BUDGET ESTIMATES 2021
Questions Taken on Notice

Portfolio Committee No. 5 – Legal Affairs

ATTORNEY GENERAL AND PREVENTION OF DOMESTIC VIOLENCE

Hearing: Tuesday 2 March 2021

Answers due by: Friday 26 March 2021

ANSWERS

Question 1 (page 5-6)
ReInvest data

Ms ABIGAIL BOYD: I want to pick up on this reinvest program issue because, as you say, you are not a statistician. Like me, you are a lawyer. I do have a psychology degree but that is not sufficient either. But I do have a research scientist in my team with a very firm grip on statistics and that has helped me to get my head around this and to be quite alarmed by what I have read about the details. So although you are not a statistician, I would expect that before funding decisions are made there are people within your department with that expertise who could look at this and particularly the early results before the funding was given and really ask those questions. When you say that this has had a significant decrease in impulsivity, we are talking about people who have self-reported who we do not even know took the tablets. What gives you such confidence in the robustness of these results?

Mr COUTTS-TROTTER: I really do not have much to add although we have been given updated data through the Kirby Institute that we could take on notice and see if we could provide that to the Committee.

ANSWER

I am advised:

UNSW has provided the following data:

Overall, the Kirby study involves 4 groups based on randomisation (no [group 1]/ yes [groups 2,3, 4]), and time on the trial. There are two metrics which suggest a benefit from being in the trial:

1. Pre-trial offending versus post-randomisation offending rates. When groups 2,3, and 4 are combined there is a statistically significant reduction in all reoffending, domestic violence and violent reoffending. However, in group 1 there is a marginal reduction in all reoffending and violent offending but an increase in domestic violent reoffending. However, none of these differences are statistically significant.
2. Comparison of rates of domestic violence offending. In groups 2, 3 and4 (post-randomisation) all had lower rates of reoffending than group 1 (met trial no randomisation) which suggests a benefit from being in the trial.

Mean rates of court-documented offending, violent offending and domestic violence (DV) offending: pre-trial (3 years) vs during trial (1 year) by trial persistence*, total n=276 individuals.

<u>Group 1 - Run-in, no randomisation (n=74): Offences per free year</u>

- Violent offending pre-trial 0.85 vs during trial 0.78
- DV offending pre-trial 0.64 vs during trial 0.74

Group 2 - <14 weeks on trial (n=73): Offences per free year

- Violent offending pre-trial 1.18 vs during trial 0.63
- DV offending pre-trial 0.95 vs during trial 0.57

Group 3 - 14 to <52 weeks on trial (n=71): Offences per free year

- Violent offending pre-trial 1.04 vs during trial 0.61
- DV offending pre-trial 0.70 vs during trial 0.40

Group 4 - 52 weeks on trial (n=58): Offences per free year

- Violent offending pre-trial 0.89 vs during trial 0.42
- DV offending pre-trial 0.65 vs during trial 0.27

* There is a delay in offences being officially documented. Among individuals who have completed run-in, a minimum of 6 months has transpired between date of study completion and data extraction. This group was considered to have complete offending data, consistent with criteria used by the NSW Bureau of Crime Statistics and Research (**BOCSAR**). Offences per free year adjusts for any time spent in custody. Only participants with less than six months in custody during the trial period were included for the purpose of this analysis; this excluded 28 participants (14 from the non-randomised group) who averaged 8.4 months in custody compared to 0.52 months for the retained group.

Question 2 (page 7)
Collection of information and conflict of interest

The Hon. MARK LATHAM: Attorney General, as first law officer in New South Wales and notional head of the criminal justice system, **do you have rules in place about the police or prosecutors at DPP being involved in the collection of information about impropriety linked to their domestic partners in life?**

Mr MARK SPEAKMAN: I would have to take that on notice in terms the precise details, but I imagine that there are codes of conduct within the DPP about that sort of thing. Was your question about DPP or police?

ANSWER

I am advised:

The Office of the Director of Public Prosecutions (**ODPP**) Code of Conduct specifically addresses Conflicts of Interest. The Code of Conduct is publicly available on the ODPP's website.

Management of Conflict of Interest issues is the responsibility of agencies, through their codes of conduct. Questions about specific agencies' rules should be referred to those agencies.

Matters regarding the NSW Police Force should be referred to the Minister for Police and Emergency Services.

Question 3 (page 8)
Allegations about Daryl Maguire

The Hon. MARK LATHAM: I think you are a lawyer and a politician and all of your comments are seen through that prism. Was your chief of staff involved in the meeting in July 2018 when Sarah Cruickshank, the chief of staff of the Premier, asked ministerial staff to forward information to the Premier's office concerning allegations of possible corruption by Daryl Maguire subsequent to the Canterbury council investigation?

Mr MARK SPEAKMAN: I am unaware of that, but I will have to take it on notice to see if that was the case.

The Hon. MARK LATHAM: But you would expect your chief of staff to be at the regular chiefs of staff meetings convened by the Premier.

Mr MARK SPEAKMAN: As I said, I am unaware of that but I will take that on notice to answer your question.

ANSWER

I am advised:

I refer to the evidence given by Sarah Cruickshank to the Portfolio Committee No. 1 – Premier and Cabinet Inquiry into Budget Estimates 2020-2021 on 4 March 2021.

I am not aware if my Chief of Staff as at July 2018, who is no longer employed in my Office, attended the meeting described by Ms Cruickshank.

Question 4 (page 17)
Legal assistance to witnesses appearing before ICAC

The CHAIR: Yes, right. What information has to be provided with an application for legal assistance by a Minister or Parliamentary Secretary?

Mr COUTTS-TROTTER: I will take the question on notice to make sure I am accurate and detailed, Chair, but it is essentially the same information that needs to be presented by anybody making a similar application. I will take the question on notice and give you a comprehensive answer**.**

The Chair: Can you give me an indication of the sort of - I accept that you will take it on notice for the detail, but what sort of information would be provided?

Mr COUTTS-TROTTER: Is the person's evidence likely to be significant in the hearing? The purpose of providing legal support is to facilitate the operations of the ICAC and ensure that it is able—and participants in hearings are able—to effectively contribute.

ANSWER

I am advised:

If the application is made under Premier's Memorandum 2019-01 for ex gratia legal assistance by a Minister who is required to appear before the Independent Commission Against Corruption (**ICAC**), the Attorney General must be satisfied that the Minister has a substantial and direct interest in the investigation, and the incident which gives rise to proceedings relates to the Minister's official functions.

Premier's Memorandum 2019-01 is silent in relation to Parliamentary Secretaries. The Attorney General has not delegated the exercise of discretion under Premier's Memorandum 2019-01.

An application for legal and financial assistance may also be made under s.52 of the *Independent Commission Against Corruption Act 1988* (**ICAC Act**), by a witness who is appearing or about to appear before the ICAC.

Under s.52(2), the Attorney General must be satisfied that the grant of legal or financial assistance is appropriate having regard to

(a) the prospect of hardship to the witness if assistance is declined,
(b) the significance of the evidence that the witness is giving or appears likely to give,
(c) any other matter relating to the public interest.

Under s.52(5), the Attorney General has delegated the exercise of discretion under s.52 of the ICAC Act to the Secretary of the Department of Communities and Justice.

Question 5 (page 17-18)
Legal assistance to witnesses appearing before ICAC

The CHAIR: Minister, do you remember receiving an application for legal assistance from Mr Daryl Maguire prior to his appearance before the ICAC on 13 July 2018 in Operation Dasha, ICAC's inquiry into the Canterbury City Council?

Mr MARK SPEAKMAN: I do not remember. That is not to say I did not get it, but I do not remember.

The CHAIR: You do not remember? Mr Coutts-Trotter?

Mr COUTTS-TROTTER: It precedes my time as Secretary of—

The CHAIR: It precedes your time?

Mr COUTTS-TROTTER: Yes.

Mr DAVID SHOEBRIDGE: Could you take it on notice?

Mr MARK SPEAKMAN: Certainly.

Mr COUTTS-TROTTER: Yes.

Mr MARK SPEAKMAN: My best recollection is that I did not, but I would have to check my notes.

The Chair: Your best recollection is what?

Mr DAVID SHOEBRIDGE: Sorry. In relation to taking it on notice, could Mr Coutts-Trotter check if he or his predecessor—

Mr COUTTS-TROTTER: It would be my predecessor, another bloke with a hyphenated surname.

Mr DAVID SHOEBRIDGE: If you could take that on notice—

Mr COUTTS-TROTTER: Yes.

The CHAIR: I take it, then, that you do not know when his application was approved?

Mr COUTTS-TROTTER: I can check that for you, Chair, and confirm.

The CHAIR: Can you check that?

Mr COUTTS-TROTTER: Yes.

The CHAIR: Okay. You will take that on notice. Also, of course, who approved his application?

Mr COUTTS-TROTTER: Yes

ANSWER

I am advised:

Mr Maguire applied for assistance under s.52 of the *Independent Commission Against Corruption Act 1988*. The application was approved under delegation by Mr Andrew Cappie-Wood, the then Secretary for the Department of Justice, on 6 July 2018.

The grant of assistance was subject to the usual condition, namely that, if the witness is convicted of an indictable offence (other than an offence that was tried summarily) as a result of the investigation or inquiry, the witness is required to immediately repay to the Attorney General, in full, the total amount paid to the witness or on behalf for the witness' legal representation (including interest on any such an amount calculated from the date of the advance at the rate of interest prescribed under the Uniform Civil Procedure Rules 2005 in relation to judgment debt).

Question 6 (page 18)
Legal assistance to witnesses appearing before ICAC

The CHAIR: Minister, did you formally or informally inform the Premier of Mr Maguire's application for legal assistance?

Mr MARK SPEAKMAN: I would have to check my records, but I am pretty confident at the moment that I did not because I do not recall the application. It follows, therefore, that I would not recall telling the Premier about the application.

The CHAIR: Could you take that on notice, too, if you do not recall?

Mr MARK SPEAKMAN: Certainly.

The CHAIR: Did you formally or informally inform anyone else of Mr Maguire's application for legal assistance?

Mr MARK SPEAKMAN: To my best recollection, no, but I will double-check with my records and take that on notice.

The CHAIR: Take that on notice, too? Alright, thank you. Did anyone in your office or anyone in your department formally or informally inform anyone in the Premier's office or the Premier's department of Mr Maguire's application for legal assistance?

Mr MARK SPEAKMAN: To my best recollection, so far as I was aware, no. But, again, I will have to check records and take that on notice.

ANSWER

I am advised:

I became aware of Mr Maguire's application for legal assistance following a media enquiry to my office on 15 July 2018. Consistent with standard practice, my office informed the Premier's office of the media enquiry and statement in response to the journalist.

Question 7 (page 18)
Legal assistance to witnesses appearing before ICAC

The CHAIR: We will be doing that, for sure. But I thought—in terms of you and/or your department having a role in relation to the approval of Mr Maguire's expenditure for legal support at the ICAC—that we may
have got some answers in relation to that.

Mr MARK SPEAKMAN: As I said, my best recollection is that I had no role. If, when I look at my documents, that recollection turns out to be wrong—I can tell you now that I never had a conversation with the
Premier about it, in any event.

The CHAIR: Okay, thank you. Have you got anything to add to that, Mr Coutts-Trotter?

Mr COUTTS-TROTTER: No, Chair.

The CHAIR: Nothing at all? Okay.

The Hon. MARK LATHAM: Could I ask Mr Coutts-Trotter to bring that information back after lunch?

Mr COUTTS-TROTTER: Which information is that?

The Hon. MARK LATHAM: **The information about the legal assistance for Mr Maguire—all the matters you took on notice concerning your predecessor**

Mr COUTTS-TROTTER: Sure. We will do our very best, Mr Latham.

ANSWER

Please refer to the answer to question taken on notice 5.

Question 8 (page 18)
DV - LOVE BiTES evidence base

The Hon. MARK LATHAM: I can carry on. A mention was made earlier on of the respectful relationships program in schools, LOVE BiTES. What is the evidence base for that?

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

ANSWER

I am advised:

LOVEBiTES has been subject to a number of evaluations.

See Flood, M. and Kendrick, V. (2012) *LOVEBiTES: An evaluation of the Lovebites respectful relationship programs in a Sydney school*. Available at: https://ro.uow.edu.au/cgi/viewcontent.cgi?article=2969&context=artspapers;
and Dobia, B. (2019). *"Every client has a trauma history": Teaching respectful relationships to marginalised youth. An evaluation of NAPCAN's Respectful Relationships Program Northern Territory 2017-2018*, Western Sydney University, available at: https://www.napcan.org.au/wp-content/uploads/2020/02/NAPCAN-Love-Bites-NT-Evaluation.pdf;

For an evaluation of LOVEBiTES program design and content, see Le Broque, E. et al (2014) *Respectful Relationships Evaluation Report 2.2: Final findings of Round 3,* Prepared for the Department of Social Services (DSS) Institute for Social Science Research, The University of Queensland, available at: https://www.dss.gov.au/sites/default/files/documents/01_2016/2-2-final-findings-of-round-3.pdf

More recently, I have been advised that LOVEBiTES is currently working with Huber Social and a range of communities across NSW, to develop an Impact Measurement Tool, set within a wellbeing framework, to improve their impact measurement capabilities.

Question 9 (page 21)
s93Z of the *Crimes Act 1900*

The Hon. ROSE JACKSON: Have you had any discussions with the police Minister or your parliamentary colleagues about this concerning incident in which the first two successful prosecutions under hate speech provisions have in fact had to have the convictions annulled? Have you raised that?

Mr MARK SPEAKMAN: No, because this has only come to light in recent days.

The Hon. ROSE JACKSON: Can you give us any more information in relation to those convictions?

Mr MARK SPEAKMAN: One, I think, concerned hate speech on a bus of a racist nature. Do you know what the other one was?

Mr COUTTS-TROTTER: No, I am afraid I do not. My colleague Paul McKnight might.

Mr MARK SPEAKMAN: Mr McKnight?

Mr McKNIGHT: No, sorry. We would have to take that on notice.

ANSWER

I am advised:

Based on the transcripts of proceedings, both cases involved altercations between the offender and another member of the public in which racist or other hateful language was used towards the victim. Neither incident involved personal violence.

Any further questions about the circumstances of these cases are a matter for the NSW Police Force.

Question 10 (page 25)
Sexual assault investigations

Ms ABIGAIL BOYD: I would not. Obviously there are the laws and there is education and there is a bunch of other things; there is also government processes. One of the issues we had, I think it was late 2019, was a revelation that the New South Wales police were not capturing data on why sexual assault claimants were walking away. So why were they withdrawing? Unlike every other State and Territory in Australia, we were not able to say why sexual assault investigations did not lead to arrest or formal action. Has that improved? Have they done anything to fix that yet, do you know?

Mr MARK SPEAKMAN: I will have to take that on notice

ANSWER

I am advised:

The question should be referred to the Minister for Police and Emergency Services.

Question 11 (pages 32-33)

Youth Koori Court

Mr MARK SPEAKMAN: That is the Law Society's contention. As I understand it, there is no direct and robust statistical evidence that shows a Walama Court will work. There is anecdotal evidence of a Victorian model where in an anecdotal and discursive way some people have said they value the program. There is also robust evidence that the Drug Court works. Proponents of the Walama Court seek to extrapolate from that that the Walama Court will work because they want a kind of intervention model that is like the Drug Court. One of the decisions we will make if we go down the diversion path is whether it is more effective just to roll out the Drug Court further around New South Wales before you start with a Walama Court—to stick with expanding the Drug Court and perhaps having an Indigenous list, rather than trying to adapt the Drug Court model to the Walama Court.

We have not made any decisions on that, but those are the kinds of competing considerations we have to take into account. While there is clearly robust evidence for a Drug Court, for Magistrates Early Referral into Treatment [MERIT] and circle sentencing, there is basically no direct and empirical evidence that a Walama Court works. We are getting BOCSAR to analyse the efficacy of its analogue, the Youth Koori Court. I am sorry, it is not BOCSAR. Mr McKnight will correct me. We are getting a statistical evaluation.

Mr McKNIGHT: That is right. A firm has been contracted to provide an evaluation of the Youth Koori Court.

The Hon. MARK LATHAM: Who has?

Mr McKNIGHT: I will take that on notice

ANSWER

I am advised:

The contract for the evaluation of the Youth Koori Court was awarded to Inside Policy, an Indigenous social policy consultant. The evaluation will provide an outcomes and cost-benefit evaluation of the Youth Koori Court, which is expected to be completed in the first half of 2022.

The evaluation process is well underway.

Question 12 (page 34)
Historical child sexual abuse

Mr DAVID SHOEBRIDGE: We may come back to that later. Minister, what is the current timing that you have for the introduction of laws to finally allow victims and survivors of historical child sexual abuse to overturn unfair settlements?

Mr MARK SPEAKMAN: I am very confident that it will be this year, and it is likely to be this session of Parliament.

Mr DAVID SHOEBRIDGE: There was a consultation process undertaken on a draft bill. A number of informed advocates, including the Australian Lawyers Alliance and others, critiqued the draft bill as being far too limited. How many submissions were there?

Mr MARK SPEAKMAN: There were about 16 submissions on the draft bill.

Mr DAVID SHOEBRIDGE: Can you provide the detail about who provided submissions and who was approached for submissions?

Mr MARK SPEAKMAN: I will just have to check that I am not breaching any confidences. Are you that person, Mr McKnight? There were about 16.

Mr McKNIGHT: I think the detail of that we would have to provide on notice.

ANSWER

I am advised:

The draft Bill was provided to a large number of stakeholders, including survivor groups, religious institutions and multi-faith non-government organisations, children's service providers, legal stakeholders and the insurance industry for comment. These included all stakeholders who made a submission in response to the Discussion Paper published in March 2020.

30 submissions were received on the draft Bill from survivor groups, religious institutions, legal stakeholders, the insurance industry and members of the public.

Targeted consultation was undertaken on the draft Bill. The draft Bill was provided to stakeholders and submissions have been received on a confidential basis.

Question 13 (page 34)

Historic child sexual abuse

Mr DAVID SHOEBRIDGE: All right. My final question on that is: Will the submissions be made public? I am more than happy if that is taken on notice.

Mr MARK SPEAKMAN: I will take that on notice.

ANSWER

I am advised:

Targeted consultation was undertaken on the draft Bill. The draft Bill was provided to stakeholders and submissions were received on a confidential basis.

Question 14 (page 35)
OPCAT

Mr DAVID SHOEBRIDGE: Is there any intention to have some kind of public engagement or submission process to help map out how New South Wales will comply with OPCAT?

Mr MARK SPEAKMAN: I will take that on notice because it is primarily a question for the Corrections Minister.

ANSWER

I am advised:

The implementation of the Optional Protocol to the Convention against Torture (**OPCAT**) is an initiative of the Commonwealth Government. NSW did not support the ratification of OPCAT before resourcing concerns were addressed and does not support implementation until those concerns are addressed.

NSW already has one of the strongest custodial oversight mechanisms in the country. However, NSW oversight bodies will not be able to perform the additional functions required by OPCAT within existing resources without compromising their ability to fulfil existing functions.

The NSW Government does not intend to consult on OPCAT implementation until those resourcing concerns are addressed.

Question 15 (page 35)

OPCAT

Mr DAVID SHOEBRIDGE: Is it true that the current intention is to make the Inspector of Custodial Services the National Preventive Mechanisms [NPM] body in New South Wales?

Mr MARK SPEAKMAN: I will take that on notice.

ANSWER

I am advised:

NSW continues to participate in discussions with the Commonwealth and other jurisdictions about the implementation of OPCAT in NSW and the resources that would be required to do so. The Government is unable to determine the composition of the National Preventative Mechanism in NSW until those concerns are addressed.

Question 16 (page 35)
OPCAT

Mr DAVID SHOEBRIDGE: My last question, if you are taking it on notice, is: Do you have faith that that office has the capacity to do it?

Mr MARK SPEAKMAN: Mr Khan is shaking his head.

The Hon. TREVOR KHAN: Sprung!

Mr MARK SPEAKMAN: I will take that on notice as well.

ANSWER

I am advised:

The implementation of the Optional Protocol to the Convention against Torture (**OPCAT**) is an initiative of the Commonwealth Government. NSW did not support the ratification of OPCAT before resourcing concerns were addressed and does not support implementation until those concerns are addressed.

NSW already has one of the strongest custodial oversight mechanisms in the country. However, NSW oversight bodies will not be able to perform the additional functions required by OPCAT within existing resources without compromising their ability to fulfil existing functions.

NSW continues to participate in discussions with the Commonwealth and other jurisdictions about the implementation of OPCAT and the resources that would be required to do so.

Question 17 (page 36)
Stolen Generations Reparations Scheme

Mr DAVID SHOEBRIDGE: Can you provide any data on how many claims have been made under the scheme to date and whether or not that is in line with what the expectations were in terms of the claims to date and what the total number of claims were expected to be under the scheme?

Mr THOMAS: I can certainly provide on notice the number of people we have assisted through the scheme, but I do not have access to the total number of claimants under the scheme.

Mr DAVID SHOEBRIDGE: Who would have that data?

Mr THOMAS: That sits in the Department of Premier and Cabinet as I understand it.

ANSWER

I am advised:

This question should be directed to the Minister for Aboriginal Affairs, as the Minister responsible for the Stolen Generations Reparation Scheme.

Legal Aid NSW has provided 537 services to 383 clients since the inception of the Stolen Generations Reparations Scheme. Legal Aid NSW notes that Stolen Generations Survivor Organisations, Community Legal Centres and other agencies also assist survivors with applications to the Stolen Generations Reparations Scheme and reviews of decisions.

Question 18 (page 36)
Stolen Generations Reparation Scheme

Mr Mr DAVID SHOEBRIDGE: Do you know how many applicants have died waiting to access compensation, Mr Thomas?

Mr THOMAS: I do not know that, no. I do not know the answer to that. We certainly do advocate strongly on behalf of any clients that we have who are very elderly with the idea of expediting their claims so that they can be resolved before that occurs. It is a common issue because of the age—

Mr DAVID SHOEBRIDGE: Because their claim dies with them.

Mr THOMAS: Yes. Because of the age of the cohort of people who are making those claims, it is not an uncommon concern.

ANSWER

I am advised:

This question should be directed to the Minister for Aboriginal Affairs, as the Minister responsible for the Stolen Generations Reparation Scheme.

Question 19 (page 36)
Stolen Generations Reparation Scheme

Mr DAVID SHOEBRIDGE: Could you identify how many of your clients that dreadfully unfortunate set of circumstances has occurred for?

Mr THOMAS: I am not familiar with any that have because we get it expedited, but I will certainly take it on notice and provide any details.

ANSWER

I am advised:

This question should be directed to the Minister for Aboriginal Affairs, as the Minister responsible for the Stolen Generations Reparation Scheme.

Question 20 (page 37)
Legal Aid care and protection data

Mr DAVID SHOEBRIDGE: How many advices have been provided in care matters under that helpline since you took over the arrangement?

Mr THOMAS: I am happy to provide **on notice** all of our care and protection data that we look at, including those kinds of advice services through that line.

Mr DAVID SHOEBRIDGE: Do solicitors attend case planning meetings with clients?

Mr THOMAS: They do from time to time, but I will have to take on notice the volume of that

ANSWER

I am advised:

Legal Aid NSW has delivered the Care Partner Program services in-house through its family law division since November 2019.

The Legal Aid NSW Early Intervention Unit provided 740 care and protection phone advices from November 2019 to February 2021.

For the corresponding period in the previous years (that is, November 2017 to February 2019), the Legal Aid NSW Early Intervention Unit provided 334 care and protection phone advices.

From November 2019 to February 2021, Legal Aid NSW also provided:
- 2,410 early intervention advice services
- 1,043 early intervention minor assistances
- 52 in-house grants and Extended Legal Assistance **(ELAs**) for contact mediations under section 86 of the *Children and Young Persons (Care and Protection) Act 1998*
- 32 Care and Protection Continuing Legal Education sessions.

More broadly, from November 2019 to February 2021, Legal Aid NSW provided:
- 1,330 care and protection duty services
- 977 grants and ELAs of legal aid in care and protection matters.

'Case Planning meetings' is not a term that is commonly used by Legal Aid NSW lawyers in the context of their legal work. Legal Aid NSW lawyers attend a range of conferences with clients including Dispute Resolution Conferences, Family Group Conferences and section 86 mediations.

Question 21 (page 40)
Indigenous conviction rates and unconscious bias

Mr MARK SPEAKMAN: It is not a nonsense concept. You see BOCSAR analyses. I will have to take on notice the precise offences. But other things being equal, there are greater conviction rates for Indigenous people than for non-Indigenous people for certain offences, other things being equal. It is not a nonsense. It is not a nonsense. It is all a matter of perspective. I have said that the main driver of overrepresentation of Indigenous people in the justice system is socioeconomic disadvantage and I have disputed, if it were an assertion, that there is some kind of conscious bias or conscious racism of judiciary. But we have to be alive to the prospect that there is unconscious bias, that the background of Indigenous offenders is not picked up sufficiently in sentencing, for example.

The Hon. MARK LATHAM: It sounds like a significant problem in your assessment. Have you got any studies or research reports that quantify the nature of the problem?

Mr DAVID SHOEBRIDGE: He has already said he will take that on notice.

Mr MARK SPEAKMAN: I will take that on notice. But a lot of this cannot be—

The Hon. MARK LATHAM: So you can't—

Mr MARK SPEAKMAN: But I have referred to one BOCSAR thing, which I will dig out for you.

ANSWER

I am advised:

Thorburn and Weatherburn (2018) found that Aboriginal people convicted of serious assault were more likely to receive a prison sentence than non-Aboriginal people, even after controlling for offence seriousness and other factors associated with sentencing. The marginal difference in the risk of a prison sentence for serious assault for Aboriginal offenders was 0.9 percentage points (3.4% for Aboriginal offenders compared with 2.5% for non-Aboriginal offenders). This study also found that prior offending and offence seriousness were the most important predictors of a custodial penalty.

Thorburn, H. & Weatherburn, D. (2018). *Effect of Indigenous status on sentence outcomes for serious assault offences*. Journal of Criminology, Vol. 51.

Question 22 (page 41)
Domestic Violence - BOCSAR statistics

The Hon. MARK LATHAM: In the department's research, what has been found to be the most reliable predictor of domestic violence?

Mr MARK SPEAKMAN: I will have to take that on notice. Which particular research are you referring to?

The Hon. MARK LATHAM: The Australian Institute of Criminology says that 82 per cent of perpetrators have prior criminal convictions.

ANSWER

I am advised:

Fitzgerald and Graham (2016) found the following factors to be significant predictors of reoffending among people convicted of a domestic violence offence:
- the number of prior convictions of any type,
- Aboriginality,
- being younger,
- being male,
- residing in a socio-economically disadvantaged area,
- having multiple concurrent offences at the reference offence,
- having at least one violent prior offence (of various types), and
- having received a prior prison sentence or bond.

Based on the Personal Safety Survey (2016), the strongest prediction of intimate partner violence against women was experience of emotional abuse by a current or previous partner. Other factors associated with a higher risk of intimate partner violence include being younger, having a long-term health condition, lack of social support, experience of financial stress and previous experience of abuse (Stavrou, Poynton & Weatherburn, 2016).

Fitzgerald, R. & Graham, T. (2016). *Assessing the risk of domestic violence recidivism* (Crime and Justice Bulletin No. 189). Sydney: NSW Bureau of Crime Statistics and Research; Stavrou, E., Poynton, S. & Weatherburn, D. (2016). *Intimate partner violence against women in Australia: related factors and help-seeking behaviours* (Crime and Justice Bulletin No. 200). Sydney: NSW Bureau of Crime Statistics and Research.

Question 23 (page 42)
Domestic Violence in rural and regional NSW

The Hon. ROSE JACKSON: Just one more quick question on domestic violence before I hand to my colleague Mr Moselmane. You mentioned in your response to questions from Mr Latham the issue around domestic violence figures in rural and regional New South Wales. You mentioned Orana. You mentioned the Far West. In Dubbo, which is in the Orana region, for example, emergency domestic violence accommodation—there are 50 people, women and children, on the waiting list. It can take a month to access that emergency accommodation. Do you think your Government is doing enough to ensure that there are essential services available for women in these areas that do experience particularly high rates of domestic violence?

Mr MARK SPEAKMAN: I will have to take particular areas on notice. But as a general proposition we are spending a record amount on domestic and family violence, $530 million over four years. That includes substantial amounts for specialist homelessness services, caseworkers, counsellors and so on, women's domestic violence advocacy service. General budgeting issues will come up again this year. That will be part of the budgeting process. But we have put a lot of State and Federal money into a COVID response over the past 12 months to address issues like that. But you can always do more.

ANSWER

I am advised:

In 2020/21, $291 million will be invested in specialist homelessness services, referral services such as Link2home, enhancements for youth refuges and after hours domestic and family violence services, and Homelessness Strategy initiatives. This includes $68.9 million in homelessness services that have crisis accommodation and provide support to women experiencing domestic and family violence.

In addition to women's refuges, the NSW Government funds a range of other programs that support women who are experiencing domestic and family violence, and may also be at risk of, or experiencing, homelessness. This includes for example, Start Safely, and Staying Home Leaving Violence.

<u>Data</u>

- The Australian Institute of Health and Welfare Specialist Homelessness Services annual report provides the breakdown of clients assisted by specialist homelessness services in NSW by Remoteness Area.
- Of the 70,372 clients assisted by specialist homelessness services in NSW in 2019-20:
    - 40,645 (58 percent) were in major cities
    - 23,226 (33 percent) were in inner regional areas
    - 5,837 (8 percent) were in outer regional areas
    - o 664 (1 percent) were in remote and very remote areas.
- Remoteness area is assigned using the Australian Bureau of Statistics classification, Australian Statistical Geography Standard (ASGS) (2016) and is based on the specialist homelessness services agency location.
- In 2019-20, 27,455 specialist homelessness services clients in NSW had experienced family and domestic violence, equating to 39% of all specialist homelessness services

clients. 73 percent of the clients who had experienced family and domestic violence were female clients.

Question 24 (page 44)
Victims Support - data sets

Mr DAVID SHOEBRIDGE: Attorney, for some reason or another, Victims Services has stopped publishing critical data about how it operates. It used to have comprehensive data profiles published up until 2017-18. Last estimates I asked you about this and was told that you would take it on notice and it would be dealt with in due course. There still have not been comprehensive Victims Services datasets published for 2018-19 or 2019-20. Why not?

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

Mr DAVID SHOEBRIDGE: Was there a conscious policy decision to cease reporting the data?

Mr MARK SPEAKMAN: Not one that I am aware of, but I will have to take that on notice.

Mr DAVID SHOEBRIDGE: Can you give a commitment to publish that data both retrospectively and going forward?

Mr MARK SPEAKMAN: I will give a commitment to get to the bottom of it and then respond.

Mr DAVID SHOEBRIDGE: I accept that. In the fullness of time? You will give an answer on notice. Can you provide a response on notice?

Mr MARK SPEAKMAN: Yes.

ANSWER

I am advised:

Victims Services recently completed remediation of the core Salesforce platform (VS Connect) and data remediation work to improve data integrity. VS Connect originally went live in November 2018 and was intended to replace an unsupported legacy system, improve processing of applications and improve security.

Throughout 2019-2020, the Department of Communities and Justice continued to address data quality issues relating from the implementation of VS Connect. The issues related to the completeness and accuracy of the data transferred from the legacy system. Upgrades to VS Connect went live in December 2020, and are now operational, having addressed data migration and processing issues.

Question 25 (page 44)
Legal assistance to witnesses appearing before ICAC

The CHAIR: Just for the sake of clarity, if you could tell me when they received it, from your records?

Mr COUTTS-TROTTER: I will do what I can.

ANSWER

I am advised:

The then Department of Justice received Mr Maguire's application for assistance on 3 July 2018. The submission was presented to the then Secretary of the Department of Justice on 6 July 2018.

Question 26 (page 45)
Legal assistance to witnesses appearing before ICAC

The Hon. MARK LATHAM: And in that revision of when he made the application, could you give an outline of other individuals mentioned in the application that might be supporting it?

Mr COUTTS-TROTTER: I will see what I can do. There are three things to bear in mind when considering an application under section 52: one is the potential for hardship; two is the importance of the evidence and the significance of the evidence to the ICAC; and the third is any other matters of public interest. Applications address themselves to those three indicators.

The Hon. MARK LATHAM: If we can get an outline of that third matter, which would be useful. Thanks.

Mr COUTTS-TROTTER: I will see what I can do.

ANSWER

I am advised:

In response to the significance of the evidence that the witness is giving or appears likely to give, Mr Maguire stated:

> 'I am unsure at this particular time the significance of my evidence however there are a couple of names that appear on the Witness List that are familiar to me so I assume I will be asked questions surrounding those people, which may be significant to the ICAC'.

In response to any other matter relating to the public interest, Mr Maguire stated:

'I do not have a clear understanding as to why I have been summoned to appear, however, I assume in the circumstances, as a Member of Parliament, my attendance to give evidence at a public inquiry is in the public interest'.

Question 27 (page 57)
Mandatory notification of privacy breaches

The Hon. SHAOQUETT MOSELMANE: Chair, maybe we will go into something less intriguing but the Hon. Mark Latham can go back into those questions later. Can I ask Mr Coutts-Trotter, apart from the private breaches on record, have there been any further major breaches that you are aware of?

Mr COUTTS-TROTTER: By the Department of Communities and Justice?

The Hon. SHAOQUETT MOSELMANE: This is in relation to mandatory notification of breaches of privacy in not only your department but any other agencies that you are responsible for.

Mr COUTTS-TROTTER: **I would have to take that on notice**. If a small agency in the cluster that does not have a line of management to me had a privacy breach they would not necessarily disclose it to me. They would, however, meet their obligations to disclosure it to the Privacy Commissioner. So there could be examples that I am unaware of.

The Hon. SHAOQUETT MOSELMANE: Are you aware of any at this stage?

Mr COUTTS-TROTTER: I really should take it on notice to make sure that I am accurate with you.

ANSWER

I am advised:

Nil.

Question 28 (page 58)
Mandatory notification of data breach scheme

The Hon. SHAOQUETT MOSELMANE: Can you tell us what stage you are at—whether it will be another three months or six months? You say "soon", which can be so flexible. It could be another nine months, a year or the year after.

Mr McKNIGHT: I do not think it will be that long. We expect a further round of consultation this year.

The Hon. SHAOQUETT MOSELMANE: When this year?

Mr McKNIGHT: I am afraid I cannot tell you that, sitting here right now, but I can give you a bit more of a timetable on notice

ANSWER

I am advised:

An exposure draft bill for a mandatory notification of data breach scheme is being drafted. This draft bill will be made available to the public for comment in the first half of 2021.

Question 29 (page 58-59)
Section 293 - Criminal Procedures Act 1986

The Hon. ROSE JACKSON: I will move on to another subject that we have raised before, section 293 of the Criminal Procedures Act 1986.

Mr Coutts-Trotter, I am partially in your hands here as to which of your colleagues I should ask for an update. Like a number of other significant law reform issues, this has been raised before. The issues about the need for reform of this section have been well litigated. Is there anything you can tell us about what might happen?

Mr McKNIGHT: Indeed, it does. We have been doing a lot of work on this section. It is a pretty complicated issue balancing the interests of complainants in sexual assault cases and the very real need to give them protection from inappropriate cross-examination while at the same time doing justice in the individual case to the accused. The Attorney General had instructed us to do work in this area following the decision of Judge Grant in R v RB, or the Jackmain case as it is now known, which we have been doing. We have circulated an issues paper around the legal community and to community-based stakeholders as well. We did that in late 2019 and submissions were received in February 2020. Further options were developed out of those submissions, so that was a fairly broad issues paper. The options paper was circulated in November 2020. We have now only just received final submissions on that paper. A range of options were included in that paper. Those options included no reform, so remaining with that provision, and adding an exception about false complaints because, you may recall, in the Jackmain case there was an allegation that the complainant had previously lied about her experience. There are options about providing a more structured discretion to the court for dealing with some of the cases that arose.

So we are currently reviewing that stakeholder feedback and will brief the Attorney on that. As the secretary says, there really is a divide amongst the stakeholders about how to progress this issue and it is a very complicated one. You may be aware that a number of law reform bodies over a large number of years have considered this issue and really have been unable to find a way forward that satisfied all the stakeholders. I think we are making progress on it, but it is not a simple issue.

The Hon. ROSE JACKSON: I appreciate that. The consultation that you did, are you able to give us any more information—or perhaps you could take it on notice—as to who was consulted? Who were those stakeholders?

Mr McKNIGHT: I am more than happy to take on notice that question. It would have been a group of legal stakeholders as well as peak bodies that have an interest in supporting complainants in sexual assault cases.

ANSWER

I am advised:

The following stakeholders were consulted throughout the review of s 293 of the *Criminal Procedure Act 1986*:

- All NSW Heads of Jurisdiction;
- The Law Society of NSW;

- The NSW Bar Association;
- Legal Aid NSW;
- The Office of the Director of Public Prosecutions;
- Public Defenders;
- Aboriginal Legal Service (NSW/ACT) Limited;
- the Australian Lawyers Alliance;
- The Judicial Commission of NSW;
- NSW Police Force;
- Victims Service;
- Victims Advisory Board;
- Women's Legal Service;
- Rape and Domestic Violence Services Australia;
- Community Legal Centres NSW;
- Women Lawyers Association;
- Council of Civil Liberties;
- Domestic Violence NSW;
- Women's Safety NSW;
- No to Violence;
- Wirringa Baiya Aboriginal Women's Legal Centre;
- Bravehearts;
- SAMSN;
- Knowmore; and
- ACON.

Question 30 (page 60)
Coroners Court - new guidelines for First Nations people

Mr DAVID SHOEBRIDGE: The Coroners Court, at least so far as I can understand, has been undertaking a review process where it is seeking to come up with a new series of protocols, whether it is by way of formal rules changes or just guidelines to deal with First Nations families. What is the status of that?

Mr COUTTS-TROTTER: This was the subject of some discussion when we appeared before the relevant parliamentary inquiry.

The Hon. TREVOR KHAN: The First Nations inquiry.

Mr COUTTS-TROTTER: The First Nations.

Mr DAVID SHOEBRIDGE: The reason I ask is that the Coroners Court indicated in correspondence to that inquiry that it was going to be releasing publicly its position in February. I am asking now because it is 2 March.

Mr COUTTS-TROTTER: Sure. I do not have an update on the time frame, but there is the capacity for the Chief Magistrate to formalise a practice note—that is one process—and then there is the opportunity for the Coroner within her jurisdiction to develop a protocol. They are different and distinct things. I understand that a practice note is still under consideration. If one is produced, there would be a process of targeted consultation on that practice note before it was finalised. I am happy to take back and refer to the Coroner the question about the protocol.

ANSWER

I am advised:

The Chief Magistrate advises that the Local Court is currently undertaking a review of the case management of matters in the coronial jurisdiction involving deaths in custody, including deaths of First Nations persons in custody. As part of this process, the Chief Magistrate and the State Coroner are developing a new Practice Note for deaths that occur in Corrective Services NSW custody with the aim of ensuring coronial investigations and mandatory inquests into such deaths are conducted in a timely and proper manner. This new Practice Note will sit alongside existing Practice Note 2 of 2018, which applies to deaths as a result of NSW Police Force operations.

In addition, the State Coroner is developing a protocol for the case management of mandatory inquests involving deaths of First Nations people in custody, which will sit underneath and apply to matters covered by both these Practice Notes. The proposed timeframe for the release of the Practice Note and Protocol is a matter for the Chief Magistrate and the State Coroner.

Question 31 (page 61)
Consultation with First Nations people

Mr DAVID SHOEBRIDGE: I suppose when I was talking about consultation I really was not thinking about with the Chief Magistrate. When you are talking about how to deal with First Nations families that might be nice. It might even be necessary. But what I have not seen—and maybe it has happened or maybe it has not— is any kind of engagement with First Nations family members, major stakeholders or legal groups. Is it just happening entirely within the Coroners Court?

Ms D'ELIA: We would actually have to take that on notice because, for example, similar to listing practices, which are a decision for the head of jurisdiction, this protocol is actually being done by the head of jurisdiction. We would actually need to get the advice from her, so we would have to take that on notice.

ANSWER

I am advised:

The Local Court plans to conduct targeted consultations with key legal and First Nations stakeholders once the draft Practice Note and Protocol are finalised. The Local Court hopes to commence this consultation shortly. This will likely include face-to-face discussions where the draft Practice Note and Protocol will be used as a talking point, as well as the opportunity for written comment.

QUESTION 32 (page 61)
Assistance for First Nations people who come to the Coroners Court

Mr DAVID SHOEBRIDGE: I repeatedly make representations on behalf of First Nations families who come to the Coroners Court to seek to have their reasonable accommodation expenses and reasonable travel expenses met. It is a very ad hoc process. Often family members are in extreme emotional distress and then they suffer significant financial hardship, having to travel often from regional New South Wales to Sydney and then seek accommodation and travel costs. I am unable to see anywhere on the Coroners Court's website or on the department's website where there is any kind of access point for these family members to seek this kind of assistance and to seek this kind of necessary relief. Are you aware of any?

Mr COUTTS-TROTTER: Catherine, are you?

Ms D'ELIA: No, I am not aware of any.

Mr DAVID SHOEBRIDGE: Indeed, in most cases the only relief that ends up being provided is discretionary relief from Corrective Services—

Mr COUTTS-TROTTER: Often the case, yes.

Mr DAVID SHOEBRIDGE: —if a family member has died in custody.

Ms D'ELIA: I am unaware of any opportunity for financial relief but we do make accommodation when and where possible to be able to accommodate the families closer to home. We have on several occasions enabled families to use audio-visual equipment locally, closer to their home location, in order for them to engage with the matter being heard in the Coroners Court.

Mr DAVID SHOEBRIDGE: That is not an adequate response to a mother, if there is a seven-day coronial hearing at the Coroners Court in Lidcombe, to say, "You can sit in a room in Dubbo and look at it through an audio-visual link", is it, Ms D'Elia?

Ms D'ELIA: I cannot speak to the individual families' experiences but we have had quite positive feedback from some of the individuals who we made that available to.

Mr DAVID SHOEBRIDGE: Is that really your answer?

Mr COUTTS-TROTTER: In fairness to my colleague, she is trying to provide additional information about some of the accommodation that her teams have provided. I understand very clearly now the point you are making. I am happy to take it on notice, give it some consideration and respond to you.

ANSWER

I am advised:

In the majority of cases, the Coroner will conduct the inquest at the location of the death, in which case the issue of family travel costs and relief usually does not arise. It is generally

only when the deceased has died in a location other than his or her usual residential location that this may be an issue.

There is no provision available to the Coroners Court to provide financial relief to families in general to attend a location to be present at an inquest. If a family member/s is a witness to the inquest, they are entitled to certain allowances payable at the time that they give evidence in accordance with Local Court Rules.

The ability for family to view proceedings via audio visual link at a remote location has been used successfully by Coroners, and is often offered to family members in lieu of them having to travel to attend an inquest elsewhere.

Question 33 (page 62)
Oversight of *Government Information (Public Access) Act 2009*

Mr DAVID SHOEBRIDGE: Is any part of Government responsible for looking at how the GIPA Act is actually being implemented? These kinds of bureaucratic procedures that are being put in place by agencies now are real barriers to people seeking access to information. Does your department have any overarching review of the GIPA Act?

Mr COUTTS-TROTTER: I will take that on notice. But to the best of my knowledge, no. But when I think about potentially comparable service quality issues, particularly those where people are wanting a quick and easy digital service—Department of Customer Service, Service NSW is front and centre and has identified a forward program of work to identify other ways people are currently dealing with Government that are frustrating to them and could be improved by improving the digital service that underpins it. So I'm happy to do two things: One, take on notice whether that forward work program currently is looking at this issue or not and then, two, ask my colleague Emma Hogan in the Department of Customer Service whether it is appropriate that it should.

ANSWER

I am advised:

In 2017, the then Department of Justice conducted a statutory review of the *Government Information and Public Access Act 2009* (**GIPA Act**) on behalf of the Attorney General. The review concluded that:

- the GIPA Act is generally well-supported and is operating efficiently, and
- the objectives of the GIPA Act remain valid, and the terms of the Act remain appropriate for securing those objectives.

The Department of Customer Service (**DCS**) is leading a range of digital projects to improve the customer experience for all kinds of Government services. The Secretary of the Department of Communities and Justice will write to the Secretary of DCS to seek further information on whether these projects will involve digital reform of procedures under the GIPA Act, and, if not, whether they should.

Question 34 (page 63)
Legal Assistance to Ministers appearing before ICAC

The Hon. MARK LATHAM: Mr Coutts-Trotter, coming back to the section 52 application by Daryl Maguire. How much money did he receive in the end?

Mr COUTTS-TROTTER: I am happy to take that on notice. There is a schedule that determines the maximum that is available to any applicant and it is expressed as a daily rate for, I think you get to choose, either a solicitor or a counsel. But I will take that on notice for you, Mr Latham.

ANSWER

I am advised:

$35,382.60 (incl GST).

The grant of assistance was subject to the usual condition, namely that, if the witness is convicted of an indictable offence (other than an offence that was tried summarily) as a result of the investigation or inquiry, the witness is required to immediately repay to the Attorney General, in full, the total amount paid to the witness or on behalf for the witness' legal representation (including interest on any such an amount calculated from the date of the advance at the rate of interest prescribed under the Uniform Civil Procedure Rules 2005 in relation to judgment debt).

Question 35 (page 63)
Legal assistance to witnesses appearing before ICAC

The Hon. MARK LATHAM: On notice you are going to find out when the application was lodged.

Mr COUTTS-TROTTER: Yes, indeed.

ANSWER

I am advised:

The then Department of Justice received Mr Maguire's application for assistance on 3 July 2018.

Question 36 (page 63)
Legal assistance to witnesses appearing before ICAC

The Hon. MARK LATHAM: Can you also find out what was the nature of his prospect of hardship to the witness, given that he was a parliamentary secretary on, probably, around $200,000 a year and certainly his partner thought he had significant financial assets and capability in life? What was the nature of the hardship under (2A) of section 52? You will take that on notice?

Mr COUTTS-TROTTER: Yes, I will. I will just pick up a point that someone else made. Part of the advice I take is just to ensure that there would be no prejudice to an ICAC inquiry in responding to that. Subject to some legal advice, but yes, subject to that, absolutely.

ANSWER

I am advised:

Mr Maguire stated:

> 'Yes, I am based at Wagga Wagga and therefore I will need to arrange a flight to Sydney the day before I am required to appear before the ICAC in order to comply with the Summons and attend the ICAC at 9.30am on 9 July 2018. I have retained solicitors to act for me and a barrister to appear for me at the hearing as I have never attended a public inquiry before and therefore would like to exercise my entitlement to legal representation. I will not be able to resume my normal duties as Member for Wagga Wagga on 8 July 2018 and 9 July 2018. Therefore, for the reasons stated above, compliance with the Summons will result in financial hardship for me'.

Mr Maguire provided a schedule of income, expenses, assets and liabilities and tax return materials.

Question 37 (page 64)
Legal Assistance to witnesses appearing before ICAC

The Hon. MARK LATHAM: I think we know a fair bit about Mr Maguire's finances. If you go through the ICAC transcripts there is a lot there. He had to list the significance of the evidence that the witness was giving.
Did he outline the fact that—

Mr COUTTS-TROTTER: I will take that on notice.

The Hon. MARK LATHAM: —the nature of the appearance he was making at the ICAC and the accusations against him, of which he would have been aware on the date you gave us earlier on? I think it was 6 July.

Mr COUTTS-TROTTER: All I could confirm was that my predecessor dealt with the recommendation to provide assistance on 5 July. But I will take that question on notice.

The Hon. MARK LATHAM: Could you also look at whether he provided any other supporting documents, references, statements, references to other people who he thought were supportive of this particular application under part 3, any other matter relating to the public interest?

Mr COUTTS-TROTTER: Okay, certainly.

ANSWER

I am advised:

There were no additional supporting documents, references, statements or references to other people supportive to his application.

Question 38 (page 64-65)
Domestic Violence programs

The Hon. MARK LATHAM: Mr Coutts-Trotter, can I just take you to an issue that was raised with the Minister that was the $530 million expenditure on domestic violence programs? How long has New South Wales been engaged now in the domestic violence policy and program area to try to bring the rate down?

Mr COUTTS-TROTTER: How long have we had an explicit domestic violence strategy?

The Hon. MARK LATHAM: Yes, and activities, funding of programs and the like. Does it go back to Julia Gillard at the end of 2010, when they had a COAG agreement to which New South Wales was a signatory?

Mr COUTTS-TROTTER: You could be right on that. To be honest, I am not sure. Do you know, Simone Walker?

Ms WALKER: No, I would need to get some detail about the history.

Mr COUTTS-TROTTER: We can confirm that.

The Hon. MARK LATHAM: You will take that on notice as well?

Mr COUTTS-TROTTER: Yes

ANSWER

I am advised:

The 'NSW Domestic and Family Violence Blueprint for Reform 2016-2021: Safer Lives for Women, Men and Children' sets out the directions and actions to reform the domestic and family violence system in NSW: https://www.women.nsw.gov.au/strategies/nsw-domestic-and-family-violence/domestic-and-family-violence-blueprint.

This builds on the 2014 launch of 'It Stops Here - The NSW Government's Domestic and Family Violence Framework for Reform': https://www.facs.nsw.gov.au/download?file=593053. See also: https://www.facs.nsw.gov.au/about/media/releases/archive/it_stops_here_-_a_new_approach_to_domestic_violence_in_nsw.

This is in addition to NSW's commitments under the 'National Plan to Reduce Violence against Women and Children 2010-2022': https://www.dss.gov.au/women/programs-services/reducing-violence/the-national-plan-to-reduce-violence-against-women-and-their-children-2010-2022.

QUESTION 39 (page 64)
Domestic Violence perpetrators

The Hon. MARK LATHAM: What is the data showing about domestic violence perpetrators in the community correction orders?

Mr COUTTS-TROTTER: I do not want to talk off the top of my head. I am happy to get the data about the likelihood of reoffending, depending on the nature of the sanction, what happens to you following conviction. I am happy to do that.

The Hon. MARK LATHAM: The various options that unfold: prison, the correction orders—

Mr COUTTS-TROTTER: Yes. Intensive correction orders. Indeed.

ANSWER

I am advised:

Sentencing reforms introduced in September 2018 increased the percentage of domestic violence offenders in the Local Court receiving a supervised community order from 24.8% on average in the 12 months prior to the reforms, to 37.6% in the post-reform period (the 24 months to September 2020). The percentage of domestic violence offenders receiving a prison sentence declined from 14.7% to 13.2% during the same period.

The NSW Bureau of Crime Statistics and Research is currently evaluating the impact of these reforms on reoffending, including for domestic violence offenders. This research will be available in 2021.

Question 40 (page 65)
Domestic Violence NSW

Mr DAVID SHOEBRIDGE: I just had two questions. Well, it is really the one question. Mr Coutts-Trotter, Domestic Violence NSW has repeatedly sought to access the memorandum of understanding between DCJ and the Family Court as it relates to child protection, as well as the Magellan manual from the Family Court.

Mr COUTTS-TROTTER: I was unaware of that, to be honest.

Mr DAVID SHOEBRIDGE: Would it be possible for the department to provide a copy of those documents to Domestic Violence NSW?

Mr COUTTS-TROTTER: I will just check with my colleague.

Ms WALKER: I am not aware of the request, but I am happy to look in to see where the request went to and what the concern was about providing the documents because, from my knowledge, that should be okay to
do.

Mr COUTTS-TROTTER: Yes. It seems benign.

Mr DAVID SHOEBRIDGE: Alright, that is excellent. For assistance, I sent some correspondence to the Attorney on 19 January detailing that request.

Mr COUTTS-TROTTER: Oh, okay.

Mr DAVID SHOEBRIDGE: I am not critiquing the delay—

Ms WALKER: No, no.

Mr DAVID SHOEBRIDGE: I think, to be quite frank, Domestic Violence NSW had been making efforts to get it from the Family Court and they got caught up in some kind of bureaucratic miasma. And so the
request is made to you.

Mr COUTTS-TROTTER: Okay.

Ms WALKER: Yes, we will take that. Thank you.

ANSWER

I am advised:

The Memorandum of Understanding is publicly available and I am pleased to provide a copy (see **Attachment A**). The Department of Communities and Justice does not hold a copy of any document entitled Magellan Manual.

Question 41 (page 67)
SPC - Voluntary redundancies

Mr DAVID SHOEBRIDGE: Would it be possible to give us, on notice, the work that is done through your department—

Ms WALKER: Sure.

Mr DAVID SHOEBRIDGE: —and the scale of the proposed redundancies?

Ms WALKER: Absolutely. I will take that on notice.

The Hon. SHAOQUETT MOSELMANE: And perhaps where the major voluntary redundancies will come from?

Ms WALKER: Yes. That is a bit of a process to work through because it depends what grade people have applied at and what the structure looks like going forward, but we do think over the next month we will be able to be clear with staff. I guess I want to be really clear with staff before putting it on the public record, as well.

Mr COUTTS-TROTTER: Yes.

Ms WALKER: But that should work with the time frame for taking it on notice—happy to.

ANSWER

I am advised:

The Strategy, Policy and Commissioning Division of the Department of Communities and Justice implemented a voluntary redundancy expression of interest program in February 2021. As at 26 February 2021, 158 expressions of interest had been received. The Department is in the process of confirming those expressions of interest and considering where offers can be made.

Question 42 (page 68)

Coroners Court

The Hon. ROSE JACKSON: The Minister himself conceded—at estimates in September 2019 he said, "The statutory review is well overdue." That was at that point, so it would be good to see that this year, I think. That is not really a question; I apologise, Mr McKnight. Quickly on the Coroners Court—I do not know if this is in your area or perhaps another—I want to ask about the compliance question because, looking at the DCJ website, for example, as I did before I came in here yesterday, there are a number of recommendations that coroners have made that require a response from government departments that are still awaiting a response, despite the fact that they are required to report within six months. I stopped counting after a while because you can scroll down and wait and wait. Does DCJ have some capacity to follow up with the other departments in relation to improving response times to coronial recommendations?

Mr McKNIGHT: We might have to take some of that on notice. I would say the system of reporting responses to coronial recommendations occurs under a Premier's memorandum issued some years ago now.

ANSWER

I am advised:

The Premier's Memorandum M2009-12 Responding to Coronial Recommendations sets out the process for responding to coronial recommendations directed at Ministers and NSW government agencies.

The Premier's Memorandum provides that a Minister or NSW government agency which receives a coronial recommendation should acknowledge receipt of the recommendation within 21 days and provide a substantive response to the Attorney General within six months. This response should outline any action being taken to implement the recommendation, or provide reasons if it is not proposed to implement the recommendation.

As prescribed under the Premier's Memorandum, the Attorney General receives and publishes the responses received from Ministers and NSW government agencies on the Department of Communities and Justice website. These are accessible at the following link: https://www.justice.nsw.gov.au/lsb/Pages/coronial-recommendations.aspx.

Question 43 (page 69)

Coroners Court

ROSE JACKSON: I can assure you it is not going well, although I accept your point: The suggestion is that the compliance should come from the Premier as the requirement for reporting is under a Premier's memorandum. Is that the suggestion that you are making—that it is not the Attorney's role?

Mr McKNIGHT: I am not sure I am making that suggestion. I am making a—

Mr COUTTS-TROTTER: No.

The Hon. ROSE JACKSON: Who is responsible for compliance then?

Mr McKNIGHT: I am not sure I can—

Mr DAVID SHOEBRIDGE: I think the answer is nobody.

Mr McKNIGHT: I am not sure I can answer that question.

Mr DAVID SHOEBRIDGE: It is right, is it not? There is nobody. No agency is set aside to have compliance.

Mr McKNIGHT: I would need to take that on notice. I have not looked at the Premier's memorandum in some time.

ANSWER

I am advised:

Reporting on and implementing recommendations of particular coronial inquests is the responsibility of relevant portfolio Minister and NSW government agency.

Question 44 (page 69)

Coroners Court

The Hon. SHAOQUETT MOSELMANE: I have a quick question on the Coroners Court. How many inquests were completed in the calendar year 2020?

Mr COUTTS-TROTTER: We may have that data to hand, Mr Moselmane. If not, we can give you that on notice.

The Hon. SHAOQUETT MOSELMANE: I am happy to have it on notice if you do not have it.

Ms D'ELIA: No, I have the number of deaths reported, but I do not—

Mr COUTTS-TROTTER: Okay, we will give you that on notice, absolutely.

ANSWER

I am advised:

In the calendar year 2020, there were 102 coronial inquests conducted state-wide. Due to the COVID-19 pandemic, no inquests were conducted between 23 March 2020 and 19 June 2020.

Question 45 (page 70)

***Civil and Administrative Tribunal Act 2013* Statutory Review**

The Hon. ROSE JACKSON: Any update on the NCAT statutory review?

Mr McKNIGHT: That work is actively happening at the moment. I do not have in front of me an ETA for that review, but we are working on it quite hard in consultation with NCAT and stakeholders at the moment.

The Hon. ROSE JACKSON: Fullness of time? This year? First half of this year? Can I push you on
any time frame for the NCAT statutory review? This year?

Mr McKNIGHT: The issue with statutory reviews, as you would be aware, is once you start opening up the statute and start talking to people about the issues and then start to chase down what should happen about them, it is not always clear how long it will take to really get to grips with the problems and come up with solutions

Mr DAVID SHOEBRIDGE: Can you give us a list of the stakeholders that you have consulted with?

Mr McKNIGHT: I can take that on notice.

ANSWER

I am advised:

The Department of Communities and Justice (**DCJ**) is undertaking targeted consultation with the NSW Civil and Administrative Tribunal (**NCAT**) and stakeholders, through virtual roundtables and one-on-one discussions.

Between December 2020 and February 2021, DCJ spoke with the Affiliated Residential Park Residents Association, the Australian College of Strata Lawyers, the Caravan Camping Industry Association, Dementia Australia, the Estate Agents Co-operative, the Inner West Tenants' Advice and Advocacy Service, Legal Aid NSW, the Mental Health Coordinating Council, the NSW Council for Intellectual Disability, the NSW Department of Customer Service, the Real Estate Institute of NSW, the Retirement Village Residents Association and the Tenants Union.

DCJ intends to conduct further discussions with stakeholders, including to test any proposed recommendations for legislative reform.