

# **PORTFOLIO COMMITTEE NO. 4 – LEGAL AFFAIRS**

**Tuesday, 4 September 2018**

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

## **COUNTER TERRORISM, CORRECTIONS, VETERANS AFFAIRS**

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

### **MEMBERS**

Mr David Shoebridge (Acting Chair)

The Hon. David Clarke

The Hon. Scott Farlow

The Hon. Trevor Khan

The Hon. Shaoquett Moselmane

The Hon. Lynda Voltz

### **PRESENT**

**The Hon. David Elliott**, *Minister for Counter Terrorism, Minister for Corrections, and Minister for Veteran Affairs*

## **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**



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**The ACTING CHAIR:** Welcome to the public hearing for the inquiry into Budget Estimates 2018-19. Before we commence, I acknowledge the Gadigal people, who are the traditional custodians of this land. I pay my respects, those of the Committee and the audience to elders past, present and emerging of the Eora nation and extend that respect to all Aborigines present. I welcome Minister Elliott and all accompanying officials to the hearing today. The Committee will examine the proposed expenditure for the portfolio of Counter Terrorism, Corrections, and Veteran Affairs.

Today's hearing is open to the public and is being broadcast live via the Parliament's website. In accordance with the broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I remind media representatives that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside of their evidence at the hearing, so I urge witnesses to be careful about any comments they make to the media or to others after they complete their evidence as such comments will not be protected by parliamentary privilege if another person decided to take action for defamation. The guidelines for the broadcast of proceedings are available from the secretariat.

There may be some questions that witnesses could answer only if they had more time or with certain documents to hand. In these circumstances, witnesses are advised that they may take a question on notice and provide an answer within 21 days. Any messages from advisers or members of staff seated in the public gallery should be delivered through the Committee secretariat. Minister, I remind you and the officers accompanying you that you are free to pass notes and refer directly to your advisers seated at the table behind you. Transcripts of this hearing will be available on the website tomorrow.

To aid the audibility of this hearing, I remind Committee members and witnesses to speak into the microphones. Several seats have been reserved near the loudspeakers for persons in the public gallery who have hearing difficulties. Finally, I ask everyone turn their mobile phones off or to silent for the duration of the hearing. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. Minister, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament. I remind Mr Andrew Cappie-Wood from the New South Wales Department of Justice that he does not need to be sworn as he has been sworn at an earlier budget estimates hearing.

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**ELIZABETH STRATFORD**, Chief Financial Officer, Department of Justice, sworn and examined  
**PETER SEVERIN**, Commissioner, Corrective Services NSW, sworn and examined  
**MELANIE HAWYES**, Executive Director, Juvenile Justice, affirmed and examined  
**MARY-ANN O'LOUGHLIN**, Deputy Secretary, Department of Premier and Cabinet, affirmed and examined  
**CAROLYN MACKANESS**, Director, Office of Veterans Affairs, sworn and examined  
**FIONA RAFTER**, Inspector of Custodial Services, affirmed and examined  
**ANDREW CAPPIE-WOOD**, Secretary, Department of Justice, on former oath

**The ACTING CHAIR** I declare the proposed expenditure for the portfolio of Counter Terrorism, Corrections, and Veteran Affairs open for examination. Minister, as there is no provision for to you to make an opening statement before the Committee commences questioning, we will begin with questions from the Opposition.

**The Hon. SHAOQUETT MOSELMANE:** Minister, straight to you on questions of Juvenile Justice. We all know of the Treasurer's 3 per cent efficiency dividends. Where will the savings come from?

**Mr DAVID ELLIOTT:** I will defer that one to the secretary of the department who has the responsibility for the savings.

**Mr CAPPIE-WOOD:** The department is dealing with the 1 per cent additional savings required through the budget. The total of that to be confirmed by Treasury equates to just over \$20 million. There is a range of initiatives that we are pursuing in this regard and it is not necessarily completely evenly distributed across the elements of the department. We are looking at a range of procurement savings, and I am very pleased to inform you that we have recently concluded a multimillion-dollar saving through the aggregated procurement of our telecommunications. We are looking at discretionary expenditure, particularly travel and contractors. We are also looking at efficiencies in respect of implementing a range of digital enhancements to existing services, so a lot more online services. A great example of that has been efficiencies found through Births, Deaths and Marriages and online birth registrations. In a matter of months, 85 per cent of registrations are now online.

**The Hon. LYNDA VOLTZ:** What has that got to do with Juvenile Justice?

**Mr CAPPIE-WOOD:** Because it is a departmental budget and the savings have to be achieved across the department. That means that the requirement for the savings is one for the department, and it is one that we make sure of because the aggravated procurement, the efficiencies, all amount to making the savings, which were given at a departmental level.

**The Hon. LYNDA VOLTZ:** You are going to make savings in digital. How are you going to make savings in digital in Juvenile Justice?

**Mr CAPPIE-WOOD:** As I said, the savings are given on a departmental basis. It is not necessary for me because I have that responsibility to distribute those on a pro rata basis. We are looking at what we can achieve through better use of shared services, combination facilities, rationalisation of accommodation, all of which will contribute towards making the departmental allocation of savings.

**The Hon. LYNDA VOLTZ:** There will be equipment and vehicle procurement savings made in Juvenile Justice. You said procurement was the area you were looking at.

**Mr CAPPIE-WOOD:** Fleet is certainly one of the ones we will be examining through the course of the year, yes.

**The Hon. LYNDA VOLTZ:** Will overtime be part of the discretionary savings?

**Mr CAPPIE-WOOD:** Overtime is always a matter that we wish to make better use of. We have to constantly keep a careful view about how we manage overtime within the budget and it is one of those matters that we will give consideration to.

**The Hon. LYNDA VOLTZ:** What is the projected cost savings over the forward estimates for Juvenile Justice?

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**Mr CAPPIE-WOOD:** As I said, we have aggravated the savings requirements at a departmental level and the totality of that, as previously informed, is just over \$20 million.

**The Hon. LYNDA VOLTZ:** How much of that is out of Juvenile Justice?

**Mr CAPPIE-WOOD:** There is not necessarily a specific target given for Juvenile Justice because, as I said, we have aggravated the savings requirements.

**The Hon. LYNDA VOLTZ:** You have already said you will be making savings in fleets, equipment and possibly overtime so there must be a figure?

**Mr CAPPIE-WOOD:** Certainly from the aggravation area for shared services, et cetera, we can give you a breakdown where we think the savings will be coming from and take that one on notice.

**The Hon. LYNDA VOLTZ:** You do not have a breakdown there?

**Mr CAPPIE-WOOD:** Not with me, no.

**The Hon. LYNDA VOLTZ:** Will any staff be lost from Juvenile Justice over the next four years as a result of the efficiency dividends?

**Mr CAPPIE-WOOD:** We are not anticipating—

**The Hon. LYNDA VOLTZ:** You are not anticipating?

**Mr CAPPIE-WOOD:** No, I am not anticipating there will be staff lost as a result of the efficiency—

**The Hon. SHAOQUETT MOSELMANE:** Is it planned?

**The Hon. TREVOR KHAN:** Well, if he is not anticipating, it was not planned.

**The Hon. SHAOQUETT MOSELMANE:** Is something planned?

**The ACTING CHAIR:** Order! I think Mr Cappie-Wood can deal with this himself.

**The Hon. LYNDA VOLTZ:** Have you had any discussions, Minister, concerning the closure of the Orana detention centre as part of the efficiency dividends, or for any other reason?

**Mr DAVID ELLIOTT:** I was at Orana not long ago. There are no plans to shut it.

**The Hon. LYNDA VOLTZ:** But you have had discussions about closing other facilities?

**Mr DAVID ELLIOTT:** No, that is not what I said. I refer you to my last answer.

**The Hon. SHAOQUETT MOSELMANE:** What was your last answer?

**Mr DAVID ELLIOTT:** I said I have had discussions about the efficiency of every juvenile justice centre.

**The Hon. LYNDA VOLTZ:** All right; we will go back.

**The Hon. SHAOQUETT MOSELMANE:** But not Orana?

**Mr DAVID ELLIOTT:** Nothing specifically about Orana.

**The Hon. LYNDA VOLTZ:** Have you had any discussions regarding the potential closure of Orana Juvenile Justice Centre as part of the efficiency dividend or for any other reason?

**Mr DAVID ELLIOTT:** I have had no specific discussions about any specific venue at the moment. What I can say is that in Juvenile Justice in the last financial year, compared to the first year that I was the Minister, it has come down nearly 20 per cent. Ideally I would be able to close every juvenile justice centre because I would not have anybody incarcerated. At the moment we have had some fantastic successes, particularly in Orana with Youth on Track and I am happy with the way that the executive director is managing resources. But, as the secretary just said, with an overall budget across the cluster of some \$1.96 billion for this financial year, of course it is in the best interests of taxpayers to make sure it is being spent efficiently.

**The Hon. LYNDA VOLTZ:** You said you had no specific discussions. Does that mean you have had—

**Mr DAVID ELLIOTT:** I have answered the question, Ms Voltz. If you want to keep asking it I will put it on notice.

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**The Hon. LYNDA VOLTZ:** There is a difference between saying you have had no discussions and you have had no specific discussions. I am just trying to narrow it down.

**The ACTING CHAIR:** I think the Minister's answer was "no discussions about specific facilities".

**Mr DAVID ELLIOTT:** Thank you.

**The Hon. LYNDA VOLTZ:** That is not what I wrote down at the time the Minister said it, but I thank Mr David Shoebridge for his help.

**The ACTING CHAIR:** It was answered.

**The Hon. LYNDA VOLTZ:** When did you receive the Rafter report?

**Mr DAVID ELLIOTT:** Which Rafter report? The Inspector of Custodial Services writes lots of reports.

**The Hon. LYNDA VOLTZ:** Following the Northern Territory Don Dale Youth Detention Centre scandal you commissioned an independent report into the use of force and solitary confinement?

**Mr DAVID ELLIOTT:** At the beginning of last year. I have not received a copy of that report.

**The Hon. LYNDA VOLTZ:** Do you know why it has been delayed?

**Mr DAVID ELLIOTT:** Inspector Rafter is an independent statutory officer so I do not influence or certainly interfere with her report writing.

**The Hon. LYNDA VOLTZ:** Ms Rafter, is there a reason that the report has been delayed?

**Ms RAFTER:** I am continuing to work on the report. It has been a comprehensive piece of work. I am anxious to finish it as soon as possible.

**The Hon. LYNDA VOLTZ:** Do you have a projected timeline for that?

**Ms RAFTER:** No, I do not have a fixed date. It will be as soon as possible.

**The Hon. LYNDA VOLTZ:** In the next month, a couple of months, or within a year?

**Ms RAFTER:** I would anticipate that it would be within the next few months. It has to go through a number of processes before it can be tabled.

**The Hon. LYNDA VOLTZ:** What would be those processes?

**Ms RAFTER:** Those processes? First of all it has to be finished.

**The Hon. LYNDA VOLTZ:** That is a good start.

**Ms RAFTER:** That would be the first thing. Then when it is finished it will be sent, under the provisions of the legislation, to the Minister. He is able to make a submission. I am not bound to accept any of that submission but I may make further changes as a result of a submission. That is at my discretion under the legislation. Then I will have to arrange a tabling date for the report and then I will proceed to table.

**The Hon. LYNDA VOLTZ:** Will the report be made publicly available?

**Ms RAFTER:** There will be a recommendation in the report. This is something that I have introduced with the reports I have tabled this year. There is a provision in my legislation that enables me to recommend that the report is made public immediately and I intend to do that with this report.

**The Hon. LYNDA VOLTZ:** Minister, how many juveniles are presently being held in isolation?

**Mr DAVID ELLIOTT:** I will defer that to the executive director. You do realise that there is a difference between isolation, confinement and segregation? We do not have isolation per se in New South Wales. It is either segregation or confinement because there are legislative and practice standards and safeguards to govern the way that we manage children in custody. The executive director may want to expand on that.

**Ms HAWYES:** As you know, confinement is a lawful option for the punishment of misbehaviour in juvenile justice. I would have to take on notice how many young people may be on confinement today. I can say that in the use of confinement the average length of time any person spends in confinement in juvenile justice is five hours and 20 minutes.

**The Hon. LYNDA VOLTZ:** Five hours and 22 minutes.

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**Ms HAWYES:** Twenty minutes.

**The ACTING CHAIR:** Just to be clear, was it five hours and 20 minutes?

**Ms HAWYES:** Yes.

**The Hon. LYNDA VOLTZ:** How is that calculated?

**Ms HAWYES:** It is calculated from youth officers and frontline staff making notes of their application of the use of confinement and our Client Information Management System [CIMS] database is then used to draw reports.

**The Hon. LYNDA VOLTZ:** Is the time during which a detainee sleeps while in confinement counted towards a period in isolation?

**Ms HAWYES:** Usually detainees sleep in their room. It is not formally counted but I will take that on notice and question how many young people are in confinement today.

**The Hon. LYNDA VOLTZ:** How many reports of assaults on juvenile justice officers were received in each recurring year from 2011 to current?

**Mr DAVID ELLIOTT:** Who are you asking?

**The Hon. LYNDA VOLTZ:** I am asking you, Minister. My questions are directed to you.

**Mr DAVID ELLIOTT:** For 2018, to date, it is 145.

**The Hon. LYNDA VOLTZ:** How many reports of assaults against detainees in juvenile justice centres were received in each recurring year from 2011 to current?

**Mr DAVID ELLIOTT:** I will have to take it on notice from 2011, but since I have been the Minister it has gone down from 158 in 2015 to 145 so far this year. In previous years it was 140 and 149 in 2016 and 2017 respectively.

**The Hon. LYNDA VOLTZ:** Was it 149 in 2017?

**Mr DAVID ELLIOTT:** Yes, 149 was in 2017.

**The Hon. LYNDA VOLTZ:** What was it in 2016?

**Mr DAVID ELLIOTT:** In 2016 it was 140 and that figure was down from 158 for the previous year.

**The Hon. LYNDA VOLTZ:** How many self-harm incidents have been reported in juvenile justice over those same periods of 2015, 2016, 2017 and 2018?

**Mr DAVID ELLIOTT:** As you are aware, self-harm is a challenge that we are perpetually facing, unfortunately, and the officers are doing a fantastic job in minimising that. To answer your question, in 2017-18 there were 357 self-harm incidents involving 100 detainees.

**The Hon. LYNDA VOLTZ:** Do you have the figures for the years before that?

**Mr DAVID ELLIOTT:** I will have to take that on notice but it is worth noting that 50 per cent of the self-harm incidents in the last financial year were attributed to just 12 detainees.

**The Hon. LYNDA VOLTZ:** How many security breaches have occurred in juvenile justice centres for 2015, 2016, 2017 and 2018?

**Mr DAVID ELLIOTT:** Will you define what you mean by security breaches?

**The Hon. LYNDA VOLTZ:** I assume you have a standard for that, but it would be people getting out of their own cells, getting into other cells, contraband?

**Mr DAVID ELLIOTT:** If you are talking about escapes, there were four in the last financial year. Two of them occurred during court hearings where they absconded from courts and were apprehended within a very short time frame. There were four escapes within the last financial year but two of them were from courts.

**The Hon. LYNDA VOLTZ:** How are people getting out of their own cells?

**Mr DAVID ELLIOTT:** I am aware of only one but I will defer to the executive director.



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**Ms HAWYES:** I am assuming that you are referring to the recent media coverage?

**The Hon. LYNDIA VOLTZ:** That is one instance, but if you have more—

**Ms HAWYES:** That is the only incident that I have been advised or I am aware of.

**The Hon. LYNDIA VOLTZ:** That is the only incident of someone getting out of their cell, or when they are not meant to be there?

**Ms HAWYES:** That is right.

**The Hon. LYNDIA VOLTZ:** What about contraband?

**Mr DAVID ELLIOTT:** For the last financial year there were 148 incidents of contraband reported in Juvenile Justice.

**The Hon. LYNDIA VOLTZ:** How does that marry up to the previous years?

**Mr DAVID ELLIOTT:** I might have to take that on notice as well. I will defer to the executive director but in the previous financial year it was 112, the majority of it being prescription drugs.

**Ms HAWYES:** In contraband we count all items that a detainee should not be in possession of, including food items, rocks, sticks and stones. Everything is counted.

**Mr DAVID ELLIOTT:** I have got that figure for contraband. For 2016-17, I have given you 112. That was down on the 2015-16 year, which was 128. In 2012-13, the first year of the Coalition Government, contraband was 181. Those figures are quite pleasing to me as the Minister. It has come down by about 30 per cent since we have been in government.

**The Hon. LYNDIA VOLTZ:** How many reports of sexual assault against detainees in juvenile justice centres have been received since 2011?

**Mr DAVID ELLIOTT:** I will probably have to take that on notice since you are referring to 2011.

**The Hon. LYNDIA VOLTZ:** Do you have any figures?

**Mr DAVID ELLIOTT:** Unless the executive director has any specific figures—

**Ms HAWYES:** We will take that on notice but it is important to note as context for all of these issues that we report everything, including inappropriate comments, gestures, any inappropriate touching and more serious sexual assaults. This year there was one allegation of a serious sexual assault, which did not eventuate in police charges, as you are aware of.

**The Hon. LYNDIA VOLTZ:** How about last year?

**Ms HAWYES:** No sexual assault resulting in police charges that I am aware of. I will take it on notice.

**The Hon. LYNDIA VOLTZ:** What about reports of sexual assault? I am not asking about whether they resulted in police charges; I am asking about reports.

**Ms HAWYES:** As I said, I will take it on notice because it would include everything from an inappropriate comment or gesture through to something physical.

**The Hon. LYNDIA VOLTZ:** That is hardly a sexual assault, is it?

**Ms HAWYES:** We count it as such.

**The Hon. LYNDIA VOLTZ:** You count that as a sexual assault?

**Ms HAWYES:** Yes, we would report it as such.

**The Hon. LYNDIA VOLTZ:** If someone makes an inappropriate comment, you report that as a sexual assault?

**Ms HAWYES:** If it is of a sexual nature and is sufficiently threatening then, yes, we would.

**Mr DAVID ELLIOTT:** They are kids.

**The Hon. LYNDIA VOLTZ:** I know they are kids, but sexual assault has a clear definition in law, does it not?

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**Ms HAWYES:** I am advising you of what we report for the purposes of reporting incidents day to day in any given situation.

**The Hon. LYNDA VOLTZ:** I am not asking for incidents; I am asking about sexual assaults.

**Mr DAVID ELLIOTT:** They are incidents.

**Ms HAWYES:** Sexual assault has a variation of incidents too.

**Mr DAVID ELLIOTT:** That is the definition, Ms Voltz. If you do not like it, I am sorry. We will take it on notice.

**The Hon. LYNDA VOLTZ:** That is nice that you have come up with your own definition of what a sexual assault is. But a sexual assault is a definition within the law that has certain elements to it. I am asking how many reports of sexual assault were made?

**Ms HAWYES:** I will take that on notice because we will reference it against the definition that you wish. But I am letting you know that we report and record everything.

**The Hon. LYNDA VOLTZ:** You can give me reports on everything but I would like to know about sexual assaults. If you can do it since 2011 that would be appreciated.

**Ms HAWYES:** Absolutely.

**The Hon. SHAOQUETT MOSELMANE:** My question is about flammable building cladding. Has the department conducted a flammable building cladding audit of juvenile justice centres?

**Mr DAVID ELLIOTT:** I will defer to the secretary or the executive director on cladding, but it has been something that we have looked into. We may have to take it on notice.

**Mr CAPPIE-WOOD:** A desktop audit has been undertaken of the department's infrastructure to determine those that might include cladding. We are now doing the second phase of more detailed onsite testing and confirmation of the desktop audit. The second phase is about to commence. In regard to how that might affect Juvenile Justice, we will have to take that on notice but we have been very active in making sure that the total infrastructure portfolio we have is being reviewed.

**The Hon. SHAOQUETT MOSELMANE:** Have any particular centres been identified as having flammable cladding?

**Mr CAPPIE-WOOD:** Not to my knowledge at present, but I will take that one on notice.

**Mr DAVID ELLIOTT:** Mr Moselmane, I can reassure you that we have also done an audit in Corrections NSW in the adult facilities. Corrections NSW has reviewed all sites for non-compliant building products. I can happily report that the cladding used in the two rapid-build prisons in Wellington and Cessnock are compliant with the fire safety regulations, but as the secretary just said, an audit is being undertaken as per the 2017 Department of Finance task force.

**The Hon. SHAOQUETT MOSELMANE:** When do you expect the audit to be completed?

**Mr CAPPIE-WOOD:** The desktop audit at the moment is completed; the second phase detailed investigations. Identifying cladding of a type and an age which might be included within the concerns of particularly flammable ones requires particular onsite inspection and testing because there is a range of cladding. Not all aluminium cladding of that age is flammable; it is only certain types. We have to do particular onsite inspections.

**Mr DAVID ELLIOTT:** This is an important issue obviously and I have an interest in it, given that I was the emergency services Minister. I also advise the Committee that the strategy to remove the non-compliant product is being developed. Replacement product for the internal cladding will meet fire compliance requirements and that remediation work is expected to be completed by late 2018.

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

**The ACTING CHAIR:** Minister, thank you for coming today. Is it true that more than 175 incidents of self-harm in juvenile detention centres have happened to just a dozen young people?

**Mr DAVID ELLIOTT:** That is my advice.

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**The ACTING CHAIR:** Were those dozen young people subject to confinement? If so, how many of them were subject to confinement?

**Mr DAVID ELLIOTT:** As I said, I confirmed that question but I would have to go through those dozen detainees individually and find out whether any of them were in segregation. I will take the question on notice.

**The ACTING CHAIR:** Minister, what have you done to seek an urgent review of the fact that a dozen children in your care have been suffering such an extraordinary level of self-harm? Have you requested an independent review? Have you referred it to the inspector? What have you done about those dozen children in your care?

**Mr DAVID ELLIOTT:** I might defer to the executive director on that, given its operational nature. But rest assured that I consider these children as my own children. I visit them regularly and have one-on-one conversations with them. The tragedy of those dozen that have decided to take matters into their own hands insofar as their personal wellbeing is concerned is exactly that—a tragedy.

**The ACTING CHAIR:** I am asking you what you have done. You have simply deferred it to Ms Hawyes. Before we go to Ms Hawyes, what have you done?

**Mr DAVID ELLIOTT:** I will defer to the executive director because I work with her and she obviously implements all the operational demands on Juvenile Justice.

**The ACTING CHAIR:** But this question is about ministerial responsibility. You say that you care about these children as though they were your own. What have you done about these 12 children? When were you first advised that there was this cohort of young children who are suffering such damage in juvenile detention?

**Mr DAVID ELLIOTT:** I meet with the executive director every week. If I do not speak to her every week I will certainly meet with her every fortnight. We have implemented a number of programs. I make it clear that it is a tragedy that these statistics occur and we are highlighting only a dozen. But I hope that all programs we roll out are for the benefit of all children. Since I have been the Minister my focus has been on rehabilitation and diversion. That is why I am proud that the statistics show that since I have been the Minister, Juvenile Justice inmates have gone down by about 20 per cent. I think that figure is worth celebrating.

**The ACTING CHAIR:** I think reducing the number of children in jail is a positive outcome, but the children we have in jail are suffering high degrees of self-harm. Perhaps Ms Hawyes can give some detail about what is being done.

**Mr DAVID ELLIOTT:** That is exactly why since the last estimates Committee hearing we have ensured that psychologists are on 24 hours so detainees can access them. But, as I said, the operational rollout is the executive director's responsibility so I will let her answer that. If you have any follow-up questions I would be happy to take them.

**Ms HAWYES:** Self-harm is a wide spectrum of behaviour ranging from scratching through to more serious attempts at self-harm. The young people who come into our care often have quite challenging and complex behaviours. It is incredibly distressing to our frontline staff when a young person self-harms in custody, and they do a terrific job trying to support these young people. Since we have tracked the rates of self-harm we have introduced a range of measures to better support detainees. We have introduced caseworkers into centres, including identified caseworkers. We have made arrangements for psychologists to be available 24/7 on call. We have also invested heavily in staff training, including training to understand the complexity of the behaviours that the detainees present with. There is always more to be done. If a young person is of particular concern to us because of their self-harming behaviour then we move to direct one-on-one observation 24/7, potentially in a cameraed room, and we also apply strategies to try to support that young person to manage their emotional state and behaviour.

**The ACTING CHAIR:** Does that mean that one of the strategies when a young person is self-harming is that they are put by themselves in a cell under 24-hour observation?

**Ms HAWYES:** I did not say that.

**The ACTING CHAIR:** Are they removed?

**Ms HAWYES:** We may put a young person in a cameraed room if we are very concerned about them but a staff member would also speak with them and spend time with them.

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**The ACTING CHAIR:** Ms Hawyes, have you undertaken a review as to whether self-harm incidents are linked to periods of segregation or confinement and, if not, why not?

**Ms HAWYES:** I have undertaken the measures I just outlined to try to respond to self-harm that occurs in our centres across the system.

**The ACTING CHAIR:** Ms Rafter, as the inspector has it been brought to your attention that there is this dozen young people with such horrific rates of self-harm? If so, have you undertaken an inspection and can you shed any more light on the matter?

**Ms RAFTER:** The reports about the level of self-harm are very troubling. The report that I am working on considers the incidence of self-harm with respect to the use of segregation, confinement and separation. That is what I am looking at as part of that report.

**The ACTING CHAIR:** Are you seeing a correlation in the work you have done to date between segregation and confinement and self-harm?

**Ms RAFTER:** That is what I am still working on, making sure that I have the most up-to-date information.

**The ACTING CHAIR:** Ms Rafter, I find it surprising that the matter was referred to you in October 2016—and I accept the terms of reference were expanded in November—but here we are in August 2018 and, from what I understand, you still have not put your draft report to the Minister.

**Mr DAVID ELLIOTT:** That is incorrect.

**The ACTING CHAIR:** Tell us what you have given the Minister, Ms Rafter.

**Mr DAVID ELLIOTT:** Sorry, Inspector. That is a draft report. Suggestions that my office has not seen the draft report are incorrect; we have seen the draft report. I personally have not seen the completed report.

**The ACTING CHAIR:** Ms Rafter, have you given a draft report to the Minister's office?

**Ms RAFTER:** It is a draft. It was a draft.

**The ACTING CHAIR:** Do not follow my terminology. Tell me what you have handed over.

**Ms RAFTER:** As part of this inspection I prepared a draft report. I would describe it as an officer level report. As part of our usual process, I provided that to the executive director of Juvenile Justice to provide some extra information and also to provide feedback. At the same time that I did that I provided a copy to the Minister's office. But it is not the final report. It is part of the process of feeding back to me additional clarification on matters, additional information and some feedback around potential recommendations.

**The ACTING CHAIR:** When was this? When did you provide the copy to Ms Hawyes and when did you provide a copy to the Minister's office?

**Ms RAFTER:** That was late December last year.

**The ACTING CHAIR:** Minister, how many staff are in your office?

**Mr DAVID ELLIOTT:** I will take that on notice.

**The ACTING CHAIR:** Are we talking 50 or 10 or eight? How many?

**Mr DAVID ELLIOTT:** We can list them. There is a chief of staff, a deputy chief of staff, a policy adviser on counter terrorism and a general policy adviser on counter terrorism and corrections. I have a press secretary, I have an assistant press secretary, I have a private secretary. I have a receptionist, two departmental liaison officers and a parliamentary liaison officer. That is the ministerial staff, obviously.

**The ACTING CHAIR:** If a draft report was given to an office which has 11 people plus yourself in it in December, how is it that you have avoided reading it since then?

**Mr DAVID ELLIOTT:** First of all, it is a draft report. Secondly, it is not something that I would read until the inspector had signed off on it.

**The ACTING CHAIR:** You know the inspector is going to go through another iterative process and give you a draft report later for your feedback. I presume it was provided to your office for a purpose, which was

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for some feedback. I will clarify this with Ms Rafter in a second. Did your office provide any feedback on the draft report?

**Mr DAVID ELLIOTT:** I will take that on notice but you have to understand that the inspector is an independent statutory officer.

**The ACTING CHAIR:** Who sent you a key report.

**Mr DAVID ELLIOTT:** It would be inappropriate for me to provide any instruction or influence on the way that she would write that report. Sometimes they give drafts to us to go through facts and make sure that independent and individual statements are accurate, but I have not seen the full report. My office has provided some feedback on the draft report.

**The ACTING CHAIR:** Your office has provided feedback on the draft report?

**Mr DAVID ELLIOTT:** Sorry, I have just been advised that we actually did not provide any feedback on the draft report, which is appropriate.

**The ACTING CHAIR:** Ms Rafter, for what purpose did you send it to the Minister's office in December?

**Ms RAFTER:** As a courtesy.

**The ACTING CHAIR:** Would you be in a position to provide us with the correspondence that you sent to the Minister when you provided the draft report? At this stage I am not asking for the draft report but for the correspondence you sent when you sent it to the Minister. I am happy for you to take that on notice.

**Ms RAFTER:** I will take that on notice, thank you.

**The ACTING CHAIR:** But I assume you sent it to the Minister not just as a courtesy but expecting some sort of feedback.

**Ms RAFTER:** Not at that stage, no. No, I was not seeking any feedback at that stage. I sent it to Juvenile Justice for agency feedback.

**The ACTING CHAIR:** And you have received that feedback?

**Ms RAFTER:** Yes.

**The ACTING CHAIR:** Ms Hawyes, have you implemented any of the interim recommendations?

**Ms HAWYES:** We have implemented a range of measures whilst this review has been under way. The inspector has had the full cooperation of the agency and visited every centre multiple times and had access to myself, the executive, detainees and staff. We have provided large amounts of information about the changes we have been making in Juvenile Justice including brand-new training to support staff to de-escalate and negotiate, refreshing protective tactics training, the introduction of caseworkers, changes to the arrangements for on-call psychologists—a suite of measures. I have been keeping the independent inspector apprised of all those measures.

**The ACTING CHAIR:** Ms Hawyes, could you provide us, if necessary on notice, with the detailed changes that have been implemented since you received the draft report in December?

**Ms HAWYES:** I can but, as I say, these changes have been implemented because they are evidence based and they are the way to go rather than because we are waiting for the report to come through.

**The ACTING CHAIR:** Minister, you called for this report from the inspector in 2016 because you quite properly said that you were deeply disturbed by reports that had been provided about prolonged detention and about the manner in which children were being kept in custody. That is correct, is it not?

**Mr DAVID ELLIOTT:** That is correct, yes.

**The ACTING CHAIR:** Having called for that report with urgency, and knowing the duty of care you have over the children, how is it that you have avoided reading the draft report that has been in your office since December? I do not understand it.

**Mr DAVID ELLIOTT:** Can I just clarify, I did not ask for it as a matter of urgency; I wanted it thorough. I would much prefer to wait for a thorough evidence-based report from the inspector than a politically

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pragmatic urgent one. If it is a draft report it is exactly that: It is a draft report which my office has advised me they did not provide feedback on. I will clarify this, but I assume they checked it for facts and statements. I will not read a report until it is completed because, as far as I am concerned, that is the inspector's objective advice and observations to me as the Minister. There is no use in me reading a report until I know that it is a completed, objective piece of advice.

**The ACTING CHAIR:** The statutory process has the inspector providing you with her initial conclusions for feedback for the very purpose of potentially changing the final report; that is the statutory process.

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

**Mr DAVID ELLIOTT:** No, that is not what I said.

**The ACTING CHAIR:** That is the statutory process.

**The Hon. SCOTT FARLOW:** She said it was a courtesy.

**The ACTING CHAIR:** I will put that to Ms Rafter. What is the statutory process? Once you complete your report, you provide it to the Minister for feedback, do you not?

**Ms RAFTER:** Yes, and I am not at that point yet.

**The ACTING CHAIR:** There will be a process where you give the Minister a draft report and you want the Minister's feedback?

**Ms RAFTER:** Yes, the Minister is able to make a submission under the legislation.

**Mr DAVID ELLIOTT:** It is simply a submission. We are going round in circles here.

**The ACTING CHAIR:** The purpose is you engage in the process and you are refusing to do so. It seems you do not understand the statutory process.

**The Hon. SCOTT FARLOW:** It is not at that point yet.

**Mr DAVID ELLIOTT:** Certainly not. I will make this point a third time: It is the executive director's job to implement policies, whether they be amended policies thanks to advice from the inspector, whether they be changes to operating procedures as a result of her own initiatives, whether it be amendments to the way that we run Juvenile Justice NSW because we are doing something wrong or indeed, in the case of the last four years, whether we capitalise on those things that we are doing right. There is a draft report which the executive director has seen. She is working with the inspector to ensure that whatever content it contains is observed.

The executive director has not only read that report, but she is also initiating her own improvements. Whether or not they are included in the recommendations from the inspector, I do not know, but I am confident that the executive director and the inspector are on the same wavelength when it comes to the recommendations out of that report, for the reasons that I called for the report in the first place. I do not want New South Wales to be going down the same road that the Northern Territory found itself.

**The ACTING CHAIR:** Minister, through you to Ms Hawyees, your evidence was that the average period of confinement was five hours and 20 minutes. What was the longest period of confinement and what was the longest number of consecutive days to which a child was the subject of confinement?

**Ms HAWYES:** As you would know, lawful limits around the use of confinement is 24 hours for detainees over 16. There have been no exceedances of those upper limits. In terms of the detail of what is the longest period any person has spent in confinement in the last year—was it the last year or subsequent?

**The ACTING CHAIR:** It was in the last year.

**Ms HAWYES:** I will need to take that on notice.

**The ACTING CHAIR:** What is the longest period of consecutive days that a juvenile detainee was the subject of repeated instances of confinement or segregation?

**Ms HAWYES:** As I just said, there has been no exceedance of 24 hours, therefore that means there are no consecutive days.

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**The ACTING CHAIR:** I will be very clear: What I am talking about is if a child is locked in the room for 22 hours one day, 22 hours the next day, 16 hours the next day, 18 hours the next day—the period of consecutive periods of confinement.

**Ms HAWYES:** Apologies, I did not understand your question in the first instance. I will take that on notice.

**The ACTING CHAIR:** Is there a policy that would limit that?

**Ms HAWYES:** We have set expectations that detainees are to be out for as much time as possible, because that is common sense strategy and that is our practice, to have them engaged in things that promote their rehabilitation and reduce re-offending. We have had discussions with regional operations and centre managers about ensuring that detainees are out for at least six hours a day if they are on a different routine to the main unit. We have parameters around the use of confinement and I can provide you with the specifics in response to the question you just asked.

**The ACTING CHAIR:** Minister, as of today or the most recent data you have, what is the number of inmates and children in juvenile detention centres?

**Mr DAVID ELLIOTT:** In the last financial year it was 286. As of midnight on 2 September it was 265. That is down from the last year of the Labor Government, which was 353.

**The ACTING CHAIR:** Minister, the average in the last financial year was 286, was it?

**Mr DAVID ELLIOTT:** The last financial year the average was 286, and on 2 September it was 265. It continues to fall.

**The ACTING CHAIR:** What proportion of those children last year and this year are Aboriginal?

**Mr DAVID ELLIOTT:** That is the good news I was hoping you would ask me. Last year it was 53 per cent; this year I am delighted to report to the Committee it is down to 47 per cent. For the first time in quite a long time we have a minority of juvenile detainees being Indigenous.

**The ACTING CHAIR:** That was 47 per cent for last year, with the 286?

**Mr DAVID ELLIOTT:** No, it was 53 per cent last financial year and it is now down to 47 per cent.

**The ACTING CHAIR:** Of the 265 children in detention, about 130 are Aboriginal, is that right?

**Mr DAVID ELLIOTT:** I will take your advice on that.

**The ACTING CHAIR:** Minister, most people would commend the trend, but you would still be deeply distressed at the thought that almost half the children in juvenile jails are Aboriginal.

**Mr DAVID ELLIOTT:** Considering the proportion of children in New South Wales who are Indigenous, I am horrified at that figure, but I am very proud of the fact that, along with the executive director, the Juvenile Justice NSW staff have been able to bring that down quite significantly. It is the lowest in five years.

**The ACTING CHAIR:** Minister, what strategies have been implemented and continue to be implemented to reduce the figure to something that is substantially closer to the proportion of Aboriginal people in our population?

**Mr DAVID ELLIOTT:** As I think I said to you in previous years, I am not going to be happy until the proportion is 0 per cent but, then again, I will not be happy until I can get to close down every single juvenile detention centre in the State. Unfortunately, that is not pragmatic and it is not realistic. The Aboriginal Strategic Plan will be rolled out from 2018 to 2021. It is going to be released in coming weeks. In my mind, it will ensure, if not expedite, the downward trend. We have intensified efforts to engage with the Aboriginal community. I have even had offers from NRL teams proactively to go into juvenile detention centres and work with them. The good news is getting out there.

We have an Aboriginal Regional Advisory Committee in all of our areas, as well as a consultative committee. We have increased Aboriginal recruitment and identified roles promoting a renewed focus on connecting Aboriginal detainees. Since I have been in this role, my focus has been to provide mentors or at least provide a system where mentors can be attracted. If you look at the work that has been done with Youth on Track in Dubbo and other areas around the State, that is a mentoring program. SHINE for Kids is working with me in the veteran space to get veterans to buddy up with juvenile detainees. If you are familiar with the veterans'

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community, nothing is more loving than a retired veteran who would be able to go out and provide some very special attention to these kids that really just want a father-figure.

I also advise that in Nowra we have got the Aboriginal Reintegration and Transition Program, which has been a wonderful initiative providing intensive support for young Aboriginal offenders. I was down there not that long ago and seeing these brilliant young Aboriginal men taking mentoring roles for young kids that are troubled, talking one on one with the young kids that have been put on through these programs and how much they appreciate that young father-figure who bothers to take them out to country, teach them about their culture, but also teach them how to make a positive contribution to civil society.

**The ACTING CHAIR:** Minister, we are eating up Opposition time. If you could wrap it up, we will go to the Opposition.

**The Hon. SHAOQUETT MOSELMANE:** We are happy for you to table that information. We are all interested in that.

**Mr DAVID ELLIOTT:** I conclude by saying we have allocated \$438,000 to that Nowra program that I mentioned. If any members would like to go and have a look at it, I strongly encourage you to do that because, as I said, it just goes to show how going back to the basics of providing a troubled young kid with a father-figure does work. We do not need to spend millions of dollars on fancy programs when all is they want is a father-figure.

**The Hon. SHAOQUETT MOSELMANE:** Following up on a question put to Mr Cappie-Wood about the efficiency dividends to Juvenile Justice NSW, Mr Cappie-Wood indicated about \$20 million—

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

**The Hon. LYNDA VOLTZ:** He can answer the question.

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

**The ACTING CHAIR:** We will not have interjections. Mr Cappie-Wood has proven himself able to deal with matters.

**The Hon. SHAOQUETT MOSELMANE:** Does that efficiency dividend cover also adult prisons?

**Mr CAPPIE-WOOD:** The efficiency dividend of 1 per cent that I mentioned earlier was the total allocated—anticipated to be confirmed by Treasury shortly—to the department, which covers not only juvenile justice, courts, tribunals and many other things but also adult corrections.

**The Hon. SHAOQUETT MOSELMANE:** Will those savings affect the frontline staff in adult corrections, particularly the officers?

**Mr CAPPIE-WOOD:** It is certainly not intended to affect the frontline staff. We are absolutely focusing on back of house, procurement, corporate services and related areas. As I said, aggregated procurement issues are certainly showing some very effective returns in changing our procurement practices. As I said, we are looking to see how we can digitise matters for improved efficiencies and we are looking to see how we can further implement shared services and refine that across the organisation. So we are looking to the back of house, not at the service front end, where we would make these savings across the department.

**The Hon. SHAOQUETT MOSELMANE:** When you say "back of house", will staff lose their positions in the back of house?

**Mr CAPPIE-WOOD:** I am not anticipating that staff would lose their positions. We may certainly have some vacancies, which we will continue to hold to make sure that we can reach budget, but as I said our initial focus in these areas will be on back of house. There is a lot to be done and a lot to explore. The question of fleet was raised in an earlier question. We are looking to see how we can aggregate fleet not only across the department but also potentially across the cluster. That is where we are trying to look at aggregation and procurement well beyond just merely departmental grounds, where we can see again you can aggregate purchasing well beyond merely just small units; the bigger the better. So when we look at fleet we can look at fleet across the cluster and the cluster has a large fleet—that goes to emergency services, police and other areas. There are specialist vehicles as well as normal fleet and we are looking to see where we can aggregate purchasing to make sure that we can make our savings.

**The Hon. SHAOQUETT MOSELMANE:** What is the current adult inmate prison population in New South Wales as of today?



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**Mr DAVID ELLIOTT:** I can give you the figure as of 26 August, so a week old: 13,610.

**The Hon. SHAOQUETT MOSELMANE:** How many male inmates are sentenced?

**Mr DAVID ELLIOTT:** Sentenced inmates, 8,960; remand, 4,600; as of the same date. The operational capability—in the event that you were about to ask that question—is 14,057. So we are just under our operational capacity.

**The Hon. LYNDA VOLTZ:** How many female inmates are there?

**Mr DAVID ELLIOTT:** There were 1,022 as of 19 August.

**The Hon. LYNDA VOLTZ:** That is on sentence, is it? How many are on remand?

**Mr DAVID ELLIOTT:** That is full-time custody. I will have to take the on remand figure on notice unless the commissioner has that figure?

**Mr SEVERIN:** Yes, I can provide that figure. As of 26 August 23 we had 568 females serving a sentence, 419 on remand and 11 had a different legal status.

**The Hon. LYNDA VOLTZ:** What does a different legal status refer to?

**Mr SEVERIN:** They could be on an order from the Mental Health Review Tribunal, for example. The total is 986.

**The ACTING CHAIR:** I thought the earlier answer was 1,022?

**The Hon. TREVOR KHAN:** Different dates.

**Mr SEVERIN:** This is 26 August—there were 986 female inmates in correctional centres; we also have transitional centres, we had 20 in those; we had seven in court complexes; and three in other court complexes attending court.

**The Hon. LYNDA VOLTZ:** Minister, how many reports have you received relating to prison officers having sexual relationships with inmates in 2017-18?

**Mr DAVID ELLIOTT:** I have had a number of allegations but have not witnessed the act. I have not had any reports of the actual sexual activity.

**The Hon. LYNDA VOLTZ:** Is not an allegation a report?

**Mr DAVID ELLIOTT:** I have had reports. That is why we have established Taskforce Themis to investigate it.

**The Hon. LYNDA VOLTZ:** How many reports have you received?

**Mr DAVID ELLIOTT:** The report of an allegation I have had directly to me—all reports received by me have gone to retired Assistant Police Commissioner Mark Murdoch, who is commanding Taskforce Themis. I want to say four but I will take that on notice.

**The Hon. LYNDA VOLTZ:** How many Corrective Services staff were disciplined for misconduct in 2017-18?

**Mr DAVID ELLIOTT:** For misconduct?

**The Hon. LYNDA VOLTZ:** Yes.

**Mr DAVID ELLIOTT:** Generic misconduct?

**The Hon. LYNDA VOLTZ:** Yes.

**Mr DAVID ELLIOTT:** I will have to take that on notice. You want all misconduct?

**The Hon. LYNDA VOLTZ:** Yes, just the number.

**Mr DAVID ELLIOTT:** I will take that on notice.

**The Hon. LYNDA VOLTZ:** What are you doing to ensure anti-corruption training, ethic classes and better mentoring for staff to mitigate the opportunity for sexual relationships between officers and inmates?

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**Mr DAVID ELLIOTT:** Training is obviously a matter for the commissioner, but before I defer to the commissioner I would like to think that I did not have to tell officers being sworn in as prison staff that they should not have sexual relationships with an inmate. That is why I was so horrified when the allegations occurred. That is why I was even more horrified to find out that some of these incident reports go back to 2007. That is why I was mortified when the former Commissioner of Corrective Services NSW told the media it had been going on for a very long time. I do not think that I am going to shock anybody when I say it should be considered as a moral normalcy that you do not have sexual relationships with an inmate when you are entrusted by the people of New South Wales to be a corrections officer. This has brought the organisation into disrepute.

The allegations that I have seen thus far equate to about 0.1 per cent of the officers who are employed—and, as I said, they are just allegations—by Corrective Services NSW, but I can assure you that the anxiety and the trauma that it has caused the staff has had the multiplier effect, which is why we swiftly decided to appoint retired Assistant Police Commissioner Mark Murdoch and establish Taskforce Themis. The commissioner will expand on that and obviously we have an initial 10-week course at Brush Farm Corrective Services Academy for officers joining corrections. That is followed up with eight months of on-the-job training. The commissioner has been tasked by me to review the code of conduct as well to make sure that it is specifically clear that you will not in Corrective Services NSW bring the uniform into disrepute by having inappropriate relationships. Commissioner, you may want to expand on that as well.

**Mr SEVERIN:** The management of professional boundaries is part of any staff induction training and ongoing reminders are also issued at a local level, in particular, that relates to correctional officers—as we have heard, at the beginning of their careers they have training at the Brush Farm Corrective Services Academy—but it also expands to any kind of other staff, particularly specialist staff such as psychologists and community corrections officers. We have also done some research internally some time ago. It was independent research, particularly in relation to psychologists and how they manage the maintenance of their professional boundaries. Any of those types of evaluations obviously identify further areas for improvement and, fortunately, it is a very small number of staff who cross the line.

It is a very small number of staff who get themselves into a position where they become vulnerable but also where they put others at risk. There is clearly some peer review happening on a daily basis within centres so staff do back each other up and do not condone this type of behaviour. But given the recent event, particularly the one at the Mid North Coast Correctional Centre, we have gone back again and ran reminder and refresher training, which is being rolled out as we speak. That is not to say that anybody is doing the wrong thing but to remind staff what it means to do the right thing and how to react if they do discover that somebody most probably is doing the wrong thing, or if they feel themselves vulnerable. So it is not condoned at all. Unfortunately, it is an issue that has been with Corrections ever since Corrections existed. There are numerous publications and worldwide research into this phenomenon. That does not make it any better but it certainly gives us leads and pointers as to what we can do in our system to improve the robustness of our preventative measures.

**The Hon. LYNDA VOLTZ:** Minister, when was the first time you were made aware of an allegation of a prison officer and an inmate having a sexual relationship?

**Mr DAVID ELLIOTT:** It was Friday 19 July.

**The Hon. LYNDA VOLTZ:** That is the first time you have ever been informed of any prison officer having a relationship with an inmate?

**Mr DAVID ELLIOTT:** That is exactly right.

**The Hon. LYNDA VOLTZ:** You said there were four. So all four have been recent, have they?

**Mr DAVID ELLIOTT:** Thank you for that question. After I heard the initial allegation and after I had seen some reporting of the allegations in the media I took it upon myself to attend at Kempsey jail. I had something like 21 one-on-one appointments with officers of all ranks. In the media I made it very clear to any number of the 7,000 officers who had allegations to this effect that they should feel very comfortable to provide me with any information, personally through my office or through social media. I had around four people provide me with other allegations, and some of them go back a number of years. Therefore, as part of the terms of reference for Mr Murdoch I asked him to establish a confidential email address so that I and anybody else can refer these allegations directly through him to the Assistant Commissioner. Sorry, 17 July was the date of the first time I was told about Penisini.

**The Hon. LYNDA VOLTZ:** I am asking of any report.

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**Mr DAVID ELLIOTT:** I will have to take on notice beyond the one that has been in the public domain.

**The Hon. LYNDA VOLTZ:** Mr Severin, were you aware of any allegations, other than the one on 19 July, before that date?

**Mr SEVERIN:** Yes, we have had occurrences like this before. Once they became known they have been brought to our notice and investigated. The Professional Standards Unit is always involved in initiating the investigations and the Investigations Branch undertakes the investigations. If there are reasons to refer the matter to the police, the Corrective Service Investigation Unit also investigates. Yes, over the years there has been a number of allegations made of this nature. There have been some instances where the evidence was very clear and there has been disciplinary action taken. In a number of cases staff have elected to resign from their positions. The matter at Mid North Coast was brought to my attention and I referred it to the Minister on the same day. Obviously, it is common protocol that I refer serious allegations or serious matters to the Minister for his attention, not necessarily for him to undertake any action but as a matter of him being the accountable Minister for Corrective Services.

**The Hon. LYNDA VOLTZ:** You would have referred these matters to the Minister before and made him aware of other allegations?

**Mr SEVERIN:** Over the years—and the Minister has been the Minister for a number of years and you would have to take on notice the exact details of this—but there would have been a likelihood of briefing notes being provided in relation to other matters, relating to inappropriate relationships.

**The Hon. LYNDA VOLTZ:** So perhaps, Minister, you are not shocked that it has happened because it has happened in the past?

**Mr DAVID ELLIOTT:** These are all allegations and if you read the tone of the commentary, to be frank with you I was naive enough to think that they did not occur. I thought it was quite bizarre that somebody who would put on a uniform, swear an oath of allegiance and train so hard to be a Corrections officer would put their livelihood, their career and, indeed, the reputation of their colleagues at risk by doing something so stupid. That is why I established Task Force Themis, why I went to Kempsey jail and offered an unscheduled visit and why I invited officers to contact me personally if they had any allegations that they wanted me to investigate because, quite frankly, it was bizarre.

**The Hon. LYNDA VOLTZ:** Except, Minister, you have just heard the Commissioner say that he has reported these incidents to you in the past.

**Mr DAVID ELLIOTT:** As I said, I thought you were referring to Penisini when you asked the original question. I will take on notice what other allegations have been put to me by way of report. But as I said, at the moment—and Mr Murdoch has not finished his investigation—they are all allegations. We certainly have at least one person who has been charged but they are all allegations, and I think they are actually disputed allegations if my memory serves me correctly.

**The Hon. LYNDA VOLTZ:** Do you not recall the Commissioner reporting them to you previously?

**Mr DAVID ELLIOTT:** Which one?

**The Hon. LYNDA VOLTZ:** The other allegations.

**Mr DAVID ELLIOTT:** No, that is why I have put it on notice.

**The Hon. LYNDA VOLTZ:** You do not recall them at all? You do not recall being shocked?

**Mr DAVID ELLIOTT:** That is why I have put it on notice. I do not recall which ones have been put to me and that is why I put the question on notice.

**The Hon. LYNDA VOLTZ:** Commissioner, following the alleged affair of Amy Connors and inmate Sione Penisini, you suggested that inmates be given anti libido drugs.

**Mr SEVERIN:** No, I did not suggest that at all.

**The Hon. LYNDA VOLTZ:** You did not suggest that?

**Mr SEVERIN:** What happened was a journalist from the *Daily Telegraph* put to me the question of, if there would be a positive effect as a result of the use of these types of drugs in relation to stopping this type of behaviour from happening, would I support that. That was the way it was reported and my response was that, if

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there was medical advice clearly indicating that this is an appropriate intervention, I would not object to it. However, I am not a medical expert. I have no detailed knowledge on the application of these types of medications other than in the context of sexual offending of a criminal nature. It is not appropriate for me to actually ask for medication to be introduced. However, if there is clear evidence and if we establish that this is an intervention that would work—and I have my doubts it actually would—from a professional perspective I cannot simply say I would ignore this advice. It is very hypothetical. To my knowledge there is no worldwide research happening at this point in time which links the use of anti-libidinal medication to inappropriate sexual relationships between staff and prisoners in custody.

**The Hon. LYNDA VOLTZ:** So you have requested no reports or medical evidence to that effect?

**Mr SEVERIN:** I have no medical evidence available to me to indicate that that would be the case but the question was put to me.

**The Hon. LYNDA VOLTZ:** You said if there was medical evidence—that is the answer you just gave me. Did you seek that medical evidence?

**Mr SEVERIN:** No, I did not because in my layperson's opinion it was not a way of dealing with this phenomenon. For me it is more important to have preventative measures affecting the staff not crossing the line rather than on suspicion to prescribe medication. However, I am not a medical expert. I have not commissioned this type of study. It is not within my area of accountability and responsibility to do so and therefore it is a non-issue. It was simply a response to a question that was put to me by a journalist from the *Daily Telegraph*.

**The Hon. LYNDA VOLTZ:** Minister, how often do you have meetings with the Commissioner?

**Mr DAVID ELLIOTT:** I meet with him formally once a week. I would say we converse as much as every day, including weekends.

**The ACTING CHAIR:** Minister, what proportion of the Juvenile Justice detention population is held on remand? While you are looking at that, the second element of my question is: Is there a difference between the proportion of the Aboriginal detainees on remand as opposed to the overall prison population?

**Mr DAVID ELLIOTT:** I have got 59 per cent daily of the number of juvenile detainees in custody are on remand and that is up from 2 per cent in the previous financial year. So far as the Indigenous figure—

**Ms HAWYES:** Thirty-nine per cent of remandees were Aboriginal but, if the Committee permits, I would like to talk to you about what we are doing about remand.

**The ACTING CHAIR:** Yes, and particularly noting that 59 per cent of the children in jail have not been sentenced; they are on remand. I thought we had changes to the Bail Act that were meant to fix this, but it is going in the wrong direction.

**Mr DAVID ELLIOTT:** Before the executive director answers that, I just want to clarify that that is a matter for the courts; that is not something that we can determine.

**The ACTING CHAIR:** No, but there were changes to the Bail Act which were designed specifically to drive down the number of juveniles on remand, specifically focusing on accommodation that can be found through cooperation between Juvenile Justice and the courts. So what has gone wrong? What is the stopgap? What is the problem?

**Ms HAWYES:** I can tell you what we are doing to address remand, particularly remand periods that are short in their length. We are working closely with our colleagues across government under the Their Futures Matter reform and we are the champions and the sponsors for work to address short-stay remand in the juvenile cohort. We are piloting initiatives in the Penrith Local Area Command at the moment and they include court-based liaison to source accommodation where accommodation is the reason that bail is not able to be offered, to put people in the courts who can re-engage those young people with schools and education because it is such a critical protective factor. Those initiatives are rolling out right now and if they work they would be things that we would look at applying in other places. We have also expanded Youth on Track.

**The ACTING CHAIR:** But the proportion has gone up. My question is really directed at whether there is a resource problem. Is there a lack of suitable accommodation, or what is the reason such a large proportion of juveniles are being held on remand, being refused bail? Do we need to focus on more accommodation options, more supported accommodation options? Is that the critical problem?

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**Ms HAWYES:** Extra accommodation is a feature of the Penrith initiatives, yes, and we will be looking at that.

**The ACTING CHAIR:** But why are so many children being denied bail?

**Ms HAWYES:** There are various reasons.

**The ACTING CHAIR:** I am asking you for some detail about that, to unpackage it so that we can reduce the number of children being held on remand.

**Mr DAVID ELLIOTT:** I think it is a matter for the Attorney General or the courts. If you are asking would we like to have a lot more accommodation available for children as they seek bail, the answer is of course we would, but it is not that simple. The court is the one who determines whether or not the bail conditions are acceptable, not the executive director or I.

**The ACTING CHAIR:** But the way that the bail conditions now work for juveniles is if there is an issue with safe and secure accommodation there is meant to be a process between Juvenile Justice and the courts to find accommodation and therefore the bail conditions can be amended in chambers. That is what I am asking you about, particularly the accommodation issue. Is there a problem with the lack of adequate accommodation?

**Ms HAWYES:** Accommodation can be a factor. When we look into our remand statistics and our review of what drives remand there is a large proportion where it is short stay, and that is something that I am working on with the police to understand what it is that influences their decisions on whether or not to grant bail.

**The ACTING CHAIR:** You said you would drill down into the numbers. Can you give us the proportion where one of the critical issues is short term and there has been an absence of accommodation?

**Ms HAWYES:** Let me take it on notice to get you the accurate statistics.

**Mr DAVID ELLIOTT:** Just to allay some of your concerns, we have got the Bail Assistance Line here in New South Wales and the last financial year we as a government invested \$2 million on the Bail Assistance Line, which included \$870,000 to non-government agencies who provide the accommodation. In that financial year we diverted 73 young people—unfortunately, only 15 were Aboriginal—and they have gone into community-based placements, which is obviously a great way of diverting.

**Ms HAWYES:** And we operate that service into the night; they are available after hours to help the police source alternative accommodation.

**The ACTING CHAIR:** Just to get some final figures on the record, the recidivism rate in juvenile detention, can you give us that rate over the past five years and perhaps whatever data you have got to hand but, on notice, over the past five years?

**Ms HAWYES:** It is best if we take it on notice because it varies for custodial population across the board, people who have been on conferencing. We will take that on notice.

**The ACTING CHAIR:** To you, Inspector, in your investigations in relation to confinement and segregation, did you find instances where a period of confinement immediately followed from a period where a juvenile detainee had been locked in the cells for a sleep period and, if so, did you find instances where that breached the 24-hour standard, or do you believe a consecutive confinement like that breaches the 24-hour standard?

**Ms RAFTER:** That is a matter I am looking at in the report, about how confinement is used within New South Wales. I would have to take that on notice though.

**The ACTING CHAIR:** You would know sitting there whether or not there were instances where a period of, say, 22 hours confinement had followed a period where a juvenile had been locked in the cells overnight. Were there instances like that?

**Ms RAFTER:** It is within the legislation in New South Wales.

**The ACTING CHAIR:** It is a simple question. Were there instances where a child was the subject of prolonged lockdown in confinement following having been locked in the cells overnight for a sleep period? Were there instances where that happened?

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**Ms RAFTER:** The legislation in New South Wales provides for confinement up to 24 hours and, therefore, yes it is possible that young people may be punished by confinement on consecutive days. So yes, that can occur in New South Wales, and that is a matter of the report.

**The ACTING CHAIR:** I am not asking about the legislation. You are now in budget estimates. I am not asking you about your report; I am asking about your experience. Are you aware of instances where a child had been locked down in cells overnight and was then the subject of an immediately following period of confinement where they continued to be locked in their cells for a period of confinement or segregation? Are you aware of that happening?

**Ms RAFTER:** Where there are consecutive confinements over consecutive days, yes.

**The ACTING CHAIR:** No. Where they are locked in their cells at night, they go to sleep, they are normally released in the morning at eight, nine or 10, but they are not released; they are subject to a period of confinement. Has that happened?

**Ms RAFTER:** Yes.

**The ACTING CHAIR:** And has that ever breached, putting those two periods together, the 24-hour confinement period? I am happy for you to take it on notice.

**Ms RAFTER:** I would have to take that on notice because the legislation says 24 hours, but the confinement may be for less than that that somebody has been in their room. I would have to take it on notice.

**The ACTING CHAIR:** Ms Hawyes, did you have something to add?

**Ms HAWYES:** We are obviously looking at the use of confinement and it is the subject of the review and we will take forward any recommendations around improving the practice.

**The ACTING CHAIR:** Minister, you would be aware that inmates on remand are a particularly hard cohort to deal with—they are hard to engage in education, hard to engage in programs and there is such a degree of uncertainty about their period in detention. Would you agree that the remand population is one of the most difficult management cohorts?

**Mr DAVID ELLIOTT:** I am not a professional prison officer but, as the Minister, it is something that we are very conscious of, which is why we have initiated since the last estimates committee a number of programs to include remand inmates, because that has been the big problem. The problem has been you are on remand and you are either released because you are found not guilty or you are released and your punishment, of course, is time served. The issue over that period is that the inmates while on remand have not been exposed to rehabilitation programs. We have, since the last budget estimates committee, initiated reforms to allow those remandees to start rehabilitation programs so that in the event that they are released on parole immediately after the court case, assuming they have been found guilty, then they have completed those rehabilitation programs.

**The ACTING CHAIR:** I might, through you, put the same question to the Commissioner. Do you agree that the remand population, because of the uncertainty and the short period they are often in correctional facilities, are one of the most difficult parts of the population to engage with, particularly for education and rehabilitation?

**Mr SEVERIN:** Yes, I do. However, it is also quite clearly evident that inmates prefer to be engaged in some meaningful activity rather than do nothing. So we are focusing in particular in more recent times on providing long-term remand inmates with opportunities to participate in education and, to a limited extent, in work. Hopefully that is something we can improve going forward with the additional infrastructure we have.

**The ACTING CHAIR:** Minister, are you disturbed by the fact that 42 per cent of the women in jail are held without being convicted and held on remand?

**Mr DAVID ELLIOTT:** Yes, I am concerned.

**The ACTING CHAIR:** Have you made representations to the Attorney General about the bail laws that are driving such a large proportion of women into our jails?

**Mr DAVID ELLIOTT:** There are a number of bail reforms that have been implemented by this Government.

**The ACTING CHAIR:** Most of which have led to more women being put in jail, held and refused bail.

## UNCORRECTED

**Mr DAVID ELLIOTT:** Yes, and that is a matter you have to address with the courts, as you are well aware.

**The ACTING CHAIR:** No, Parliament has an obligation to address it. I am asking you whether or not you have made any representations to the Attorney General, because there is something wrong with the bail laws: forty-two per cent of the women in jail tonight are being held on remand.

**Mr DAVID ELLIOTT:** There is an increasing prison population, so of course I am concerned about it. I meet with the Attorney General regularly. On the matter of the interpretation of our bail laws, you need to ask the courts about that.

**The ACTING CHAIR:** Minister, how many of the 419 women who are held on remand, not having been convicted, have children aged under 18 in their care?

**Mr DAVID ELLIOTT:** How many of them have children, as in dependent children?

**The ACTING CHAIR:** Dependent children.

**Mr DAVID ELLIOTT:** Sixty per cent of women in custody have a child either living with them at home or non-resident at the moment.

**The ACTING CHAIR:** Do you know if that varies on the remand population? It is probably higher.

**Mr DAVID ELLIOTT:** I would have to take that on notice. I would be surprised if it is much different, but I would have to take that on notice unless Mr Severin has got—

**Mr SEVERIN:** Sixty per cent is an average of all incarcerated women. The breakdown between sentence and remand, we would have to take on notice.

**Mr DAVID ELLIOTT:** To answer the second part of your question, we have a number of programs to assist women who have dependent children and are incarcerated. One is an education program developed by Tresillian called Mothering at a Distance. It aims to enhance mother and child relationships and increase a mother's knowledge and skills to care for her infant. That has been identified as a necessary service for us to provide. We have the Mothers and Children's Program at Emu Plains correctional centre, and I would encourage members who have not gone to Emu Plains to have a look at that program. It is very effective and the women that are placed in the Mothers and Children's Program are very appreciative of it.

We have the Babiin-Miyagang Aboriginal men's parenting program which gives insight and support to fathers separated from their children. That is available at every single correctional centre, and there are a number of other early intervention support services and community-based organisations. One is SHINE for Kids, which is quite prominent and receives a lot of support from the Government and also personally from the commissioner and I. That provides visitor support centres, family days, diversionary activities for the children, and assistance and supervision accompanying children who visit an inmate.

We have the Family Matters strategy, which is one that relates to children of imprisoned parents and acknowledges and supports offenders to maintain relationships with their families and friends. I assure you, Acting Chair, if I had never been the Minister for Corrections I probably would not have been exposed to these programs and would never have appreciated how important the family is to the rehabilitation program. When I, as a Minister, start meeting with parents of inmates on the street who say to me, "Thank you, because my son going to jail was the best thing that's ever happened to him", and get follow-up emails about their employment opportunities and career prospects after they have been released from jail, I say to the commissioner, "We must be doing something right."

**The ACTING CHAIR:** Minister, no family will thank you for jailing mum and having kids go into FACS and going down that spiral. Which families have thanked you? Which kids have thanked you for having their mum go to jail and them being sent to FACS? Let us be realistic about this.

**Mr DAVID ELLIOTT:** Acting Chair, you would be surprised—and this is the tragedy of the job I have to do—when at Christmas time my wife and I go to a Juvenile Justice centre and I say to them, "What are you going to do when you get out? I'm very sorry that you've got to spend Christmas here in a Juvenile Justice centre," and they say to me that this is the best Christmas they have ever had because mum is on drugs, dad rapes them and no-body in their family ever bothers to give them a Christmas present. You would be surprised at how many—

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**The ACTING CHAIR:** And society's response is to put that child in jail. Do you not realise how wrong that is?

**Mr DAVID ELLIOTT:** You have not listened to me.

**The ACTING CHAIR:** "Mum's on drugs, Dad rapes me and you're putting me in jail"—that is a tragic fail.

**Mr DAVID ELLIOTT:** That is a tragic fail. As I have said from day one in this job: When I visit a prison I meet 50 per cent of the prison population who should never leave and 50 per cent of the prison population who should not be there because they are victims. I do not put them into jail; the courts put them into jail and sometimes they put them into jail because of circumstances beyond their control. But if you are suggesting that prisons are only doing bad things, I will dispute that.

**The ACTING CHAIR:** Minister, what I am putting to you is this: If 42 per cent of women in jail are on remand and we know that at least 60 per cent of them have dependent children—

**Mr DAVID ELLIOTT:** Approximately.

**The ACTING CHAIR:** —there are a vast number of children who are separated from their mum, sometimes just for months, sometimes for up to a year or more, while mum is awaiting trial. The uncertainty and the damage done to the families for that period of remand is real. What are you doing to try and limit it?

**Mr DAVID ELLIOTT:** I refer you to my last answer, because I just listed a whole lot of programs from SHINE for Kids to the Mothers and Children's program. Please do not assume that a mother going to jail is always a bad thing for a child, because some of those children have been so badly neglected by their mothers that separation is an unfortunate necessity. I find that to be horrible. As the son of a loving mother, as the husband of a loving wife, I find that to be horrible. When I say to you that I consider every child—not only in Juvenile Justice but every child of an inmate—as my own, I am telling you this is the reason that we put these programs together.

**The ACTING CHAIR:** How many dependent children have gone into care in FACS as a result of their mum going into jail and being held on remand?

**Mr DAVID ELLIOTT:** I suspect I will have to put that on notice and it may be better sent to the Minister for Family and Community Services. We will put it on notice.

**The ACTING CHAIR:** We will ask both. What proportion of the women in jail are Aboriginal?

**Mr DAVID ELLIOTT:** We have that statistic. Thirty-four per cent of the female prison population are Aboriginal.

**The ACTING CHAIR:** And of the remand population?

**Mr DAVID ELLIOTT:** I would have to take that on notice unless the commissioner has that figure.

**Mr SEVERIN:** Again, 34 per cent is the proportion across sentenced and remand. We will have to take the remand proportion on notice.

**The ACTING CHAIR:** What proportion of the male population in jail is Aboriginal?

**Mr DAVID ELLIOTT:** It is lower than that, 24 per cent, which is the same roughly—

**The ACTING CHAIR:** —as it was last year.

**Mr DAVID ELLIOTT:** There is a 0.3 per cent difference to last year.

**The ACTING CHAIR:** Given the fact that Aboriginal adults make up 2½ per cent of our population, do you accept there is a systemic failure where one in four males in jail and more than one in three women in jail are Aboriginal? Do you accept we are failing our First Nations people with those figures?

**Mr DAVID ELLIOTT:** I will refer to my answer last year: Yes, I find it horrible that the percentage of Aboriginals in our community is less than a tenth of the percentage of Aboriginals that are incarcerated. But, again, I do not incarcerate people. It is the court that incarcerates them; we just make sure they are safely and securely sentenced and rehabilitated.

**The Hon. LYNDIA VOLTZ:** At a time when the New South Wales prison population is at an historical high, how can you justify removing hundreds of Corrections staff?



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**Mr DAVID ELLIOTT:** Who is removing hundreds of— ?

**The Hon. LYNDA VOLTZ:** Under the benchmark reforms?

**Mr DAVID ELLIOTT:** We are not removing hundreds of Corrections staff. In fact, under benchmarking, since you have referred to it, I think we have offered all 24 voluntary redundancies, unless the Commissioner wants to correct that.

**Mr SEVERIN:** The number of staff who have left Corrections is 29 and we are recruiting at the same time hundreds and thousands more. The overall number of staff in Corrective Services went from around 7,000 in 2015 to 8,640 on 30 June this year.

**The Hon. LYNDA VOLTZ:** Minister, you would be aware of an alleged assault of an inmate who was on a non-association order at Silverwater?

**Mr DAVID ELLIOTT:** Yes.

**The Hon. LYNDA VOLTZ:** He was placed in the same cell as the co-accused.

**Mr DAVID ELLIOTT:** Yes.

**The Hon. LYNDA VOLTZ:** You would also be aware that the two were allegedly transported in the same truck to Wollongong for a court hearing?

**Mr DAVID ELLIOTT:** Yes.

**The Hon. LYNDA VOLTZ:** Silverwater is in the process of adding 440 beds while at the same time getting rid of 71 staff?

**Mr DAVID ELLIOTT:** Well, that is not entirely correct.

**The Hon. LYNDA VOLTZ:** In light of this high-profile incident—

**Mr DAVID ELLIOTT:** I am sorry, but the premise of your question is incorrect.

**The Hon. LYNDA VOLTZ:** All right. Give me the figures then.

**Mr DAVID ELLIOTT:** The Commissioner has just told you that we are actually employing staff.

**The Hon. LYNDA VOLTZ:** You are also opening new prisons. Can you give me the figures on Silverwater?

**Mr DAVID ELLIOTT:** Do not mix up benchmarking with staff recruitment because staff recruitment is a net positive at the moment.

**The Hon. TREVOR KHAN:** Do not blame her. The questions are from the shadow Minister.

**The Hon. LYNDA VOLTZ:** You are adding 440 beds to Silverwater?

**Mr DAVID ELLIOTT:** The Commissioner will answer questions about the Silverwater jail.

**Mr SEVERIN:** I will start with the expansion, which is not going to be operational until 2021, and we are looking at an additional 191 staff being employed for those additional prisoners. A draft benchmark has been put to the staff and management, and is currently subject to consultation. The draft is premised on a complete change to the operational parameters for the centre, meaning that we are going to move from a 12-hour operational day to an eight-hour operational day. If that is feasible, and it is only on the premise that it is feasible—it is not the end state—there would be 76 positions that would be coming off. Plus then, obviously, 191 added back in. However, as with all our benchmark discussions with the Public Service Association of Australia and local management, the experience is that we cannot necessarily base all of our work on desk top. We need to go in and dig deep, delve right down into the detail, so I would not be surprised even if the new operational model is considered to be feasible that the outcome would be somewhat different to what the draft benchmark has assumed.

**The Hon. LYNDA VOLTZ:** What was the total cost of the 29 redundancies that you mentioned earlier?

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

**The Hon. LYNDA VOLTZ:** Minister, has a department been set up for specific operations for the administration of counterterrorism under your portfolio or does it fall solely under the jurisdiction of Police?

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**Mr DAVID ELLIOTT:** Firstly, it is not a department, and, secondly, yes, I have the portfolio of Counter Terrorism.

**The Hon. LYNDA VOLTZ:** I said, has a department been set up under your jurisdiction?

**Mr DAVID ELLIOTT:** There is no department of counterterrorism, no.

**The Hon. LYNDA VOLTZ:** Has any funding been provided to you by Treasury for the administration of the portfolio?

**Mr DAVID ELLIOTT:** On the matter of the budget into counterterrorism, the headline figures for 2018 are as follows. We have \$89.3 million across four years to implement our post sentencing detention scheme, which will allow for ongoing supervision or detention of offenders who pose an unacceptable risk of committing a future terrorist attack at the end of their sentence. That includes \$25.9 million over four years to the NSW Police Force, \$53.5 million over four years to the Department of Justice, and \$10 million over four years to Legal Aid. There is \$52.6 million across four years to implement the National Facial Biometric Matching Capability, which is increasing our ability to identify suspects and victims of terrorism or other criminal activity, including identity crime.

**The Hon. LYNDA VOLTZ:** I think you may have misunderstood my question. As the Minister for Counter Terrorism, has any funding been provided to you to administer the portfolio?

**Mr DAVID ELLIOTT:** If you let me finish, my job as Minister for Counter Terrorism is a coordination job across portfolios. Not only does it include my portfolio, but within the Counter Terrorism portfolio we are obviously working so that this money is allocated to assist the counterterrorism capabilities in other departments.

**The Hon. LYNDA VOLTZ:** I am asking you about the administration of your portfolio.

**Mr DAVID ELLIOTT:** Within my ministerial office?

**The Hon. LYNDA VOLTZ:** Yes, and the allocation to administer.

**Mr DAVID ELLIOTT:** Yes, I have a policy adviser and I work with a number of other bureaucrats. I will have to take that on notice if you want a specific cost of what is in the budget. The headline figures, as I have said, are probably more highlighting the Government's commitment to counterterrorism. I would be more than happy to either put that on the public record now or put it on notice for you.

**The Hon. LYNDA VOLTZ:** In regard to those figures that you have been talking about, are they exempt from the Treasury's proposed efficiency dividend of 3 per cent?

**Mr DAVID ELLIOTT:** Some of them are front line, some of them are not. I will break them down. If you put that on notice, I will break them down and let you know. We are talking about money that is going to the Commonwealth for the biometrics capability, money that is going to Police and money that is going to the Department of Justice. Some of them are obviously exempt, some of them are not. We will list the headline figure, \$89.3 million over forward estimates, and then I will break it down to government departments and will identify to you which ones are not subject to the efficiency dividend.

**The Hon. LYNDA VOLTZ:** Regarding landmark security in Sydney, how many reports have you commissioned into reviews of security on the bridge and other landmarks around Sydney?

**Mr DAVID ELLIOTT:** We have dedicated \$11.97 million to Roads and Maritime Services [RMS], if you are referring to the Sydney Harbour Bridge. We have dedicated \$36.2 million for the Sydney Opera House to implement enhanced security arrangements, including hostile vehicle mitigation, and enhanced closed-circuit television and bag screening. The courts will be getting \$5.5 million to maintain their counterterrorism security capabilities, and there is another \$4.9 million over this financial year for protection of critical transport infrastructure across RMS and Transport for NSW. Obviously we have very robust arrangements.

We work with the police to ensure that any risks are identified. Last year the Prime Minister and I, with the police Minister, launched the Crowded Places strategy, which highlights that landowners need to take ownership of whatever risk may or may not occur in the event of a public gathering or a major event. I conclude by highlighting the fact that I am very, very reluctant, for obvious reasons, to talk about specific places, venues and events because it is not really in the best interests of the people of New South Wales for us to have that discussion in the public domain.

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**The Hon. LYNDA VOLTZ:** Minister, is it correct that in September 2017 you and the Minister for Sport wrote to Gabrielle Upton regarding the permanent closure of Driver Avenue at Moore Park in Sydney?

**Mr DAVID ELLIOTT:** If you have that letter, I am happy for you to table it so I can confirm the date. That letter regarding Driver Avenue was signed by the Minister for Sport and me.

**The Hon. LYNDA VOLTZ:** Do you agree with that recommendation?

**Mr DAVID ELLIOTT:** As I said in my last answer, I am really not inclined to discuss specific venues around the State when it comes to counterterrorism arrangements because I do not think that is in the best interests of the people of New South Wales. Since you have cited the letter, I am happy to put it on notice.

**The Hon. LYNDA VOLTZ:** Last week in the estimates hearing into the Police portfolio, Mr Fuller, the police commissioner, said:

The crowded public places document is a document that the asset owner has the responsibility for filling out ... It is only advice and guidance to the asset owner. In this case, it is my understanding that Driver Avenue is run and owned by Centennial Park Trust.

**Mr DAVID ELLIOTT:** I will take that as an opinion.

**The Hon. LYNDA VOLTZ:** Would the Centennial Park Trust fall under the portfolio of Ms Gabrielle Upton as Minister for the Environment?

**Mr DAVID ELLIOTT:** Yes.

**The Hon. LYNDA VOLTZ:** Then why were you writing to the Minister about an asset that fell within her portfolio?

**Mr DAVID ELLIOTT:** As I said in my first answer, my job is the coordination to make sure that all government departments and Ministers work together. But as I said in my previous answer I am not going to engage in a conversation about individual sites. I think it is very inappropriate for us to have that discussion in the public domain.

**The Hon. LYNDA VOLTZ:** Were you concerned that the Minister had not seen the report?

**Mr DAVID ELLIOTT:** I am not going to answer that question.

**The Hon. LYNDA VOLTZ:** Can you confirm that the asset assessment was done by Centennial Park Trust or was it done by the Sydney Cricket and Sports Ground Trust?

**Mr DAVID ELLIOTT:** I will take that on notice.

**The Hon. LYNDA VOLTZ:** Minister, are you aware of any staff cuts to the NSW Police Force investigation and counterterrorism unit?

**Mr DAVID ELLIOTT:** You will have to raise that with the police Minister. It is his budget.

**The Hon. LYNDA VOLTZ:** Can you explain the role of Fire and Rescue in the counterterrorism space?

**Mr DAVID ELLIOTT:** Fire and Rescue are written into the State Emergency Management Plan. They have the capability for chemicals and other toxic substances.

**The Hon. LYNDA VOLTZ:** What is the size of the counterterrorism team and the budget for that team in Fire and Rescue?

**Mr DAVID ELLIOTT:** I will have to take that on notice because it is an operational question for another Minister.

**The Hon. LYNDA VOLTZ:** Did you have any meetings with the commissioner or anyone in Fire about the plus plan?

**Mr DAVID ELLIOTT:** My diary is a matter of public record so I will have to take that on notice.

**The Hon. LYNDA VOLTZ:** Do you recall having a meeting?

**Mr DAVID ELLIOTT:** No. I meet with the Minister weekly. We speak regularly. So if there are any issues that you need raised I am sure that you can raise them with the Minister and he can obviously take them up with me.

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**The Hon. LYNDA VOLTZ:** Have you seen the logos that were placed on the fire trucks in regard to counterterrorism?

**Mr DAVID ELLIOTT:** No.

**The Hon. LYNDA VOLTZ:** You have not seen them. Do you think it may confuse the community into believing that Fire and Rescue firefighters are employed in counterterrorism when they have that logo on the side of their vehicle?

**The Hon. TREVOR KHAN:** He has not seen the logo so it makes it a bit hard to comment.

**Mr DAVID ELLIOTT:** I have not seen the logo. Fire and Rescue are first responders so in the event of any incident it is highly likely that they are involved. But quite frankly these questions are probably best directed to the Minister for Police, and Minister for Emergency Services.

**The Hon. LYNDA VOLTZ:** When will the next training exercise take place with counterterrorism, and Fire and Rescue?

**Mr DAVID ELLIOTT:** I would have to take that on notice. We have regular, obviously annual, exercises on counterterrorism. Those scenarios for those exercises are drafted by people who are obviously highly qualified in exercising capabilities, both counterterrorism and any other emergency capabilities. As I said, they regularly exercise. It is not something that I put on the public record before the event, but for the benefit of ensuring that there is no public anxiety we do make sure that the public are advised of most of these exercises, particularly the non-desktop exercises.

**The Hon. LYNDA VOLTZ:** Do you believe that New South Wales police officers should be transporting prisoners for Corrective Services NSW?

**The Hon. TREVOR KHAN:** Jeez, this is a long bow.

**The ACTING CHAIR:** Of course he doesn't.

**Mr DAVID ELLIOTT:** It depends on the incident.

**The Hon. LYNDA VOLTZ:** Have you had discussions with the Minister for Police or Commissioner Fuller with regard to issues pertaining to prisoner transport?

**Mr DAVID ELLIOTT:** Yes, we have.

**The Hon. LYNDA VOLTZ:** What was the outcome of those discussions?

**Mr DAVID ELLIOTT:** I am certainly not going to devolve private Cabinet conversations to you.

**The Hon. LYNDA VOLTZ:** Has an agreement been made between Corrective Services and the NSW Police Force in regard to prisoner transport?

**Mr DAVID ELLIOTT:** Yes. There is a trial. The commissioner may want to expand on the trial.

**Mr SEVERIN:** Corrective Services NSW and the NSW Police Force together also with senior officers from Treasury and other justice entities have worked on looking at the prisoner transport issues between courts and prisons. As a result of that there has been work undertaken to commence a trial in the Newcastle area and also in the Parkes local area command, the Central West local area command. The Parkes trial has been supported through budget support from the Department of Justice to the NSW Police Force to pay for the escorts being undertaken by police, which normally would have come out of the police budget because Corrective Services has now a presence there. More importantly the police station has been equipped with audiovisual capabilities, meaning that that reduces the need for transporting offenders across the State. We very carefully assess the budgetary implications of the work that is being done. Obviously the objective is to ensure the most efficient and effective way of moving inmates or defendants between courts and police stations and prisons.

**The ACTING CHAIR:** Through you, Minister, to the commissioner, Commissioner, how many inmates at the Long Bay prison hospital are held on forensic detention for mental health?

**Mr SEVERIN:** I would have to take that on notice. I know that the Long Bay Hospital has got a range of gazetted mental health beds. Obviously we also at any given point in time have a number of inmates in our system who are there on a mental health order as a result of no bed availability in forensic mental health hospitals. That is out of our control, obviously. We work very closely with the mental health tribunal in that regard, but

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more importantly we work very closely with Justice Health and Forensic Mental Health Network who do the triaging and make the decisions as to where those persons are being placed.

**The ACTING CHAIR:** Minister, are you aware of any other jurisdiction in Australia that holds forensic mental health patients in their regular prison system?

**Mr DAVID ELLIOTT:** I am not aware of it, but I will take it on notice if you would like to know which jurisdictions do. We had a ministerial council meeting last month and it certainly was not on the agenda.

**The ACTING CHAIR:** Would it surprise you if New South Wales was the only jurisdiction—perhaps maybe Tasmania as well—but New South Wales is out of step—

**The Hon. TREVOR KHAN:** That does not make it the only jurisdiction then.

**The ACTING CHAIR:** I think Tasmania has changed its policy, but I am not sure if it has been implemented yet. New South Wales is out of step in so far as we keep forensic mental health patients in our regular corrections system. Are you aware that New South Wales is out of step?

**Mr DAVID ELLIOTT:** I think the line of questioning is best directed to the health Minister, because Justice Health manages mental health patients in prisons.

**The ACTING CHAIR:** Are you aware of the recommendation from the Royal College of Psychiatrists that recommended no prison system should be holding forensic mental health patients?

**Mr DAVID ELLIOTT:** I refer you to my last answer.

**The ACTING CHAIR:** As the Minister for Corrections you currently have the responsibility for a significant number of inmates who have been identified as having disabling forensic mental health illnesses.

**Mr DAVID ELLIOTT:** I am very conscious of the fact that we have something like 78 per cent of inmates with mental health concerns. But the line of questioning you are asking is best directed to the Minister for Health because he has jurisdiction over Justice Health.

**The ACTING CHAIR:** Yes, but the Long Bay Prison facility is run out of not just the Justice Health budget, but, as I understand, you have some responsibility for it as well, including with staffing. Are you aware that according to the Royal College of Psychiatrists there should be no forensic mental health patients held in that facility?

**Mr DAVID ELLIOTT:** I am not aware of that college's report, nor would I be because it would be something that would be best observed or certainly reviewed by the Minister for Health.

**The ACTING CHAIR:** Commissioner, are you aware of the recommendation from the Royal College of Psychiatrists in November or December of last year recommending that no mental health patient be held in a regular corrective services facility?

**Mr SEVERIN:** I am aware of the opinion being voiced. I have not read the report, but I think it is important to note that the beds at the Long Bay Hospital are gazetted forensic mental health beds. They are managed by Justice Health and Forensic Mental Health Network with our staff providing a security service. That is not to take away from the recommendation that may have come out of a forensic psychiatric college report, but at the same time for me it is important to ensure that if we hold somebody lawfully in our custody, which we obviously do, that is done in the most appropriate way. Certainly at Long Bay Hospital that is the case.

**The ACTING CHAIR:** Commissioner, I am not denying that those beds have been gazetted but you are aware of the history where they were gazetted because there was a legal failing and there were challenges to the detention of forensic mental health patients in Long Bay Hospital. The answer given by the Government was to gazette Long Bay Hospital as a forensic mental health facility rather than move the prisoners to a more appropriate facility. Are you aware of that history?

**Mr SEVERIN:** With respect I would suggest that there is no relationship between the case that was brought against the Government relating to a much earlier situation where a person was kept four days in a non-gazetted bed and the gazetting of the Long Bay Hospital as a mental health facility. I think there is no direct relationship between that. Certainly I am not aware that as a result of those legal proceedings there was any change to the gazetting process undertaken.

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**The ACTING CHAIR:** Minister, how long after the tragic death of David Dungay were prison officers first provided with training about the dangers of positional asphyxia?

**Mr DAVID ELLIOTT:** That is a training matter. You are aware that that matter is still subject to a coronial inquiry?

**The ACTING CHAIR:** Very much.

**Mr DAVID ELLIOTT:** I am reluctant to provide any answers to that until the Coroner has handed it down.

**The ACTING CHAIR:** It is not sub judice and with all due respect that is not a basis to prevent answering the question.

**Mr DAVID ELLIOTT:** I am not going to take the risk of it not being sub judice.

**The ACTING CHAIR:** It is clearly not.

**Mr DAVID ELLIOTT:** The Commissioner may want to answer in relation to the specific training of officers.

**Mr SEVERIN:** It was advice provided to the relevant officers in charge of our immediate action teams in writing pretty much straightaway, within a relatively short time after it became apparent that that could have contributed to the very unfortunate death. However, the physical training where we take the staff through the physical aspects of the application of those techniques has not commenced until recently. We have done two things.

We have finalised an online training program and we are now doing the physical training program. We also, in particular as it relates to the Long Bay Hospital—and we need to acknowledge that this most unfortunate incident related to the forceful administration of medication—have completely revised the standards and our protocols between Justice Health as the working group chaired by the Assistant Commissioner, Custodial Corrections, and the Chief Executive of Justice Health that looks at revising these protocols to make it unambiguously clear how these types of interventions have to occur not only to give the staff certainty but also to ensure that whatever happens is done in the most safe way possible.

**The ACTING CHAIR:** How many prison officers as of today have been trained in the dangers of positional asphyxia?

**Mr SEVERIN:** I have to take that on notice.

**The ACTING CHAIR:** When will the early intervention teams be expected to be fully trained on positional asphyxia? Secondly, when will the balance of Corrective Services staff be trained on positional asphyxia?

**Mr SEVERIN:** Again I will take that on notice. However, the training of the immediate action teams is happening as we speak so I would assume that will be completed in a very short time, but the exact details of your question I will provide in due course.

**The ACTING CHAIR:** On notice, will you provide details about the content of that training? I assume it is more than online training?

**Mr SEVERIN:** Yes.

**The ACTING CHAIR:** Inspector, have you undertaken any review of the minimum cell sizes in the New South Wales prison system?

**Ms RAFTER:** No, I have not.

**The ACTING CHAIR:** The minimum standards having been removed from the public health regulations, are you aware of what, if any, minimum standards there are for accommodation in the New South Wales prison system?

**Ms RAFTER:** I am aware that there are standards, yes.

**The ACTING CHAIR:** Can you provide the Committee with details of what those standards are?

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

## UNCORRECTED

**The ACTING CHAIR:** Minister, what is the minimum cell size?

**Mr DAVID ELLIOTT:** The requirement for single and double occupancy cells is 8.5 square metres for single and 10.5 square metres for double.

**The ACTING CHAIR:** What about triple ups?

**Mr DAVID ELLIOTT:** Triple ups, I will have to take that on notice unless the Commissioner has that data.

**Mr SEVERIN:** No.

**Mr DAVID ELLIOTT:** No, I will take that on notice. As you are aware we have only 312 cells across the system which are configured as three out beds.

**The ACTING CHAIR:** Are those cells meeting the current minimum standards?

**Mr DAVID ELLIOTT:** I will have to take that on notice.

**Mr SEVERIN:** They do.

**Mr DAVID ELLIOTT:** They would be. Commissioner, do you want to expand on that?

**Mr SEVERIN:** Yes. The cells do meet the standard as the Minister outlined. In relation to the purpose-designed three out cells, it depends very much on the nature of the accommodation. Some are much larger. They all comply with the standards. However, it is a very small number of cells overall that we have purpose designed for three inmates to occupy.

**Mr DAVID ELLIOTT:** If I can just expand on that, I am very conscious of the need for us to improve the capacity of the prison system which is why this Government has a \$3.8 billion program to modernise the prison system and improve our capacity. We are expanding obviously with a brand new prison in Grafton. We are expanding Cessnock with the rapid-build prison and 400 new beds going into that prison. We have expanded our capacity with the Wellington rapid-build prison. Since I have been the Minister I have reopened Kirkconnell and I have reopened Berrima. Last year I opened 94-beds at Mary Wade in Western Sydney. Recently I opened new capacity at South Coast Correctional Centre and that continues to expand. We are doubling the size of Supermax in Goulburn. We have expansions in Junee and Parklea. So we are addressing the problem of capacity.

**The ACTING CHAIR:** For the record, none of which I celebrate—the extraordinary expenditure on new prisons.

**Mr DAVID ELLIOTT:** Mr Acting-Chair, none of which I celebrate. I take that as an opinion but every time we commission a prison the Commissioner and I stand up and say we would both prefer this money to be spent on schools and hospitals.

**The Hon. SHAOQUETT MOSELMANE:** Or stadiums.

**The Hon. TREVOR KHAN:** Be quiet.

**The ACTING CHAIR:** What is the proposed maximum number of beds in Berrima? Why was Berrima chosen as a women's prison?

**Mr SEVERIN:** Berrima has been recently repurposed for female inmates because we did experience a significant spike in the number of female inmates coming in. That has since flattened out again. It was quite erratic. Currently at Berrima we have got 61 female inmates, 40 of whom are sentenced and 21 of whom are on remand. The capacity is 75.

**The ACTING CHAIR:** Given its relative isolation, was any consideration given to the impact on families, particularly children, in putting so many women in jail at Berrima?

**Mr SEVERIN:** There certainly was. Berrima has operated as a female prison previously up until its closure in 2011 which precedes my tenure. From a design perspective it is quite conducive because it is very open and it allows a lot of interaction between inmates which other prisons do not do. It is always an important factor to ensure that we limit any disruption that location of prisons creates for families, particularly for women in this context. However, the alternative for me would have been responding to the spike that we have experienced and building some redundancy into the system up until the new infrastructure comes online at Grafton and later on at Dillwynia to increase double-up type arrangements elsewhere.

**UNCORRECTED**

**The ACTING CHAIR:** I take it from that you see Berrima as a short-term solution?

**Mr SEVERIN:** Very much so.

**Mr DAVID ELLIOTT:** I also put on the record, Mr Acting-Chair, that I note your statement in the press that Berrima would have 500 beds. It is only 75.

**The ACTING CHAIR:** For women, yes.

**Mr DAVID ELLIOTT:** It is not 500 beds. I would like to use this as an opportunity to correct the public record that your claim that it was 500 beds was incorrect.

**The ACTING CHAIR:** I am grateful for that. One of the purposes of estimates is to get some data on the record.

**Mr DAVID ELLIOTT:** If you had called my office I would have been happy to provide you with the correct advice.

**The ACTING CHAIR:** Thank you, Minister; I appreciate the offer. Have the projections been met in the education reforms that you have made?

**Mr DAVID ELLIOTT:** Yes.

**The ACTING CHAIR:** What number of prisoners were projected to have been given access to literacy and numeracy projects in the first 12 months of those reforms and have they been met?

**Mr DAVID ELLIOTT:** Thank you very much; that is fantastic. I am really delighted with the success that we have had with our reforms in education. As you know, my major concern was to increase the number of people who had not only accessed but completed education programs.

**The ACTING CHAIR:** Minister, my question was about the projections. What were the projections and have they been met?

**Mr DAVID ELLIOTT:** Let me start by saying to you that in the last year of the Labor Government the completion rate for certificates was 1 per cent. This year it is 20 per cent. The projections are in good order.

**The ACTING CHAIR:** Minister, are you saying, on record here, that the projections that you and the department laid down for the provision of education have been met? Is that your evidence?

**Mr DAVID ELLIOTT:** I will have to check on what the projections were but I have the statistics of what we have been able to achieve. Ninety-eight per cent of inmates with a sentence of more than six months have now completed a core skills assessment and—

**The ACTING CHAIR:** Minister, I will put this to you.

**Mr DAVID ELLIOTT:** I need to finish this. You have asked the question and this may answer the questions.

**The ACTING CHAIR:** My question was about the projections.

**The Hon. TREVOR KHAN:** He is answering the questions. He is generally relevant.

**Mr DAVID ELLIOTT:** This is a great success story for the commissioner and the team at Corrective Services NSW. The number of inmates completing literacy and numeracy programs has increased by 53 per cent since I have been the Minister. The number of inmates participating in vocational training increased by 77 per cent since I have been the Minister. Core skills assessments in 2015, the year that I became the Minister were 3,040; last financial year they were 10,234. Completed literacy programs the year I became the Minister were 322; last financial year there were 459. Participation in a vocational training program the year I became the Minister was 2,900; this year it is 5,289.

Literacy completions the year that we came into government was only 56. This financial year it was 459. The completion rates have also gone from 1 per cent to 20 per cent. So I am going to take that as a big tick for the Government's reform on prison education. I am hoping that the number of inmates accessing programs—particularly in relation to the reforms that we have seen in the estimates committee, where we have seen that people who are on remand for less than six months are now getting access to these programs—will eventually put downward pressure on the prison inmate population.



**UNCORRECTED**

**The ACTING CHAIR:** Thank you. I am sure we would all like to spend more time on this but unfortunately that ends the period for budget estimates.

**Mr DAVID ELLIOTT:** Nothing on Veterans Affairs?

**The Hon. LYNDA VOLTZ:** If you guys want to extend the time—

**The ACTING CHAIR:** We are happy to extend the time for another 20 minutes, if you like.

**Mr DAVID ELLIOTT:** I have a few appointments to go to, but I just thought, with a shadow Minister for Veterans Affairs on the Committee, we would have had some questions on veterans affairs.

**The ACTING CHAIR:** Sadly, that draws to an end this particular budget estimates period.

**The Hon. LYNDA VOLTZ:** If you want to extend the time, I have plenty of questions.

**The ACTING CHAIR:** The Hon. Lynda Voltz will come to order.

**Mr DAVID ELLIOTT:** You could not have the extra time anyway.

**The ACTING CHAIR:** Order! The answers to questions that have been taken on notice are to be provided within 21 days. The secretariat will assist with any further particularities. That concludes this budget estimates hearing.

**(The witnesses withdrew)**

**The Committee proceeded to deliberate.**