

PORTFOLIO COMMITTEE NO. 5 - LEGAL AFFAIRS

Friday, 29 October 2021

Examination of proposed expenditure for the portfolio area

POLICE AND EMERGENCY SERVICES

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The Committee met at 14:00

MEMBERS

The Hon. Robert Borsak (Chair)
Ms Abigail Boyd
The Hon. Mark Buttigieg
Ms Cate Faehrmann
The Hon. Trevor Khan
The Hon. Natasha Maclaren-Jones
The Hon. Adam Searle
The Hon. Walt Secord
Mr David Shoebridge (Deputy Chair)

MEMBERS PRESENT VIA VIDECONFERENCE

The Hon. Lou Amato

PRESENT

Mr David Elliott, *Minister for Police and Emergency Services*

* Please note:

[inaudible] is used when audio words cannot be deciphered

[audio malfunction] is used when words are lost due to a technical malfunction

[disorder] is used when members or witnesses speak over one another

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 CHAIR: Welcome to the public hearing for the inquiry into Budget Estimates 2021-2022. Before I commence I acknowledge the Gadigal people who are the traditional custodians of this land and pay respects to Elders past, present and emerging of the Eora nation and extend that respect to other Aboriginals present. I welcome Minister David Elliott and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolio of Police and Emergency Services.

Before we commence I would like to make some brief comments about the procedures for today's hearing. Today's proceedings are being broadcast live on the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available. In accordance with broadcasting guidelines, media representatives are reminded that they must take responsibility for what they publish about the Committee's proceedings. All witnesses in budget estimates have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018.

There may be some questions that witnesses could only answer if they had more time or with certain documents to hand. In these circumstances witnesses are advised that they can take a question on notice and provide the answer within 21 days. If witnesses wish to hand up documents they should do so through the Committee staff. 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. With reference to the audibility of the hearing today, we have witnesses in person and witnesses appearing via videoconference. I ask Committee members to clearly identify who questions are directed to and I ask everyone appearing remotely to please state their name when they begin speaking.

Could everyone please mute their microphones when they are not speaking. Finally, could everyone please turn their mobile phones to silent for the duration of the hearing. All witnesses will be sworn prior to giving evidence. Minister Elliott, 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 also remind Ms Catherine D'Elia, Acting Secretary, Department of Communities and Justice that she does not need to be sworn as she has been sworn at an earlier budget estimates hearing before this Committee.

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CATHERINE D'ELIA, Acting Secretary, Department of Communities and Justice, on former oath

MICHAEL FULLER, Commissioner, NSW Police Force, sworn and examined

PAUL BAXTER, Commissioner, Fire and Rescue NSW, before the Committee via videoconference, affirmed and examined

CARLENE YORK, Commissioner, NSW State Emergency Service, before the Committee via videoconference, sworn and examined

ROB ROGERS, Commissioner, NSW Fire Service, before the Committee via videoconference, sworn and examined

SHAYNE FITZSIMMONS, Commissioner, Resilience NSW, before the Committee via videoconference, sworn and examined

MICHAEL BARNES, Commissioner, NSW Crime Commission, before the Committee via videoconference, affirmed and examined

GARY WORBOYS, Deputy Commissioner, State Emergency Operations Controller, before the Committee via videoconference, sworn and examined

MARK WALTON, Assistant Commissioner, Counter Terrorism and Special Tactics, NSW Police Force, before the Committee via videoconference, affirmed and examined

CAMERON LINDSAY, Detective Superintendent, Commander NSW Firearms Registry, before the Committee via videoconference, sworn and examined

The CHAIR: Today's hearing will be conducted from 2.00 p.m. to 5.15 p.m. with the Minister and departmental witnesses with questions from the Opposition and crossbench members only. If required, an additional 15 minutes has been allocated at the end of the session for Government questions. We will have a break from 3.30 p.m. to 3.45 p.m. As there is no provision for an opening statement from any witness, before the Committee commences questioning we will begin with questions from the Opposition.

The Hon. WALT SECORD: Commissioner or Minister, where is Mostafa Baluch?

Mr DAVID ELLIOTT: I wish we knew. Thank you for the question Mr Secord.

The Hon. TREVOR KHAN: Are you doing a dixer?

The Hon. WALT SECORD: We will see.

Mr DAVID ELLIOTT: The person in question was given bail last Friday. Obviously it is an operational matter so the commissioner will probably expand on that further. I am on the public record as saying that I am very disappointed that he was given bail, given the fact that police argued that he was a flight risk. Currently a police operation is going on to see if we can locate him.

The Hon. WALT SECORD: Commissioner Fuller, when you describe someone as a flight risk, what does that mean?

Commissioner FULLER: From a police perspective it is someone that has the capability of extracting themselves from either the State or the country. They would have the finances or that criminal organisation reach. I suppose you overlay the risk of the potential sentence to someone in these situations for 900 kilograms of cocaine. I guess they have a lot to lose by staying in custody.

The Hon. WALT SECORD: Have we been able to ascertain if he is still in Australia or is he overseas?

Commissioner FULLER: At this stage we cannot definitively say that. We have had intelligence that he may have flown out of Bankstown Airport. We are investigating that. We believe that he did leave in a black Range Rover and was lying on the back seat. We have custody of that vehicle. We are conducting investigative techniques to try to track where that vehicle has been. We are also looking at a number of the cameras that are across the State, working with our State partners, plus Australian Federal Police [AFP] and Border Force in trying to ensure that he does not leave the country. But in terms of his whereabouts, it is unknown.

The Hon. WALT SECORD: You would be familiar with Interpol. Have New South Wales or Federal authorities issued a red, yellow, blue, black or green notice?

Commissioner FULLER: My understanding is all the notices have been applied for but I will take on notice the exact position in terms of where Interpol is at, to date.

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The Hon. WALT SECORD: This morning I took the liberty of checking on the Interpol website. There are about 15 Australians who are on international search at the moment. There still is not anything on the red, yellow, blue, black, green, orange, purple notices that are issued. Do you think that is an oversight?

Commissioner FULLER: It is my understanding that, like all things unfortunately, there is a bureaucratic process that has to be followed and that we have asked through our Federal partners who are responsible for making those requests and that is all in train. But certainly I would have hoped that that would have happened by now. But we will certainly take on notice, as of this time and date, where exactly that is up to.

The Hon. WALT SECORD: What about his family claiming that he has been kidnapped? Is that horse shit?

Mr DAVID ELLIOTT: Questionable.

The Hon. ADAM SEARLE: Outside voice.

The Hon. WALT SECORD: Sorry, is that rubbish?

Commissioner FULLER: I would say, sitting here as the Commissioner of Police, it is absolute rubbish. I am on record as saying that this investigation and the subsequent search will cost multiple millions and millions of dollars and that money should be sought by the New South Wales Government—the \$4 million surety.

The Hon. WALT SECORD: Minister, you talk tough about bail, you slam the judiciary—this is the second or third time you have slammed them—so what actual steps have you taken to address this because the judiciary interprets the laws that are presented by the Parliament and by the Government.

Mr DAVID ELLIOTT: I am going to take issue with the word "slam". I just said, and I am on the record as saying, I am disappointed. I am disappointed because the magistrate did not heed the police's concerns about him being a flight risk and, as a result, 72 hours later he is no longer in custody. Bail laws, as you know, were a matter for the Attorney General, so I probably would defer that part of the question to the Attorney General, but the mere fact that we have had two in the past two weeks, I think, that caused a fair bit of anxiety to the police. I think the community needs to hear and the police need to hear that, as police Minister, this is a frustration. Obviously, I have an obligation to protect the brand of the police. I do not want the community to think that this is the police's fault. It is not the police's fault.

The Hon. WALT SECORD: Are you confident that the police did everything that they should have in the court to present the case that he was a flight risk; that he was cashed up; that he would have the means—

Mr DAVID ELLIOTT: From what I understand from the police last Friday, the police made it very, very clear and, obviously, this guy did not come in as a clean skin. I mean, he already had criminal convictions but I would have to take on notice exactly what the arguments by the police were to the magistrate. I can take that on notice and we can provide that to you. But, again, I was not going to have the police blamed in the court of public opinion that they had somehow done something wrong because they had not. It is important for the public to know that the police did attempt to deny bail.

The Hon. WALT SECORD: Was there a mechanism or a way that they could have appealed the decision?

Commissioner FULLER: Immediately after he was given bail NSW Police lodged with the proper authority, being the DPP, an application to have that bail reviewed. Once that takes place, Mr Secord, it is out of our hands and it is a matter for the DPP in terms of them lodging that matter back before the court.

The Hon. WALT SECORD: Now, Commissioner, are you—not you, sir, is the NSW Police Force—still actively enforcing the COVID public health orders and things like that? I remember at the last budget estimates you said you said you were treating COVID like crime.

Commissioner FULLER: Absolutely. No. The answer is no. The by-product of COVID now is either we receive a complaint from the community in relation to a COVID breach that is investigated and/or police, just by the mere nature of being out patrolling, come across someone who is breaching the health orders.

The Hon. WALT SECORD: Right.

Commissioner FULLER: But during that Delta period when cases were up around 1,700, we were rostering police specifically out there to enforce the health orders.

The Hon. WALT SECORD: The NSW Bureau of Crime Statistics and Research [BOCSAR] released some data showing that between 26 June and 31 August there were 36,597 breaches of the public health orders.

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I have heard anecdotally from officers that they found that enforcing the health orders was quite difficult and anecdotally they are saying that they are quite relieved that they are returning to traditional policing now.

Commissioner FULLER: As am I. I was asked by the Government, I was asked by the Chief Health Officer to put a much stronger enforcement approach in to stop the spread of the virus. Like we have with closing borders, maritime, running hotel quarantine, we have put enormous energy into that. Whilst we are not proud of having to give decent people tickets, the reality is we stopped the spread of the virus.

The Hon. WALT SECORD: I have in front of me here—

The Hon. TREVOR KHAN: A prop.

The Hon. WALT SECORD: —not a prop, to show the absurdity or the difficulties that officers encountered. In a three-month period, 1,415 pages of health orders were changed on a daily basis—in fact, sometimes within hours—so you could understand the difficulties that police officers had. This is extraordinary. This is just for a three-month period.

Mr DAVID ELLIOTT: Mr Secord, thank you.

The Hon. WALT SECORD: And I will table them—

Mr DAVID ELLIOTT: No, no.

The Hon. WALT SECORD: —but I will not list them.

Mr DAVID ELLIOTT: You have just articulated the concerns that I have raised for months and months and months, and that is to say that people want to criticise the police operation.

The Hon. WALT SECORD: I am not doing that.

Mr DAVID ELLIOTT: No, no. You have not. I know you have not and you have been very good in that regard. But there are two things that certainly this Committee needs to be aware of as we go through the afternoon's deliberations. These are public health orders; they are not police orders, so any criticism of them I will not accept as the Minister for Police and Emergency Services, nor will I allow the police to be criticised for them. But the other part to your question or your observation is that you are quite right: The police were waking up from one day to the next, going from one shift to the next, and a law was changing and they had to be on top of the law. So when I praise the police, which of course was not perfect, it was very challenging over COVID assist. But when people want to criticise the police they need to know that in my reading of Australian history I cannot think of a time when the Police Force has had to be any more robust, any more flexible. From one day to the next, a constable in any given local command has to brief themselves on what may or may not have changed overnight before they go out and police the public health orders. It has been a massive challenge for them.

The Hon. WALT SECORD: Police officers have said to me that they were frustrated that they were enforcing COVID public health orders when in fact they felt that they should be doing traditional policing and it has been put to me that in relation to the Hamze-Alameddine issue, police resources were diverted away from traditional protective—

Mr DAVID ELLIOTT: Before I let the commissioner talk about resourcing and operations—

The Hon. WALT SECORD: You can give me a response.

Mr DAVID ELLIOTT: —from a policy point of view, it is not as if we can get nurses and doctors out enforcing these health orders. They were health orders that were in the community so, of course, it is the legitimate role of a sworn police officer to ensure that the laws of the State are enforced. Did they like doing it? No, they did not. You do not have to be an expert in policing to know that. Many of them were very, very conscious of the fact that the community was at a heightened state of anxiety and the inability of people to understand the orders from one day to the next; but so far as the direction of the operation—

The Hon. WALT SECORD: Actually, I want to know. Everyone in the entire New South Wales community seems to think that this is a war between two feuding families so when are we going to see—

Mr DAVID ELLIOTT: I thought you were talking about Brad and I then, so you are talking about—

The Hon. WALT SECORD: No. I am talking about the Hamze and Alameddine families.

Mr DAVID ELLIOTT: Yes.

The Hon. WALT SECORD: Everyone—you speak to a cleaner at Parliament and they say, "Well, why isn't an arrest taking place?"

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Mr DAVID ELLIOTT: Well, they have, actually.

The Hon. WALT SECORD: When are we actually going to see—

Mr DAVID ELLIOTT: Well, we have.

The Hon. WALT SECORD: When are we going to see arrests in this?

Commissioner FULLER: If I could just address the concerns around the diversion of staff, can I just say that broadly crime in modern times has never been lower, including serious and violent crime, in New South Wales which I think is a testament not just to the Police Force but the people of New South Wales. We saw other countries where domestic family violence and other types of crime escalated during COVID, but we managed to keep crime going down in most areas. Was there a diversion of resources at different times? Absolutely, there was; but many of the shifts that we have engaged in were shifts done on user-pay, which was additional funding. I think it is important to note that hotel quarantine and much of the enforcement in south-western Sydney was actually done police on user-pay shifts, Mr Secord.

The Hon. WALT SECORD: What do you mean by "user-pay"?

Commissioner FULLER: They were independently funded shifts by Government, so officers who were on their days off or on holidays would come in and work those shifts. Now, not all of them, but many of those shifts were police working additional hours. But was there a diversion of efforts and energy by myself and others because of COVID? Absolutely, there was. Now, in terms of the picture of organised crime in New South Wales, it is a rich one and because of the prices of drugs—there are Colombians and organised criminals, Russians—most organised crime groups exist in some levels in Sydney or certainly Australia.

Now, these two families have particular notoriety because of their feud with each other. I think it is important that we do not isolate them as the only organised crime problem in this State. We have put enormous energy into arresting the individual family members and the groups that are linked with them. There are current investigations happening now. I think there have been 25 search warrants executed since the last double homicide. Of course, we are working closely with Homicide and Organised Crime to identify the offenders for the most recent shootings.

The Hon. WALT SECORD: How many police officers do we actually have on—what did you entitle it? Strike Force Raptor?

Mr DAVID ELLIOTT: I can answer that. It is important because the Government increased police numbers by 1,500 over this parliamentary term, and I think the commissioner has already redirected 115 back to Raptor. They have got over 6,000 arrests since it was established.

Commissioner FULLER: Raptor was a unit that used to sit within Criminal Groups. In March this year, as a result of escalating crime, we made Raptor a standalone unit within the State Crime Command, with its individual superintendent and management team. By 1 July next year, that unit will be up over 130 positions. We have put additional positions into Organised Crime, into the robbery unit and into mid-level crime right across Sydney and, in fact, New South Wales. I would be happy, on notice, to provide the list and the expansion of numbers in the different squads. Maybe I will do it yearly for you, in terms of the expansion.

The Hon. WALT SECORD: What about the police complaints that the crime families are actually operating using encrypted apps well beyond the technology that you guys are actually being supplied with at the moment?

Mr DAVID ELLIOTT: That is a good question and, yes, you are quite right. As I have said, since I was first made a Minister in the Justice cluster seven years ago, the problem is that criminals are getting smarter, so the police have to get even more smarter. But we have got a record investment into the cybercrime unit, and a lot of the results that we are getting at the moment are because of the great work of the cybercrime unit. A lot of it is at a level of thinking that is beyond my history graduate ability. Do you want to—

The Hon. WALT SECORD: Is Mr Warboys on the call?

Mr DAVID ELLIOTT: Yes.

The Hon. WALT SECORD: I was wondering if he could provide a bit of a snapshot or details on the number of infringement notices issued under the public health orders, just so we can get a bit of a global update?

Deputy Commissioner WARBOYS: I do not have the exact numbers in front of me. What I can say is that generally over the last fortnight or month those numbers are down significantly. It is not uncommon now to see the infringement notices hover around that 2015 number, which is significantly down on the height of the

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police operation, particularly in and around south-west and western Sydney. I can take that on notice and provide that breakdown, day by day, of any period you want, Mr Secord.

Mr DAVID ELLIOTT: Deputy Commissioner Warboys, I can save you that. I have got them in front of me. To 1 October, under the Public Health Act, infringements include 51,642 individuals, 139 corporations, 5,691 court attendance notices and 2,346 cautions. As far as fitted face coverings, there were 15,294 infringements; spitting, 34 infringements and 122 court attendance notices. There were 296,897 business inspections. That says to me that the tempo of the operation was at a level I do not think the police are going to see for quite some time.

The Hon. WALT SECORD: In an earlier answer you referred to new police officers and the commissioner dispersing them around the State. How do you determine with the graduating classes from Goulburn where those officers are sent? How is that determined?

Commissioner FULLER: We have a process by managing vacancies. We used to run three classes a year; now we run six, which better lines up with retirements. Before we disperse the class we look at vacancies in the police area commands [PACs] and the districts, because you cannot come from a class and go straight to the homicide unit. We continually feed those into—based on the command or the district's authorised and actual strengths. It is driven statistically from the vacancies that are out there at the commands and districts.

The Hon. WALT SECORD: So why in the last graduation southern New South Wales and far North Coast New South Wales received no graduates, and there was public commentary in southern New South Wales that the local community leaders were angry that they were no new police officers. There were vacancies down there. There was a community need. Why were there no police officers sent to southern New South Wales?

Commissioner FULLER: If you could perhaps, on notice, let me know the actual district so I can give you an answer. It would be one of two things: that there actually weren't vacancies, for one; or, secondly, they had received a reasonable amount of probationary constables the intake before and there was a greater need in the city. We often find—particularly in metro, closer to the 2000 postcode—officers cannot afford to live in the city. Once they do their three years they do transfer out into regional New South Wales or greater metro, which does mean that often the new recruits do come into the areas near the CBD, because that is the area where we see vacancies most often, because of housing affordability.

The Hon. WALT SECORD: You have actually touched on something. Have you found that police officers are unable to actually afford to live in the areas that they are policing?

Commissioner FULLER: Particularly in the Sydney CBD. The reality is that if you live in Greater Sydney then you can drive to the eastern suburbs and you can drive to these places, and that is fine. But after three years, when you have done your tenure, if you can get closer to home then you could not blame officers for making that move. They are in driving distance to the command, in what is reasonable. But the reality is that after three years, many make the decision to take vacancies down south in beautiful areas of New South Wales. But if you do have a particular command, I can isolate the reason why.

The Hon. WALT SECORD: Okay. On notice, the Tweed on the North Coast.

Commissioner FULLER: Yes, done.

The CHAIR: Commissioner, welcome. I suppose you are looking forward to retirement.

Commissioner FULLER: Not counting the days, sir, but yes. This is my last budget estimates.

The CHAIR: Shame about that.

Commissioner FULLER: Shame about that.

The CHAIR: What is the standard operating procedure for responding to a report of someone illegally out in the community with a firearm?

Commissioner FULLER: As in, a 000 call, Chair?

The CHAIR: It could be a 000 call, or someone could report it to a police officer that they see on the street. What is the standard operating procedure for the police to respond?

Commissioner FULLER: As in, something is happening now and there is a person in the middle of George Street with a firearm? It would be a 000-type response and cars would go there with some sense of urgency and conduct a full investigation into both the source of it and the potential threat.

The CHAIR: Right. Does that standard response change depending on the type of firearm that might be seen?

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Commissioner FULLER: I would imagine if it was a long arm in a non-regional area, that would probably potentially cause more angst because long arms, in terms of farmers and different things—you would expect to see a farmer with a long arm, but you would not expect to see someone with a long arm on George Street. It could in fact deem a slightly different response, but not dramatically different.

The CHAIR: So if they had a long arm, a rifle, a shotgun or something like that in George Street—there used to be a lot of gun shops in George Street. They are not there anymore. I suppose if it was in a slip, would that be a difference?

Commissioner FULLER: I think in terms of police approaching that situation, it would be different. Depending on how the informant—the person who calls, say, 000. Let's just make it easy. How they framed the situation would probably also have an impact in terms of the police response.

The CHAIR: Right. So if that is the case, what would be the purpose for restricting firearms owners or firearms owned legally based on appearances only of those firearms?

Commissioner FULLER: It has certainly been an issue of debate in New South Wales. I would certainly say that in 2020, with threats of organised crime and terrorism, having a firearm that looks like a military-style weapon certainly would cause problems for police in terms of response. It would absolutely escalate the response. In terms of the operability of it, if they could not be altered then I guess there is an argument for it. But there certainly would be, from a police response perspective, a higher-risk response to something that looked like a military weapon.

The CHAIR: Are you saying that if appearance laws did not exist in New South Wales there would be a different response?

Commissioner FULLER: No, not at all. The legislation exists post-investigation. I am not trying to be cute, but we are talking about the response to a potential threat versus what we do once we get there. If there was a call that came in at any time and place to 000 that there was someone with a military-style weapon, the response is going to be a high-risk response. That would not change regardless of what the laws were. I am assuming even in the US, if someone is walking down the street with a military-style weapon, I assume that there is a police response.

The CHAIR: You are talking about military-style weapons, which are very restricted—almost non-existent—in New South Wales. What is the process that determines a category A or B firearm that is legal and what is not legal when it comes to its appearance?

Commissioner FULLER: Unfortunately, my expert in this field, Mr Cook, fell over and snapped his ankle and he cannot be here. I am certainly not an expert in all aspects of it. I am happy to take that on notice.

The CHAIR: Can you take that on notice?

Commissioner FULLER: Absolutely.

The CHAIR: The other part of that question is, I would like to know who is responsible for making those determinations. Category A and category B firearms normally are not your military-style firearm, yet they can still be restricted based on appearance.

Commissioner FULLER: In terms of the appearance law, when that came in there were about 87 individuals who lawfully had obtained those licences. I did grandfather those, in fairness—whilst I know the debate is continuing.

The CHAIR: This one is for the Firearms Registry. Maybe I will direct it to Mr Lindsay. Are you still there, Mr Lindsay?

Mr LINDSAY: Yes, I am.

The CHAIR: Do employees at the Firearms Registry receive customer service training?

Mr LINDSAY: I would have to take that on notice. We have not run customer service training since I started here in July. I am unsure if they had that kind of training previously.

The CHAIR: That is interesting.

Mr DAVID SHOEBRIDGE: That cannot be true, can it? That cannot be accurate. That you have a public-facing entity like that—it cannot be true.

Commissioner FULLER: There are two parts to this, Mr Borsak. One is obviously the people at the Police Assistance Line, who take most of the phone calls, as you know, who have received ongoing customer

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service. If we could take it on notice, we will deliver to you all of the things that have been done over my time in improving customer service in that space, including getting rid of the backlog, finally—as you would be aware.

The CHAIR: I know you are working very hard to get rid of the backlog. I suppose we need a reading. Could we get an update on that too—where you started in this financial year—

Commissioner FULLER: I could give it to you now, if you want to go to Mr Lindsay.

The CHAIR: Sorry?

Commissioner FULLER: Do you want to hear from him about the backlog?

The CHAIR: I am happy to hear about the backlog, but I am just on customer service at the moment. We can get to the backlog. I am quite happy to do that. Do employees know, when they begin employment with the Firearms Registry, that a large function of their role is dealing with the firearms community in a customer service capacity?

Mr LINDSAY: We do have an induction package for our adjudication officers when they start at the Firearms Registry, which contains components of customer service.

The CHAIR: Can you table that document?

Mr LINDSAY: Yes, I would have to take that on notice and provide that through that avenue.

Commissioner FULLER: I cannot see it being a problem.

The CHAIR: Sorry?

Commissioner FULLER: I cannot see tabling that being a problem.

The CHAIR: I am aware that the Firearms Registry used to have published key performance indicators [KPIs], but I do not think they are being made available at the moment. Does the registry have KPIs or equivalents that are being prepared if not necessarily being published on the website anymore?

Mr LINDSAY: Yes, we do have KPIs. As part of our realignment within the registry, we are currently in a transition period into a realign structure, there are KPIs being developed and implemented across all categories of business that we are currently undertaking.

The CHAIR: Can we get copies of those and the current reading on those KPIs, please?

Commissioner FULLER: You will be impressed.

The CHAIR: I am always impressed. Are the KPIs being achieved, or were they being achieved? Are things getting better? I have not been able to get up to date on that.

Commissioner FULLER: The backlog was unacceptable and I was unhappy with it. I know equally were you for some time. The efforts of Mr Hudson, Mr Cook and Mr Lindsay have seen that backlog reduced significantly. There is not a backlog now in terms of fresh applications. The by-product of that, of course, is that anyone who was not successful in getting a licence and has appealed, there is a small backlog in those reviews. That really is a by-product of the activity of getting rid of the backlog in fresh applications. I can ask Mr Lindsay to give those to you now or, if you wanted to save time, we can take that on notice.

Mr LINDSAY: I can give some commentary around that now if you would like.

The CHAIR: Just to respond to the commissioner on that, in response to a question from budget estimates on 12 March—the matters that are up for internal review have risen significantly in the past four years, based on your own figures. It has gone up from 375 in 2017 to 803 in 2020. But the internal review process, in sorting those out, the number of internal reviews have gone from 14 to 48 only being sorted out within 21 days.

Commissioner FULLER: Mr Lindsay, can you expand on that?

Mr LINDSAY: Yes, I can. In an effort to address the historical workload issues on police to say that we now have no historical workload issues in relation to our renewal applications—we will be in a similar position with the new licence applications by the end of this year. In working through both new licence applications and the renewal applications, it has caused some of that workload, as we push through, into the increase in internal reviews. As I have said, we are currently in the transition period into a new realign structure, where further resources will now be moved into that internal review area.

I would say it would be the last piece of the puzzle, in that, as we move through those other historical workloads, that has pushed an increase now into that internal review. Then we will start working through that particular historical workload. But these are all applications and renewals that were in place prior to the instigation

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of the gun safe system, which kicked off on 25 February. I am happy to say that all the applications that are received through the gun safe system have been dealt with within their time frames. As we move through, the historical workloads are going, except for the internal review, which we will address through these additional resources. I am confident, through using the gun safe system, that in all areas we will not have backlogs.

The CHAIR: Just a quick one—and you probably will not be able to answer this, but maybe take it on notice—of those internal reviews that you are going through the process of finalising, again from 2017 to 2020—or even right up to 2021—how many of those internal reviews were resolved in favour of the applicant? That is what I would like to know. I very rarely hear of anyone getting a favourable application through from the registry in terms of internal review. I do not expect you to answer that off the top of your head.

Commissioner FULLER: I do not have that. We will have that data taken on notice.

Mr DAVID SHOEBRIDGE: Ms D'Elia, it is nice to see you back. Hello, Minister and Commissioner. Commissioner, you indicated that organised crime, particularly fuelled by drug sales, is a significant problem for New South Wales.

Commissioner FULLER: For Australia. For the world, probably. But yes, for Australia and New South Wales.

Mr DAVID SHOEBRIDGE: What volume of drugs and were police manufacturing and selling under the program uncovered by the strike force Operation Dominion?

Commissioner FULLER: Can you say the question again?

Mr DAVID SHOEBRIDGE: What volume of drugs and what types of drugs were police involved in manufacturing and selling in the operation that was uncovered by the strike force Operation Dominion?

Commissioner FULLER: I would have to take that on notice, but I was not made aware of police selling any drugs. I am aware that there has been a significant investigation into the conduct of officers in relation to that, but I would have to take on notice the proposition that police were selling drugs.

Mr DAVID SHOEBRIDGE: Did police create a drugs syndicate and manufacture drugs to entrap criminals? Was that what the Drug Squad were involved in?

Commissioner FULLER: Again, I believe that matter is certainly under investigation and I am happy to take on notice what the outcome of that was. I believe it is still running, but I am happy to take on notice what the actual outcome of the alleged illegal activity was.

Mr DAVID SHOEBRIDGE: The raid was on 2 July last year. Surely you have had an update since then to find out if police under your command were, as was widely reported at the time, manufacturing drugs and, indeed, had created a drugs syndicate to entrap criminals. You have surely got an update since 2 July last year?

Commissioner FULLER: Police were not manufacturing drugs, for a start. The terms of the investigation, again, I will have to get an update on.

Mr DAVID SHOEBRIDGE: Have any police been charged—

Commissioner FULLER: Again, I know there were—

Mr DAVID SHOEBRIDGE: —as a result of a strike force called Operation Dominion?

Commissioner FULLER: There were two primary officers that were under investigation for either departmental or criminal behaviour, but I will have to get an update in terms of the outcome of that.

Mr DAVID SHOEBRIDGE: Have you referred the matter to the Law Enforcement Conduct Commission [LECC]? If so, what has happened?

Commissioner FULLER: By the nature of them being under investigation, LECC gets access to the complaint immediately. Again, I cannot provide any more light on that matter other than to say my memory is that there were two primary officers who were suspected of departmental or criminal behaviour. There was a Part 8A investigation into that. They are all oversighted by LECC. I cannot be sure of what involvement LECC have or have not played in it, but I can certainly take all that on notice.

Mr DAVID SHOEBRIDGE: Has the Professional Standards Command undertaken an investigation?

Commissioner FULLER: I think I have been clear that there was an investigation into at least two officers for departmental or criminal behaviour. I do not have the answer in terms of what comes next, but I can take that on notice.

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Mr DAVID SHOEBRIDGE: Minister, you must have been troubled to hear that Drug Squad officers had had their homes raided and that indeed there was a strike force Operation Dominion in place that raided the police homes and commenced an investigation into the allegation that police had created a drugs syndicate and manufactured drugs to entrap criminals. That happened on 2 July last year. What updates have you sought?

Mr DAVID ELLIOTT: I am not going to provide a running commentary on a police operation.

Mr DAVID SHOEBRIDGE: What updates have you sought about the allegation that police were creating a drugs syndicate and manufacturing drugs to entrap criminals? Have you just washed your hands of it all, Minister?

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

Mr DAVID SHOEBRIDGE: You are not willing to even indicate whether you asked questions about it? Have you inquired—

Mr DAVID ELLIOTT: Not in a public forum.

Mr DAVID SHOEBRIDGE: —of the Commissioner an update?

Mr DAVID ELLIOTT: Not in a public forum. I am not going to be discussing these matters in a public forum. The Commissioner has told you that it is going to go on notice. We will make sure it goes on notice and we will be providing information that can be provided, that can be put into the public domain, but I am certainly not going to provide a running commentary on this matter.

Mr DAVID SHOEBRIDGE: Commissioner, how many police are on strike force called Operation Dominion?

Commissioner FULLER: Again, I will take that on notice.

Mr DAVID SHOEBRIDGE: Is that strike force investigating only those two police whose homes they raided, or is the strike force looking more broadly at the activities of the Drug Squad?

Commissioner FULLER: I would hope that they are looking more broadly at any involved officer. Again, I will take that on notice.

Mr DAVID SHOEBRIDGE: If you have the terms of reference of Strike Force Dominion, will you provide that on notice?

Commissioner FULLER: Yes.

Mr DAVID SHOEBRIDGE: Commissioner, the last time we were at budget estimates I was asking you questions about what racehorses you owned and what racehorses you had owned. Do you remember that?

Commissioner FULLER: Oh, yes.

Mr DAVID SHOEBRIDGE: You did not provide any details, other than saying you did not own Schnitzel. Do you recall that?

Commissioner FULLER: Yes. Well, you made a number of allegations against me, as usual, in terms of my integrity.

The Hon. TREVOR KHAN: And Schnitzel.

Commissioner FULLER: Yes.

Mr DAVID SHOEBRIDGE: No, no.

Commissioner FULLER: I would not be here if I—

Mr DAVID SHOEBRIDGE: You would not be you without Schnitzel? I understand. But you indicated that you would provide details on notice. Do you remember that?

Commissioner FULLER: It was my understanding that you were directed to Racing NSW because the information exists there and that was an entirely appropriate answer.

Mr DAVID SHOEBRIDGE: I think your answer was, "Ownership details relating to registered racehorses is disclosed on the Racing NSW website." That is the answer you provided.

Commissioner FULLER: Yes.

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Mr DAVID SHOEBRIDGE: Commissioner, that does not provide any details about past racehorse ownership. Did you know that, Commissioner?

Commissioner FULLER: No.

Mr DAVID SHOEBRIDGE: I am going to ask you again: Will you provide details of the racehorses you have had any interest in during the course of your career as both the police commissioner and as a commissioned officer?

Commissioner FULLER: Yes, I will.

Mr DAVID SHOEBRIDGE: Will you include in that the individuals who you own horses with?

The Hon. TREVOR KHAN: Point of order—

Mr DAVID ELLIOTT: Yeah. I am not sure that is a terribly—

The Hon. TREVOR KHAN: I know wide latitude is taken in budget estimates and this is a commissioned officer. It might be legitimate to ask about what former horses he has had, but I struggle to see how it comes anywhere within our terms of reference to go where Mr Shoebridge is now going.

Mr DAVID ELLIOTT: Yeah.

Mr DAVID SHOEBRIDGE: To the point of order: I want to be clear. If the police commissioner owns horses in shares with other individuals, I think it is very relevant—

Commissioner FULLER: Well, I don't.

Mr DAVID SHOEBRIDGE: —to understand with which other individuals—

Commissioner FULLER: I already explained to you, I do not have any racehorses.

Mr DAVID SHOEBRIDGE: —the Commissioner does or previously owned horses with. We may disagree, Mr Khan, on whether that is relevant—

The Hon. TREVOR KHAN: We do.

Mr DAVID SHOEBRIDGE: —but that is the purpose.

The CHAIR: I will rule. It is up to the Commissioner to answer it the way he sees fit. I think the question is quite valid and he can answer it the way he wants to.

Mr DAVID SHOEBRIDGE: Commissioner, do you know how many adults have been subject to Suspect Target Management Plan [STMP] 3? Do you know have been in the past and how many currently are subject?

Commissioner FULLER: STMP3 was an update of a police strategy that was oversights by LECC and that now includes a significant prevention aspect to it, but we would certainly have on record the number of adults who have been part of that new preventative crime strategy.

Mr DAVID SHOEBRIDGE: I think there might be some details being provided to you from behind. If you could, just to make this quicker, you may have a document that includes both the number of adults and also the number of young people.

Mr DAVID ELLIOTT: What do you want to know?

Mr DAVID SHOEBRIDGE: How many adults have been subject to STMP3? If you have an indication, how many adults are currently subject to STMP3, and then if you have the same data for young people?

Mr DAVID ELLIOTT: You want actual statistics? No. I will take it on notice.

Mr DAVID SHOEBRIDGE: How many young people—those under the age of 18—have been targeted by STMP3?

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

Mr DAVID SHOEBRIDGE: Does that mean that you will take that on notice as well?

Mr DAVID ELLIOTT: That is what I said.

Mr DAVID SHOEBRIDGE: Do you know how many young people who are Aboriginal or Torres Strait Islander have been subject to STMP3?

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Mr DAVID ELLIOTT: I will take that on notice.

Mr DAVID SHOEBRIDGE: Commissioner, you would remember that the Law Enforcement Conduct Commission was deeply critical about the number of young people who had been placed on STMP3 in its report Operation Tepito?

Commissioner FULLER: I do not remember "deeply critical" but obviously they made some reasonable assessments, like they do when they review our policy and our strategies. I do not remember reading that terminology.

Mr DAVID SHOEBRIDGE: Do you remember Operation Tepito recommending that no children in aged under 14 should be the subject of it because the Law Enforcement Conduct Commission thought it was inappropriate that children aged under 14—

Commissioner FULLER: I think STMP3 now and the way that it engages in prevention and getting kids out of crime, I think the way you are framing it is just unfortunate that you lack the understanding that we actually get these kids between 10 and 14 into the PCYC, back to school. We feed them, we pick them up, we drop them home, we get them jobs if they cannot stay at school. I think you are missing the principles around prevention.

Mr DAVID SHOEBRIDGE: Are you saying that is what STMP is about—taking kids to a PCYC?

Commissioner FULLER: Yes. STMP3 has a primary prevention at the front end in terms of the work we have done, the thousands of kids we have put through programs, the multiple hundreds of kids, including Indigenous kids, that we have got employment—

Mr DAVID SHOEBRIDGE: So you have put thousands of kids through STMP3? Is that your evidence?

Commissioner FULLER: Through the PCYC prevention programs. Not all of the children, not all of the adults need to be in STMP to be diverted from a life of crime.

Mr DAVID ELLIOTT: If you get a chance to go out to Mount Druitt Police Citizens Youth Club—

Commissioner FULLER: Or Dubbo.

Mr DAVID ELLIOTT: —or Dubbo, you will see the absolute success that the police have had with diverting young people away from a life of crime. These diversion programs have proven to have worked. They have made sure that for the first time in 10 years the juvenile justice population is going down and, I am proud to say that under my watch as a previous juvenile justice Minister it was the first time we ever had less than 50 per cent of juvenile detainees who were Indigenous. So I am going to take your question as a compliment.

Mr DAVID SHOEBRIDGE: And I will take your comment as totally unrelated to the question and unrelated to any evidence, but we will move on.

Mr DAVID ELLIOTT: The statistics don't lie.

Mr DAVID SHOEBRIDGE: We will move on.

The Hon. ADAM SEARLE: I think it is my time to ask the questions now.

Mr DAVID SHOEBRIDGE: An evidence-free statement. That was good.

The Hon. ADAM SEARLE: Thanks for the commentary. Minister, last estimates, on 1 September, I asked some questions of Deputy Commissioner Hudson and Assistant Commissioner Walton about the fixated persons unit and its deployment against Mr Kristo Langker, the producer of the Friendlyjordies program. I did ask for the charter or the standard operating procedures for the fixated persons unit to be provided on notice. While we did get on notice a descriptor of how the system works, we did not get a copy of the standard operating procedures or the charter of the unit, if I can put it that way. Was that an oversight or are you not going to provide that to the Committee?

Mr DAVID ELLIOTT: I will take that question on notice. If it was an oversight, we will certainly make sure that we get it to you.

The Hon. ADAM SEARLE: Thanks. I understand that some things may be sensitive in terms of police operations, but the DPP's prosecution guidelines are public documents. I would have thought that—

Mr DAVID ELLIOTT: Well, I am not responsible for the DPP.

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The Hon. ADAM SEARLE: No, no, but I would have thought that some of these things would be public. Does the commissioner have anything to add?

Commissioner FULLER: Look, Mr Searle, we package up and we send off to Government. What gets provided is out of my hands. I am not engaged in the process, once I walk out the door, in terms of what is finally provided or not.

The Hon. ADAM SEARLE: No. So you did not make any policy decision about not providing the Committee that?

Commissioner FULLER: No, but nor have I on any issue since I have been coming here.

The Hon. ADAM SEARLE: Okay, thank you very much for that. I will look forward to that on notice. In relation to how the matter involving Mr Langker unfolded, I asked some questions on notice. On notice, you have provided that on 2 December an investigation by the fixated persons unit was established by a complaint.

Mr DAVID ELLIOTT: Yes.

The Hon. ADAM SEARLE: The complaint originally came from the Department of Premier and Cabinet. Is that correct?

Mr DAVID ELLIOTT: I am not involved in any operational matters.

The Hon. ADAM SEARLE: Okay. Well, I am happy to ask the police commissioner or Mr Walton.

Commissioner FULLER: I would defer to Mr Walton, just to save me taking questions on notice, if that is okay.

The Hon. ADAM SEARLE: I think that would be good. Mr Walton, was it a complaint from the Department of Premier and Cabinet that initiated this matter?

Assistant Commissioner WALTON: Yes. As outlined on 2 December, that was the initial complaint that went to the Sydney City Police Area Command.

The Hon. ADAM SEARLE: In the answer provided on notice it then says the matter was referred to the anti-terrorism and intelligence group, where it was assessed and allocated to the fixated persons unit. Just to be clear, did the fixated persons unit then carry out its own assessment?

Assistant Commissioner WALTON: No. The terrorism investigation unit carries out the assessment of the available information and subsequently allocates the matter for investigation. The unit then conducts a normal investigation, gathers evidence, assesses that evidence and determines whether action is appropriate.

The Hon. ADAM SEARLE: Right. In relation to that assessment or the operation carried out by the fixated persons unit, Deputy Commissioner Hudson said on the last occasion, at page 26 of the transcript:

I do not think appropriate processes were properly followed in that assessment.

He was there referring to the operation of the fixated persons unit itself. In terms of the processes adopted by the unit, can you tell us what were the procedures that should have been followed and what, in fact, unfolded?

Assistant Commissioner WALTON: There is a time line in relation to this matter, to provide some clarity around that answer and perhaps informing the Committee in relation to this matter. The initial investigation started on 2 December. That material related to two people generally referred to as the Friendlyjordies, either the actor or the producer. That assessment took place and was referred to the unit for investigation. Over the course of some six months they progressed that investigation. However, the date you are referring to around Mr Langker's matter—that was the reference for Mr Hudson indicating that procedures were not followed. What occurred there is that the unit took that fresh information relative to Mr Langker and, without further assessment or external advice from the terrorism investigation unit assessment, took action in relation to that fresh information, which led to Mr Langker's arrest and the matter that is now before the court. So the process issue there that Mr Hudson was referring to is that—he suggests that there should have been a fresh assessment of that fresh information.

The Hon. ADAM SEARLE: Well, if the fixated persons unit is going to be deployed against a particular person, presumably the assessment has to be done in relation to any information relating to that person or that matter. You are saying that there was no particular assessment conducted in relation to Mr Langker before his arrest. Is that correct?

Assistant Commissioner WALTON: Only in relation to that fresh information that occurred on the day when he was subsequently arrested.

The Hon. ADAM SEARLE: Was there a warrant for Mr Langker's arrest?

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Assistant Commissioner WALTON: No.

The Hon. ADAM SEARLE: Pursuant to what power did the police make that arrest?

Assistant Commissioner WALTON: That is the individual power of the office of constable. Those officers made that decision themselves, without any consultation or influence from management or any other party that I am aware of.

The Hon. ADAM SEARLE: Okay. Did they rely on section 99 of the Law Enforcement (Powers and Responsibilities) Act [LEPRA] or did they rely on their common law powers? Do you know?

Assistant Commissioner WALTON: I don't know. Those matters, I am sure, will be canvassed in the upcoming court matter.

The Hon. ADAM SEARLE: Okay. In relation to an offshoot of this matter, there were efforts by the police to engage in some suppression orders against the Friendlyjordies program. Are you across that?

Assistant Commissioner WALTON: I am aware of that.

The Hon. ADAM SEARLE: How did that particular application come about?

Assistant Commissioner WALTON: It arose at one of the adjournment dates a couple of months ago. The material or the activities of Mr Shanks on social media was raised with the police prosecutor. The prosecutor, on assessment of that material, raised concerns around contempt and questioned whether the material should be suppressed, given the pending court matter. That was done on the day by the prosecutor and the police involved in the court matter.

The Hon. ADAM SEARLE: So, to be very clear, this did not also come from the fixated persons unit. This was the prosecutions unit on a frolic of its own, was it?

Assistant Commissioner WALTON: Well, no. It is the prosecutor who led that evidence, who was acting on behalf of a member or members of the fixated persons unit.

The Hon. ADAM SEARLE: Okay. Without naming the individual, what sort of rank should these people be at in order to take these actions?

Assistant Commissioner WALTON: The office of the constable allows any person to be an informant in accordance with the law. In this instance, there is a detective senior constable and a detective sergeant that are involved in this matter.

The Hon. ADAM SEARLE: Now you are aware that in this matter there are some sensitivities? There have been a number of public comments around the possible perception that the police are being deployed against a political critic of the Government. Do you understand those sensitivities?

Assistant Commissioner WALTON: Yes, I do.

The Hon. ADAM SEARLE: Is there any foundation to those concerns, in your view?

Assistant Commissioner WALTON: I think we, as police, always need to be concerned about our accountability of our actions and certainly understand sensitivities, particularly those that are being promoted by Mr Shanks and his supporters.

The Hon. ADAM SEARLE: The fixated persons unit—I think we tried to drill into this last time. There is no suggestion that Mr Langker presented any kind of physical threat to Mr Barilaro, is there? Mr Hudson made that very clear last time.

Assistant Commissioner WALTON: Not physical, but there is also mental harm that is the potential in relation to that referral and the matters that are before the court.

The Hon. ADAM SEARLE: Okay. Did the fixated persons unit proceed on the basis of any expert psychological or psychiatric evidence on this matter?

Assistant Commissioner WALTON: No.

The Hon. ADAM SEARLE: So the police made their own independent assessment of matters?

Assistant Commissioner WALTON: Yes.

The Hon. ADAM SEARLE: Are you aware in the application for the suppression that there was, amongst the foundations for the application, the fact that Mr Shanks was running a negative agenda against the

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Deputy Premier? That was one the bases for the suppression order and issues of derogatory comments in relation to Mr Barilaro's political position? Those are amongst the matters that the police relied upon.

Assistant Commissioner WALTON: Yes, I think that and also the potential impact on witnesses who are expected to give evidence in this matter.

The Hon. ADAM SEARLE: Yes, but the application hit the wall pretty hard, did it not?

Assistant Commissioner WALTON: It was dismissed.

The Hon. ADAM SEARLE: Did the police get external or independent counsel's advice before proceeding with this application?

Assistant Commissioner WALTON: No, however, subsequent to the matter being furthered, we caused independent background solicitor's advice in relation to the matter and that advice suggested that the matter should be withdrawn which we did on the first occasion.

The Hon. ADAM SEARLE: On reflection, maybe that advice should have been reached ahead of making the application? Would you agree with that?

Assistant Commissioner WALTON: I think there is always a lot of value in hindsight review but cautioning slowly in matters of this nature I agree is an appropriate course.

The Hon. ADAM SEARLE: Just to cut to the chase, there was a pretty dramatic arrest of a producer of a satirical political program which had come to public attention through its trenchant criticisms of the Government and Mr Barilaro. You would want to make sure that any police proceedings against journalists of this kind really stood up to scrutiny, would you not?

The Hon. TREVOR KHAN: That might be overstating his position.

The CHAIR: It is certainly not understating it.

The Hon. ADAM SEARLE: Mr Walton?

Assistant Commissioner WALTON: Could you repeat that question?

The Hon. ADAM SEARLE: I will put it to you directly. Given that Mr Langker and Mr Shanks were very high profile public critics of the Government through their medium on YouTube, you would want to make sure that any criminal proceeding against them stacked up properly, would you not?

Assistant Commissioner WALTON: That would certainly be my preference; however, that did not occur.

The Hon. ADAM SEARLE: It did not occur. Of course, the police have now been ordered to pay \$22,000 in legal costs to both Mr Langker and Mr Shanks. Is that correct?

Assistant Commissioner WALTON: I think that might be the gross amount for both their legal attorneys.

The Hon. ADAM SEARLE: In the last estimates, Deputy Commissioner Hudson also stated that an associate of Mr Langker was under investigation at the same time as Mr Langker. Should we assume that that is Mr Shanks?

Assistant Commissioner WALTON: Yes.

The Hon. ADAM SEARLE: Does he remain under investigation by the NSW Police Force?

Assistant Commissioner WALTON: That matter has yet to be determined. I do not know about active investigation but we are waiting on advice in relation to sufficiency concerning material that has been gathered.

The Hon. ADAM SEARLE: What crimes do you think he might have committed?

Assistant Commissioner WALTON: They are matters that the lawyers will provide some advice on. That could be in the realm of intimidation.

Mr DAVID SHOEBRIDGE: It is not a crime to criticise the Deputy Premier, I hope.

Mr DAVID ELLIOTT: I would be in jail.

Assistant Commissioner WALTON: No.

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The Hon. ADAM SEARLE: What is the crime that Mr Langker is supposed to have committed? What are the charges against him presently?

Assistant Commissioner WALTON: Intimidation.

The Hon. ADAM SEARLE: Mr Langker is supposed to have intimidated Mr John Barilaro?

Assistant Commissioner WALTON: Yes.

The Hon. ADAM SEARLE: Have you met Mr Langker?

Assistant Commissioner WALTON: No.

The Hon. ADAM SEARLE: It seems to me to be a fairly far-fetched proposition that Mr Langker who is a 21-year-old young man—

The CHAIR: Who is 65 kilos wringing wet compared to the Deputy Premier.

The Hon. ADAM SEARLE: —would be found in any way to have intimidated Mr Barilaro, a man of, shall we say, robust and firm opinions.

The CHAIR: And 110 kilograms.

The Hon. ADAM SEARLE: What evidence do you have that about that intimidation? Is it just the videos that are in the public domain?

Assistant Commissioner WALTON: The intimidation elements move beyond the physical capability. They move into mental harm and I think, as I see so much material online, through the use of social media, there is certainly a potential for people, be they high office holders or schoolchildren, to be mentally harmed and cause anguish relation to the actions of others on social media.

The Hon. ADAM SEARLE: I understand that but there would have to be a much higher threshold for public figures to be able to avail themselves of that claim, would there not?

Commissioner FULLER: I think that is a pretty sad proposition to—

Assistant Commissioner WALTON: That would certainly be a critical issue that will be determined at court.

The Hon. ADAM SEARLE: Leaving aside the particular matter, you have already given evidence that the police proceeded without psychological or psychiatric evidence so they just made a lay person's assessment—and I am not being critical; I am saying that is what it is. If we are going to draw a line between robust criticism, whether it is of a government Minister or any other public figure, and where that criticism becomes criminal in nature in the form of intimidation, presumably, like the Director of Public Prosecutions has a prosecution policy, the police would have to have a robust internal policy about where that line is and the circumstances in which the police would be activated against a citizen, particularly a citizen journalist like Mr Langker, and Mr Shanks?

Commissioner FULLER: I think there is definitely a brave new world in this Mr Searle.

Mr DAVID SHOEBRIDGE: In the Aldous Huxley sense?

Commissioner FULLER: You are all going to have to struggle with this more than I will moving into retirement because the sordid stuff that Mr Walton talks about online, and kids and adults committing suicide because of online bullying and harassment is that Parliament is going to have to grasp the setting or standard you want us to enforce more than how we are dealing with it.

The CHAIR: I think that is an operative thing; what standards we want, not what you want.

Commissioner FULLER: So out of respect, I mean this is new. This is a new phenomenon. Have we dealt with this matter appropriately? With hindsight, we could have done things differently, no doubt, and we are learning from it. But this will be one of the great legislative challenges of this decade.

The Hon. ADAM SEARLE: Commissioner, this is in fact my question: Without that legislative apparatus the police has made a decision, it has formed a judgement and it formed a judgement about where robust public criticism of a government Minister has crossed the line. It is a matter for the court but that is the judgement the police have made. Upon what basis and on what policy have the police filled in those gaps?

Commissioner FULLER: I think Mr Walton has explained that without having the brief in front of us. But the matter is still before the court.

The Hon. ADAM SEARLE: I understand that.

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Commissioner FULLER: And what happens is either we will lose and I will have a black eye and then I will come to the Government and say, "Yes, I have heard the change in legislation, if you want us to protect our kids online, if you want us to protect even our leaders online—"

The Hon. ADAM SEARLE: Maybe you do not prosecute journalists.

Commissioner FULLER: No. What happens to Mr Barilaro who went on psychological leave? Are you saying he was not unwell?

The Hon. ADAM SEARLE: No, I am not talking about that matter; I am talking about the fact that the police took this step without the psychological evidence. For example, Mr Hudson said there was meant to be a psychological assessment as part of the fixated persons unit's own internal deliberations. That was said to be the procedure.

The CHAIR: That is right.

The Hon. ADAM SEARLE: That did not happen here—

The CHAIR: There was a procedure and it did not take place.

The Hon. ADAM SEARLE: —whether on the first occasion or on the new evidence. I see Mr Walton nodding his head in agreement. That is a pretty obvious breakdown in the police's own existing procedure. How did that happen?

Commissioner FULLER: But again that does not mean the matter will fail at court.

The Hon. ADAM SEARLE: No, but how did it happen that the police did not get a psychological assessment?

Commissioner FULLER: You can never have a policy that says, "In these matters going forward, before you determine psychological harm to a victim, you have got to get an independent report." It is ridiculous because that is a personal position on what causes someone stress and anxiety and causes them to go off and have sick leave.

The Hon. ADAM SEARLE: I had understood that was part of the process.

Commissioner FULLER: Yes, but we would never go—when there has been psychological harm and investigation—and get an expert report on that. That would be tested by the magistrate or the judge when they interview the victim.

Mr DAVID SHOEBRIDGE: Commissioner, are you saying that if an element of the offence is psychological harm was caused—which seems to be what you are suggesting here in this—that you would never get expert evidence?

Commissioner FULLER: No, I am just philosophically discussing this issue about any time a matter goes before the court and there is an aspect of someone being psychologically harmed that we have historically ever got a specialist's report. Well, we have not.

Mr DAVID SHOEBRIDGE: Assistant Commissioner Walton, do you have any expert evidence or any evidence to link what Mr Langker has done with any psychological harm of the Deputy Premier?

Assistant Commissioner WALTON: I am not aware of any at the moment but I do not have the brief in front of me as to what has been gathered in relation to the harm to Mr Barilaro. I might just try to clarify your point there around Mr Hudson's evidence previously. There are a number of people involved at different stages depending on the nature of the job, including the fixated persons panel, which includes a psychologist who can make referrals. There is not a requirement in these matters that come to us that on every instance that panel fits and a psychiatrist or psychologist is involved in that assessment.

Mr DAVID SHOEBRIDGE: Mr Walton, who in the Department of Premier and Cabinet referred Mr Langker to the police?

Assistant Commissioner WALTON: Mr Brady, I believe, was the facilitator. He made the referral to Sydney city. I am not sure how much detail he had or provided. He may well have just been a conduit from Mr Barilaro's office into the local police.

Mr DAVID SHOEBRIDGE: If you have any detail, if you can provide that on notice, that would be appreciated.

Assistant Commissioner WALTON: Thank you. Yes.

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Mr DAVID SHOEBRIDGE: Commissioner, in the previous round of questioning I was asking you about STMP. Do you remember that?

Mr DAVID ELLIOTT: The commissioner has stepped out for a moment. What would you like to know? The questions come through me anyway.

Mr DAVID SHOEBRIDGE: It is going—

Mr DAVID ELLIOTT: The questions come through me anyway.

Mr DAVID SHOEBRIDGE: I can assure you there will be no point going down this path in the absence of the commissioner.

Mr DAVID ELLIOTT: Why don't you try me?

Mr DAVID SHOEBRIDGE: Do you want to take over, Chair?

The CHAIR: Police Minister, airsoft and gel blasters, much like paintball, is a massively popular sport worldwide, generating up to US\$1.5 billion a year. They are legal in nearly every country in the world, including many countries where real firearms are heavily banned. Airsoft and gel blasters are harmless. They are certainly not firearms, but they are treated as such in New South Wales. What makes gel blasters and the airsoft game so much more dangerous in New South Wales than in any other part of the world that they should remain banned in New South Wales?

Mr DAVID ELLIOTT: I will take that on notice. I have never played it.

The CHAIR: You should. It is good fun. It is illegal, unfortunately.

The Hon. TREVOR KHAN: It hurts less than paintball.

The CHAIR: Sorry?

The Hon. TREVOR KHAN: It hurts less than paintball, doesn't it?

The CHAIR: It is very related to paintball, but it is a different type of game. But it is illegal.

The Hon. WALT SECORD: It is illegal in New South Wales?

Mr DAVID SHOEBRIDGE: Just talk amongst yourselves.

The CHAIR: Sorry, Mr Khan, were you asking questions?

The Hon. TREVOR KHAN: No. I have suffered paintball on a number of occasions.

The CHAIR: So have I. Is there any reason why these sports and that equipment cannot be regulated and legalised like paintball markers currently are in New South Wales so that they can also participate, especially since paintball is not treated as being real firearms?

Mr DAVID ELLIOTT: I will take it on notice. I am more of a golfer myself, so I will have to find out.

The CHAIR: Golf sticks, yes. They can—

Mr DAVID ELLIOTT: If you saw me play last week, you would want to ban it.

The CHAIR: Minister, has the New South Wales Government made a formal response to the recommendations by the Coroner regarding the Edwards inquest?

Mr DAVID ELLIOTT: Yes. I will get you an update on that one. What would you like to—anything specific?

The CHAIR: Has a response been tabled yet?

Mr DAVID ELLIOTT: We have obviously got—yes. The answer is yes. There have been 24 recommendations, which have all been supported or supported in principle.

The CHAIR: So it has been tabled. Roughly when?

Mr DAVID ELLIOTT: I will take that on notice. I do not know what day it was tabled.

The Hon. TREVOR KHAN: Last couple of weeks, I think.

The CHAIR: It was the last couple of weeks? I did not catch up with it.

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Mr DAVID ELLIOTT: I might have the date, if you can just give me one second. If there is a specific date here, I will have it.

The CHAIR: If it has been tabled, we will find it.

The Hon. TREVOR KHAN: It rang a bell.

The CHAIR: It rang a bell.

Mr DAVID ELLIOTT: No, I do not have the definite date, but it has been tabled and we have accepted the recommendations. Some of them obviously relate to police training and some of them have been related to the Firearms Registry, which led to the new strategic plan. I can tell you I have met with the court to make sure that there is a more open line of communication to stop some of the deficiencies that caused this tragedy. I will take the date on notice.

Mr DAVID SHOEBRIDGE: Commissioner, in the last round of questions I was asking you about STMP. Do you remember that?

Commissioner FULLER: Yes.

Mr DAVID SHOEBRIDGE: You did not have any data to hand about the number of young people who are on STMP-III. Is that right?

Commissioner FULLER: No, I took that on notice.

Mr DAVID SHOEBRIDGE: I will show you a document.

Mr DAVID ELLIOTT: While the commissioner is looking at that, Mr Borsak, I can tell you that the Coroner's report was handed down on 7 October.

The CHAIR: Thank you.

Mr DAVID ELLIOTT: It is on the Attorney General's website.

Mr DAVID SHOEBRIDGE: Commissioner, have you seen these standard notification letters?

Commissioner FULLER: No, I have not seen one. I am aware of them.

Mr DAVID SHOEBRIDGE: You know that recommendation 12 of the LECC's report into STMP was that the NSW Police Force advise all young people of their STMP status and provide them with details about the activities that police intend to apply under their target action plan? Does that ring a bell?

Commissioner FULLER: Yes.

Mr DAVID SHOEBRIDGE: The notification process was, I assume, the police seeking to comply with recommendation 12. Is that right?

Commissioner FULLER: In part. But the other part was—if you go to the last page, that talks about "diversion strategies have been explained to me". What was important to me was that police understand that diversion now is the primary part of STMP.

Mr DAVID SHOEBRIDGE: These notification letters are delivered to young people under the age of 18. Do you accept that this has been handed to children under 18 years of age?

Commissioner FULLER: With their guardian or parent. We are not just finding a 10-year-old on the street and giving them a piece of paper, if that is what you are suggesting.

Mr DAVID SHOEBRIDGE: That is exactly what this suggests. There is no place on the form—

Commissioner FULLER: Well—

Mr DAVID SHOEBRIDGE: No, let me finish. I let you finish; you let me finish. There is no place on the form for a guardian or a parent to sign it and indicate that they have consented to it, is there, Commissioner?

Commissioner FULLER: It says STMP parent or guardian there. I just do not know if you are not seeing that part. As always, I ask for you to show me the evidence and tell me about a story and I will follow it up personally, but you never do.

Mr DAVID SHOEBRIDGE: Are you asking young people, through this, to consent to being searched?

Commissioner FULLER: No.

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Mr DAVID SHOEBRIDGE: In this case, the asserted prevention strategy—do you see that on page 2? "Search powers", do you see that?

Commissioner FULLER: No, I have given it back.

Mr DAVID SHOEBRIDGE: That was unwise. See that on page 2? "Prevention strategy" and "Search powers".

Commissioner FULLER: It would be an explanation of what powers the police have available to them. It is not unreasonable to talk to them about those types of things.

Mr DAVID SHOEBRIDGE: The heading there is "Prevention strategy", and underneath it is "Search powers". Do you see that?

Commissioner FULLER: Yes.

Mr DAVID SHOEBRIDGE: Do you see on the next page—it is only three pages long. It is not that troubling. I would recommend you hold onto it until we finish. On the next page, do you see, "I understand that I have been nominated as an STMP for—"

Commissioner FULLER: "I agree that the diversion strategies have been explained to me by," which obviously talks to the police about making sure that they are engaged with the PCYC and that we can get them back at school. That is what STMP is about.

Mr DAVID SHOEBRIDGE: Could you go to the bit that I was taking you to?

Commissioner FULLER: You skipped the best bit. To which line?

Mr DAVID SHOEBRIDGE: It is not very long, but it begins, "I understand that I have been nominated as an STMP for," and then the details are blanked out. Do you see that?

Commissioner FULLER: Yes.

Mr DAVID SHOEBRIDGE: Then the next sentence says, "I understand that I will be monitored to prevent my involvement in criminal offending behaviour and agree to participate in the outlined strategies." Do you see that?

Commissioner FULLER: Yes. That is where the bureau of crime, when they reviewed STMP, said that STMP had the most significant impact on reducing reoffending because of the relationship between police and the individual. Then you put prevention into that and it is one of the most important strategies we have to keep the people of New South Wales safe.

Mr DAVID SHOEBRIDGE: That is an interesting digression. I take you back to the strategies that are identified in this case, and the only strategy identified in this case is search powers. Do you see that?

Commissioner FULLER: It is a blank document.

Mr DAVID SHOEBRIDGE: Do you see that, Commissioner?

Commissioner FULLER: Yes. It is a blank document. It is not a working document.

Mr DAVID SHOEBRIDGE: Commissioner, in this case, the police have sought to have a young person consent to searches being issued against them. That is what happened, is it not?

Commissioner FULLER: Incorrect.

Mr DAVID SHOEBRIDGE: Commissioner—

Commissioner FULLER: A document does not override legislation and police would be aware of that. There is no document that overrides statutory rights, so that is not even a reasonable proposition to make.

Mr DAVID ELLIOTT: And you are forgetting the success of our diversion programs, David. I mean, we have had a wonderful level of success with these programs—

Mr DAVID SHOEBRIDGE: This is not your chance just to—

Mr DAVID ELLIOTT: Well, it is, because the questions have to come through me. I am sorry, the questions have to come through me, so—

Mr DAVID SHOEBRIDGE: The Government has a chance to do re-examination if they wish, Minister. It is not your chance—

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Mr DAVID ELLIOTT: No, no, no. The questions have to come—

Mr DAVID SHOEBRIDGE: Now is not your chance—

Mr DAVID ELLIOTT: The questions have to come through me.

Mr DAVID SHOEBRIDGE: Chair, I would ask you to call the Minister to order.

The Hon. NATASHA MACLAREN-JONES: Point of order—

Mr DAVID ELLIOTT: The questions have to come through me. It is my estimates committee.

The CHAIR: Yes, they do, Mr Elliott. Are you saying that you do not want the commissioner to answer the question?

Mr DAVID ELLIOTT: No, I am going to defer to him. But I just think that, from a policy point of view, Mr Shoebridge is completely skew-whiffing based on one page of one document.

Mr DAVID SHOEBRIDGE: I am going to ask you again to call the Minister to order.

Mr DAVID ELLIOTT: Our youth diversion programs have been a huge success.

Mr DAVID SHOEBRIDGE: The Minister is not being responsive to the question.

Mr DAVID ELLIOTT: The whole notion of RISEUP and Youth on Track, as you know, over the last 10 years has made sure that—

Mr DAVID SHOEBRIDGE: Again, Chair, I am going to ask you to bring the Minister to order.

The CHAIR: Minister—

Mr DAVID ELLIOTT: Because you do not want to hear the good news.

Mr DAVID SHOEBRIDGE: He is not responding to a question.

The CHAIR: Minister, answers to questions need to be directly relevant.

Mr DAVID ELLIOTT: He is completely misrepresenting—

Mr DAVID SHOEBRIDGE: I am going to ask you again to bring the Minister to order.

Mr DAVID ELLIOTT: —what our youth diversion programs are doing.

The CHAIR: Minister, you may put that on notice and give us a written answer in relation to that.

Mr DAVID ELLIOTT: He just does not want to hear good news about young people. He is only happy when they are all being locked up and you can blame somebody else.

Mr DAVID SHOEBRIDGE: You are making a disgrace of yourself, Minister. Do you understand that?

Mr DAVID ELLIOTT: Our diversion programs have been a great success.

The CHAIR: Order! Order!

Mr DAVID SHOEBRIDGE: Do you know you are making a disgrace of yourself and you are looking like a fool?

The Hon. NATASHA MACLAREN-JONES: Point of order—

The CHAIR: Order! Order!

Mr DAVID ELLIOTT: Why? Because I am defending young people?

The CHAIR: We are getting perilously close to not having a proper question-and-response session here, so we might just reset before we see some people get into all sorts of mental problems.

Mr DAVID SHOEBRIDGE: Commissioner, do you see the front page of the letter? It is probably a good idea to hold onto it until we finish. Do you see the front page of the letter there?

Commissioner FULLER: Yes.

Mr DAVID SHOEBRIDGE: It says:

You have been identified as someone at risk of involvement in criminal activity ...

Do you see that?

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Commissioner FULLER: Yes.

Mr DAVID SHOEBRIDGE: And you accept, I assume, that people are put on the STMP list quite often when they have not engaged in criminal activity. It is meant to be—at least, the police see it as—a crime prevention strategy. Is that right?

Commissioner FULLER: It is a risk assessment tool that has been reviewed by the Law Enforcement Conduct Commission that is used to determine whether someone is suitable for the prevention program.

Mr DAVID SHOEBRIDGE: But they do not have to be engaging in criminal activity? That is not one of the requirements?

Commissioner FULLER: No. As I said, there is a risk assessment that was reviewed by the Law Enforcement Conduct Commission that will determine someone suitability for the prevention program or some other type of strategy.

Mr DAVID SHOEBRIDGE: Do you see at the bottom of the page it talks about circumstances where the STMP may be discontinued? The examples it gives are:

... we will discontinue your involvement as an STMP should you no longer engage in criminal activity ...

Do you see that?

Commissioner FULLER: Yes.

Mr DAVID SHOEBRIDGE: If you are not engaging in criminal activity at the outset, that is an impossible thing to satisfy, isn't it?

Commissioner FULLER: I think what that is relevant to is a young person who is back in school, who is back at home, who we have got employment for, and they are making a legitimate effort in terms of staying on the straight and narrow.

Mr DAVID SHOEBRIDGE: Commissioner, you cannot get off the STMP by no longer engaging in criminal activity if you were not engaging in criminal activity in the first place. Do you accept that as a logical inevitability?

Commissioner FULLER: Sorry, could you say that proposition again?

Mr DAVID SHOEBRIDGE: If you were not engaging in criminal activity in the first place, you cannot get off the STMP by ceasing to engage in criminal conduct, can you?

Commissioner FULLER: Criminal conduct would naturally follow a prosecution, but we may have strong intelligence that a young person is engaging in criminal activity but we do not have enough evidence to prosecute them. So I do not agree with that proposition.

Mr DAVID SHOEBRIDGE: How do you get off the STMP?

Commissioner FULLER: As a young person, you either stop committing crimes or you engage in prevention programs with your parents, perhaps, or with your guardians. You go to the PCYC. You go back to school. There are a whole range of reasons—positive, preventative reasons—why you would come off the program.

Mr DAVID SHOEBRIDGE: Is it your evidence, Commissioner, that these nomination forms in relation to people aged under 18 years are signed by the person's guardian or parent? Is that your evidence?

Commissioner FULLER: That would be my expectation, yes.

Mr DAVID SHOEBRIDGE: I am not asking what your expectation is. I am asking if you know that is the case or not.

Commissioner FULLER: I do not sight them, so I cannot give a definitive answer. I can just give you my expectation.

Mr DAVID SHOEBRIDGE: Will you provide an accurate answer on notice as to whether or not these forms are signed by young people, as this form suggests, or, as you say is your expectation, are actually signed by guardians or parents? Can you provide an actual answer on notice?

Commissioner FULLER: I can certainly do a dip sample—not personally. But I can arrange for a dip sample of these forms, particularly persons under the age of 18, to give you some indicative answer, yes.

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Mr DAVID SHOEBRIDGE: What if a young person refuses to sign this form and refuses to agree with the police's expectation of cooperation? What is the penalty for not signing?

Commissioner FULLER: There is no penalty at all. Obviously it makes it difficult to engage in preventative strategies and getting them a job or getting them a part-time job or helping them get their driver's licence. Obviously it makes it difficult for us to steer them back into a life away from crime.

Mr DAVID SHOEBRIDGE: How many young people have been given a licence as a result of their engagement with the police through STMP?

Commissioner FULLER: We have helped lots of young people get a driver's licence—

Mr DAVID SHOEBRIDGE: How many, Commissioner?

Mr DAVID ELLIOTT: Jobs.

Commissioner FULLER: —and get jobs.

Mr DAVID SHOEBRIDGE: Rather than a generic, off-the-cuff run, can you tell me how many young people have got a driving licence after being involved in STMP-III?

The Hon. TREVOR KHAN: Point of order: We are getting back to the same position as before. The commissioner was answering and David intervenes and the thing starts to devolve. I would ask that if the commissioner is answering he at least be allowed to complete his answer before another question or criticism is made.

Mr DAVID SHOEBRIDGE: Commissioner, how many young people have got a driver's licence as a result of engagement in STMP-III?

Commissioner FULLER: I will take that on notice.

The CHAIR: We will take this opportunity to break and we will come back at 3.45 p.m. Thank you.

(Short adjournment)

The CHAIR: Commissioner?

Commissioner FULLER: Thanks, Mr Chair. If I could just give some clarity to estimates in relation to an earlier matter that was raised by Mr Shoebridge around Operation Dominion, I think it was, which links back to Strike Force Criotoye that was before the District Court in New South Wales. The judge in that matter has directed a suppression order in relation to that. I would just put that on the record for all members. Obviously we will endeavour to provide whatever information we can without breaching that publication order.

The CHAIR: The Committee will take that on board and we will deal with that in our deliberative. We will make sure nothing gets published that should not be published.

The Hon. WALT SECORD: I think these questions will go through the Minister to Assistant Commissioner Mark Walton. Are you aware of recent reporting of a group called Hizb ut-Tahrir and activity in a rally earlier this year where they, on the streets of Sydney, called for the "necks of the Jews and for the slitting of throats of Jews"? Are you aware of that data, Minister?

Mr DAVID ELLIOTT: Yes, I am aware of it. You and I are on a unity ticket on these matters, Mr Secord.

The Hon. WALT SECORD: Can you give me some scope of their activity? Are they on police radar and what steps are they taking, or what is inhibiting the police from taking steps?

Assistant Commissioner WALTON: Hizb ut-Tahrir held an Australian rally in May 2021. The group conducted a public assembly, as mentioned, in Haldon Street, Lakemba. On 13 October 2021 a YouTube video of that assembly was uploaded in which a preacher makes offensive statements about the Jewish community. The matter was referred to our Terrorism Intelligence Unit for assessment and it has subsequently been allocated to the Fixated Persons unit for investigation. In particular, we have engaged our Jewish community contacts and they have indicated they are comfortable with the police actions to date. We have also met with some members of the Muslim community—leaders of the Muslim community who have denounced such comments [audio malfunction] Hizb ut-Tahrir, and that assembly [audio malfunction]. They have not been well received by the Muslim community.

In particular, one of those matters, the first matter, has been investigated and referred to the Director of Public Prosecutions [DPP] under the offence of section 93Z of the Crimes Act which is a requirement for the DPP to initiate those charges. The more recent matter that has been referred to us remains under investigation. It is

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proceeding well. We are essentially waiting for some confirmed interpreters' material that will allow that matter to also proceed to the DPP for advisement on assessment under section 93Z.

The Hon. WALT SECORD: Is it a large organisation? From your research or monitoring of it, how many followers or members would there be in New South Wales?

Assistant Commissioner WALTON: I do not have details on numbers. I am aware from our community contacts that they are not well regarded and somewhat more of a traditional mindset. Certainly an extreme interpretation of Islam. We do not get a sense that [audio malfunction] or increased interest in that community.

The Hon. WALT SECORD: Earlier this week Commissioner Reece Kershaw of the Australian Federal Police said that extremist and terrorist groups were shifting their focus and targeting young teenagers; in fact, people as young as 13 years of age. Are you finding similar reports in New South Wales? What is your response to those comments?

Assistant Commissioner WALTON: I would not say that they have been targeted per se. It is really that vehicle of online, internet, social media that attracts young people who are essentially lost. I like the term that people are looking to belong somewhere. It is some of those young people who are lost that find a sense of identity and belonging, unfortunately, in their connections with these extremist groups. At every end of the spectrum, at every ideology or religious bent, and from that online connection they can move to develop their own extremist interests but overwhelmingly it remains an online context. We are not seeing groups to any great extent coming together to move to action.

The Hon. WALT SECORD: I ask the Commissioner of Police through the Minister, with the potential reopening of international borders, what will that mean for the flow of drugs into Australia? What will be the ramifications on the streets with the reopening of borders?

Commissioner FULLER: The price point of drugs has certainly increased through COVID, which would suggest that the COVID restrictions have limited the importation of drugs. Nevertheless we know that we still made big seizures during COVID, but we certainly saw the price point of methamphetamine and cocaine rise by around 30 per cent. What are we doing in preparation? The AFP commissioner, the border force commissioner and I are in regular contact. I am working with Minister Elliott and the new Minister for Home Affairs in relation to really ramping up joint operations with the Australia Federal Police, Australian Border Force and other agencies as well as the New South Wales Crime Commission and the Australian Criminal Intelligence Commission [ACIC]. We are really working on a new collective strategy that would mirror what we see in the counterterrorism space but also in the organised crime space.

The Hon. WALT SECORD: With the return of the Taliban in Afghanistan, will there be an increased flow of, I guess, heroin and other illicit drugs that were being manufactured in their time years ago? What are the international trends? What is the international research like?

Commissioner FULLER: It is that heroin is slightly on the uptake again globally. It is a drug that—through methadone, policing and health education—really, at the end of the night we almost saw that drug gone. When you talk about we are losing the war on drugs, well if you look at heroin, it is actually something that when we all work together on, we were able to see that off our streets. We will be working again, from an intelligence perspective, closely with Australian Security Intelligence Organisation [ASIO] and other agencies to see what intel is coming out of Five Eyes about those potential re-introductions of those opium type crops.

The Hon. WALT SECORD: Commissioner, what advice are you providing to the Government on the proposal that there be new drug laws designed to give users a second chance, sort of a change to the current system that is in place? What advice are you providing?

Mr DAVID ELLIOTT: I will answer that.

The Hon. WALT SECORD: I would like to hear—

Mr DAVID ELLIOTT: The reason I do not want to—this is a matter before Cabinet, and it is a matter of public record that this is a matter before Cabinet. I am not in a position to go through any specifics, but I can assure you that there is no plan for the Government to go soft on drugs.

The Hon. WALT SECORD: Minister, the Commissioner has alluded that in the eastern suburbs there has been an increase or a more public approach to cocaine. There has been a spike in the number of cocaine seizures in Sydney's eastern suburbs. What is that related to? What is the intelligence related to that? Is it simply better policing or is there more cocaine on the street?

Commissioner FULLER: Firstly, yes, part of it is seizures. The waste-water testing is very important data that comes out quarterly and it does really map the use of drugs right across Australia. It is worth a read.

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Bondi certainly by far is number one in Australia in terms of postcodes for cocaine consumption. I think it is socio-economic driven. A gram of cocaine now could be up to \$400. In Columbia it is \$3. In America it is \$30, and in Bondi it is over \$400. I think it is socio-economic driven and then you see ice and cannabis in other areas that probably from a postcode perspective are not as affluent as Bondi.

The Hon. WALT SECORD: What has COVID meant for the local manufacture of ice and methamphetamines?

Commissioner FULLER: We seem to see consistent enforcement of clandestine labs that are focusing on the manufacture of methamphetamines. The precursors often come from China or Europe but they are easily manufactured so we regularly see interdictions on houses that are set up to manufacture methamphetamine and, obviously, we have never seen anyone attempt to manufacture cocaine in Australia.

The Hon. ADAM SEARLE: Just to close the loop on the line of questions I was engaged in previously, Minister, when did you become aware of the fixated persons unit matter against Mr Langker?

Mr DAVID ELLIOTT: Well, Mr Searle, I have learnt more about that matter here in the last hour than I knew before I got here. I do not want to trivialise it, but it is not something that the police would necessarily brief me about.

The Hon. ADAM SEARLE: No, no. It is just a simple question.

Mr DAVID ELLIOTT: I mean, there are 17,000 police officers out there.

The Hon. ADAM SEARLE: Take it on notice, if you will.

Mr DAVID ELLIOTT: You can take it as a given that I probably found out the same time you did.

The Hon. ADAM SEARLE: Okay. Commissioner, when did you become aware? Were you briefed by the unit before they took that action?

Commissioner FULLER: No. No, no. Look, I was given a high-level briefing, a verbal briefing, in the last few weeks. I did not even know who Friendlyjordies were.

The Hon. ADAM SEARLE: I think it is an age thing, Commissioner.

Commissioner FULLER: So, again, not making light of it—and I appreciate why we are debating it today.

The Hon. ADAM SEARLE: Yes.

Commissioner FULLER: Please do not think I am making light of it.

The Hon. ADAM SEARLE: No.

Commissioner FULLER: But, again, in the light of COVID and other things, it has not been something I have been discussing regularly, but I would have something where someone walked in and said, "Look, I've come in to brief you on a matter". So I can take that on notice.

The Hon. ADAM SEARLE: That is okay. If you could, that would be great. Before I went to parts of the application to deal with the suppression order—and a lot of those matters did sound, if I could use the term, political—what are you doing as commissioner and, Minister, what are you doing to make sure that the police do not lose their apolitical status here?

Mr DAVID ELLIOTT: Well, I am a passionate advocate for the apolitical approach of policing in New South Wales and I do not want to necessarily breach confidences but I had private conversations with members of your own party to make sure that they know that even when Parliament was not sitting there was still some open and transparent approach to law enforcement. But I have to say that there is no way in the world that I could look at any of the senior executive in the Police Force and say that they have ever acted in a partisan matter whatsoever—in fact, quite to the contrary. As somebody who married into the Police Force, my late father-in-law was a senior officer and I still do not know how he voted and I think that is the professional approach.

The Hon. ADAM SEARLE: I did not mean it in a party political sense. I was really talking about that application to suppress that evidence was replete with—

Mr DAVID ELLIOTT: No, but there was a suggestion before that in some way the police have acted in a partisan way because the gentleman in question was a critic of the Government.

The Hon. ADAM SEARLE: Yes.

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Mr DAVID ELLIOTT: I mean, if I was to use my power to track down every critic of David Elliott, well then there would be nobody in this room.

Commissioner FULLER: Can I say that I am conflicted on the answer to the question, in a sense, because I did not know about it.

The Hon. ADAM SEARLE: That is okay.

Commissioner FULLER: You know, should I have known about it? Like, I mean, I guess that that is the question. Do you think there was influence from me? Then there was not. I actually did not know about it.

The Hon. ADAM SEARLE: I am not making any allegations. I am just asking the question.

Commissioner FULLER: No, I understand what you are saying but is it not better that he had the ability to go direct to a constable, or is it not? I guess they are the things that Mr Walton and Mr Hudson and I need to debate around what is, you know—

The Hon. ADAM SEARLE: Yes, because in that matter it seemed that the police applicant, if I can use that term, was concerned about the fact that the respondent was a critic of the Government, was engaged in various political activities criticising the politics and then, at the very end, says that Mr Shanks is not a critic or a journalist. It seems to be a very potentially dangerous spectrum for the police to be getting into an evaluation about whether somebody is engaging in entertainment.

Mr DAVID ELLIOTT: Listen, you may well be right and that is probably a philosophical debate that we should have, but I think you have also got to, I think, reflect on the commissioner's point and that is if people feel threatened and intimidated.

The Hon. ADAM SEARLE: If they really do, yes.

Mr DAVID ELLIOTT: But not necessarily the tone. I mean, I will look at my Facebook account this afternoon and there will be plenty of critics of me, and that is fine. But if there is somebody who physically threatens, say, the Leader of the Opposition or the Minister for Agriculture and Western New South Wales or whatever, well then using that—

The Hon. ADAM SEARLE: Just to be clear: There is no suggestion of any physical threats in the matters that we have been discussing today.

Mr DAVID ELLIOTT: No. Again, you have got a better brief on it than me. I am not familiar with it.

The Hon. ADAM SEARLE: Minister, let's move on to a happier topic perhaps—or a different topic at least.

Mr DAVID ELLIOTT: Happier, hopefully.

The Hon. ADAM SEARLE: The Child Protection Register under the Child Protection (Offenders Registration) Act has come into force with some significant criticism from the Law Enforcement Conduct Commission—

Mr DAVID ELLIOTT: Yes.

The Hon. ADAM SEARLE: —over 700 errors, people not on the register when they should have been—

Mr DAVID ELLIOTT: Yes

The Hon. ADAM SEARLE: —others on the register when they should not have been—

Mr DAVID ELLIOTT: Yes.

The Hon. ADAM SEARLE: —and the LECC has called for significant law reform. Are you going to change the law, or make proposed changes to the law?

Mr DAVID ELLIOTT: Well, I will not. That is probably a matter that Cabinet would deliberate on first.

The Hon. ADAM SEARLE: Sure, but this matter is not a new matter.

Mr DAVID ELLIOTT: No, it is not.

The Hon. ADAM SEARLE: It is a matter of public controversy. Are you preparing options for these matters to be looked at?

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Mr DAVID ELLIOTT: I certainly am not going to pre-empt Cabinet decisions but, as you are well aware, this Government, like the previous Government, has always put child protection at the forefront of our deliberations.

The Hon. ADAM SEARLE: So there is nothing more you can tell us about that matter?

Mr DAVID ELLIOTT: Yeah. I am very reluctant to discuss matters that have not yet been debated by Cabinet.

The Hon. ADAM SEARLE: Sure.

Mr DAVID ELLIOTT: In fact, I am not supposed to, apparently.

The Hon. ADAM SEARLE: No. Well, that is often observed in the breach, Minister.

Ms CATE FAEHRMANN: Not for budget estimates.

The Hon. ADAM SEARLE: There has also been a recent review of the effectiveness of the Police Force conduct management plans covering a period, I think, of 2017-18. It is a very recent report, obviously—only this week—but the matters in it are not new. They go back some period of time. Minister, do you or does the commissioner have any visibility of the matters contained in that report and any potential responses that the police may take in relation to it?

Mr DAVID ELLIOTT: No. I will take that on notice, Mr Searle.

The Hon. WALT SECORD: Minister, what steps have been taken? Earlier this week there was quite a bit of community debate and community discussion about the Crime Commission and the assets of Eddie Obeid.

Mr DAVID ELLIOTT: Yes, there has been.

The Hon. WALT SECORD: So what has happened? You came out and said that you were going to involve the Crime Commission.

Mr DAVID ELLIOTT: Yes.

The Hon. WALT SECORD: You were going to do something about that.

Mr DAVID ELLIOTT: Well, no. I have made it clear to the Crime Commission—I mean, I cannot direct the Commissioner of Police or the Crime Commission; I cannot direct anybody to do anything.

The Hon. ADAM SEARLE: The Crime Commissioner is here. We could ask him.

Mr DAVID ELLIOTT: No. I would invite him to answer the question, or to further expand on my answer, but your question to me was whether or not Eddie Obeid should be pursued for whatever assets he has by the Crime Commission. It is a matter of public record that the Crime Commission got significant legal advice to suggest that success would be limited, if not nil. That, of course, was based on the fact that the first bite of the cherry comes from the Australian Taxation Office. As anyone who has had to deal with that lovely institution would know, they are very thorough when it comes to getting their piece of the action.

My view is—as I said, it is a matter of public record—that when we accept our position as a parliamentarian, we accept privileges and also obligations. Therefore, we are held to a higher account so if there was any suggestion that the Government was not going to pursue Mr Obeid's assets simply because he was a parliamentarian or because he was a Labor mate or because he was a member of any other organisation, it was incorrect. I will be quite happy—and I am pretty sure every taxpayer in New South Wales would be quite happy—to see government resources used to pursue him to recover those costs.

The Hon. WALT SECORD: Yes. I would be interested to hear what Commissioner Barnes says.

Mr DAVID ELLIOTT: Commissioner Barnes? Yes.

The Hon. WALT SECORD: Can you bring us up to speed, Commissioner Barnes?

Commissioner BARNES: Sure, Mr Secord. The position is the matter was referred to the Crime Commission in 2013 at about the time that ICAC was wrapping up its investigation. Of course, by that time the money that has been discussed in the media lately was well and truly left to the hands of those who first received it. In fact, it was established that \$29½ million was paid into various companies acting as trustees for the Obeid family. The impression that journalists give, that there was \$30 million sitting around and the authorities chose not to pursue it, is just simply wrong and I am surprised that journalists would be so sensational and so inaccurate in their reporting. I am sure it is something that you people have never experienced!

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It was very thoroughly investigated by the Crime Commission at the time. Temby, QC, Callan, SC, gave detailed advice to Hastings, QC, who was then the chair. I have got a 108-page report that shows what the commission did that I am happy to share with the Committee. It showed the very detailed and extensive investigation that was undertaken to try and identify assets that could be seized and forfeited.

The Hon. WALT SECORD: But what is the genesis of the \$29.5 million figure?

Commissioner BARNES: That is the money that was paid to get Obeid's company's share out of the mining undertaking that they were trying to sell to a public company.

The Hon. WALT SECORD: So through forensic accounting, you have been able to determine that the \$29.5 million has been dispersed?

Commissioner BARNES: Yes.

The Hon. WALT SECORD: If you know that the money has been dispersed, then you must know where the pots are sitting, so to speak.

Commissioner BARNES: No, not necessarily.

The Hon. WALT SECORD: Is there a legislative block? Is there something that I am not grasping about why you cannot bust it open and get it?

Commissioner BARNES: I do not want to say too much to provide a public tutorial about how to avoid having your assets pursued.

The Hon. ADAM SEARLE: I am very interested.

The Hon. WALT SECORD: Without going into that detail, the point is that you have been able to isolate or come to the conclusion that \$29.5 million has been secreted away and you know where it has been secreted away. Why can the Government not get it?

The Hon. TREVOR KHAN: He did not say that. He says he knows it has been dispersed.

Commissioner BARNES: The money was paid into a trustee company that had numerous potential beneficiaries, none of whom would necessarily even be on the public record. As you understand, first you have got to find the trustee and then you have got to identify the potential beneficiaries. Even then, because it is a discretionary trust, none of those necessarily have any title in the money that is in the pot. You have to prove that they have got a beneficial interest.

The Hon. WALT SECORD: Commissioner, on 12 March the Minister issued a press release titled "Stronger Powers for the NSW Crime Commission to Combat Organised Crime." I thought that was in fact what this was targeting. Minister, I guess the question is to you rather than Commissioner Barnes. Did you not follow through with this?

Mr DAVID ELLIOTT: No, it was followed through. The commissioner has highlighted the fact that there are still some very smart people out there that will hide the money. I think it is a matter of public record that some of the money actually has gone overseas. The commissioner might be able to expand on that.

The Hon. WALT SECORD: Commissioner, has the money gone to Lebanon? Will the New South Wales taxpayers ever see this money?

Commissioner BARNES: We are going to review the current situation to attempt to identify property that can be seized. As I was explaining, it is not so much where the money is; it is isolating individual portions of that money from an aggregated pool that contains money from many different sources and is able to be paid to many different companies or individuals. There has never been a pot of money just sitting there waiting to be grabbed. That has never been the case.

The CHAIR: Money flowing through multiple trusts and flowing overseas is notoriously difficult to get your hands on. That is why it is done.

The Hon. TREVOR KHAN: Before we go on, I am concerned that there has been a significant cut into the crossbench time.

The Hon. ADAM SEARLE: To be fair, we did not start until 12 past two.

The Hon. TREVOR KHAN: What I am concerned about is that we meet our end date. There needs to be an adjustment of your time.

Ms CATE FAEHRMANN: The secretariat is very skilled at working out those divisions.

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Ms ABIGAIL BOYD: Thanks, Trevor.

The Hon. TREVOR KHAN: I am here to help.

Ms CATE FAEHRMANN: Minister, you are aware that the Road Transport Act provides a defence for testing positive for morphine if it was caused by the consumption of a substance for medicinal purposes. Are you aware of that?

Mr DAVID ELLIOTT: The Road Transport Act is not one of my Acts.

Ms CATE FAEHRMANN: Yes. But this relates to the law and to testing positive for medicinal cannabis. Up until the end of September this year, I think there are 170,000 people who are currently receiving prescriptions for medicinal cannabis. What is your role in Cabinet in advocating for the fact that on roads, if people are driving and being caught with any level of THC in their system, they are charged? What is your position on that?

Mr DAVID ELLIOTT: I do not discuss Cabinet deliberations.

Ms CATE FAEHRMANN: No, it is not Cabinet deliberations. It is your position on—

Mr DAVID ELLIOTT: You just said, "What is your position in Cabinet?" I am not going to discuss my position in Cabinet.

Ms CATE FAEHRMANN: What is your position on this issue?

Mr DAVID ELLIOTT: It is not my Act, so I am not going to be providing a running commentary on an Act of Parliament that is not mine. I am certainly not going to run a commentary on the position I take in Cabinet deliberations.

Ms CATE FAEHRMANN: But your police officers basically are allowing one set of people off if they have consumed, for example, morphine, and are able to demonstrate that they have and they get caught. There is a growing number of people in New South Wales who are driving and taking cannabidiol [CBD] oil or cannabis for medicinal purposes, they get caught and they are immediately charged. Do you think that there is something wrong or unjust with the law that these people are getting caught and basically charged for what is essentially a growing recognition across the world that it is a medication?

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

Ms CATE FAEHRMANN: No, I am asking you for your—

Mr DAVID ELLIOTT: It was a detailed opinion.

Ms CATE FAEHRMANN: For example, in Tasmania it is a defence against a drug-driving charge if that person can demonstrate that they have had to take cannabis for medicinal purposes. It is a defence in Tasmania, but it is not a defence here. Is that unfair for those people—an increasing number of people—who are having to take medicinal cannabis?

Mr DAVID ELLIOTT: I have no jurisdiction over Tasmania. Mine finishes at Albury.

Ms CATE FAEHRMANN: I am giving you an example of Tasmania—

Mr DAVID ELLIOTT: I have not read the Tasmanian Act, so I cannot provide commentary on it.

Ms CATE FAEHRMANN: What it is doing is allowing people to have a defence, which they do not have in New South Wales, to driving with a substance that is in fact medicinal; that they are prescribed by a doctor to have—a growing number of these people. Do you have any concerns that there are people who are driving with a legitimate medicine who are not impacted? Does that concern you that people are being fined for drug-driving when it is in fact a legitimate medicine?

Mr DAVID ELLIOTT: But they are fined under the Road Transport Act. Ask the roads Minister. If there is going to be any Cabinet deliberations about changing legislation, it would have to be brought up by the person who administers that Act.

Ms CATE FAEHRMANN: I will leave it there.

Ms ABIGAIL BOYD: Good afternoon, Minister. I have a question to Commissioner Fuller. We had a conversation in the September estimates around the collection of data—basically, the reasons why a sexual assault claim does not proceed. We discussed at the time that there are two key cohorts—you referred to them as—which were those that were withdrawn by the victim-survivor and those that were discontinued because of another reason, presumably because of legal advice that it was not going to proceed.

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Commissioner FULLER: I apologise. I do not remember the conversation. I remember us talking about it, but I do not remember the terms of the conversation. There are lots of different cohorts in this space. There are women who go to hospital who have been sexually assaulted that we never find out about, so—

Ms ABIGAIL BOYD: Just to be clear, I am talking about a person who has come in and made a complaint about a sexual assault. That incident—my apologies, I know there is particular language around "incident" in your world.

Commissioner FULLER: That is okay. I am on board. I understand.

Ms ABIGAIL BOYD: That incident or claim is either withdrawn by the victim—and we understand that nationally around 30 per cent of all claims get withdrawn by the victim-survivor—and the rest do not proceed as they have been discontinued by the NSW Police Force because of a legal advice or whatever.

Commissioner FULLER: One hundred per cent. We may not get to prosecution because there is insufficient evidence or the DPP may give us advice. There is a range of reasons why.

Ms ABIGAIL BOYD: On that basis, the question I put to you in September was why is it that New South Wales is the only jurisdiction in Australia not to produce the data for how many are withdrawn by the victim-survivor and how many are for other reasons. You took that question on notice because we were having a bit of a confused conversation. The answer you gave back to me is:

Whilst some jurisdictions do provide for recording of a victim's withdrawal as a reason for the matter not proceeding, they do not provide reasons for such withdrawals.

This is not really an answer to the question I asked. I think we are still talking at cross-purposes. My question is why are we the only jurisdiction not being able to capture that data in order to feed it into the national statistics?

Commissioner FULLER: I cannot think of a reason why other than our current system is antiquated. It is a 20-year-old system and perhaps electronically we do not capture enough of that information to provide the rich data about which you are talking. It is certainly not data that I fear being out there. The most important data is that of all of these matters we only win 10 per cent of them in court anyway. There are more concerning datasets in this space for us than that being in the public domain.

Ms ABIGAIL BOYD: I think we had a conversation in September about—first of all, you agreed that a huge number of sexual assaults are never brought to the police?

Commissioner FULLER: Correct.

Ms ABIGAIL BOYD: And then of those that are brought, a lot do not proceed. Then of the ones that do proceed, very few result in convictions?

Commissioner FULLER: True.

Ms ABIGAIL BOYD: I put it to you at that time that if we knew what percentage were being withdrawn by the victim-survivor, we might be able to reduce that number in order to see how we could increase the total number that were then going forward to court. It has been reported a lot that New South Wales lags behind in this regard. I have been raising this matter since 2019 and previously I have been told that it is just the way our system is and we are at least another four years from being able to collect that data. Do you think that is acceptable?

Commissioner FULLER: I do not think that is indicative of our performance in managing victims of crime. I guess it is indicative of how we produce information for scrutiny. I accept that. But just because our system is antiquated—it is a 20-year old system that we have only just got funding to replace and it will take four years to have a new amazing system. But I do not think that is fair to draw the nexus that that means that we are letting down victims of crime.

Ms ABIGAIL BOYD: I did not draw that nexus.

Commissioner FULLER: I am sorry. I thought you said we are lagging behind in our performance.

Ms ABIGAIL BOYD: I said we are lagging behind in our ability to capture that data that would be useful for us to then try to increase the numbers that were actually being brought to court.

Commissioner FULLER: But that does not stop someone from getting access to Victims Services and all of the other journeys in that space.

Ms ABIGAIL BOYD: No. If I were to ask you right now what percentage of all of those discontinued sexual assault claims are because a victim-survivor has withdrawn it, could you tell me the answer?

Commissioner FULLER: I will have to take it on notice.

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Ms ABIGAIL BOYD: I put it to you that you cannot, because you have previously said this in responses to questions on notice.

Commissioner FULLER: I do not type the answers up in fairness; we go back to the experts. I am happy to take responsibility for them, but nevertheless I do not type the physical response.

Ms ABIGAIL BOYD: Yes. Given that we have been lagging behind in this particular data capture for at least a decade, and I and other people have been raising it with you, Minister, and you, Commissioner, over the past at least three years, is it acceptable—

Commissioner FULLER: If I can be honest, the first time I thought you raised it with me was September last year but, I think, in fairness, the effort and energy I have put in to shining a light on sexual assault and consent—you know, I stood up in the media in March and copped a hiding from everyone because of my support for victims, particularly women in this space. I do not feel as though I have been hiding from it as an issue.

Ms ABIGAIL BOYD: No. Again, I am not making that assertion here. Given that you suggested we could have an app created pretty quickly for a consent issue that nobody wanted, to not be able to produce this data that every other jurisdiction can produce that would be very informative to actually seeing justice in these cases—

Commissioner FULLER: I think you are drawing a long bow. Finding out why only 10 per cent of matters that we get prosecution—if you could answer that question. And of the 10 per cent that get to court, if we could get 90 per cent successful prosecutions, you will have a much bigger impact on the journey for a victim than anything else. Then more victims will have confidence in coming forward. I think that is the key. How do we increase successful prosecutions to give victims confidence in staying in the journey, then that is a key piece of information.

Ms ABIGAIL BOYD: I do not think we disagree there, but are you saying that there is no benefit in knowing what percentage is withdrawn and how that changes over time?

Commissioner FULLER: I am not saying there is no benefit but, in terms of what keeps me awake at night in the space of adult sexual assault, it is not missing that dataset.

Ms ABIGAIL BOYD: Right.

Commissioner FULLER: I am not saying that it is not important.

Ms ABIGAIL BOYD: Yes, I would put it to you it is incredibly important because when we look at the existing data of the differences between that percentage in different jurisdictions, really good conclusions can be drawn around the barriers to accessing justice for people who are making sexual assault claims. We do not know what it is in New South Wales.

Commissioner FULLER: I could tell you now what it is. It is the journey is a horrible one. They get treated terribly in the box when cross-examined.

Ms ABIGAIL BOYD: I do understand. But we do not know if it is worse here than in other places. For example, if you were to learn that the numbers withdrawn in New South Wales are far higher than in other jurisdictions, you might want to look at why that is and learn from the other jurisdictions. Or it might be the other way and they could then learn from you.

Commissioner FULLER: Unfortunately, there is no jurisdiction in Australia that is performing better than us statistically. That is still a terrible outcome, and our sexual assault continues to rise every year.

Mr DAVID ELLIOTT: From a policy point of view, do you have a jurisdiction that is collecting the data?

Ms ABIGAIL BOYD: They are collected in every other State. My understanding is we collect it, as in we collect the reasons at the time, but our system cannot then produce that data back out the other end.

Mr DAVID ELLIOTT: And every other jurisdiction does that but us?

Ms ABIGAIL BOYD: Every other jurisdiction does it.

Commissioner FULLER: Can I just clarify one point on this? The other jurisdictions record yes or no. They do not record the reason why, which means it is irrelevant.

Ms ABIGAIL BOYD: No, they record whether or not it is withdrawn by the victim or because the police have decided not to proceed for other reasons.

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Commissioner FULLER: But if you do not know the reason why that has happened, I would say to you from the perspective of fixing something it is irrelevant. You would need to know "I withdrew because of this reason."

Ms ABIGAIL BOYD: I can agree with you that that would be better data.

Commissioner FULLER: But no-one else does that. All they do is record one or other, which, to be honest with you, from a policy or legislative perspective it really does not help because you do not know the reason why.

Ms ABIGAIL BOYD: Okay, to draw a line under this, I have been asking for the last 2½ years and Julia Baird and other people in the media have asked the exact question for that time. Are you saying it is not a priority for you to develop a system that can capture that data?

Commissioner FULLER: No, I am not. We have just been funded to get a whole new system. I am not saying that the new system would not account for this. But if we were really to have a positive impact on adult sexual assault and understand why people are not proceeding because of either police or the victim, then you need to unpack why.

Ms ABIGAIL BOYD: Absolutely. Again that is another part of it.

Commissioner FULLER: No-one unpacks it though.

Ms ABIGAIL BOYD: But if the data came back and just had that 5 per cent had been withdrawn by victims that would not be as big and pressing an issue as if 50 per cent were withdrawn by the victim.

The CHAIR: You are well over time. Minister, the NSW Police Force has quite rightly and commendably appointed dedicated corporate sponsors to support many community groups and initiatives, including gender diversity—for example, Wear it Purple Day on 27 August—mental health and there is corporate sponsor for domestic violence Assistant Commissioner Leanne McCusker. Yet I have never seen NSW Police Force publicly support legal firearms owners in the same high-profile, affirming way. Will the New South Wales corporate sponsor, through the Firearms Registry, come out and publicly support and sponsor safe and responsible firearms ownership and legal use and promote legal firearms owners as good people and good citizens?

Mr DAVID ELLIOTT: I would have thought that is actually a job for whole of government. The department of agriculture should be doing that, police should be doing that and the department of education should be doing that—

The CHAIR: Should you not be taking the lead on that? I do not disagree with you.

Mr DAVID ELLIOTT: Okay, maybe even the sports Minister should be doing that. I am happy to take that on notice. I do not necessarily see firearms ownership as just something that the police should be managing or governing from a policy point of view. I mean, I have a couple of large sporting shooters fraternity members in my electorate and I would like to think that they have zero interaction with the police other than the fact that they maybe have to go through the registry once every—

The CHAIR: Yes, but you get my point. I mean, I am not talking about adding—

Mr DAVID ELLIOTT: It is not something that I—it is something that I would be prepared to talk to some of my ministerial colleagues about, but in Australia I would have thought that responsible firearms owners should be just as engaged with the Ministers for agriculture and Ministers for sport than they would be with the Ministers of police. In fact, if they are engaged with me that is probably not a very—that is not the ideal situation. I would prefer to see them engaging with the Minister for sport and the Minister for Agriculture and Western New South Wales.

The CHAIR: But the question is—

Mr DAVID ELLIOTT: —acknowledging the fact that their main role as a law-abiding firearm owner would be either to cull feral animals or to be part of a sporting shooting club.

The CHAIR: Yes, but the question was not about engagement. The question was about you as the Minister or, quite rightly, the department of agriculture or someone else like that actually promoting the positive aspects of what law-abiding citizens with firearms do.

Mr DAVID ELLIOTT: Yes. I think from a policing—

The CHAIR: —as opposed to what we normally hear, "This is a problem", "That is a problem", "You have not done this", "You are now being prosecuted for that."

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Mr DAVID ELLIOTT: Chair, welcome to—

The CHAIR: You know, there are implications from time to time that people—even with legal firearms owners—are just criminals in waiting. I am not suggesting you have said that, but other people have. This sort of stuff goes on all the time.

Mr DAVID ELLIOTT: Yes. Welcome to the role. It is like a normal motorist. You know, they might be involved in a car club and involved in a sporting activity—rallies, or whatever—but when the police come into it, it is normally because there is some sort of issue with enforcement.

The CHAIR: Yes, but you do see positive messaging coming out of the police involvement with, you know, car rallies and other things like that.

Mr DAVID ELLIOTT: Yes.

The CHAIR: Four-wheel drivers—you see all that sort of stuff.

Mr DAVID ELLIOTT: Yes.

The CHAIR: You do not see just negative stuff. You see a balancing of it. You have seen that with the gender diversity involvement.

Mr DAVID ELLIOTT: Yes.

The CHAIR: You have seen that with the mental health side of things.

Mr DAVID ELLIOTT: Yes.

The CHAIR: You have seen that domestic violence.

Mr DAVID ELLIOTT: Yes.

The CHAIR: Why are not law-abiding firearms owners, who are good citizens by very definition—

Mr DAVID ELLIOTT: Yes.

The CHAIR: —probably among the best—

Mr DAVID ELLIOTT: Yes.

The CHAIR: Why do they not get that same affirmation?

Mr DAVID ELLIOTT: I am not as sceptical as you are when it comes to the engagement with the police. I think there is a bit of marketing and certainly messaging from police about why it is important to be a law-abiding firearms owner. I mean, I am very confident that the vast majority of firearms owners in this State are doing the right thing, if not all of them.

The CHAIR: No, I know that; otherwise, they would not have a licence.

Mr DAVID ELLIOTT: Yes.

The CHAIR: But my point is: Why is the Government, through the police, not messaging it that way in the same affirmative way—the same positive, proactive way—that they do with all these other communities that they deal with on a day-to-day basis?

Mr DAVID ELLIOTT: Scott Cook is, I would have thought—

The CHAIR: Scott Cook works for the enforcement side of things and is very much across that.

Mr DAVID ELLIOTT: Yes.

The CHAIR: I am not talking about enforcement. Anyway, thank you. I think you have tried to answer that and you have not done it very well.

Mr DAVID ELLIOTT: You have made your point. I am not as sceptical about the messaging but, as I said, I would have thought—

The CHAIR: Well, my point is there is no messaging. There is no positive messaging. That is my point.

Mr DAVID ELLIOTT: Yes, well, I disagree with you but again—

The CHAIR: Well, can you take it on notice and give me some, please? I am happy to be shown to be wrong.

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Mr DAVID ELLIOTT: I will take it on notice but I would have thought that it is probably a question that we should be promoting through, maybe, sport or agriculture to say, "Congratulations to those that do a service to the community by culling feral animals in national parks", whatever.

The CHAIR: We do not see that anymore, either, because the first Premier of this State abolished the Game Council, who was doing some very positive messaging in that area. But, anyway, we do not have to go back there at this time. Just on another issue—and maybe this is to the commissioner through you, Minister—given the recent murder of Sir David Amess, the Conservative MP in the UK, stabbed to death, unfortunately, and the murder of Helen Cox in June 2016, are the police assessing the personal risk levels for New South Wales politicians at this time?

Mr DAVID ELLIOTT: I would be happy if I answered this in camera, given the sensitive nature of it, but all members of Parliament should rest assured that this is a live issue for the Government. There will be further communication in due course.

The CHAIR: Okay. We will take that on—

Mr DAVID ELLIOTT: Don't take it on notice.

Commissioner FULLER: We'll take it offline.

Mr DAVID ELLIOTT: I will answer it in camera, if you like.

The CHAIR: Are you prepared to do something now?

Mr DAVID SHOEBRIDGE: I think it is best dealt with offline.

Mr DAVID ELLIOTT: Say again?

Mr DAVID SHOEBRIDGE: Well, I will just take a point of order, only to have the conversation. I think there are some things it is better to do in camera when it involves security assessments.

The CHAIR: I know.

Mr DAVID ELLIOTT: I am happy to have an individual conversation with either the Committee in camera—

Mr DAVID SHOEBRIDGE: No, we cannot do in camera in budget estimates.

Mr DAVID ELLIOTT: Okay. Well, then—

Mr DAVID SHOEBRIDGE: It will have to be dealt with in another forum.

Mr DAVID ELLIOTT: Okay. Well, then my answer to you, Mr Borsak, is I am very conscious of— as somebody who has just been or has somebody before the courts at the moment who took aim at me, figuratively of course, but I am aware of other threats against members of Parliament at the moment. We are very conscious of what happened to Sir David and the increased level of threat to all MPs. I have had conversations with the appropriate agencies and there will be further advice provided to individual members of Parliament in due course.

The CHAIR: That was going to be my next question. Without belabouring the point now, which I do not want you to do—

Mr DAVID ELLIOTT: Yep.

The CHAIR: —there is something that is going to be communicated.

Mr DAVID ELLIOTT: Yes.

The CHAIR: Okay. Thanks very much.

Commissioner FULLER: Could I also just give an assurance—and I know that Mark Walton is here and I know we cannot talk about it—but when those type of incidents happen we put significant work in to looking at it, talking to Five Eyes, getting the information to see if there is an active threat to any individual within New South Wales. That incident, when it happened, I was on the phone to Assistant Commissioner Mark Walton, I don't know, probably a dozen times getting information and feedback to see if that is relevant back to one of our Ministers. Certainly, since during COVID there have been lots of additional threats to people in leadership so we are particularly sensitive about it at the moment.

Mr DAVID ELLIOTT: I put it to you, Mr Borsak, that we all in this room got a security briefing when we got elected. How many of us have asked for an update since we have been elected?

The CHAIR: That is a good question.

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Mr DAVID SHOEBRIDGE: I did not get a security briefing.

The CHAIR: Well, look—

Mr DAVID SHOEBRIDGE: I did not get a security briefing.

Mr DAVID ELLIOTT: You were offered one.

Mr DAVID SHOEBRIDGE: Right.

Mr DAVID ELLIOTT: Everybody in their induction.

The CHAIR: Certainly after each election. I do not recall getting one—

Mr DAVID ELLIOTT: Probably because you are a returning MP.

The CHAIR: Yeah, but—

Mr DAVID ELLIOTT: But anyway, on behalf of all my parliamentary colleagues, I can assure you that members of Cabinet are aware of the risk, aware of the threat, and further information will be offered.

The CHAIR: In times past the high-profile positions of a Minister, of occupiers like yourself, that is one thing and, you know, especially for the Premier and yourself have at appropriate times security details.

Mr DAVID ELLIOTT: Yeah.

The CHAIR: But ordinary members like us, especially crossbenchers, what is there?

Mr DAVID ELLIOTT: That is what I am here to fix.

The Hon. TREVOR KHAN: Don't say, "especially crossbenchers". I can tell you we get them.

The CHAIR: With a beard like yours, I agree.

Mr DAVID ELLIOTT: But let me tell you, Chairman, there have been non-Cabinet Ministers that have had just as many threats.

Mr DAVID SHOEBRIDGE: Yeah.

The CHAIR: I am well aware, too, as everybody who sits here knows, that in the last 11 years since I have been in this place there have been significant upgrades of the building and security.

Mr DAVID ELLIOTT: It is not the security here that I run.

Mr DAVID SHOEBRIDGE: Look, I am going to take a point of order, only as a way of introducing. I do not know how other members feel, but I firmly believe this conversation should be taken offline.

Mr DAVID ELLIOTT: Yep.

Commissioner FULLER: But can I offer them one thing: If you all do ever come together for something or there are groups, then Mark Walton will come and give you a briefing. Obviously, doing each of you individually would be complex but if you—

The CHAIR: No. We can organise something like that offline.

Mr DAVID SHOEBRIDGE: We appreciate that, Commissioner.

The CHAIR: Labor?

The Hon. MARK BUTTIGIEG: Thank you, Chair. Minister, I just want to take you to the issue of fire stations and taken offline [TOL]. As you would be very well aware, there has been a high degree of concern in the community about this process, this practice. I am told to convey the thanks from the shadow Minister on the briefing that he got, but I just want to confirm with you that the trip-wire for that process is that available staff for the station fall below four. Is that right?

Mr DAVID ELLIOTT: Listen, I will tell you that there is a record budget for Fire and Rescue. I will tell you that there is no risk during high fire danger periods when—

The Hon. MARK BUTTIGIEG: No, with all due respect, Minister, the question I asked was: Is the trip-wire four?

Mr DAVID ELLIOTT: Let me finish. I know. If you will just let me finish because we will be here all day if you keep on interrupting me. But given that that is primarily an operational matter, from a policy point of

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view I can tell you it does not occur during high bushfire risk periods and of course it complements the record budget. But I might invite the Commissioner, Paul Baxter, to talk about the operational nature of TOLing.

The Hon. MARK BUTTIGIEG: Sure. Commissioner, did you hear that?

Commissioner BAXTER: Thank you, Minister. I am just checking that I am actually being heard okay before I proceed.

Mr DAVID ELLIOTT: You are.

The Hon. MARK BUTTIGIEG: You are.

Commissioner BAXTER: Was that a yes?

Mr DAVID ELLIOTT: Yes.

The Hon. MARK BUTTIGIEG: Yes, certainly is—loud and clear.

Commissioner BAXTER: All right, thank you. Look, I can completely understand the community concern. It is really founded in an outdated understanding that they are only safe if there is a fire truck in the fire station down the road. If I could use the example of yesterday's quite large-scale incident at Wetherill Park, where we had significant resources drawn into that double truck crash, which involved very dangerous, hazardous chemicals—in fact, we were still involved there until around lunchtime today. That brought in resources from around a dozen stations or more for the specialist equipment that was required. That essentially means that all of the stations that those have been drawn from are offline. And so, it is just not, these days, as you would expect, a zero-sum game. We are responsible—

The Hon. MARK BUTTIGIEG: Commissioner, I am sorry to interrupt—I do not want to be rude—but we will go to some of those spreading of resource issues later. The question was very, very specific. Is the trip-wire for taking a station offline when staff falls below four people? It is a very straightforward, simple question. I just need an answer, if you have got it.

Commissioner BAXTER: If you could perhaps rephrase? I am not sure I understand what you mean by a trip-wire.

The Hon. MARK BUTTIGIEG: My understanding is that if there is a fire station that is on the TOLing list—the taking offline list—and the available staffing at that station falls below four, that is when the station goes offline because there is not enough staff to respond. Is that correct or not?

Commissioner BAXTER: Yes, sorry. I think I understand now. What is proposed is that that becomes—the trip-wire, as you put it, is the last measure. There are a number of actions that are taken by the local frontline commanders before you get to that stage. The local captain or deputy captain would go back around their staff to communicate that they were in that position and ask them to make themselves available. We can also use surplus staff from nearby stations that might be able or willing to assist in that regard. We can also—

The Hon. MARK BUTTIGIEG: That is great, Commissioner. Thank you, I appreciate that. You have answered the question. Minister, if I could come back to you, it is not an operational question, but presumably you are across the budgetary issues. Was this brought in to save money on the budget? Was that the ultimate purpose?

Mr DAVID ELLIOTT: You know the Labor Party introduced TOLing, do you not?

The Hon. MARK BUTTIGIEG: I am not interested in what a 15-year-old government might have done. The question is directed at you, Minister. You are now the responsible Minister and I am asking you a straight question, which I expect a straight answer for.

Mr DAVID ELLIOTT: Okay. Well, the Labor Party introduced TOLing, so if you want to make a political point you might want to go back to the former Government. So far as the reasons behind it, as you well know, I give a bag of money from Treasury every budget to the commissioners, and the commissioners determine how they are going to be—

The CHAIR: Be careful. A certain Premier has been saying things like that.

Mr DAVID SHOEBRIDGE: I thought this was going to get interesting.

Mr DAVID ELLIOTT: I am not a firefighter, so the operational decisions on the use of those resources are made by the commissioner.

The Hon. MARK BUTTIGIEG: Okay. Can I ask you, Minister, how much money is being saved from the TOLing process of fire stations over the past, say, 18 months? Do we have an idea of the budgetary savings?

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Mr DAVID ELLIOTT: I will take that on notice.

The Hon. MARK BUTTIGIEG: Sure, okay. Is it correct to say that the hypothecation of those savings was supposed to be towards fire prevention initiatives? Would that be right?

Mr DAVID ELLIOTT: I will take that on notice.

The Hon. MARK BUTTIGIEG: Can the commissioner enlighten us as to that?

Mr DAVID ELLIOTT: Commissioner, do you have an answer for that, or shall we just leave it on notice?

The Hon. ADAM SEARLE: I think that is known as a leading question.

Commissioner BAXTER: The first part of the question or the second part of the question?

Mr DAVID ELLIOTT: Both, actually.

Commissioner BAXTER: In terms of redirection of funds, I am not sure that is the case. Our personnel budget is our personnel budget, which we like to try and use as effectively and efficiently as possible. It would obviously be used in any of our activities necessary. With regard to the second part of the question, I think it would probably be best to do some research and take that on notice.

The Hon. MARK BUTTIGIEG: Okay, so we actually do not know whether or not it is supposed to be allocated towards fire prevention initiatives. You will take that on notice. My next question refers to retained firefighters. Do we know how many retained firefighters we have in New South Wales?

Mr DAVID ELLIOTT: Commissioner, have you got that figure in front of you?

Commissioner BAXTER: We have around 3,500 in our on-call ranks.

The Hon. MARK BUTTIGIEG: And is there any plan to increase that number, Commissioner?

Commissioner BAXTER: There are no immediate plans to increase that. Having said that, we always have pluses and minuses—normal attrition—so we are always looking to recruit and keep the establishments of each of our stations at the highest level possible. There is always active recruitment underway. We are, at the moment, undertaking a fair amount of work to try to improve the attractiveness of the organisation for on-call firefighters due to those changes that we see in regional and rural New South Wales, with diminishing community people available in each of those station areas.

The Hon. MARK BUTTIGIEG: Would it be fair to say that if we did have an increase in permanent or retained firefighting full-time equivalents [FTEs], if you like, then those stations slated for taking offline would not necessarily have to be in that position or on that list? Would that be a fair statement?

Commissioner BAXTER: Look, it is possible. We do look at that and we have, in the past, increased our establishment level in some of those stations where we have that problem. But in the end it is a quality versus quantity argument; you can have lots and lots of people, but we rely on their immediate availability to be able to respond. The on-call model is based on people that have other occupations or jobs or lives outside of Fire and Rescue, because it is not a full-time role. But what we are hoping to be able to achieve is an actual change in the remuneration method that would see us move to better remuneration around the availability of those staff, rather than, as it currently is, payment for actual services when they undertake them. Availability is the issue that causes the most challenge.

The Hon. MARK BUTTIGIEG: The implication of the answer was that it was more about availability of on-call staff, but it is pretty much a zero-sum function, is it not? If you have more people employed either as retained or permanent firefighters, then you are not going to have to rely on a TOLing process to bridge the gaps, if you like.

Commissioner BAXTER: We do now already, for each one of those stations, have more positions than we actually have seats on fire trucks, if you like. For a station that has, say, one pump, you would have an establishment of anywhere between 10 and 20 staff to be able to respond at any time. As I have said, we do move those numbers up and down as is appropriate for the busyness of the area and the availability, so we do stay quite flexible around those numbers.

The Hon. MARK BUTTIGIEG: Minister, there has been a bevy of station commanders who have signed an open letter expressing concern about the safety risk. Are you aware of that letter?

Mr DAVID ELLIOTT: No.

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The Hon. MARK BUTTIGIEG: Okay. Well, it was a letter that was published in the *Manning River Times*, and they are—

Mr DAVID ELLIOTT: I do not read it regularly, I am sorry to tell you.

The Hon. MARK BUTTIGIEG: It is your ministry, Minister. I would have thought—

Mr DAVID ELLIOTT: Yes, I know, but the *Manning River Times* is not—

The Hon. MARK BUTTIGIEG: Would it be fair to say that commanders are loyal people who are recognised for their dedication and service? They are expressing concern about this methodology and you, as the Minister, do not have an opinion on it because you do not know about it.

Mr DAVID ELLIOTT: Well, I do not read the *Manning River Times*, mate.

The Hon. MARK BUTTIGIEG: So you are not aware of this letter at all?

Mr DAVID ELLIOTT: No. I just told you I do not read the *Manning River Times*. If you would like to table it, I will have a look at it.

The Hon. MARK BUTTIGIEG: I will do that.

Mr DAVID ELLIOTT: Have you got it?

The Hon. MARK BUTTIGIEG: Yes, I have.

Mr DAVID ELLIOTT: Could you quote it for me?

The Hon. MARK BUTTIGIEG: I will quote it for you and I will table it. If I could just take you to some practical examples, Minister, of the manifestation of this on the ground, one of the stations proposed for TOLing is Bundeena, which I understand is unmanned but serviced by retained firefighters in the area. As we all know, it is located within the Royal National Park. The station nearest to Bundeena is Helensburgh, which is about half an hour's drive. According to the list that we are in possession of, which refers to the proposed stations to go on this TOLing list, the two other nearest stations to Bundeena are Helensburgh and Scarborough. Both are proposed to go onto that list.

We had the member for Heathcote, Lee Evans, in response to these concerns stating in the media, as an example, that in the event of Helensburgh Fire Station being closed firefighters from the Bundeena station or the one at Revesby could respond. So if you have a situation where Bundeena, Helensburgh and Scarborough were all on this TOLing system because staff had dropped below four, you rely then on Revesby as the next closest station to service Bundeena, Scarborough and Helensburgh. Is that an acceptable situation?

Mr DAVID ELLIOTT: Before I invite the commissioner to answer that question, of course, if the taxpayers of New South Wales could afford it, we would have a fire station in every single suburb. But the taxpayers of New South Wales cannot afford that. To be frank, I do not know if the operational need would be there. I would question your geography there because I would have thought that Sutherland or Miranda would be closer to Heathcote than Revesby would be. I do not know what mapping skills whoever wrote that letter has. Commissioner, would you like to expand on that?

Commissioner BAXTER: Certainly, Minister. Without getting into the specifics, I am familiar with funding and I am also a community first response station as well, which means that they support NSW Ambulance in first response out there. Sorry, I am just getting some feedback from the other voices. As I say, we look really carefully at this. Since this process has been in place since 2008, which was originally 34 stations, we were only looking to increase that by another 22. It has been managed very effectively—

The Hon. MARK BUTTIGIEG: Sorry, Commissioner. Could you repeat that? So 34 currently and increasing by 22?

Commissioner BAXTER: That is right; 22 that can be.

The Hon. MARK BUTTIGIEG: So, in theory, we could have 56 stations in this process?

Commissioner BAXTER: That would never occur at the same time because areas are taken into consideration. I gave the example of Wetherill Park yesterday. When we have got all of those stations that may be offline for any reason, which could be training, operational deployment to other areas, injury or sickness of staff members, then we have got the ability through our network of 335 stations to move other resources around. We do that now in a really dynamic way using software that was not available to us when we had one station in one location and that is all the resources that we had. And our communications centre people and our frontline commanders use a whole lot information that comes through what we refer to as our dynamic risk management

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tool, which looks at our current workload, our predictive workloads based on a historic basis across time of day, day of the week. It shows where all of our other resources, our fire trucks, are accurately using our automatic vehicle location system.

The Hon. MARK BUTTIGIEG: So, in short, it is risk—

Mr DAVID ELLIOTT: Don't interrupt him. Just let him finish.

The Hon. MARK BUTTIGIEG: I just want him to get to the point.

Mr DAVID ELLIOTT: Let him finish.

The Hon. TREVOR KHAN: He is answering the question and the member should at least have the courtesy of allowing him to finish answering the question.

The Hon. MARK BUTTIGIEG: I am just conscious of time and I want to get to the point.

The Hon. TREVOR KHAN: You asked the question; you are entitled to the answer—as are the rest of us.

The CHAIR: Now we are wasting time.

Commissioner BAXTER: I was nearly finished in that regard. It also uses information around the road network so we can see in real time how long it takes to get anywhere. If, for example, and Bundeena was an example that we were worried about the response time there we can start moving an appliance to that area if we are concerned about those incidents. We can also, because we work very effectively across the other agencies like the Rural Fire Service and NSW Ambulance and police rescue, look at what other resources may or may not be available in the area before we make a decision to take any particular station offline. It is a last measure for us to do it, but it is a way of moving to a more modern application of our resourcing approach, rather than the old-fashioned approach was a fire truck sitting in a station to respond to its local area. Once again, that is what you see when you get a fire incident, as we saw in Wetherill Park yesterday, where significant resources are brought from all across the metropolitan area.

The Hon. MARK BUTTIGIEG: Thank you, Commissioner. You have already given us the Wetherill Park example, and I appreciate that. You have done a risk analysis. Are the parameters of that risk analysis something you would be able to share with the Committee?

Commissioner BAXTER: Certainly. We have got the draft commissioner's order, which sets out exactly the steps that we will take. You may be aware that we are currently in the Industrial Relations Commission talking that through. It is very operational in nature but it does very clearly set out the different steps that we would take before we would take those stations offline. Once again, taking into account all factors that we consider at any one time, like the fire weather situation, whether we have got any total fire bans in place, whether we are currently experiencing adverse weather or whether we have got weather warnings coming through. In the end, our frontline commanders have got a lot of experience managing the ones that have done since 2008. I have got a lot of confidence in them to be able to do this going forward.

The Hon. MARK BUTTIGIEG: I appreciate that, Commissioner. So we are saying that the risk analysis gives you, Commissioner, and you, Minister, a level of comfort that in a situation like the one I outlined—and let us just say, for argument's sake, the closest station, Helensburgh, has got people; it has not been taken offline—then a half-an-hour trip to Bundeena, the risk analysis looks after that, does it? Is that what we are saying?

Commissioner BAXTER: Sorry, I had trouble hearing that question. Can it be re-put?

The Hon. MARK BUTTIGIEG: The question was, notwithstanding the risk analysis or given the risk analysis, you are comfortable that in the event that Helensburgh did have personnel—it was not taken offline—Bundeena is offline because it has dropped below four, the risk analysis covers you in terms of your comfort over providing firefighting service to Bundeena, with a half an hour travel time? You are okay with that?

Commissioner BAXTER: With everything else that has been outlined today, I have got huge confidence in my frontline commanders to make the best decisions on the day.

The Hon. MARK BUTTIGIEG: Minister, can you understand a person living at Bundeena might be a bit concerned by that answer?

Mr DAVID ELLIOTT: Not everybody in New South Wales lives within five minutes of a fire station. So of course there is going to be—as I have said before, if I had my way there would be one in every suburb. But there is not the operational need or the operational temper to justify it. Take into consideration certainly in the case of the RFS, the largest firefighting force in the world; they would have assets available. If I had to deploy the

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Marie Bashir, the joint would be soaked in water within a very short period of time, taking into consideration the fact that Fire and Rescue are littered across that part of Sydney anyway. Unless you give me a specific case study of where the worst-case scenario has occurred in that part of Sydney, I am backing the commissioner on this one.

The Hon. MARK BUTTIGIEG: Another example I might like to point out is the proposition to take Camden and Picton offline where the nearest fire station becomes Narellan, which again is about 30 minutes away.

Mr DAVID ELLIOTT: Narellan is not 30 minutes from Camden. Where do you live?

The Hon. MARK BUTTIGIEG: I do not need to live there.

Mr DAVID ELLIOTT: Okay, well take it from a native of western Sydney, Narellan and Camden are not 30 minutes away from each other.

The Hon. MARK BUTTIGIEG: It is a long way away.

Mr DAVID ELLIOTT: Are you walking?

The Hon. MARK BUTTIGIEG: In certain parts, I can assure you it is 30 minutes. We can have a debate about that.

Commissioner BAXTER: If I could assist?

The CHAIR: The bell has rung.

Mr DAVID SHOEBRIDGE: I think the Opposition's time has expired. I am sure you can come back to that. In the meanwhile, Google maps are available to all of us. My next few questions are to Commissioner Rogers. Are you still with us?

Commissioner ROGERS: I am.

Mr DAVID SHOEBRIDGE: Terrific. What information is RFS gathering about how the Rural Boundary Clearing Code is being used? What information is being gathered about how it is working in practice?

Commissioner ROGERS: I have had no feedback in relation to the operation of the rural boundary code.

Mr DAVID SHOEBRIDGE: Having drafted the code and put it out there, do you have any role in monitoring how it is actually being used in practice?

Commissioner ROGERS: Certainly if we get community feedback, we would obviously collate that and we would make the Minister aware of that, but we have not had anything to my knowledge at this time. I will take it on notice just to ensure that there are not things that I am not aware of.

Mr DAVID SHOEBRIDGE: Is anyone in RFS checking that it is not being abused, that it is actually being used in accordance with its terms? Anyone? Anyone at all?

Commissioner ROGERS: The idea of the code is that it is a code for someone to use. It is not something that we get approvals for so we are not going to know who is using the code and who is not.

Mr DAVID SHOEBRIDGE: Then how can you tell whether or not it is being complied with if you do not even have, as I understand it, a single employee looking to monitor how it is being used? If you are not checking, is there anybody else you are aware of checking to ensure it is being used in accordance with its terms?

Commissioner ROGERS: There is a range of legislation that it provides a streamlined approach for so whatever that legislation that it might be providing that approach for, if the code is not being used in accordance with the provisions of the code, then it is an illegal activity just like someone just doing any other time if the code was not in existence.

Mr DAVID SHOEBRIDGE: All right. Just to be clear, there is not a single employee of RFS or a volunteer of RFS whose task it is to monitor the rural boundary clearing code. Is that right?

Commissioner ROGERS: Not through an enforcement point of view. Certainly there are people who, if there are issues and concerns with the way that the code is written or things like that, will certainly be looking at that. As I mentioned, I will check if there has been any feedback on that. But we are not the police for that code because it is whoever has the regulatory role prior to this code even being thought out. It could be national parks, it could be the Department of Planning, Industry and the Environment, it could be local government. There could be a whole range of agencies that are responsible for that. It is certainly not an RFS role.

Mr DAVID SHOEBRIDGE: Commissioner, the RFS made a determination recently about vaccination status for staff and volunteers. Is that right?

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Commissioner ROGERS: We have made a vaccination status for staff and we are in a consultation phase with our volunteers.

Mr DAVID SHOEBRIDGE: Can you tell me what the position is in relation to staff?

Commissioner ROGERS: We have given staff until 3 December to have their first jab and then some date in January for their second. I am very confident we will be able to comply with that because we have some 92 per cent of our staff that are already vaccinated.

Mr DAVID SHOEBRIDGE: Is that on the basis of voluntary disclosures from staff or compulsory disclosures from staff?

Commissioner ROGERS: That is a compulsory disclosure to record vaccination status in our administrative system.

Mr DAVID SHOEBRIDGE: It is 92 per cent currently. Is that a first jab or second jab?

Commissioner ROGERS: I think that is second jab, but I will confirm that for you.

Mr DAVID SHOEBRIDGE: All right. In terms of volunteers, we are already in the fire season. What is the position in relation to the vaccination status of volunteers? What is the policy position?

Commissioner ROGERS: We have got some 12,000 volunteers that have already recorded their vaccination status in our system and we are encouraging others to record it, but obviously because we have such a diverse membership and in such really remote locations, it is really important that we include volunteers in the consultation. We have started the consultation piece until 3 December in which case we are asking for feedback from our brigades and from all of our members on what they believe, but I think it is fair to say that the attitudes that I have seen so far very much reflect the attitude to vaccination in the community.

Mr DAVID SHOEBRIDGE: What does that mean?

Commissioner ROGERS: Well generally speaking, the members are quite supportive of vaccinations.

Mr DAVID SHOEBRIDGE: You have records of 12,000 volunteers about the vaccination status. How many volunteers are on the books?

Commissioner ROGERS: There are over 70,000 volunteers that are on the books at the moment.

Mr DAVID SHOEBRIDGE: So you do not have any records for 58,000 volunteers about their vaccination status. Is that right?

Commissioner ROGERS: Correct.

Mr DAVID SHOEBRIDGE: What is the average age of volunteers?

Commissioner ROGERS: I will have to get you an exact age but it is around 50, mid-fifties, would be the average age.

Mr DAVID ELLIOTT: Young.

Mr DAVID SHOEBRIDGE: That puts volunteers in an age bracket where they are at a higher risk from COVID. Do you accept that?

The Hon. TREVOR KHAN: Careful, careful.

Mr DAVID SHOEBRIDGE: It does, Mr Khan, and you will have to accept that.

Commissioner ROGERS: I would agree with that.

Mr DAVID SHOEBRIDGE: Have you done a risk analysis of putting unvaccinated volunteers in fire truck cabins in circumstances where we have COVID in the community? Have you done a risk analysis of putting unvaccinated volunteers in RFS fire trucks and enclosed cabins?

Commissioner ROGERS: We have done a risk assessment of COVID across the community and I guess it is quite a complex issue and I guess it does sound fairly simple, but what I guess the reality for us is that I am quite concerned that there might be some quite small communities with very small brigade membership that, you know, if we lost a couple of people from very small brigades, we may take brigades offline completely. So we have a lot of, obviously, mitigating things that we are doing in regards to COVID, so things like rapid antigen testing. We still have reduced manning. People who are not vaccinated have to only attend what are deemed to be essential activities.

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The vaccination status of all brigade members is available to brigade officers so they can determine risk from their point of view and things like fire control centres where they will come in the mix with people who might be managing incidents. We have mandatory rapid antigen testing as well at our State headquarters, our academy, so we have quite a lot of risk assessment. We are also, I might add, looking at deploying the recently approved Therapeutic Goods Administration [TGA] self-testing to brigades also.

Mr DAVID SHOEBRIDGE: Commissioner, I am glad that some of those sort of secondary measures are in place and that sounds useful, but at the end of the day if you are asking RFS volunteers to go and spend days fighting fires, often in enclosed cabins as they near the fire front and are travelling to and from the fire front and they do not know the vaccination status of the people they are with, that is a real health and safety risk, is it not?

Commissioner ROGERS: With respect, I would say that the officers who are responsible for the health and safety of that crew will have access to the vaccination status of all the members in their brigade. So when they lodge that, the officers of that brigade will be able to see the vaccination status of those members. So if there is a risk to that crew, the brigade officer, who is the responsible person on the ground, can make that decision.

Mr DAVID SHOEBRIDGE: You are asking the officers on the ground to make the decision about standing down a volunteer on the basis of vaccination status when they might actually be having a fire front coming towards them and they are going to be making it on an ad hoc basis on the ground. Is that the policy position, Commissioner?

Commissioner ROGERS: No. They would not be making that decision when there is a fire front coming towards them. The point is—

Mr DAVID SHOEBRIDGE: Why not?

Commissioner ROGERS: —that it is very difficult, and I have got to tell you I am quite used to being criticised of trying to micromanage things from Sydney and I do not know the dynamics of every single brigade. Of the 2,000 brigades that are across New South Wales, there are a lot of different dynamics at play. I have to make sure that when we determine whether we are going to enforce mandatory vaccinations on our volunteer brigades, we do it from an informed position because, if I do not do that, then I might be doing a disservice to not only the brigade but also this little community that relies on those brigades for protection. We are doing all these mitigation measures in the time that we are also doing consultation.

Mr DAVID SHOEBRIDGE: Commissioner, it sounds to me like what you have really done is hand the really hard decisions down to a brigade level in circumstances where that is likely to create one hell of a mess going forward. That sounds to me like what has happened.

Commissioner ROGERS: Okay. With respect, I think what I would say to you is that I understand brigades. I understand brigades quite well. I have been in this organisation for 40 years and I think I do understand when you have to mandate things and when you have to ask before you mandate them. The RFS is a type of organisation—we have got to the point where we are, with the size of the organisation, by making sure that we bring our organisation with us in that sort of decision-making. My job is to make sure that I not only have a viable organisation, but I also make sure that I am providing services to the people of New South Wales. With respect, I guess we will agree to disagree, but I am putting in place all of those types of measures to buy us that time before we make a decision on mandatory vaccination.

Mr DAVID SHOEBRIDGE: Thanks, Commissioner.

The CHAIR: I am being lobbied for five minutes over here.

Mr DAVID SHOEBRIDGE: We will make sure there is five minutes. Commissioner Baxter, we have still got you as well, I hope?

Commissioner BAXTER: Yes, I am still here, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Thanks. Commissioner Baxter, can you tell me what the legal expenses and related costs incurred by Fire and Rescue NSW have been to date in relation to the matters of John and David Arnot and Fire and Rescue NSW in the NSW Industrial Relations Commission [IRC]? To assist, the matters numbers are 6132 and 6150 of 2020 and 0917 of 2021. Do you know what the cost to date has been?

Commissioner BAXTER: I am aware of those proceedings. I do not have those figures to hand, but I would be happy to take that on notice.

Mr DAVID SHOEBRIDGE: They have been quite extensive proceedings, though, have they not, Commissioner?

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Commissioner BAXTER: Just about all of our long-duration personnel staff and grievance matters can chalk up some extensive legal costs. We do deal with a number of those in house, and there are in-house resources directed towards that. But when we need to go outside for that expertise, yes, we do incur costs for it.

Mr DAVID SHOEBRIDGE: Can you also advise what the cost of the two investigation reports undertaken by Mr Dave Madden—I think it was in June 2019—were in relation to the allegations against John and David Arnot?

Commissioner BAXTER: Yes. I would have to do that on notice too, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Can you also advise what the legal expenses incurred by Fire and Rescue NSW have been in the Ken Maxwell matter? For assistance, I think that is matter 1024 of 2020 in the NSW IRC.

Commissioner BAXTER: Yes, we will do that.

Mr DAVID SHOEBRIDGE: And then, the Andrew Fraser matter—that is, again, in the IRC. It is 2009 and it is matter number 4133—the last four digits of those IRC proceedings. Can you give those too?

Commissioner BAXTER: Yes, we can do that.

Mr DAVID SHOEBRIDGE: In providing those answers, can you confirm whether or not the advice previously provided to Parliament on 18 March this year that said legal expenses for Fire and Rescue NSW for the period from 1 July 2016 to 8 March 2022 had been just \$156,334—can you confirm whether or not that answer was actually correct?

Commissioner BAXTER: Yes, we will do that.

Mr DAVID SHOEBRIDGE: Ms D'Elia, does your department have an arrangement where you pay any of the costs of Fire and Rescue?

Ms D'ELIA: I would have to take that question on notice, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Do you have any oversight of how the different emergency services agencies expend their legal expenses?

Ms D'ELIA: Again, I would have to take that question on notice.

Mr DAVID SHOEBRIDGE: Is there a policy in place to ensure that value for money is obtained for the provision of legal services to the various emergency—

Mr DAVID ELLIOTT: Can I just interrupt, Mr Shoebridge? Ms D'Elia was only told this morning that she was attending here today, so I am probably going to have to ask for all of her answers to be put on notice. She is obviously the acting—

Mr DAVID SHOEBRIDGE: Ms D'Elia is able to handle this herself. She has been adopting your proposal in advance.

Mr DAVID ELLIOTT: Well, they are supposed to come through me.

The CHAIR: You have got the bag of money, Mr Elliott.

Mr DAVID ELLIOTT: We are only friends.

The CHAIR: You are the bag man.

Mr DAVID SHOEBRIDGE: At the time, you did have your back turned. It was tricky.

Mr DAVID ELLIOTT: Yes.

Mr DAVID SHOEBRIDGE: Again, through you, Minister, to Ms D'Elia, is there a policy in place that you are aware of under which the different emergency services have to manage their legal expenses and undertake the engagement of external legal assistance?

Ms D'ELIA: Again, I would have to take that question on notice.

Mr DAVID SHOEBRIDGE: That surprises me, Ms D'Elia.

The Hon. MARK BUTTIGIEG: Minister, can I just ask you: Is it a fact that the fire service guarantees a response time of 10 minutes?

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Mr DAVID ELLIOTT: Can I just use this as an opportunity to highlight the fact that the difference between Camden and Narellan is nine minutes? That is without lights and sirens. The line of questioning you used before was based on false information. That is really the kind of misinformation that creates unnecessary anxiety.

The Hon. MARK BUTTIGIEG: Minister, I am not going to quibble over geography on Google.

Mr DAVID ELLIOTT: Well, you should, because you create unnecessary anxiety.

The Hon. MARK BUTTIGIEG: I have now asked you a specific question—

Mr DAVID ELLIOTT: You create unnecessary anxiety when you come to these committees and provide false information.

The Hon. MARK BUTTIGIEG: Chair, with all due respect, I have asked a question—

The CHAIR: Order!

Mr DAVID ELLIOTT: It is very unfair to the firefighters. It is unfair to the community.

The Hon. MARK BUTTIGIEG: Minister, do you want to answer the question or not?

Mr DAVID ELLIOTT: It is unfair to the local member and I think that you need to correct the record.

The Hon. MARK BUTTIGIEG: Do you intend to answer the question or not?

The CHAIR: The Minister can answer the question any way he likes.

The Hon. MARK BUTTIGIEG: It is a very straightforward question. Is it a fact that the fire service guarantees a response time of 10 minutes? Yes or no?

Mr DAVID ELLIOTT: That is an operational question which the commissioner would have to answer.

The Hon. MARK BUTTIGIEG: Commissioner?

Commissioner BAXTER: No, we do not.

The Hon. MARK BUTTIGIEG: You do not?

Commissioner BAXTER: We monitor all of our response times across the whole network of our stations. Those were quite outdated response time guarantees. My understanding was that they were removed some time ago. We do not hold the measure of 10 minutes today, no. Obviously for anyone who is calling 000 wanting help, they want it right now. No time is acceptable, particularly in those extreme circumstances where people need to be rescued. We are always doing our best to make it the shortest possible time.

The Hon. MARK BUTTIGIEG: Thank you. Commissioner, given the nature of a fire and—most of us here are laymen—how quickly a fire can take over a building or a structure or people's property, what is considered to be the benchmark best-practice response time? Surely there must be some—

Commissioner BAXTER: Well, zero minutes. Look, what we talk about now is the ability for an open, flaming fire inside a structure—say, a house—to flash over, which is a part of rapid flame propagation through the entire complex within three minutes.

The Hon. MARK BUTTIGIEG: Three minutes?

Commissioner BAXTER: You will see that in that kind of a time it is very unlikely that we are actually able to get a fire appliance on scene. That is why we concentrate so much of our efforts on our fire safety measures and our fire education.

The Hon. MARK BUTTIGIEG: Thank you. But presumably the longer the response time, the worse things get, and the quicker the response time, the better. So when you have a situation like the one I outlined in Bundeena, Helensburgh and Scarborough, or indeed Camden and Narellan, people are going to be concerned when they hear what you have just told us about how quickly a fire can escalate and the fact that we may not have enough fire stations to cover those incidents. Can you understand people's concern, Minister?

Commissioner BAXTER: Look, absolutely. We have some work to do around the education of that, particularly in the Bundeena situation, with it being an isolated community. It is quite special. We would most likely, in those circumstances of taking it online, undertake what we call a move-up; that is, move another appliance from an available area closer into that area so that the response time was not unacceptable.

The Hon. MARK BUTTIGIEG: Can I ask you, Minister or Commissioner—that response time. When was that removed? You referred to it in one of your earlier answers that it was removed. Can I ask when that happened?

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Commissioner BAXTER: My understanding is some time, but I can come back to you on notice with the exact year. It has not been in place since I have been here, and I have been in the role since early 2017.

Mr DAVID SHOEBRIDGE: Commissioner, on this issue of Bundeena, surely the issue is not really the travel time to Bundeena. The issue is that Bundeena is accessed by quite narrow roads through kilometres and kilometres of fire-prone national park. It seems to me that there is a very good case to be making some special arrangements for Bundeena outside of the ordinary distance of travel and time of travel. That is the point, is it not, Commissioner?

Commissioner BAXTER: Yes, absolutely. It is a unique situation. That is why I say that if we got to that stage, we would likely move another resource into that location to make sure that we have the coverage.

Mr DAVID SHOEBRIDGE: But by the time you are doing that, given the access is so prone to being cut off by fire, you may not be able to get the resource there. That is why, I suppose, the concerns at Bundeena are very real. If that is the policy arrangement, it may not be achievable in practice.

Commissioner BAXTER: No, no. A fire situation would be a different situation altogether. Oftentimes when a station might be being taken offline, we have advanced knowledge of it. It might be a projected absence because someone is going to the city for a doctor's appointment or someone is going to the city for another event, so we are able to plan for that.

The Hon. MARK BUTTIGIEG: On top of the 22 stations that are proposed to go on this TOLing list, are there any more that could potentially go onto that list?

Commissioner BAXTER: There is only a total of 56 that are contained within the current proposal in my commissioner's order. However, having said that, the example I gave yesterday around Wetherill Park—it is an everyday event. Our stations go offline every day because they are dealing with incidents, whether they are multiple or subsequent incidents or concurrent incidents.

The CHAIR: Okay, thank you.

Mr DAVID SHOEBRIDGE: Thanks, Chair.

The Hon. TREVOR KHAN: That was great.

Mr DAVID SHOEBRIDGE: Yes. Commissioner, just to—

The Hon. TREVOR KHAN: Wait a minute, Chair. Mr Shoebridge is now intruding into my question time.

Mr DAVID SHOEBRIDGE: I was told there were five minutes given for each. That was the information.

The Hon. ADAM SEARLE: We did not start until 12 past two.

Mr DAVID SHOEBRIDGE: We did start late.

The Hon. TREVOR KHAN: My understanding is that the timings of these—

The CHAIR: Order!

Mr DAVID SHOEBRIDGE: No, no. We had a late start and there are 10 minutes left.

The Hon. TREVOR KHAN: No. The timing of these are determined by resolution of the House.

Mr DAVID SHOEBRIDGE: No, they are not.

The Hon. TREVOR KHAN: I am not being picky, but—

The CHAIR: Well, you are being picky, but anyway.

The Hon. TREVOR KHAN: It is determined by a resolution of the House, so we actually do not have the flexibility. I think that is what has come out of previous ones we did, so it is over.

Mr DAVID ELLIOTT: So this is the commissioner's last one.

The CHAIR: Alright. A point has been made here by the interference. I am sure Mr Shoebridge will put the question on notice for you. I note that a number of questions were taken on notice. Thanks very much for coming.

(The witnesses withdrew.)

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The Committee proceeded to deliberate.