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18 January 2019
Ms Rebecca Main
Secretariat
Budget Estimates Committee
Parliament of NSW
Macquarie Street

Our Ref: ICS/18/107

Dear Ms Main

I refer to my appearance to give evidence before the Legislative Council, Portfolio Committee No 4: Legal Affairs (**Committee**) on 19 December 2018. During my evidence, I took some questions on notice. I note that I have not been asked to provide a response to any supplementary questions.

On 9 January 2019, Ms Susan Want, Acting Clerk Assistant, sent me an email requesting that I provide the answers to the questions I had taken on notice and any corrections to the transcript of the Committee hearing by 5pm today. My response to the questions on notice and corrections to the transcript are **attached** to this letter.

Should you or the Committee require any further clarification please do not hesitate to contact me.

Yours faithfully

Fiona Rafter
Inspector of Custodial Services

Attachments:

1. Responses to questions taken on notice by Ms Fiona Rafter, Inspector of Custodial Services, before Legislative Council, Portfolio Committee No 4: Legal Affairs on 19 December 2018, dated 18 January 2019.

2. Clarifications to the Transcript for the Legislative Council, Portfolio Committee No 4: Legal Affairs on 19 December 2018, provided by Ms Fiona Rafter, Inspector of Custodial Services, dated 18 January 2019.

Response to questions taken on notice by Fiona Rafter, Inspector of Custodial Services, before Legislative Council, Portfolio Committee No 4: Legal Affairs on 19 December 2018 (Committee Hearing)

Question 1 (see page 12 of the Transcript of Committee Hearing):

"The Hon. Lynda Voltz: When you said that 22 November was the date provided by the Clerks. When did you seek the advice of the Clerks?"

Ms Rafter: I asked someone in the office to obtain some potential tabling dates. I would have to take that on notice with the exact dates that they spoke to the tabling office because they spoke to the tabling office a number of times."

Response:

The following table summarises the dates on which my office had contact with the tabling office. For completeness, I have provided additional details about the nature of the contact that took place between my office and the tabling office.

<i>ICS contacted the tabling office:</i>	<i>The tabling office contacted the ICS:</i>
ICS emailed the tabling office on 10 September 2018.	The tabling office responded via phone and email on 13 September 2018 and again on 20 September 2018.
ICS emailed the tabling office on 18 October 2018.	The tabling office responded via phone call on 22 October 2018.
ICS called and emailed the tabling office on 15 November 2018.	The tabling office advised during the phone call on 15 November they would consider our email and respond as soon as possible.
ICS called the tabling office on 16 November 2018.	The tabling office responded via phone call on 19 November 2018 and via email on 20 November 2018.
ICS emailed the tabling office on 20 November 2018.	The tabling office responded via phone call and via email on 21 November 2018.

Additional details

My office initially contacted the tabling office on 10 September 2018 to arrange a future tabling date for my report on *Use of force, separation, segregation and confinement in NSW juvenile justice centres (Report)*, and was advised the only tabling date available at that point in time was 22 October 2018. My office noted the date however we notified the tabling office on 18 October 2018 that we would not be tabling the Report on that date as the Report was not yet finalised, and requested advice as to alternative tabling dates in 2018.

The tabling office then contacted my office on 22 October 2018 to advise that a tabling date had become available on 2 November 2018. My office advised the tabling office that the Report was not yet finalised and did not accept this tabling date.

My office again contacted the tabling office on 15 November 2018 seeking a tabling date in 2018. Advice was also sought from the tabling office as to whether it would be possible to table the Report out of session. The tabling office advised that tabling out of session was not possible.

On 20 November 2018, I was offered a tabling date of 21 November 2018. I was unable to meet the 21 November 2018 date due to editing and technical issues requiring the document to be returned to the graphic design team. I then requested a tabling date of 23 November 2018, to ensure that the Report was tabled in 2018. This date was then offered to me and I accepted this date.

In my Report, I included a recommendation that my Report be made publicly available immediately (see: section 16(2) of the *Inspector of Custodial Services Act 2012 (NSW) (ICS Act)*). This enabled the Report to be both tabled and published on the 23 November 2018.

Question 2 (see page 13 of the Transcript of Committee Hearing):

"The Hon. Lynda Voltz: In fact, their evidence to our Committee, if my memory is correct, is that there was more relevant information than what was included in your report and they were providing you with that information so that report could be amended to include more current information. That is correct, is it not?"

Ms Rafter: I believe they were referring to an earlier occasion. I will take on notice to review the transcript to make sure that I am answering you correctly."

Response:

The Hon. Lynda Voltz was indeed referring to an earlier occasion. I refer to pages 10-11 of the transcript for Legislative Council, Portfolio Committee No 4: Legal Affairs on 31 October 2018 which relates to this question. Further, in January and February 2018, Ms Hawyes, Executive Director, Juvenile Justice, informed me that she was concerned that some key information was not included in the draft Report provided to her on 20 December 2017. The procedural fairness and consultation process required under section 14(2) of the ICS Act provided an opportunity for Juvenile Justice to provide additional and clarifying information that it believed was relevant to the Report. I considered this information once provided to me and took it into account in preparing my Report.

Question 3 (see page 13 of the Transcript of Committee Hearing):

"The Hon. Lynda Voltz: On what date did that meeting occur?"

Ms Rafter: Can I take that on notice, because I have to double-check my diary."

Response:

The meeting with Juvenile Justice occurred on 25 October 2018.

Question 4 (see page 16 of the Transcript of Committee Hearing):

"Mr David Shoebridge: "Can you provide on notice details about the certification you think is appropriate?"

Ms Rafter: Yes, of course."

Response:

I consider appropriate certification would be a Certificate IV in Youth Work. I have referred to this in my Report (pages 42-43) which states:

"Currently, there are no educational or skills-based pre-requisites for being employed as a youth officer, and these positions are entry-level. This means that some youth officers commencing work at Juvenile Justice may have no expertise or experience in working with young people generally, or managing the needs of young people who have significant and complex needs. However, most unit managers and shift supervisors have a Certificate IV in youth work.

...

Recommendations:

The Inspector recommends Juvenile Justice reviews the role descriptions and recruitment processes for youth officers to attract suitably qualified and skilled officers to work with young people."

18 January 2019

**Clarification to page 11 of the transcript for the Legislative Council,
Portfolio Committee No 4: Legal Affairs on 19 December 2018
provided by Fiona Rafter, Inspector of Custodial Services**

I provide the following clarification of an answer I provided that appears on page 11 of the Transcript to assist the Committee and ensure that they have the benefit of a fulsome response to the question posed by Mr David Shoebridge, Deputy Chair.

Transcript, page 11:

Mr David Shoebridge: "... *Why was it published so late [on the website]?*"

Ms Rafter: "*It was published as soon as it was ready.*"

Clarification:

In accordance with section 16(1A) of the ICS Act, any report to Parliament made by the Inspector under the ICS Act is to be made by furnishing the report to the Presiding Officer of each House of Parliament. Section 16(1) of the ICS Act provides that a copy of the report furnished to the Presiding Officer of a House of Parliament is to be laid before the House within 15 sitting days of that House after it is received by the Presiding Officer. Section 16(2) of the ICS Act provides that the Inspector may include a recommendation that the report be made public immediately.

In order to ensure the report *Use of force, separation, segregation and confinement in NSW juvenile justice centres (Report)* was made public immediately, I included a recommendation in the Report that it be made public immediately pursuant to section 16(2) of the ICS Act. By virtue of this recommendation and the operation of section 16(3) of the ICS Act, the Presiding Officer was able to make the Report public whether or not the House was in session and whether or not the Report had been laid before that House.

After the Report was tabled on 23 November 2018, I wrote to stakeholders enclosing a copy of the Report and advising it had been tabled, and arranged to have the Report uploaded on the ICS website. I then issued a media release with a link to the Report on 23 November 2018.

18 January 2019