bail but are unable to locate a responsible adult, transport or appropriate accommodation. Bail coordinators are able to assist police and, where possible, attend police stations and interview the young person, with the aim of locating a responsible adult, providing safe transport and/or arranging accommodation services. The priority target group is young people 10 to 17 years of age and, in particular, young people who are under 14 years of age, with a focus on Indigenous young people.

Integral to the successful diversion of young people from custody is the provision of services including transport, accommodation and case support. Selected non-government organisations, including CatholicCare and Life Without Barriers, support the Bail Assistance Line through the provision of bail-related services such as transport, accommodation and case support for both Indigenous and non-Indigenous young people. The Bail Assistance Line operates between the hours of 4.00 p.m. and 3.00 a.m. every day, including Christmas, in metropolitan Sydney and the Newcastle-Hunter region. These areas were identified through Juvenile Justice statistics as showing high rates of remand due to a young offender's inability to meet his or her bail conditions.

Following an analysis of demand for services, resources providing supported accommodation for the Dubbo pilot were diverted to enhance bed availability for metropolitan Sydney in September 2011. Police within the Dubbo area are still able to access telephone services from the Bail Assistance Line. Juvenile Justice is currently reviewing the implementation of the operation of the Bail Assistance Line to identify barriers to and options for increasing referrals by police. One of the issues being considered as part of this process is the potential for police to refer young people with minor breaches of bail conditions to be dealt with without arresting and detaining the young person and for referrals to the Bail Assistance Line to be considered as a first option in such cases.

When requested by the court, Juvenile Justice provides intensive bail supervision with the aim of supporting young people to be released on bail and into supervision in the community. Community-based staff work with young people, court officials and other service providers to ensure that, where appropriate, young people are able to remain in the community whilst being supervised for compliance with bail conditions. Bail supervision aims to provide practical diversionary support as well as being a more cost-effective alternative to custody. The New South Wales Government is committed to ensuring that the spirit and intent of the original bail legislation is reflected in the current law. I have outlined some concerning trends in relation to bail and remand. I have also expressed concern regarding the complexity of the current law. These issues must be addressed and I look forward to considering the recommendations of the New South Wales Law Reform Commission review, which is due next month.

The Hon. TREVOR KHAN: Attorney, moving to another subject, would you be able to advise the Committee on the capital works highlights in the budget for courthouses in New South Wales?

Mr GREG SMITH: A total of $75.21 million is planned to be spent on the upgrade of courts across the State during this financial year. An amount of $36.18 million has been allocated for the state-of-the-art refurbishment of the Supreme Court and $10.18 million for the development of a new courthouse in Newcastle.

The remaining $28.85 million is being allocated from the Court Upgrade Program and covers the development of courthouses in both metropolitan and regional areas, including the Downing Centre, Liverpool and King Street courts in Sydney and regional courts in Armidale, Taree and Port Macquarie. This expenditure will improve service delivery at various courthouses across New South Wales.

Some of the major proposed projects include $6.5 million for the second stage of a $26.5 million five-year major revamp of the largest court complex in New South Wales—the Downing Centre criminal courts and the civil courts and tribunals in John Maddison Tower; $10.175 million to commence the design process for the new $94.13 million courthouse in Newcastle, to be completed in 2014; $9 million for the start of construction of the $15 million justice complex for Armidale, to be completed by 2013; $1.8 million to complete the $5 million renovation of Taree courthouse; $1 million to complete the renovation of Port Macquarie courthouse; $1.9 million for the continuing renovation of the King Street courts; $4.4 million for the completion of design and commencement of construction of the Liverpool courthouse upgrade, due for completion in 2012; and $2.3 million for the renovation of Waverley courthouse, due for completion in 2012. A total of $12 million is earmarked for the ongoing upgrade and replacement of the department's equipment and other minor works.

I turn to Campbelltown courthouse. In recent years more than $2.2 million has been spent on improvements to Campbelltown courthouse. The District Court has always sat at Campbelltown and continues to do so. The role of the Government is to provide the court facilities and staff required to allow the court to exercise its functions. The decision as to where and when the District Court sits is the responsibility of the Chief Judge of the District Court. Following consultation with stakeholders, the Chief Judge decided that from February 2010 matters arising from the Campbelltown, Camden and Macquarie Fields police local area commands would be heard at Campbelltown. Criminal cases arising from Fairfield, Bankstown, Green Valley, Liverpool and Cabramatta police local area commands are now heard at Parramatta.

In addition, His Honour decided long trials that fell in the Campbelltown catchment would be moved to Parramatta rather than going to central Sydney, as had been the practice, so that court users from western Sydney would no longer have to make the journey into the city for these extended matters. The people of western Sydney deserve first-class court services and justice facilities. An amount of $330 million has been spent on the state-of-the-art Parramatta Justice Precinct and over $49 million has been spent on improving courts in western Sydney since 2000.

I turn to regional and rural courts. There are 164 court locations across New South Wales, with 128 of them servicing rural and regional communities. Of these 128 rural and regional courts, 31 have a Sheriff's Office on site; 26 are Government Access Centres, providing a range of services; 85 accept birth and death applications and 123 accept marriage applications; 28 have audiovisual link facilities; 79 have remote witness facilities; 64 offer the Magistrates Early Referral Into Treatment, known as MERIT, program; 108 have women's domestic violence court assistance schemes; two have the domestic violence court intervention model; 21 have a mental health liaison nurse; 10 offer circle sentencing, and one care circle; 13 have Aboriginal client service specialist officers; 22 offer forum sentencing; and two offer the Court Referral of Eligible Defendants into Treatment, known as CREDIT, system.

I turn to Wollongong Courthouse. A number of capital works have either been started or completed at Wollongong Courthouse over the past 24 months. Recently, the department upgraded the court's exit sign system, replaced fire doors and updated fire evacuation procedures and manuals. Repairs on the clock and clock tower have also been completed. The clock is now chiming again—and hopefully telling the right time. Other works undertaken include repairs to the highest priority areas affected by concrete cancer on the façade of the building as part of an ongoing program of repairs in 2011-12, and repairs to the rear wall of the property. Further works are planned at Wollongong Courthouse commencing in 2011-12 with the completion of the master plan and business case.

Turning to Newcastle Courthouse, the Government will build a $94 million court complex, which will become the centrepiece of a modern justice precinct in the heart of Newcastle. This will be the State's largest court complex outside Sydney. This work will replace the existing courthouse with a facility that will not just meet Newcastle's immediate needs but also be a building for the future. Just under $4 million was spent last financial year on planning and securing the proposed site in Newcastle's civic precinct. As I said, a further $10 million will be spent this year for the design of the complex and various other things. [*Time expired.*]

CHAIR: Thank you, Minister. I will now ask the witnesses for the Justice portfolio to come forward.

RON WOODHAM, Commissioner, Corrective Services NSW, sworn and examined:

JOHN HUBBY, Chief Executive Officer, Juvenile Justice NSW, affirmed and examined:

The Hon. ADAM SEARLE: In relation to the Government wages policy, which is estimated to save $2 billion over the forward estimates, are you able to indicate out of the Justice part of the portfolio—that is, Corrective Services and Juvenile Justice—what savings in dollar terms are expected from your agencies, and how many positions will be deleted?

Mr GREG SMITH: I will have to defer to Mr Glanfield or one of the officers.

Mr GLANFIELD: I think you are asking the same question that you asked before and I thought I had answered it. But let me indicate that the expected $2 billion had to do with the 2.5 per cent. It is through the 2.5 per cent that that savings target has been identified. In relation to other savings through dividend savings and other strategies, the only significant saving in the whole of the department relates to Corrective Services. In relation to Corrective Services, which has this year received additional one-off funding of about $36 million, it has been required to find matching savings. As was covered in the budget announcement, those savings have been achieved by closing three facilities, Berrima, Kirkconnell and Parramatta, which results in 250 positions. In negotiations between the commissioner and the Public Service Association there was agreement on industrial reforms, the effect of which was that 350 positions would be saved. Those two savings account for the 600 figure.

The Hon. ADAM SEARLE: In this process I understand that 13 jobs are to be lost at Grafton Correctional Centre. Will you commit to stopping those job cuts, Minister?

Mr GREG SMITH: No, I will not commit to that.

The Hon. ADAM SEARLE: Has any economic assessment been done of the consequences of those job losses at Grafton Correctional Centre?

Mr GREG SMITH: I should perhaps defer to Mr Woodham—and I will—but I understand that there were discussions between the department and the unions to get agreement on the figures.

Mr WOODHAM: The process was that we did a risk assessment at every jail. Nearly every prison in the State will lose some positions in this agreement with the Public Service Association, and Grafton was no exception. We met with the central body of the Public Service Association in Sydney on several occasions. The options went back to the local board of management of each correctional centre. The local board of management assessed and reviewed what we were proposing. In some cases they changed the positions but came up with the same number, and an agreement was reached.

The Hon. ADAM SEARLE: I understand what you say about the agreement with the union, but in relation to the 13 positions to be lost at Grafton Correctional Centre, has any economic assessment been done of the consequences for Grafton and the surrounding areas of the loss of those jobs to that region?

Mr WOODHAM: Not externally. A number of voluntary redundancies are going to go ahead up there as well, which will take some of the positions we are talking about. I believe there are probably seven or eight of them, from memory.

The Hon. ADAM SEARLE: You will probably have to take this question on notice, and I am happy for you to do so. Are you able to indicate what aggregate salary amount will be saved from the 13 positions to be deleted at Grafton Correctional Centre?

Mr WOODHAM: I know it is something around the vicinity of eight prison officer positions, an assistant superintendent position and the rest would be senior correctional officers. I could not tell you the exact dollar value of that offhand. I will take that on notice.

The Hon. ADAM SEARLE: I am happy for you to take that on notice and to report back in the usual reporting period.

Mr WOODHAM: I can say it is approximately $1.3 million.

The Hon. ADAM SEARLE: I am happy for you to come back with a more precise figure if that figure changes.

Mr GLANFIELD: Can I say that, in terms of precision, it obviously depends on the salary of the individual position and the occupant and the status of it. But generally about $100,000 would be the average per position, hence the $1.3 million.

The Hon. ADAM SEARLE: Mr Glanfield, you mentioned the Government is closing three facilities. What plans does the Government have for the closure of other correctional facilities?

Mr GREG SMITH: None as far as I am aware. At the moment we have no plans, although we keep an open mind on these things because if the jail population continues to fall and our policies and attempts to reduce recidivism work we will not need as many jails as we have at the moment.

The Hon. ADAM SEARLE: Assuming your current state of knowledge, do you rule out further correctional facility closures?

Mr GREG SMITH: I do not rule them out entirely, but my current knowledge is that we have no plans to close any further jails.

The Hon. ADAM SEARLE: On 7 September you were quoted in the *Australian* as saying the number in New South Wales prisons was less than 10,000. Mr Woodham was quoted in the *Sydney Morning Herald* that same day saying the figure was 9,847 and the submission by Corrective Services to the Law Reform Commission review of the Bail Act says that at 30 June 2011 the full-time custody population was 10,364 inmates. What is the current prison population in New South Wales?

Mr GREG SMITH: I will defer to Mr Woodham, but I was told the other day by Corrective Services that it was down to 9,700.

Mr WOODHAM: That is correct. It is 9,700.

The Hon. PENNY SHARPE: Mr Hubby, how many young women are currently in detention in juvenile justice centres?

Mr HUBBY: As of this morning there were 31.

The Hon. PENNY SHARPE: Whereabouts are those young women located?

Mr HUBBY: We have one detention centre for girls, which is Juniperina. They are all there.

The Hon. PENNY SHARPE: Mr Woodham, how many women are currently in custody in New South Wales today?

Mr WOODHAM: Just under 700.

The Hon. PENNY SHARPE: Are you able to give a breakdown to the Committee of the number of women on remand and who are serving a sentence, and a breakdown of sentences for violent and non-violent offences?

Mr WOODHAM: I believe it is around 470.

The Hon. PENNY SHARPE: On remand?

Mr WOODHAM: Yes.

The Hon. PENNY SHARPE: Are you able to give a breakdown of those serving sentences for violent and non-violent offences?

Mr WOODHAM: I could not give that offhand.

The Hon. PENNY SHARPE: Will you take that on notice?

Mr WOODHAM: Yes.

The Hon. ADAM SEARLE: Attorney, can you confirm the Government is considering further privatisation of prisons in New South Wales?

Mr GREG SMITH: I cannot confirm that, no.

The Hon. ADAM SEARLE: Can you rule it out?

Mr GREG SMITH: I do not think I can rule out future privatisation but in recent times with the cuts that were necessary to try to get the budget back into the black, there was enormous cooperation between the unions and the department in the closure of the three prisons and the take-up of the prison officers who had previously worked at Parklea and who had not been dealt with after it was privatised. We were carrying those numbers as well. The numbers in other prisons also were cut. There was great cooperation and if the unions and the officers can continue to show efficiencies and work efficiently I do not see that there will be any need for privatisation, but they have to compete.

The Hon. ADAM SEARLE: Are you aware of any short list that has been developed for consideration for privatisation?

Mr GREG SMITH: No.

The Hon. ADAM SEARLE: In his Budget Speech the Treasurer said the Government was also examining the potential for greater contestability in the provision of corrective services as part of a prison reform process.

Mr GREG SMITH: Yes.

The Hon. ADAM SEARLE: Does your examination of contestability extend to the prison escort service?

Mr GREG SMITH: That would be looked at as well as other things—various services related to prisons such as food, medical assistance and other things needed to run prisons. Areas could be privatised. Some of the perimeter security areas are already privatised, I gather. Those things are to be looked at but there are no current plans to privatise any of those things.

The Hon. ADAM SEARLE: Just to be clear, are you saying that the contestability of those services being provided is currently being examined?

Mr GREG SMITH: It is not being examined by my department, as far as I am aware, or by me but I know the Government is interested in balancing the budget after we inherited a black hole as a result of the poor financial management of Labor for the past 16 years and we need to look at ways to cut the cost of many of its services, so we keep an open mind on issues such as privatisation including in the Justice Department.

The Hon. ADAM SEARLE: But in his Budget Speech the Treasurer said the Government was examining the potential for greater contestability in the provision of corrective services. What does that mean?

Mr GLANFIELD: That might be a good question. You would have to ask him.

The Hon. ADAM SEARLE: Presumably you have the responsibility of carrying out Government policy.

Mr GLANFIELD: I did not give him those words to use. What the Attorney said is right. Our position is very strongly of the view that if Corrective Services is able to move to best practice and deliver on it, then the argument for privatisation disappears because the argument for privatisation is that somehow the private sector

will be able to deliver better outcomes and at a cheaper cost. We have not identified any particular areas; we are looking broadly with the commission and Corrective Services to identify how we can move to best practice. The changes we have just talked about involved a range of industrial reforms; it was not just about positions going. The commission had a range of negotiations with the Public Sector Association to improve the efficiency of Corrective Services. That is our position. Whether you call that contestability or not, the fact is we are aiming to move Corrective Services to best practice that is equivalent to and not less than the best, whether it is in the private sector or the public sector elsewhere.

The Hon. TREVOR KHAN: Maybe Robbo could have done that when he was the Minister.

The Hon. ADAM SEARLE: Are you looking at any changes in terms of contestability in the prison escort service area?

Mr GLANFIELD: We have not looked at that but we would not say any area should be less than best practice.

The Hon. ADAM SEARLE: I understand that point, but are you looking at the prison escort service?

Mr GLANFIELD: No.

The Hon. ADAM SEARLE: So Corrective Services has no intention or plan to relieve itself of the responsibility for the transit of prisoners?

Mr GLANFIELD: It is not an area we have looked at to make that decision.

The Hon. ADAM SEARLE: Will you be looking at it over the next 12 months?

Mr GLANFIELD: I cannot rule anything out. I have just said we will look at everything, but you are looking at it from the point of view that we would be going into consideration of an area with a view to privatisation. What I am saying is that anything we are looking at is from the point of view of how to move to best practice. It is a very different approach.

The Hon. ADAM SEARLE: Mr Woodham's contract has recently been extended by only six months. What succession planning has been done in relation to Corrective Services?

Mr GREG SMITH: There is no succession planning. Mr Woodham has been given a number of matters that we want attended to. Probably because we are more interested in administering our departments than our predecessors, as far as Corrective Services is concerned there are some areas that we feel need improvement. We have given him that list and so far he has diligently attached himself to those.

The Hon. ADAM SEARLE: Is the intensive supervision program for juveniles continuing in this year's budget?

Mr HUBBY: Yes it is.

The Hon. ADAM SEARLE: Has it been evaluated?

Mr HUBBY: It is being currently evaluated by the Bureau of Crime Statistics and Research [BOCSAR] and we expect that evaluation to be completed in 2013.

The Hon. ADAM SEARLE: Following that will the bureau's evaluation be made public?

Mr HUBBY: I would imagine.

The Hon. ADAM SEARLE: How many offenders and families have been admitted to the program since April this year? Are you able to say?

Mr HUBBY: I have that information. We have provided services to 128 families to date; 36 per cent, or 43 families, were Indigenous, and 80 per cent of those who have been enrolled have completed the treatment.

The Hon. ADAM SEARLE: Are you able to tell the Committee the current level of Aboriginal incarceration in Juvenile Justice centres, both in proportional terms and in absolute numbers?

Mr HUBBY: In terms of numbers of Aboriginal and Torres Strait Islander young people in custody, it continues to hover at about 50 per cent of the custodial population. If you give me a moment, I will be able to tell you the number on community supervision orders as well.

The Hon. PENNY SHARPE: Can you also give them to us by gender?

Mr HUBBY: I can. For the year ending 30 June 2011, 51.7 per cent of young people sentenced to detention were Aboriginal and Torres Strait Islander; for those remanded to custody it was 38.5 per cent; for those under community supervision it was 41.5 per cent; and for those attending a youth justice conference it was 24 per cent.

The Hon. PENNY SHARPE: If you cannot provide the information regarding gender, I am happy for you to take the question on notice.

Mr HUBBY: I think I can provide it now. It hovers across all services at about 92 per cent male and 8 per cent female, but it does vary a little bit by service line, as we would say. But if you give me a moment, I can tell you. For those sentenced to detention, it was 9.9 per cent female, remanded in custody 19 per cent female, under community supervision 19 per cent female, and for youth justice conferences about 23 per cent female.

The Hon. PENNY SHARPE: Does that include Indigenous young women, or is that in total?

Mr HUBBY: That is in total.

The Hon. PENNY SHARPE: Can you provide that figure?

Mr HUBBY: No, I cannot.

The Hon. PENNY SHARPE: Can you take that question on notice?

Mr HUBBY: I can take that on notice, yes.

The Hon. ADAM SEARLE: In relation to all those categories that you have just addressed us on—and I expect you to take this on notice—are you able to compare the information that you have already given us in each of those categories with that for the prior two years?

Mr HUBBY: We can.

The Hon. ADAM SEARLE: Have you introduced any programs since say April this year to address that particular issue?

Mr HUBBY: The issue of Aboriginal over-representation?

The Hon. ADAM SEARLE: Yes.

Mr HUBBY: There have been no new programs since April, but we have a number of programs that have been in place for quite some time.

The Hon. ADAM SEARLE: Are any new programs being currently developed?

Mr HUBBY: No. But we are looking at the system overall, and we are looking for best practice within Australia and internationally.

The Hon. PENNY SHARPE: I understand Juvenile Justice does regular reports on the health and wellbeing of young people who come through the system. When was the most recent report done, and when is the next one due to be completed?

Mr HUBBY: They are not done on any regular schedule. The most recent publication was the 2009 Young People in Custody Health Survey, which was released last year.

The Hon. PENNY SHARPE: Are there plans to do another one?

Mr HUBBY: We have no specific plans, although very generally speaking we do want to do them periodically. The one prior to 2009 had been completed in 2003. So they are fairly irregular, and they are expensive, but we do plan to do them.

The Hon. ADAM SEARLE: What is the current maximum capacity of Juvenile Justice centres?

Mr HUBBY: We have a bed capacity of 501.

The Hon. ADAM SEARLE: What is the number of detainees say at today's date?

Mr HUBBY: As of this morning, we had 363 young people in custody.

The Hon. ADAM SEARLE: How many young offenders have been detained in Juvenile Justice centres since 1 July 2010?

Mr HUBBY: I may have to take that on notice.

The Hon. ADAM SEARLE: And from 1 January this year?

Mr HUBBY: Again, I will take that on notice.

The Hon. ADAM SEARLE: How many new staff have been employed by Juvenile Justice since about April this year?

Mr HUBBY: How many new staff?

Mr DAVID SHOEBRIDGE: You mean net?

The Hon. ADAM SEARLE: Yes, net.

Mr HUBBY: I would have to take that on notice.

The Hon. ADAM SEARLE: Since April this year how much has been spent on charter flights to transport detainees of Juvenile Justice?

Mr HUBBY: Again, we have that information. It depends on what period of time you are asking for.

The Hon. ADAM SEARLE: Say since 1 April this year.

Mr HUBBY: That information is readily available, but I will have to take the question on notice.

The Hon. ADAM SEARLE: Thank you.

Mr DAVID SHOEBRIDGE: Attorney, you said in answers, I think to questions from Mr Searle, that you had given Mr Woodham a list of areas in Corrective Services that require improvement. Can you tell the Committee, as best you can recall, what that list comprises?

Mr GREG SMITH: The list basically means achieving the cuts and efficiencies that were identified in the budget preparation process, as I understand it, as well as complying with the new State Plan.

Mr DAVID SHOEBRIDGE: So if Mr Woodham does not make a large cut through the Corrective Services budget, he will not have his contract extended? Is that the position?

Mr GREG SMITH: No, I will not say that.

Mr DAVID SHOEBRIDGE: Well, if the primary requirement was to deliver cuts, how else can you categorise it?

Mr GREG SMITH: All senior officers, including Mr Glanfield and Mr Hubby, have performance agreements that they have to adhere to, and this in effect is a particularisation of some of the aspects of the performance agreement.

Mr DAVID SHOEBRIDGE: Did Mr Woodham seek only a six-month extension, or did he seek a longer contractual term and you limited it to six months?

Mr GREG SMITH: We had negotiations and it was my decision to give him six months.

Mr DAVID SHOEBRIDGE: Did the Department of Corrective Services stay within or exceed its budget in the last financial year?

Mr GREG SMITH: It exceeded its budget, I understand by $113 million or thereabouts.

Mr DAVID SHOEBRIDGE: What steps have you taken in relation to that, apart from putting Mr Woodham on a six-month contract?

Mr GREG SMITH: We have closed three jails, which should save us $26 million or so a year. We have cut or are in the process of cutting numbers in virtually all other jails, and we are making other efficiency cuts.

Mr GLANFIELD: We also had independent consultants undertake a review of the base funding for Corrective Services, and as a result of that Treasury agreed that the base funding was inadequate to the extent of about $65 million, and the commissioner secured continual funding of $65 million. The difference between the overrun and the $65 million was in part that $35 million to which I referred earlier.

Mr DAVID SHOEBRIDGE: Attorney, could you provide the Committee with the list that you gave the commissioner?

Mr GREG SMITH: It is more a performance agreement that is personal to him, and I do not know that it is something that I would normally provide because it is confidential.

Mr DAVID SHOEBRIDGE: Given it relates to such a key issue, such as the performance of Corrective Services in New South Wales, would you provide that to the Committee for scrutiny?

Mr GREG SMITH: I will consider that.

Mr GLANFIELD: We do publish in our annual reports the performance outcomes for every senior executive officer, so the results would appear in the annual report for Corrective Services.

Mr DAVID SHOEBRIDGE: But this is proactive action that the Government wants to be taken, and that will not show up in the annual report, and it is for that reason that I make the request.

Mr GREG SMITH: We will consider it.

Mr DAVID SHOEBRIDGE: The next question is probably to Mr Hubby. The rate of Aboriginal incarceration in your department is now, did you say, 51.7 per cent?

Mr HUBBY: For 2010-11.

Mr DAVID SHOEBRIDGE: And that is an increase on the previous financial year.

Mr HUBBY: Yes.

Mr DAVID SHOEBRIDGE: In fact, there has been a steady increase for the last decade.

Mr HUBBY: There has been a small increase, but it has been fairly stable really.

Mr DAVID SHOEBRIDGE: Is that from a population base of about 2½ per cent of the population?

Mr HUBBY: That is right. Fifty-one per cent is the proportion of young people in custody.

Mr DAVID SHOEBRIDGE: Correct, from a population base. So is it still the case that Aboriginal children are something in the order of 30 to 40 times more likely to be incarcerated than non-Aboriginal children?

Mr HUBBY: I believe what has recently been published by the Australian Institute of Health and Welfare for New South Wales is about a rate of 25.

Mr DAVID SHOEBRIDGE: A 25 per cent multiple. Attorney, what are you going to do in the next 12 months to reduce that rate of detention of our Aboriginal children?

Mr GREG SMITH: We have a review at the moment. I have ordered a review by the department of the best way forward with an aim of reducing reoffending, which is very high, and to particularly concentrate on the Aboriginal community. Yesterday I addressed a three-day conference for Aboriginal employees of the department. We are hoping that from that conference we will work on some of their suggestions. I am a member of the ministerial taskforce into Aboriginal and Torres Strait Islander people and their problems, including housing, but also justice issues. I am conscious of the problem. I am engaging with various Aboriginal communities around the State, including increasing the number of circle sentencing areas. I am opening up a circle sentencing procedure at the Lismore court in the next month, I believe.

I am seeking to have the aspects of the Noetic report, which were not acted on by the previous Government, dealing with programs to improve enculturation of Aboriginal youth of their traditions and cultures with a view to building their self-esteem. I am encouraging my department and other departments to employ more Aboriginal people, including young people. I am promoting non-government initiatives with government on mentoring programs, such as that adopted by SHINE for Kids at Frank Baxter Juvenile Justice Centre, as well as the Whitelion mentoring program to create employment. I am looking at all of these, and I support a number of other programs currently in place.

Mr DAVID SHOEBRIDGE: Mr Hubby, despite all that, your department's current projections are that the proportion and number of Aboriginal juveniles in detention will remain constant over the next 12 months, are they not?

Mr HUBBY: I have not made projections regarding Aboriginal over-representation. I can only tell you what it has been historically.

Mr DAVID SHOEBRIDGE: Do you expect any change? Are you planning for a reduction in numbers or effectively for maintenance?

Mr HUBBY: I guess I would say we are planning for maintenance.

Mr DAVID SHOEBRIDGE: Mr Attorney, will you, unlike the previous Government, consider publishing a full and adequate response to the Noetic report, including reviewing the previous Government's dismissive approach to it?

Mr GREG SMITH: I do not know that that would advance the cause of juveniles who are at risk of committing crime. In our review of juvenile justice at the moment we are examining those aspects of the Noetic report that we think can or might be implemented. I do not know how it advances the cause of criminal justice in this State to start being too critical of your predecessors. I believe it is better spending your energies, money and resources on improving the situation.

Mr DAVID SHOEBRIDGE: The most substantial blueprint for improving juvenile justice that has been delivered in New South Wales is the Noetic report—particularly, I believe, recommendation 52, justice reinvestment.

Mr GREG SMITH: Yes.

Mr DAVID SHOEBRIDGE: Will you consider adopting that key recommendation of the Noetic report?

Mr GREG SMITH: We are involved in looking at using justice reinvestment. As I understand it, we are adopting that recommendation—at least partially. When you say it is the most significant, that is your opinion. Obviously, the government of the day and the Minister who commissioned it may have supported it, but it struck me that there were weaknesses in the report.

Mr DAVID SHOEBRIDGE: The Government did not; the Minister did.

Mr GREG SMITH: There were aspects that the Minister was very strong to support.

Mr DAVID SHOEBRIDGE: Which the Government did not support?

Mr GREG SMITH: The Government did not support it. It supported some of it, as I understand. But aspects of that report were motherhood statements, as far as I could see, that did not advance anything. Other aspects may be impractical. I am not wedded to it, but aspects of it, particularly in relation to Aboriginal youth, could be improved. If we can put those into operation practically, we will.

Mr DAVID SHOEBRIDGE: One recommendation of the Noetic report was a review of whether Kariong remains under the umbrella of Corrective Services or returns to Juvenile Justice. I think you are on record in December 2009 as supporting a review of that. Given the Ombudsman's damning reports, do you still consider that a review is in order?

Mr GREG SMITH: Currently, we have Corrective Services reviewing the perceived problems addressed by the Ombudsman.

Mr DAVID SHOEBRIDGE: They are not perceived; they are well-established problems.

Mr GREG SMITH: Yes, but the Ombudsman left it to Corrective Services to come up with solutions and said that he was heartened by the response. If he is heartened by the response, he is not someone who normally pats departments on the back unless they are doing something. It seems to me that if the response is positive and satisfies him and the Government, then we will continue with Corrective Services. We remember the history of Kariong and the reasons, as I understood them, that it was taken over by Corrective Services. It was because it did not appear that Juvenile Justice was handling it as well. I do not mean to be critical of Juvenile Justice. Mr Hubby probably was not in the department at that stage. But there are some problems with juvenile detainees. They are not there for fun. They are older and often more troublesome juveniles whose rehabilitation prospects are less than those of the younger ones in detention centres. It might be that the treatment by Corrective Services at that stage can act more as an encouragement for them to rehabilitate than perhaps the softer approach of Juvenile Justice.

Mr DAVID SHOEBRIDGE: Are you going to undertake to protect Kariong from budget cuts and staff reduction, given the Ombudsman's report?

Mr GREG SMITH: I do not recall any recommendation to cut. I will have to talk to Mr Woodham. Perhaps he could take that question. Was there a proposed cut to Kariong in the budget reform?

Mr WOODHAM: No.

Mr GREG SMITH: I am not proposing to have budget cuts if the department is not recommending it.

Mr DAVID SHOEBRIDGE: If the review from Corrective Services shows a requirement for additional funding to do simple things such as provide a laptop computer to deliver programs for juveniles in detention—

Mr GREG SMITH: We will do our best to comply with it. We want it to work efficiently, compassionately and usefully, leading to the rehabilitation of those young people.

Mr DAVID SHOEBRIDGE: Mr Woodham, what steps are you undertaking to put in place a new management plan at Kariong, as recommended by the Ombudsman?

Mr WOODHAM: We worked with the Ombudsman on this issue. We adhere to all the concerns. Earlier you referred to reduction of staff; I believe they are about to put a full-time psychologist there and two other prison officer positions. So there will be an increase in the budget at Kariong. We have implemented everything that the Ombudsman stated. The Ombudsman's annual report was tabled today and in that he commends us for the action we took and agrees with it.

Mr DAVID SHOEBRIDGE: Are you still holding all juveniles who come into Kariong for a minimum 28 days assessment?

Mr WOODHAM: No, that has changed.

Mr DAVID SHOEBRIDGE: How has it changed?

Mr WOODHAM: I will have to find it. The first stage now is only two weeks.

Mr DAVID SHOEBRIDGE: Only for 14 days?

Mr WOODHAM: For 14 days.

Mr DAVID SHOEBRIDGE: Mr Attorney, in the pre-election period there was some discussion about allowing inmates in Corrective Services access to computers and I know you said you would give consideration to that. What, if anything, have you done about that?

Mr GREG SMITH: I do not think the issue has arisen since I have been a Minister. I have not done anything positively. I do not think I have stopped it. You have to be careful from a security point of view what type of computer access people have and also you do not want them having unsuitable material. You do not want them to use computers through the email program to make plans to commit crimes or escape.

Mr DAVID SHOEBRIDGE: If those security issues could be dealt with there is no in-principle objection from the Government about granting prisoners and inmates access to computers?

Mr GREG SMITH: I do not see any problem with it but I would be advised by Mr Woodham.

Mr WOODHAM: They have access to computers in every correctional centre now.

Mr DAVID SHOEBRIDGE: In their cells?

Mr WOODHAM: No, not in their cells. It should not be in their cells. It does not have to be in their cells. Anyone can avail themselves—

Mr DAVID SHOEBRIDGE: Many of them spend 16 hours a day in their cells.

Mr WOODHAM: Can I answer the question please? Every inmate in New South Wales can avail themselves of the programs that we provide. Every prison in the State has a computer room. They can do all their education training and access what they need to have access to on those computers. We have allowed some personal computers in with prisoners, particularly with a recommendation from the court—for example, in a long trial where they review a lot of the evidence on a computer. The computer is programmed just to allow that to happen. In any situation other than that, no.

Mr DAVID SHOEBRIDGE: Minister, you have given a commitment to reduce recidivism and reduce the overall number of inmates in our prisons. Will you consider, in order to promote education and reduce recidivism rates, allowing certain classes of prisoners access to computers in their cells to promote those goals?

Mr GREG SMITH: I will consider it, but it seems to me I have to be advised by the department because of security problems they may have or problems of receiving inappropriate material or sending out, using social networking sites such as Facebook, threatening messages or messages that might endanger the security of the prison or prisoners. They are the things I have to take into account.

Mr DAVID SHOEBRIDGE: I accept that.

Mr GREG SMITH: I have compassion for prisoners and want them to be shown respect and have an opportunity to rehabilitate. Nevertheless, it is a deprivation of liberty and a deprivation of many privileges you have when you are out in the community. I do not think it should be concluded that I am going to open up all those things and give them a holiday camp experience.

Mr DAVID SHOEBRIDGE: No-one is suggesting a holiday camp, but if you want prisoners to be re-educated and not be recidivists one of the key answers would be allowing access to computers for that purpose. Will you consider it for those purposes?

Mr GREG SMITH: I would for those purposes, but subject to the restrictions that Mr Woodham has outlined.

Mr DAVID SHOEBRIDGE: Mr Woodham, how many escapes have there been from private prisons in this calendar year?

Mr WOODHAM: There have been four.

Mr DAVID SHOEBRIDGE: From which prisons?

Mr WOODHAM: From Parklea prison.

Mr DAVID SHOEBRIDGE: How long were those prisoners at liberty?

Mr WOODHAM: They have all been recaptured.

Mr DAVID SHOEBRIDGE: How long were they at liberty?

Mr WOODHAM: It was not very long, but one did last about three months.

Mr DAVID SHOEBRIDGE: What, if any, contractual penalties are payable by the private operator for allowing that to happen?

Mr WOODHAM: I have penalised that company for an escape. I forget what the penalty was; I think it was in the vicinity of $10,000.

Mr DAVID SHOEBRIDGE: There have been four prison outbreaks but only one penalty, is that the situation? What happened in the other three instances?

Mr GREG SMITH: They all got out at the same time, did they not?

Mr DAVID SHOEBRIDGE: No.

Mr WOODHAM: Could I have that question again?

Mr DAVID SHOEBRIDGE: There has been four prisoners escape but only one penalty. What happened in the other instances?

Mr WOODHAM: There were three prisoners from the minimum security ring at Parklea and one maximum security prisoner, a murderer, who did not get out of the grounds of the hospital. He attempted to escape on a hospital escort and got recaptured.

CHAIR: We will now turn to Government questions, starting with the Hon. Charlie Lynn.

The Hon. CHARLIE LYNN: My question is addressed to the Minister. Can you inform the Committee about some key priorities for Juvenile Justice, including the Youth on Track review and those addressing Aboriginal disadvantage?

Mr GREG SMITH: This deals with the Youth on Track review and justice reinvestment. A review of Juvenile Justice policy and practice in New South Wales was completed by the Noetic Group in January 2010.

The review undertook a system-wide audit of Juvenile Justice policy, practice and strategies in New South Wales. The review found incarceration to be both costly and ineffective in reducing juvenile reoffending. The report presented three main options for consideration: to maintain the status quo; to implement most of the recommendations with a focus on early intervention and reducing numbers on remand; or to reform the juvenile justice system in line with the justice reinvestment model. The previous Government declined to undertake any major reforms of the juvenile justice system.

In June 2011 I directed Juvenile Justice to undertake a strategic planning project to advise the New South Wales Government on possible policy directions for the juvenile justice system within New South Wales. The strategic planning project entitled Youth on Track is being overseen by me, the Director General of the Department of Attorney General and Justice, Mr Glanfield, and the Chief Executive of Juvenile Justice, Mr Hubby. The Youth on Track project is undertaking a strategic analysis of current Juvenile Justice practice within New South Wales and recommending areas for improvement, based on national and international researched evidence and best practice, and developing recommendations for the future direction of the juvenile justice system in New South Wales. The Youth on Track project is considering the recommendations of the Noetic report and their feasibility within the New South Wales context. Recommendation 52 of the Noetic report recommended that the:

> NSW Government adopt a justice reinvestment policy based on diverting funds that would otherwise be spent on additional Juvenile Justice centres, to preventative and early intervention programs that address the underlying causes of crimes in communities.

Justice reinvestment is a justice system model that aims to divert a portion of the funds typically spent on incarceration to those communities where there is a known high concentration of offenders. The money that would have been spent on custodial services is then reinvested into community-based programs and services that address the underlying causes of crime. The justice reinvestment model is based on demographic evidence that a large number of offenders come from a relatively small number of disadvantaged communities. This demographic mapping can then be used to determine which suburbs have the highest need for early intervention and diversion services. Reinvested funds would typically be used to redevelop housing and establish and better coordinate services such as substance abuse and mental health treatment, job training and education.

The issue with applying a justice reinvestment model directly to the juvenile justice system in New South Wales is that the system in New South Wales is relatively small and therefore has fewer funds to save and reinvest than those adult systems in which this model has been successfully trialled. Further research would therefore need to be undertaken to ensure that such a system would eventually be cost effective in the New South Wales Juvenile Justice context before any commitment to its establishment could be given. Further investigation would also be required to identify economic strategies to manage existing demand for custodial facilities, while diverting more funds to targeted interventions in disadvantaged communities. As part of the Youth on Track project, consultation is being undertaken with key stakeholders, including government departments and agencies and community and non-government organisations. The final recommendations are scheduled to be submitted to me for my consideration by 30 November 2011.

In addressing Aboriginal disadvantage, in the 2010-11 financial year the proportion of young people in detention in New South Wales who were of Aboriginal and Torres Strait Islander background was 51.7 per cent. It is a figure that we all agree is too high, given Indigenous young people aged 10 to 18 make up only around 3 per cent of the population in New South Wales. To ensure a coordinated approach to addressing the overrepresentation of Aboriginal young people in the juvenile justice system Juvenile Justice has developed the Aboriginal Strategic Plan 2011-13.

This plan is guided by the important principles of culture and community, amongst others, and establishes a strong platform for well coordinated and targeted programs that are designed to improve outcomes for Aboriginal and Torres Strait Islander young people who come into contact with the juvenile justice system. The plan encompasses various Aboriginal and Torres Strait Islander programs, including DthinaYuwali, which is a targeted drug and alcohol program focusing on Aboriginal young offenders. This program is being evaluated and prepared for State-wide implementation. The program uses a culturally appropriate approach that improves the likelihood of breaking the cycle of re-offending.

The Intensive Supervision Program, which is being piloted in the Hunter and western Sydney areas, is a family-focused approach that has proven to be successful in working with young offenders from all backgrounds, including indigenous populations overseas. Aboriginal young people are a focus of the program. The program is established in teams of specially trained staff, including an Aboriginal team adviser who

facilitates the engagement of Aboriginal families in the program. In 2010-11, 37, or 85 per cent, of the 44 families enrolled successfully completed the Intensive Supervision Program. Of the 15 Aboriginal families enrolled, 12, or 80 per cent, completed the program. Over the past five months the program began accepting families of young offenders that had gone through youth justice conferencing. The families have been appreciative of the program offer and, to date, all have remained committed to program completion.

Love Bites, which is auspiced by NAPCAN—the National Association for the Prevention of Child Abuse and Neglect—is an extremely successful school-based domestic and family violence and sexual assault prevention program. Love Bites was developed in Juvenile Justice under Action 68 of the Government Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities 2006-11. The program was piloted in two juvenile justice centres. A training package of the program is currently being rolled out across the State and can be delivered in both community and custodial settings. The Services Intervention Framework and Framework for Programming help staff in centres and the community to develop and deliver programs to tackle offending behaviour such as violent and aggressive behaviour and alcohol and drug misuse.

Our Journey to Respect was developed in 2000 in partnership with the Gilgai Aboriginal Centre. The program was originally developed as an intergenerational violence prevention approach aimed at reducing the incidents of violence against older people. The program has been adjusted as a tertiary violence prevention package aimed at motivating young people to make changes to violent behaviours, educating young people about those behaviours that are a crime and providing skill development and practised learning. The program is currently being piloted.

Some of the initiatives included in the plan are: the active recruitment of Aboriginal staff, as well as non-Indigenous staff with appropriate cultural knowledge, to work with Aboriginal young people; programs and interventions to reduce the risk, severity and frequency of reoffending by Aboriginal young men and women; supporting Aboriginal young people while they are on bail to help them reintegrate into the community; increasing the referral of Aboriginal young people to youth justice conferencing, where considered appropriate to do so; and ensuring that Juvenile Justice community office staff provide support to local Aboriginal communities and agencies as they encourage Aboriginal young offenders to take responsibility for their own lives and steer them away from a life of crime.

To complement the Aboriginal Strategic Plan the agency also has released the Aboriginal and Torres Strait Islander Recruitment and Retention Strategy 2011-13, which contains actions designed to recruit and retain Aboriginal and Torres Strait Islander staff. The implementation of this strategy is vital in building a responsive and effective juvenile justice system that supports young people and understands and respects Aboriginal and Torres Strait Islander culture, families and communities. Juvenile Justice continues to be a leading employer of Aboriginal people in New South Wales. Over 10 per cent of the total workforce identify as Aboriginal or Torres Strait Islanders—in positions ranging across administrative, managerial and front-line areas. We know that continued improvements in employment rates for Indigenous staff will be vital in building a responsive and effective juvenile justice system that supports young people and understands and respects Aboriginal and Torres Strait Islander culture, families and communities.

Within Juvenile Justice we are working with a number of employment agencies such as Whitelion. Whitelion assists young people under the supervision of Juvenile Justice to find employment. The service prepares young people for employment and job seeking, recruits and matches young people to appropriate employers and continues to monitor and support the job placement. Whitelion has recently commenced delivery of an Aboriginal employment project, offering employers the chance to work with and support the training and development of Aboriginal young people under the supervision of Juvenile Justice.

The formation of the broader Department of Attorney General and Justice has provided a unique and exciting opportunity for the Attorney General's division, Juvenile Justice, Corrective Services and the Police Force to collaborate and design joint initiatives to address problems. We already are seeing the benefits of merging agencies under one umbrella, as demonstrated by the recent work undertaken in western New South Wales to address the high rate of Aboriginal juvenile remand, incarceration and breaches of bail. In August 2011 staff from Juvenile Justice and the Crime Prevention Division facilitated a regional forum to develop cohesive and jointly funded strategies to address juvenile crime and incarceration.

This forum provided an opportunity to combine efforts and resources and focus on actively reducing the number of Aboriginal juveniles who have contact with courts, a reduction of Aboriginal juveniles on remand and a reduction in Aboriginal juveniles who subsequently breach their bail conditions. Some of the issues

covered were ensuring a young person attends court, ensuring young people and their families understand bail conditions—for example, curfews—and linking community supports. While this work is in the early developmental stages, part of the model will include training Attorney General staff to educate families around bail conditions and how to respond to family problems. Following this the model can be piloted across the western region, including Bourke and Brewarrina.

I will give an example of a Juvenile Justice case study. Wayne—not his real name—was sentenced to a six months fixed term with a six months parole period. Wayne's behaviours included offending, hanging out with negative peers, using drugs and alcohol, coming under the notice of police in the middle of the night and not attending school regularly. He was released with an inclusion to participate in Act Now Together Strong [ANTS], a community intervention run by Juvenile Justice. His mother was hoping the ANTS model would assist the family to communicate better and maintain Wayne's current positive attitude around not returning to custody. He successfully completed the ANTS model. His was the first family in New South Wales to complete the model.

Since then Wayne has not reoffended within 12 months of completing the ANTS model, is just commencing year 12 at high school, continues to play football, last week attended the selection trials for the Far West Academy, is in a steady relationship, does not engage with the peer group he did prior to custody and continues to reside in the family home. Wayne's family commented, "Juvenile Justice taught our son skills in Orana Juvenile Justice Centre. We have walked the streets for the past 10 years looking for this kind of help." In the evaluations Wayne said that ANTS helped his family and his family helped him stay off drugs. The family said, "If anyone wants to talk to us about Juvenile Justice helping us we will tell them this service helped us as a family."

It is clear that there are some key challenges in the area of Juvenile Justice. However, it is an area in which we can make a significant difference to the lives of young people. Good juvenile justice policies can mean the difference between a lifetime of crime and a fulfilling, productive life. We understand that a particular group, such as Aboriginal and Torres Strait Islanders, are more susceptible to offending. We need to provide these people with early access to effective services so that an initial error of judgement does not escalate into a lifetime of crime. To this end, Juvenile Justice will implement the most effective policies based upon national and international research, evidence and best practice.

The Hon. TREVOR KHAN: Attorney, would you be prepared to outline to the Committee the highlights in capital works announced in the budget relating to Corrective Services and Juvenile Justice?

Mr GREG SMITH: Yes, I certainly would. The funds to be allocated on capital works for Corrective Services demonstrate a commitment to ensuring that the State's correctional system is equipped with the necessary infrastructure and resources. In the 2011-12 financial year the Government will be spending $69.59 million on Corrective Services NSW capital works. This figure includes $15.25 million to provide inmate accommodation that is fit for purpose, including $10.55 million to continue construction of the $94 million, 250-bed expansion of Cessnock Correctional Centre scheduled for completion in March 2012; and $4.7 million to finalise the construction of the new $155 million, 600-bed multiclassification correctional centre in Nowra on the South Coast, which received its first inmate in December 2010.

The completion of these beds has allowed the replacement of outdated accommodation stock with state-of-the-art facilities. These facilities have been designed using contemporary standards to maximise rehabilitation opportunities through program delivery and education. They will be equipped with the latest security systems to ensure security and duty of care to staff, the offenders and the community. The Government is providing $1.46 million to continue the replacement of inmate transport vehicles and to expand the fleet, including the installation of intercom systems, in response to recent coronial recommendations; and $10.40 million to continue the remediation and enhancement of Corrective Services NSW information, communication and technology [ICT] infrastructure and applications environment, as outlined in the Corrective Services NSW ICT Strategic Plan. This program will deliver enhanced functionality to offender management systems and support efficient service delivery.

The Government is also providing $2.67 million for ICT reinvestment pool funding to develop a platform for electronic document management, including the digitisation of vital offender records; $5 million to provide specialist drug rehabilitation correctional accommodation to help reduce recidivism; $300,000 to finalise the Mid North Coast Correctional Centre sports and recreational field; $34.77 million for minor works projects, which includes $19.77 for necessary minor works to replace and enhance the infrastructure in the 33

operational correctional centres; $5 million for office accommodation for front-line operations within the Community Offender Services and Community Compliance Monitoring Group; $5 million for electronic security replacements to increase the safety, duty of care and security of staff, offenders and the community; and $5 million for ICT replacements to ensure equipment is performing at the necessary level to support the most effective and efficient operations.

I will now turn to Juvenile Justice capital works highlights at Cobham and Riverina. Cobham Juvenile Justice Centre opened in June 1980 and is located at St Marys in western Sydney. It is the principal remand facility in New South Wales for young males who are 16 years old or over. While detainees are predominately from the Sydney metropolitan area, the centre also accommodates detainees in transit for court. Cobham Juvenile Justice Centre also operates an annex at Emu Plains. The centre has a current capacity of 85 beds across five accommodation units. Metropolitan Regional Office is also located on-site, as is the Western Sydney Intensive Supervision Program and the Security and Intelligence Unit.

A range of programs and activities are conducted at the centre including Save a Mate, New Ways of Coping, Dthina Yuwali, Love Bites, Considering Change, a parenting program, an alcohol and other drugs core program, community service programs and Alcoholics Anonymous groups. Regular developmental and cultural programs include round robin sports competitions, activities for NAIDOC, Pacific Island cultural days, visits by Vietnam Veterans for Anzac Day, environmental days, multicultural festivals incorporating dance groups from various multicultural groups, a community awareness program, an Aboriginal culture program, careers days, Chinese New Year, role model visits, wheelchair basketball and a CityRail risk program. There are a number of building works, which I might come to a bit later.

CHAIR: We will now go to Opposition members for further questions.

The Hon. ADAM SEARLE: I think the director general indicated that there was a study of baseline funding for the Department of Attorney General and Justice carried out for Treasury by a consultant. Are you able to indicate the identity of the consultant?

Mr GLANFIELD: It was KPMG and it was done and paid for by Treasury.

The Hon. ADAM SEARLE: Is that report publicly available?

Mr GLANFIELD: I do not think so, but that question would have to be directed to the Treasurer.

The Hon. ADAM SEARLE: So it is not a report you have a copy of?

Mr GLANFIELD: I have seen the report, yes. It was a report prepared for Treasury.

The Hon. ADAM SEARLE: Are you aware of any actions the Government is taking as a result of that report?

Mr GLANFIELD: I do not want you to misunderstand the nature of the report. The report was assessing what the true cost of running Corrective Services was and what should be appropriately allocated to it as base funding, because the suggestion was that the previous Government had reduced the budget of Corrective Services in anticipation of reforms that were unable to be achieved. So this was an assessment of what, absent those reforms which were unable to be achieved, should have been the budget for Corrective Services. So basically it was an analysis coming up with a figure for budget allocation, which was adopted by Treasury.

The Hon. ADAM SEARLE: Attorney, under your Government's version of the State Plan NSW 2021 one of the tasks you have responsibility for is establishing a dedicated metropolitan drug treatment facility focused on treatment, rehabilitation and keeping drugs out of prisons. What specific action had been initiated in connection with that agenda?

Mr GREG SMITH: I asked the department for advice on what would be the most suitable way of fulfilling that aim. They have come back to me; my office has gone back to them with some suggestions; they have come back to me again, and at this stage it has not been finalised but I think I can mention that it is likely that John Morony Correctional Centre will be used and it will be done in stages—that is for the men. Dillwynia, which is a women's prison and on the same campus, will be used for the women. There will be a much smaller

number of women than men, commensurate with their jail populations, but we will be doing it in phases. It is well underway and I hope to be making an announcement in the next few weeks.

The Hon. ADAM SEARLE: Have you assessed what additional resources will be necessary to effect this policy?

Mr GREG SMITH: That assessment is continuing. To some extent the lack of money does not help. That is one of the reasons it will be done in stages rather than all at once. Also, getting the necessary staff together and other resources that are necessary takes time, but there has been an assessment of those matters. I do not have the figure at my fingertips.

The Hon. ADAM SEARLE: Does anybody in the room have those figures or do you want to take that on notice?

Mr WOODHAM: I can add a bit to that. In the 2011-12 financial year we want to employ a director of that program, an integration manager, a service and programs officer, a program facilitator and a throughcare and placement officer. If the Minister agrees, we propose that that program can start at the first stage around the end of February next year. To get the facility prepared for that to happen we need a programs and administration upgrade of $61,600; the installation of additional non-contact visit boxes for $142,000; new cell furniture, including double bunks in Ebenezer penalty unit; an intensive learning centre refit of $87,000; and a clinic upgrade of $344,000.

The Hon. ADAM SEARLE: Are you able to inform the Committee of the total estimated cost of effecting this policy?

Mr WOODHAM: When it is fully operable the cost in the first year will be $368,000.

The Hon. ADAM SEARLE: Do you have additional resources to fund that or is it coming out of existing resources?

Mr WOODHAM: There are already additional resources at that facility.

Mr GLANFIELD: Some additional funds were included in the budget to cover both this and also a drug court and we working within that funding inflow. So additional funding was made available. The phased cost to which the commissioner just referred will be covered in this existing year's budget.

Mr WOODHAM: Additional to that, it is already a working facility. We have program staff there, an intensive learning centre and full-time education workshops. It is already a working facility. We have only to look at the variance between what is there now and what we need to run this program.

The Hon. ADAM SEARLE: Will you have to cut or reduce any current programs within Corrective Services to fund these proposals at all? I know Mr Glanfield said there were some additional resources.

Mr WOODHAM: Do you mean if we are closing something to make this happen or winding back something to make this happen?

The Hon. ADAM SEARLE: That is the question, yes.

Mr WOODHAM: No, not this particular facility.

The Hon. ADAM SEARLE: Can you rule out cutting or reducing any of the following programs, and I refer, first, to the Compulsory Drug Treatment Correctional Centre at Parklea? You have no plans to reduce that?

Mr WOODHAM: No, we are not reducing that at all.

The Hon. ADAM SEARLE: Will you maintain the Ngara Nura Drug Rehabilitation Program at Long Bay?

Mr WOODHAM: Yes, definitely.

The Hon. ADAM SEARLE: Will the Bolwarra House Transition Centre at Emu Plains be maintained?

Mr WOODHAM: That will remain.

The Hon. ADAM SEARLE: Do you have plans to reduce the Personal Ownership, Identity and Self Empowerment program at Emu Plains in any way?

Mr WOODHAM: No, not at all.

The Hon. AMANDA FAZIO: What vocational training options are now being provided for inmates in the Central West since the closure of the Kirkconnell Correctional Centre?

Mr WOODHAM: Are you asking where the prisoners that were there have been moved to?

The Hon. AMANDA FAZIO: No. Kirkconnell used to provide welding, hand and power tool courses, forklift driving, literacy, numeracy, small business management, furniture production, forestation and gardening training for inmates. What will you do for inmates in the Central West when Kirkconnell closes and those programs are no longer on offer there?

Mr WOODHAM: The programs in the community that the inmates at Kirkconnell were employed in are now being undertaken by a new group of community offenders supervised by custodial and non-custodial staff. So we have made sure that all community work was covered, not only at Kirkconnell but also at Berrima. The community around Kirkconnell itself does not have a great involvement in the centre in the same way that Berrima did. But we made sure that any work that was undertaken by the inmates of those two facilities—and you referred to Kirkconnell—would continue with community corrections.

The Hon. AMANDA FAZIO: But what will you offer prisoners kept in your facilities full time in the Central West now that those vocational courses are not available at Kirkconnell? What extra TAFE training or courses will you put in place at Bathurst or Wellington, for example?

Mr WOODHAM: There were a number of sex offenders at Kirkconnell. There was a high proportion of sex offenders and mostly the people that were there were on protection. Because of the reduction in the prison population the main reduction is minimum security prisoners. The short sentence prisoners are not coming to us in the volume that they were. We had no worries placing those minimum security inmates into vacant positions in minimum security institutions. But as far as Kirkconnell went, we moved the bulk of the prisoners from Kirkconnell into an external minimum security wing at Bathurst and moved the Bathurst prisoners on to other minimum security correctional centres. It did not create any real problem for us or the inmates. I am not aware of one complaint.

The Hon. AMANDA FAZIO: I refer to the issue of Drug Court placements. Given that Parramatta Correctional Centre 4 Wing had facilities to accommodate up to 18 inmates on the Drug Court Program where the inmates were kept separate from the mainstream population, what measures have been put in place to accommodate these inmates elsewhere?

Mr WOODHAM: I just mentioned that when I spoke about the funding for Ebenezer, a section of the John Morony Correctional Centre. In the interim we moved those prisoners to a special area in Parklea until we prepare John Morony. If the Minister agrees with that proposal then that sanction group will move there.

The Hon. AMANDA FAZIO: Perhaps this is a pertinent opportunity to ask the Minister whether he agrees with the proposal to deal with Drug Court participants in that way at Parklea.

Mr GREG SMITH: I do not see why I should not. I have not specifically looked at those prisoners, but I think the work that has been done through the Drug Court at Parramatta and at the Parklea intensive drug centre is important work. It has had a lot of success in reducing recidivism, so I support its continuance. That is also why we are moving towards a second Sydney Drug Court.

The Hon. AMANDA FAZIO: Given that the three correctional centres that have closed—Berrima, Parramatta and Kirkconnell—were in effect rehabilitation centres because they all provided a good range of

either TAFE NSW courses or Adult Education and Vocational Training Institute courses in adult literacy and numerary, information technology and those sorts of things, what measures are you now putting in place to rehabilitate inmates with a view to reducing recidivism rates?

Mr WOODHAM: A whole range of things, of course. We have not cut back on programs at all. In relation to recidivism, the recidivism rate for inmates returning to prison in New South Wales decreased from 42.9 per cent in 2008-09 to 42.4 per cent in 2009-10. Preliminary data held by Corrective Services indicates, however, that there has been a marginal increase in the recidivism rate of inmates returning to prison in 2010-11. However, the percentage of offenders returning to Corrective Services, including full-time custody, within two years decreased from 23.9 per cent in 2009-10 to 23.1 per cent in 2010-11.

The number of individuals coming into contact with the criminal justice system is a significant concern for everybody. As far as programs are concerned, we still have a whole range of programs and even some new ones that will, in my opinion, have a big effect on recidivism. I refer to the Balund-a Program up north on the Clarence River which is a diversionary program from the courts. A number of magistrates and judges have been taken there in recent times who fully support that program. It may be rolled out elsewhere across the State. When offenders come before the courts they are placed on what is called Griffith bail. They go out to this facility, men and women, and it holds 50 offenders.

We do not use our program facilitators; we use community program facilitators who are involved with the offenders and their families prior to coming to us or going before the courts. Those program facilitators come into our facility and sometimes work with the whole family—the wife and the husband can be in the program—and then take them back out and stay with them through the care program. The offenders then return to the court after doing the specific programs the court has identified with a report from the program facilitators and Probation and Parole. They are not in custody at any time. It is a highly successful diversionary program and I think it is a really good program.

Other programs that we have on line now and are worth mentioning are the sex offender programs. We have doubled the numbers we can get into an intensive sex offender program and a violence prevention program. When we open 250 cells at Cessnock next year we will have a third layer of sex offender and violent offender programs. A few years ago you could only do those programs if you were in minimum security. Now we start working on them when they come through the gate in maximum security and medium security. We have even brought on line recently a deniers program for serious sex offenders. There are too many people going through their entire sentence with us and not being treated properly. The deniers program for serious sex offenders, particularly paedophiles, is working very well.

Yetta Dhinnakkal is another great program. It is a 28,000 acre property at Brewarrina where young Aboriginal offenders go to learn bush skills—how to shear, how to fence—and they can get a backhoe, bulldozer or grader ticket. These are things they need to get a job in the bush. There is also a Roads and Traffic Authority computer there and the Aboriginal offenders can learn to drive properly while they are on the property and get their licence. A good spin-off of that is that it is the first time many of these young Aboriginal men have had anything to prove their identity. They can say, "That's me. I've got a driver's licence. I've got something I can identify myself with."

In relation to community-based programs and re-offending, the introduction of the intensive corrections order [ICO] is a classic example of something that will help reduce the re-offending rate. It is the first time we have run a community-based program that has a work component. Offenders must work 32 hours a month. Before we rolled out this program we rolled out facilitators around the State and changed the supervision of the offenders because it is fairly intense. It sits between home detention and a community corrections order. That program component enables us for the first time to address offending behaviour in the community. I think that will be a real winner too as far as the recidivism rate is concerned. There is a whole range of other programs but those are good examples.

The Hon. ADAM SEARLE: I asked about drug treatment services earlier and Mr Glanfield indicated there was some new money in the budget to meet those services. Can you tell me where that program is funded in Budget Paper No. 3? Is it in the Crime Prevention and Community Services Program or the Custody Management Program?

Mr GLANFIELD: I have to identify it, but the total amount over four years for a range of things, including education and re-offending was $26.3 million.

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

Mr GLANFIELD: And point out where the money has been allocated in the budget?

The Hon. ADAM SEARLE: Yes.

Mr DAVID SHOEBRIDGE: Mr Woodham, I was asking you about escapes from private prisons. What, if any, contractual entitlement does the State have to recover damages from private prison operators who have allowed inmates to escape?

Mr WOODHAM: In the worst case scenario their contract could be withdrawn.

Mr DAVID SHOEBRIDGE: What are the other contractual entitlements? Do they include the recovery of costs the State has incurred to recapture escapees?

Mr WOODHAM: We do not recoup anything from the company in that regard but we can penalise them. If there is a breach of the contract to the degree of cancellation being required that can happen.

Mr DAVID SHOEBRIDGE: Notwithstanding there have been four escapes there has been only one instance where a private operator has been penalised this year.

Mr WOODHAM: I will find the other incidents as well.

Mr DAVID SHOEBRIDGE: Could you take that on notice?

Mr WOODHAM: There is no incident there that does not happen in the public system as well.

Mr DAVID SHOEBRIDGE: Could you take on notice the instances of escapes and any instances where penalties have been imposed?

Mr WOODHAM: I will give you the details.

Mr DAVID SHOEBRIDGE: Attorney, since 1 July 2011, New Zealand prisons have been smoke free and I think Federal prisons in the United States have been smoke free for a substantial period of time. Are you considering smoke-free prisons in New South Wales?

Mr GREG SMITH: Not at the moment.

Mr DAVID SHOEBRIDGE: Do you know whether the department has undertaken any studies as to whether New South Wales prisons are compliant with World Health Organization standards in terms of ensuring safe workplaces in relation to the level of tobacco smoke?

Mr GREG SMITH: I assume they would be but I will ask Mr Woodham to answer.

Mr WOODHAM: I met recently with the head of Corrections Health. You have to be very careful because if we just withdraw tobacco from every jail you will see smoke but it will not be tobacco smoke. It will be a jail burning down. You will see Goulburn from here.

Mr DAVID SHOEBRIDGE: I think New Zealand went through that process and they said it was remarkably trouble free.

Mr WOODHAM: It has to be done very carefully. Everyone that comes to jail is on dope and they smoke.

Mr DAVID SHOEBRIDGE: And soon after they get in there they get an intravenous drug habit.

The Hon. AMANDA FAZIO: Let Mr Woodham answer the question.

Mr WOODHAM: I will keep talking anyhow. You would never go near a remand jail with people coming straight off the street and try to implement a program like that, but in a stable jail like Lithgow where you have long-term prisoners that have been there a long time and are settled and are really into programs and work and are involved in the facility, we intend to trial a non-smoking wing at some stage soon and then try to expand it to the whole correctional centre to see how it goes, with the health authorities doing their part as well as us. That is where we are at.

Mr DAVID SHOEBRIDGE: When do you expect that trial to start?

Mr WOODHAM: We are working on it now with Corrections Health. I do not know; it could be in the next six to eight months, something like that.

Mr DAVID SHOEBRIDGE: Attorney, in the 2011-12 budget do you know the amount allocated to mental health care services for people in New South Wales correctional centres?

Mr GREG SMITH: No, I do not.

Mr DAVID SHOEBRIDGE: Does either Mr Glanville or Mr Woodham know the amount allocated?

Mr WOODHAM: I cannot tell you the exact dollar figure, but I can relate to the programs that we have, which are very expensive and very intense.

Mr DAVID SHOEBRIDGE: Could you give the dollar figure on notice?

Mr WOODHAM: Yes, I can give you that.

Mr DAVID SHOEBRIDGE: Could you include whether any recurrent funding has been allocated for that purpose?

Mr WOODHAM: It is there every year, because large sections of our remand jails are involved with mental health.

Mr DAVID SHOEBRIDGE: Mr Hubby, could I ask you to provide the same figures and details in relation to young people in Juvenile Justice centres?

Mr HUBBY: I will. I would note though that health services in Juvenile Justice centres are generally provided by NSW Health. So some costs are incurred directly by our agency, but some are incurred by NSW Health.

Mr DAVID SHOEBRIDGE: Could you give the NSW Health figures to the extent they are available to you?

Mr HUBBY: I will take that on notice.

Mr DAVID SHOEBRIDGE: Mr Woodham, could you give the same figures for the amount allocated for mental health care services for people in privatised correctional centres in New South Wales, and include the recurrent figures?

Mr WOODHAM: Yes.

Mr DAVID SHOEBRIDGE: So that is a separate figure for the privatised centres.

Mr WOODHAM: What the whole facility costs?

Mr DAVID SHOEBRIDGE: No. The amount allocated to mental health services.

Mr WOODHAM: Our main programs are not there.

Mr DAVID SHOEBRIDGE: Which is why I am asking can you give the amount allocated in those privatised centres, including by centre, so Parklea and Junee.

Mr WOODHAM: Yes.

The Hon. JAN BARHAM: Attorney, can you advise how much is in the budget specifically to address the disproportionate rates of incarceration of Aboriginal people?

Mr GREG SMITH: No, I cannot. I do not know whether we have a specific allocation for that in the budget.

Mr GLANFIELD: The questions you are asking require us to do fairly detailed analyses and guesstimates, because many of these programs are in baseline programs and some are effectively outsourced to other agencies, such as Justice Health. So we would have to take that sort of detailed question on notice to work that out. And, at the end of the day, as I say, it would be partly an estimate to the extent that it was not our people who were actually delivering the services.

The Hon. JAN BARHAM: I am happy for you to do that. Could you also define how much is allocated to operational and how much to the delivery of an access to diversionary programs specifically for Aboriginal people? I am interested in that breakdown.

Mr GLANFIELD: Access to diversionary programs from what?

The Hon. JAN BARHAM: Access to diversionary programs.

Mr GLANFIELD: Are you talking about to courts before they go to prison, or are you still talking about prisons?

The Hon. JAN BARHAM: Before.

Mr GLANFIELD: So we are talking about court diversion programs?

The Hon. JAN BARHAM: Court diversion, yes.

Mr GLANFIELD: Yes, we can do that.

The Hon. JAN BARHAM: Within the Justice budget.

Mr GLANFIELD: Yes.

Mr DAVID SHOEBRIDGE: Attorney, one of the successful projects in terms of maintaining connections between parents and their children is the SHINE project in New South Wales. Can you confirm that there is a commitment to recurrent funding for SHINE and potentially growing the funding for the SHINE program?

Mr GREG SMITH: Mr Woodham might respond to that question.

Mr WOODHAM: I have been personally involved with SHINE from day one. We now have a number of facilities under SHINE for Kids—at Wellington, Kempsey, Windsor and Emu Plains. We are now building one at Goulburn, and we have built one at Nowra. We are very much involved with them. Every year we allocate a certain amount of the profits from Corrective Services industries to SHINE for Kids, to put in things like new playgrounds, the latest one being at Silverwater, and to buy them televisions and whatever Gloria Larman tells me that they require.

Mr DAVID SHOEBRIDGE: Are you going to maintain the budget or increase the budget is the issue?

Mr GLANFIELD: Yes, we are. We are expanding. We are building a new one at Goulburn.

Mr DAVID SHOEBRIDGE: Can you tell me what the budget for this financial year is and what the budget for the last financial budget was in terms of an allocation to SHINE for Kids?

Mr GLANFIELD: I can, but I cannot tell you the exact dollar now.

Mr DAVID SHOEBRIDGE: Attorney, given one of the key issues facing juveniles, including that one of the key reasons they are refused bail can be their homelessness and their inability to find accommodation, has any State funding been allocated in this budget to provide housing for juveniles who are bail refused because they cannot access stable accommodation?

Mr GREG SMITH: I thought we were giving funding to some of the non-government organisations that provide homes for the homeless. Mr Hubby might respond.

Mr HUBBY: It is one of our key funding areas in what we call our community funding program, under which we fund non-government agencies for accommodation support to help young people meet bail conditions, and for those who are homeless. Some funding comes through the National Homelessness Partnership.

Mr DAVID SHOEBRIDGE: Can you give a breakdown of the funding last year and the funding allocation for this financial year?

Mr HUBBY: I can take that on notice.

Mr DAVID SHOEBRIDGE: Has it increased or decreased?

Mr HUBBY: It has increased.

Mr DAVID SHOEBRIDGE: One of the key recommendations that came out of the inquiry by the Senate Community Affairs References Committee, which was contained in its report "Hear us: Inquiry into hearing health in Australia", was that there be hearing assessments for all Australians serving custodial services, and most particularly for Aboriginal inmates. What has the Government done to implement that recommendation?

Mr WOODHAM: That really is a Corrections Health issue. I am not aware of a dedicated program for assessing hearing defects, but it is a question I am willing to take up with Corrections Health.

Mr DAVID SHOEBRIDGE: Will you include taking on notice any response?

Mr WOODHAM: Yes.

Mr DAVID SHOEBRIDGE: Mr Hubby, in terms of the particular concern, of which you would be aware, of hearing loss and hearing deficit being a substantial reason for particularly Aboriginal juvenile disadvantage, what programs are in place within Juvenile Justice to do that kind of hearing assessment early on?

Mr HUBBY: Again, we do that through partnership with NSW Health and Justice Health, which provide health services in detention centres. So, in terms of the number of young people screened, I could take the question on notice and get that information from Health. But it is through providing facilities and resources to Justice Health. They do the screening.

Mr DAVID SHOEBRIDGE: Will you undertake, in order to live up to your commitment to reduce recidivism and the sheer numbers of Aboriginal juveniles in detention, to do that initial screening of Aboriginal juveniles as they come into detention?

Mr HUBBY: We have that commitment in place now. Especially to the extent that it is any sort of national commitment around screening Aboriginal young people, we work with NSW Health now, and we will continue to do so.

Mr DAVID SHOEBRIDGE: Do you screen every single juvenile, particularly Aboriginal juveniles, who comes into the system for hearing loss at the time they enter the system?

Mr HUBBY: I cannot tell you whether we have screened every young person who has come into custody, but I can certainly take that on notice.

Mr DAVID SHOEBRIDGE: Thank you.

The Hon. JAN BARHAM: If I can follow up on that. The May 2010 inquiry also had a recommendation—

The Hon. TREVOR KHAN: Which inquiry?

The Hon. JAN BARHAM: This is the Senate Community Affairs References Committee inquiry "Hear us: Inquiry into hearing health in Australia". I refer to recommendation 34: that correctional facilities in which greater than 10 per cent of the population is Indigenous review their facilities and practices, and improve them so that the needs of hearing impaired prisoners are met. Has that been addressed in the budget? If not, will it be addressed? You might take that on notice. Recommendation 28 of the inquiry was that the State Ombudsman conduct an audit of all Australians serving custodial sentences, and consider whether undiagnosed hearing impairment may have resulted in a miscarriage of justice and led to unsafe convictions. Are you aware of that being undertaken?

The Hon. TREVOR KHAN: You are asking in State Parliament questions about a Senate inquiry recommendation.

The Hon. JAN BARHAM: These recommendations were referred to the States.

Mr DAVID SHOEBRIDGE: Correct.

The Hon. TREVOR KHAN: You are not laying the groundwork for questions; that is all.

The Hon. JAN BARHAM: Mr David Shoebridge gave the introduction, and I was following up his question.

Mr GLANFIELD: This is a very important issue. I was not aware of the details, but it is something we will certainly look at. My personal view is that we should be ensuring that those issues are attended to, that we do proper assessments and testing and that we support people. You have my commitment.

The Hon. JAN BARHAM: I put a question on notice as well.

Mr DAVID SHOEBRIDGE: The coronial inquest into the death of Veronica Baxter raised a number of serious concerns. One concern relates to the failure of Corrective Services officers to record a series of key calls Ms Baxter made to an officer in the 24 hours prior to her death. Attorney General, what, if anything, have you done to address those deficiencies?

Mr GREG SMITH: What was the name?

Mr DAVID SHOEBRIDGE: Veronica Baxter, who was a transgender Aboriginal woman.

Mr GREG SMITH: I have not done anything that I am aware of, but I am concerned that the Coroner's recommendations are complied with. The department has changed and improved its practices in response to other inquests and recommendations.

Mr WOODHAM: At the conclusion of the inquest His Honour noted that Corrective Services NSW staff had no indication that Ms Baxter would self-harm and that she did not appear to raise concerns with other inmates about suicidal tendencies. His Honour found no issue with the placement of Ms Baxter at the Metropolitan Remand Centre and stated that the care provided by staff was appropriate, in particular, that she was prioritised as transgender and that proper policies were in place. His Honour further accepted that there was no evidence to suggest that any third party was involved in Ms Baxter's death, nor was there any evidence of foul play. The issue that Ms Baxter should have been placed in an observation cell because her assessment was not complete was rejected by His Honour on the grounds that no mental health issues were identified in respect of Ms Baxter and that the lack of privacy would have been inappropriate given the safety issues for a transgender person. His Honour stated that Corrective Services NSW should be commended for its response to the death in custody.

Mr DAVID SHOEBRIDGE: Please address the question, which was about the failure of Corrective Services to record the distress calls that Veronica Baxter made in the 24 hours prior to her death. What, if anything, have you done to ensure that does not happen again?

Mr WOODHAM: The Deputy State Coroner also made a recommendation to me that the use of the knock-up system by an inmate be recorded by correctional officers and be retained if it is to be put into effect. The board of management of the Management of Deaths in Custody Committee, which runs off my board of management, is currently reviewing advice from subject matter experts on implementing that recommendation. As part of the cost-benefit analysis, the committee is considering the feasibility of installing audio intercom devices within existing building systems infrastructure as well as voice recordable devices in the construction of any new correctional centre.

Mr DAVID SHOEBRIDGE: Did you investigate why no statement was taken from the Corrective Services officers on duty at that time who received those calls until some three years after the event?

Mr WOODHAM: Surely the Coroner would have raised that.

Mr DAVID SHOEBRIDGE: I am asking you.

Mr WOODHAM: The coroner had no issue with that. To be honest, I am not aware of that issue. The Coroner had no issue with it or it would have been recorded.

Mr DAVID SHOEBRIDGE: Have you investigated why no statement was taken from the key officers who were on duty at the time for three years after the incident? It was a key issue in the coronial inquiry.

Mr WOODHAM: Surely that would have come up at the Coroner's hearing. I will look at the issue and advise the Attorney General.

Mr DAVID SHOEBRIDGE: Attorney, do you accept that intravenous drug use is widespread in New South Wales prisons?

Mr GREG SMITH: I understand that that is correct.

Mr DAVID SHOEBRIDGE: Do you have the current figures for intravenous drug use in our prisons?

Mr GREG SMITH: No, I do not. However, I understand that services are provided so that they can be kept as clean as possible.

Mr DAVID SHOEBRIDGE: Do you intend to establish the incidence of intravenous drug use?

Mr GREG SMITH: I have no plans to do so, but the department might have some records. I do not know.

Mr DAVID SHOEBRIDGE: Will you consider at least a trial needle exchange program in New South Wales?

Mr GREG SMITH: I have considered it and I am not impressed. I will not change the current system.

Mr DAVID SHOEBRIDGE: There is no intention to conduct a trial notwithstanding the prevalence of intravenous drug use?

Mr GREG SMITH: Not by me. I have adopted the same approach as that taken by my predecessor.

The Hon. AMANDA FAZIO: Mr Woodham, I am not sure whether you know, but the Parliament has recently held a spring ball. More than $60,000 was raised at that event and it will be distributed to five charities, including SHINE for Kids. It should soon be receiving a charitable donation from the New South Wales Parliament.

Mr WOODHAM: Thank you.

Mr DAVID SHOEBRIDGE: And that is no basis on which to reduce your allocation.

Mr WOODHAM: That is good to hear.

CHAIR: Thank you Attorney General, Mr Woodham, Mr Glanfield and Mr Hubby for your attendance and evidence today.

(The witnesses withdrew)

The Committee proceeded to deliberate.
