PORTFOLIO COMMITTEE NO. 4 – LEGAL AFFAIRS

Tuesday, 4 September 2018

Examination of proposed expenditure for the portfolio area

ATTORNEY GENERAL

CORRECTED

The Committee met at 2.00 p.m.

MEMBERS

Mr David Shoebridge (Acting Chair)

The Hon. David Clarke
The Hon. Catherine Cusack
The Hon. Trevor Khan
The Hon. Shaoquett Moselmane
The Hon. Adam Searle
The Hon. Lynda Voltz

PRESENT

The Hon. Mark Speakman, *Attorney General*

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

The ACTING CHAIR: Welcome to the public hearing for the inquiry into Budget Estimates 2018-19. Before we commence, I acknowledge the Gadigal people, who are the traditional custodians of this land. I pay my respects, those of the Committee and others in the room to elders past, present and emerging of the Eora nation and extend that respect to all other Aboriginals present. I welcome Attorney General Speakman and accompanying officials to the hearing. Today the Committee will examine the proposed expenditure for the portfolio of Attorney General.

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

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

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

ELIZABETH STRATFORD, Chief Financial Officer, Department of Justice, on former oath

PAUL McKNIGHT, Executive Director, Policy and Reform, Department of Justice, affirmed and examined

ANDREW CAPPIE-WOOD, Secretary, Department of Justice, on former affirmation

KATHRINA LO, Deputy Secretary, Justice Services, Department of Justice, affirmed and examined

The ACTING CHAIR: I declare the proposed expenditure for the portfolio of Attorney General open for examination. As there is no provision for a Minister to make an opening statement, we will start with questions from the Opposition.

The Hon. ADAM SEARLE: I will start with some questions about the Lyn Dawson matter. Did the Director of Public Prosecutions [DPP] comply with the appropriate policies and standards in failing to advise the relatives of Lyn Dawson that he had a possible conflict of interest in dealing with a possible prosecution arising out of the presumed murder of Lyn Dawson?

Mr MARK SPEAKMAN: My understanding is that the DPP takes his briefs from the police, for example. It is an investigating agency like the police that is in contact with family members; ordinarily, the DPP would not be in direct contact with family members. As I understand the DPP's practice, he treats briefs from the police as confidential. They are his client. As I understand it, he forms the view that it is up to his client whether, for example, to disclose that a brief has been delivered and what sort of investigation is underway. So generally, there are no direct dealings between the DPP and family members. To come to your question more directly, that means that in accordance with the DPP's practice, the opportunity would not arise to inform Ms Dawson's relatives of his conflict.

The Hon. ADAM SEARLE: Are these practices documented? Are there policies and protocols in writing that set all this out?

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

The Hon. ADAM SEARLE: Please do, because that is the starting point as to whether or not there has been any falling short of the applicable standards. Nevertheless, you accept that there is a sensitivity in this matter, given that the DPP attended that high school. Do you approve of the way in which the DPP has handled the Lyn Dawson matter?

Mr MARK SPEAKMAN: It is important to treat sympathetically and sensitively a family that has lived with grief and uncertainty for many decades. My understanding is that it is the police's role to deal directly with family members like that. Now that the police commissioner has disclosed the fact that they brief to the DPP, which I anticipate will be advised on within the coming months, I have written to a deputy DPP to ask that person to make sure that the family is kept informed of the developments in the matter.

The Hon. ADAM SEARLE: But do you agree with Wendy Jennings, the cousin of Lynette Dawson, who said that Mr Babb had "acted in a totally unprofessional and inexcusable manner and shown no respect to the victim's family"?

Mr MARK SPEAKMAN: All of us could understand the stress that someone in her position would be going through for decades of not knowing what had happened to Ms Dawson, but it is the role of the police rather than the DPP to be maintaining contact with people like Ms Jennings.

The Hon. ADAM SEARLE: I note what you said earlier about the practice of the DPP not ordinarily admitting to direct contact with family victims. Are you saying then that the failing was on the part of the police in not letting the family know that the DPP had a conflict of interest?

Mr MARK SPEAKMAN: No, I am not suggesting that there is any failing. The practice of the DPP is not to have direct communications with people in Ms Jennings' position because that support comes from the police. So until the matter was out in the open, if you like—because the police commissioner identified that the police had delivered a brief to the DPP—the question of what the DPP should or should not say to people like Ms Jennings did not arise.

The Hon. ADAM SEARLE: Do you know whether the police were aware of the—

The Hon. CATHERINE CUSACK: Point of order—

The ACTING CHAIR: What is the member's point of order?

The Hon. CATHERINE CUSACK: The Attorney General cannot answer questions relating to police; they should be directed to the Minister for Police.

The ACTING CHAIR: The Attorney General is handling himself adequately now. If he believes it has to be referred to the Minister for Police I think he will put that on the record.

Mr MARK SPEAKMAN: Would you repeat the question, please?

The Hon. ADAM SEARLE: I will start again. I believe the DPP did declare his possible conflict of interest to one of your predecessors as Attorney General, Mr Smith, in 2011. Do you know whether or not that information was ever passed on to the police?

Mr MARK SPEAKMAN: I do not know.

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

Mr MARK SPEAKMAN: I will.

The Hon. ADAM SEARLE: Do you think that in a situation like this, given the sensitivities that attach, at some point some responsible authority should have been in a position to inform the family of Lynette Dawson of the possible conflict of interest on the part of the DPP?

Mr MARK SPEAKMAN: My understanding is that the DPP has recused himself from any involvement in the matter and therefore it does not arise.

The Hon. ADAM SEARLE: When did he recuse himself?

Mr MARK SPEAKMAN: I would have to take that on notice, but my understanding is he has never played any active role in analysing or evaluating or considering whatever brief or briefs from time to time the police have delivered to the DPP.

The Hon. ADAM SEARLE: That has always gone to somebody else?

Mr MARK SPEAKMAN: That is my understanding.

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

Mr MARK SPEAKMAN: Certainly.

The Hon. LYNDA VOLTZ: Recently your department issued a tender for the provision of domestic and family violence services. This was the Women's Domestic Violence Advocacy Service. Why has the word "women" been removed from its title?

Mr MARK SPEAKMAN: I will ask Mr Cappie-Wood to answer.

Mr CAPPIE-WOOD: To my knowledge it had not been removed. I think you are referring to the Women's Domestic Violence Court Advocacy Services [WDVCAS] tender. It is certainly not intended to signify any change other than to support this very important and worthwhile service.

The Hon. LYNDA VOLTZ: The tender says that it is a request for tender for provision of domestic and family violence services previously known as women's domestic violence advocacy services. Do you still contend it has not been removed?

Mr CAPPIE-WOOD: As to the reasoning why that has changed I will take that on notice, but certainly the WDVCAS was the intention and direction of that particular action.

The Hon. LYNDA VOLTZ: Why is the only non-government organisation [NGO] that is included on the committee looking into this tender a male organisation called the Survivors and Mates Support Network?

Mr CAPPIE-WOOD: Just a point of clarification, if I could: Are you referring to the men's support service?

The Hon. LYNDA VOLTZ: Yes, for the tender assessment committee.

The Hon. ADAM SEARLE: We understand that on the tender assessment committee the only non-government participant is an organisation called Survivors and Mates Support Network.

Ms LO: I can answer that question if that would assist the Committee. The reason there are no women's NGOs on the panel is that the tender is open to all women's organisations to apply and we did not want to create a conflict of interest.

The Hon. LYNDA VOLTZ: Why was the Survivors and Mates Support Network put on it?

Ms LO: We had to choose a group that understood domestic violence but would not be a potential tenderer.

The Hon. LYNDA VOLTZ: The funding will still be administered through the Office of Women, will it?

Ms LO: My understanding is that it is through Legal Aid at the moment.

The Hon. LYNDA VOLTZ: The funding for that at the moment is $22 million. Will it be around the same, Mr Cappie-Wood, or will it increase? The total payments for the State are $6.4 million.

Mr CAPPIE-WOOD: I will seek to confirm that. Perhaps it would be best to take it on notice but my understanding is that it is a continuation if not an increase. I will confirm that in writing.

The Hon. LYNDA VOLTZ: I would like to go to another matter, Mr Speakman. In 1987 Cindy and Mona Smith were killed on Enngonia Road. Why will you not order an inquest into their deaths?

Mr MARK SPEAKMAN: I am presently awaiting departmental advice on that.

The Hon. LYNDA VOLTZ: It was 1987. Do you not think the family deserves at the very least to have an inquest?

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

The Hon. ADAM SEARLE: On 16 May you issued a media release stating that Debra Maher was to be appointed a children's magistrate but she does not appear on the list of Children's Court magistrates. Is that because the Chief Magistrate has refused to sign the instrument of appointment to that court?

Mr MARK SPEAKMAN: Not to my knowledge but I will have to take that on notice. She was appointed with my intention being she would be a specialist children's magistrate.

The Hon. ADAM SEARLE: Yes, but you do not have the power to make her a Children's Court magistrate, do you? That is a matter for the Chief Magistrate.

Mr MARK SPEAKMAN: That is a matter between the Chief Magistrate and the President of the Children's Court.

The Hon. ADAM SEARLE: I think her swearing in took place in the Children's Court on 18 June. Were you present?

Mr MARK SPEAKMAN: I was not present.

The Hon. ADAM SEARLE: But you are not aware that she is not presently listed as being a Children's Court magistrate?

Mr MARK SPEAKMAN: I am not aware of that, no.

The Hon. ADAM SEARLE: You will look into that?

Mr MARK SPEAKMAN: I will.

The Hon. ADAM SEARLE: Just as a matter of practice, do you discuss these things with the Chief Magistrate?

Mr MARK SPEAKMAN: Which things in particular?

The Hon. ADAM SEARLE: Appointing children's magistrates.

Mr MARK SPEAKMAN: Magistrates who sit in the Children's Court are also magistrates of the Local Court, so my practice is to discuss all potential appointments to a court with, among others, the head of that jurisdiction.

The Hon. ADAM SEARLE: Was there any difficulty about this particular appointment?

Mr MARK SPEAKMAN: I am not going to get into the confidential conversations I have with heads of jurisdictions about potential appointments, otherwise I will be opening up a can of worms on all potential appointments. I am not going to cross the Rubicon on that, Mr Searle.

The Hon. ADAM SEARLE: Is it a fair assessment on our part that in making the recommendation that she be appointed and issuing the press release that she was to be a Children's Court magistrate you did not anticipate any difficulty in that regard?

Mr MARK SPEAKMAN: No, I did not anticipate any difficulty in that regard. Ms Maher presented as someone with a great deal of expertise in the Children's Court space and I thought she was an excellent appointment.

The Hon. ADAM SEARLE: Are you able to tell us if it is correct that she is not a Children's Court magistrate because the Chief Magistrate has not signed the relevant instrument we should understand that it reflects some view that the Chief Magistrate has of her fulfilling that function?

Mr MARK SPEAKMAN: I do not know whether the premise of your question that she has not been appointed is correct. I am not going to speculate or jump at shadows. She certainly has my confidence and that is why I appointed her. Sorry, I should say that is why I recommended to the Governor that he appoint her.

The Hon. ADAM SEARLE: We understand the formalities. Why did you put out the release saying that she was going to be a Children's Court magistrate if that particular appointment is one for the Chief Magistrate and not for the Executive Government, if I can put it that way?

Mr MARK SPEAKMAN: As a result of discussions I had with the President of the Children's Court and the Chief Magistrate my understanding was that she would be allocated to the Children's Court.

The Hon. ADAM SEARLE: Your announcement was not an effort to reduce the influence of the Chief Magistrate on what he might regard as his sphere of operations?

Mr MARK SPEAKMAN: Absolutely not. It was after having discussed the matter with the Chief Magistrate and the President of the Children's Court.

The Hon. LYNDA VOLTZ: When did you request the advice from the department on the holding of an inquest into the deaths of Cindy and Mona Smith?

Mr MARK SPEAKMAN: I will have to get back to you on the precise dates.

The Hon. LYNDA VOLTZ: Was it some time ago or was it recently?

Mr MARK SPEAKMAN: I will take that on notice.

The Hon. LYNDA VOLTZ: The NSW People Matter Employee Survey is described as an important opportunity for government employees to have their say about the workplace and to help make the public sector a better place to work. Having had their say, it is clear that its employees rate the Department of Justice as one of the worst, if not the worst, departments for which to work. What action has been taken against the managers in this department to improve this position?

Mr CAPPIE-WOOD: Thank you for the opportunity of talking about the people matter survey, because I believe it is an important means of listening to staff and what they value about working inside the organisation. You would have seen from comparing a range of results across the public service with your interest in this that those areas which have uniform areas—we have 70 per cent of the department in uniform areas which are command control environments—some of the wording of the questions could be seen as relating to areas that are not normally uniform. One of the other aspects about it is when we come to the response rate, many of the public servants who you would normally see as people having a desk and a computer when you are in either Corrective Services NSW, Juvenile Justice NSW or sheriffs' areas, they do not have a desk of their own.

They are quite often on shift work, hence their response rates were below. We have tried very hard to ensure that the availability of mobile technology and the like is available for them, so that their response rates would increase. There has been an overall increase in the department's scores year on year in this regard and some marked improvements in specific areas. Juvenile Justice NSW is one where there has been a significant lift since last year as a result of the efforts of management. We take every division and we analyse the results and there are specific action plans associated with that which are put in place. We treat it very seriously and we see this as a window to the organisation and a window to improvements. Detailed improvement plans are put in by divisions and the department overall.

The Hon. LYNDA VOLTZ: Your department would not be the only department that does not have desk-placed people because of the nature of their job—bus drivers, train drivers and nurses. There would be a whole raft of people in that position yet you have the lowest engagement of work employees by cluster, second lowest satisfaction with job, lowest rating of senior managers, lowest percentage of any cluster of employees believing their organisation was making the necessary improvements. It cannot only relate to areas that are not normally uniform, can it?

Mr CAPPIE-WOOD: It is nice to see that there is a year-on-year improvement on that. There has been an upward trend when you compare the year-on-year improvements, as you probably have before you, and we continue to find ways of increasing the participation rate. The participation rate has been going up year on year as well. Every year we look to see how we can improve that; whether that is through communications or other means where they are looking at that. There was a sizeable and continued reduction in bullying. There were claims that we were above the public service average; we are now at or below the public service average. There are improvements across the board and we continue to have to work on it. It is not something that is taken lightly and it is not something that is assumed to be in the background. It does inform our practice and it informs continued discussion at the executive.

The Hon. LYNDA VOLTZ: What specific programs have you got in at management level to deal with it?

Mr CAPPIE-WOOD: I think you might be referring to management seeking to have greater engagement and quality at the next level up and above that. We have undertaken a sizeable increase in the training modules available to executives and managers. When we say managers, that is anyone who is supervising across the organisation. I can give you details of the nature of that. As a result of that, there has been a sizeable lift since last year in this regard and we would look to see that continuing in future years.

The Hon. LYNDA VOLTZ: Can you take that on notice and provide that list to us?

Mr CAPPIE-WOOD: I would be very happy to, yes.

The Hon. LYNDA VOLTZ: On 19 July an individual brought a drone with them into the court complex at John Maddison Tower. How was someone allowed to bring a drone into those towers and activate it?

Mr CAPPIE-WOOD: It is currently being reviewed as to how that device was brought into the building. It was not a large drone; it was one that was almost palm-sized and largely of plastic construction. Whether it showed up on the metal detectors, which everyone has to go through at the beginning of John Maddison Tower, we are looking into. I understand it was displayed as a, "Wow, look at the toy I have" approach rather than necessarily being secreted as some form of object of intent. It was seen as not necessarily with malicious intent or purpose, but we are still investigating this with a degree of alacrity.

The ACTING CHAIR: In the middle of this year New South Wales passed some changes to the Crimes Act, inserting the new 316A, if you remember.

Mr MARK SPEAKMAN: Yes.

The ACTING CHAIR: At the time you said that the issue of secrecy for confessions given in relation to child sexual abuse in the confessional were being referred to the Council of Attorneys-General [CAG] for national consideration.

Mr MARK SPEAKMAN: Yes.

The ACTING CHAIR: When did you refer that?

Mr MARK SPEAKMAN: Certainly before the date of the last CAG meeting because it was raised at that CAG meeting in Perth.

The ACTING CHAIR: What was the outcome at the CAG meeting?

Mr MARK SPEAKMAN: Rely on the communique rather than my paraphrase, but broadly that it would be subject to further consideration and work by the council.

The ACTING CHAIR: Given other States, such as South Australia, have already moved to legislate to remove the secrecy around the confessional relating to evidence of child sexual abuse, are you still waiting for a national determination from the Council of Attorneys-General before you act?

Mr MARK SPEAKMAN: Thank you for that question. Let me make a number of points. Section 127 of the Uniform Evidence Acts applies in a majority of jurisdictions. It does not, for example, apply in South Australia, but it applies in six out of nine Australian jurisdictions. That is uniform across those jurisdictions. It gives a priest, to use the shorthand, a privilege over the contents of a communication in a religious confession. It would be best to deal with that uniform evidence law provision at a national level in a uniform way, if that were possible. It is what we are already trying to do with coincidence and tendency evidence. The Royal Commission made recommendations about changing coincidence and tendency evidence, which in the case of New South Wales and five other jurisdictions, is in the Uniform Evidence Acts. We would prefer to do that in a uniform way. It is best dealt with at a national level. That is not to say that if attempts at a national approach fail New South Wales may decide to go on its own and do something else, but it is best dealt with at a national level.

I also make these points. While the question of the seal of confession and a privilege attaching to religious confessions still remains, priests, among others, are subject generally to the fail to report obligations in section 316A of the Crimes Act. Therefore, the general provisions about reporting apply to priests, among others. There was some evidence at the Royal Commission about the question of what had been disclosed in religious confessions, but it is clear that the overwhelming majority of what people in the Catholic Church learnt about child sexual abuse by people within the church came about outside the confession. Now, that is not to say that therefore 95 per cent or 99 per cent is good enough and we will or will not stop there. What it means is that we have dealt overwhelmingly with the issue of secrecy and cover-up with institutions like the Catholic Church. The loose end that remains to be dealt with—namely, the question of religious confessions—is best dealt with in a uniform way, at a uniform national level, and that is what we are trying to do.

The ACTING CHAIR: Are you aware of the case of Father Michael McArdle, a disgraced priest in Queensland, who admitted to child abuse on more than 1,500 occasions, primarily in the course of confessions?

Mr MARK SPEAKMAN: I have read the Royal Commission report generally; I cannot at the moment remember each individual case that it may have referred to.

The ACTING CHAIR: Father McArdle was not an isolated case. There was case after case of priests and others who had confessed in confession to child sexual abuse and that information was not provided to the police because of the Seal of Confession. Do you believe that is an appropriate place to leave the law in New South Wales?

Mr MARK SPEAKMAN: It is not as if we are leaving the law there in New South Wales and that is it. As I have said, we are seeking to have a uniform national approach. So it is not as if we have downed tools and said, "This is good enough." We are seeking to have a uniform approach across six jurisdictions that have uniform evidence, like we are doing with coincidence and tendency evidence. So that is still work underway.

The ACTING CHAIR: In seeking to have a uniform approach, what position is New South Wales adopting? Is New South Wales saying, "Let's keep as it is because we are fine with the Seal of Confession," or is New South Wales adopting an approach where you want the Seal of the Confession broken when there is evidence of child sexual abuse because we put children's interests ahead of the church's interests? What is the position for New South Wales?

Mr MARK SPEAKMAN: Child safety and protection from child sexual abuse is always our number one priority, which is demonstrated by our very robust and comprehensive response to the Royal Commission recommendations. We were the first of two States to sign up to the National Redress Scheme. We were the first State to legislate to opt in to the National Redress Scheme. We were the first State to have a comprehensive criminal justice response to the Royal Commission, and we have announced a comprehensive civil liability

response as well. So far as the unfinished business of the religious confession is concerned, that is a matter best dealt with at a national level and we will continue our discussions about it.

The ACTING CHAIR: Are you saying that section 127 of the Evidence Act is relevant to whether or not a priest is required to go to the police outside of court and give them evidence of a serious crime that they have received? Are you saying section 127 of the Evidence Act relates to that?

Mr MARK SPEAKMAN: Section 127 of the Evidence Act gives a priest, to use shorthand, a privilege over the content of communications in a religious confession.

The ACTING CHAIR: In court.

Mr MARK SPEAKMAN: In court. There is a question about whether it is wider than a merely evidentiary privilege, notwithstanding it is in a part of the Evidence Act dealing with—well, it is in the Evidence Act.

The ACTING CHAIR: Dealing with court proceedings.

Mr MARK SPEAKMAN: Dealing with court proceedings. Look, I do not want to disclose the legal advice that I have obtained on this, but it is no secret that there is a question about whether that privilege is merely a privilege of non-disclosure in court or goes wider to a broader privilege. The language of section 127 is not couched merely in terms of evidence in court; it is couched in broader terms than that. So there is a question about whether that privilege is broader and there is a question of what relationship it has with section 316 and section 316A of the Crimes Act—for example, whether the existence of that privilege constitutes a reasonable excuse.

The ACTING CHAIR: Are you saying that uniformity is more important than taking action right now to ensure that children in this State are protected and that priests are unambiguously advised that when they get evidence of child sexual abuse, whether it is in confession or not, they are obliged to take that evidence to the police? Are you saying uniformity trumps that fundamental obligation under the law?

Mr MARK SPEAKMAN: We have taken a robust—or more robust approach to protecting children against sexual abuse than any other jurisdiction in Australia and—

The ACTING CHAIR: You put a get-out-of jail-free card in section 316A—

The Hon. TREVOR KHAN: Point of order: The Minister should be allowed to answer the question, which is clearly relevant.

Mr MARK SPEAKMAN: We have had, I think, a very strong, and appropriately strong, response to the Royal Commission when it comes to the National Redress Scheme, a comprehensive criminal justice response and a comprehensive civil liability response. Earlier we adopted the Model Litigant Policy for those who want to sue the State and we have abolished limitation periods. So our response has been a very strong one. There is the unfinished business of the Seal of Confession, like coincidence and tendency evidence that is best dealt with at a national level. But if, at the end of the day, it cannot be dealt with at a national level then New South Wales will consider its position. It is a matter of a stitch in time saves nine and having the best approach ultimately in the interests of victims and survivors.

The ACTING CHAIR: Why did you put the get-of-jail-free card in section 316A, which requires the consent of the Director of Public Prosecutions [DPP] before an action can be brought, as I understand it, under the regulations against a member of a religious order?

Mr MARK SPEAKMAN: It is not just a member of a religious order and it is also in section 316, which deals with failure to report—

The ACTING CHAIR: I know the exemptions also apply to lawyers and other advisers. I am not concerned about that; I am asking you about priests.

Mr MARK SPEAKMAN: We have actually depoliticised that process because section 316 required the approval of the Attorney General rather than the DPP. I cannot remember who put up the amendment—whether it was Labor or The Greens—but we accepted an amendment.

The ACTING CHAIR: We proposed getting rid of the exemption; you put an amendment limiting it to the DPP.

Mr MARK SPEAKMAN: Well, there you go, but that is an appropriate filter to avoid vexatious prosecutions. Remember, if it is a police prosecution the brief will be delivered to the DPP and the DPP is going to be forming an advice anyway but it avoids, among other things, vexatious private prosecutions. It is not a special position just for priests; it is a series of professionals who are prescribed by regulation. It is not just priests; a series of professions—and not just section 316A, but serious indictable offences as well.

The ACTING CHAIR: What considerations do you expect the DPP to have in mind when determining whether or not to prefer a prosecution against a priest who failed to disclose to the authorities evidence of serious child sexual abuse under section 316A?

Mr MARK SPEAKMAN: Certainly one thing I will not be doing as Attorney General is interfering with the prosecutorial independence of the DPP—

The ACTING CHAIR: You put the regulations in place. I am asking what principles the DPP will be applying when determining whether or not to prefer charges, as you understand it, against a priest who failed to disclose evidence of child sexual abuse.

Mr MARK SPEAKMAN: That is a matter for the DPP, applying his general prosecutorial guidelines. These are a class of professions and other vocations where there is a confidential relationship between a confider and a confidee. So there is no special or unique treatment of priests in this; they are part of a general class of professional relationships where there is a relationship of confidence.

The ACTING CHAIR: So you expect the DPP to treat the relationship between a confessing priest in the confession and that relationship of confidentiality about evidence of child sexual abuse in the same way as you would expect the DPP to treat confidential advice that a victim gives to a sexual abuse counsellor? Is that where you are putting the law?

Mr MARK SPEAKMAN: It does not matter one iota what I expect; what matters is you have an independent prosecutor who has general prosecutorial guidelines without interference from me, and he will apply those guidelines and make a decision whether or not to prosecute, like he does in every other case.

The ACTING CHAIR: You made the regulation and the regulation included priests.

Mr MARK SPEAKMAN: Yes.

The ACTING CHAIR: I am asking you what you were intending when you passed a regulation that put the confidentiality given to priests in the same bucket as the confidentiality given to sexual assault counsellors. What were you thinking when you passed that regulation?

Mr MARK SPEAKMAN: That is a replication of what is already there—

The ACTING CHAIR: Which has proven to fail.

Mr MARK SPEAKMAN: Hang on—it is a replication of what is already there with section 316. So applying the same general principles as you do with failure to report in section 316, we are doing likewise with section 316A. It is not a special, unique or new preferential treatment for priests; it is applying what already applies under section 316.

The ACTING CHAIR: If you are looking at the success or otherwise of section 316 to bring to account those who failed to give police evidence of child sexual abuse, did you take into account that there has only ever been one successful prosecution under section 316, of Archbishop Wilson? Did you take into account that historic failure when you replicated it in section 316A?

Mr MARK SPEAKMAN: I do not recall, with respect, any challenge in parliamentary debates to the wording of section 316 or section 316A. I do not recall any challenge to that.

The ACTING CHAIR: I moved an amendment to prohibit the inclusion of priests in the regulation, both in debate and in committee.

Mr MARK SPEAKMAN: Correct me if I am wrong, but you did not move an amendment to the language of 316A or to the language of 316 other than the question of whether it has the DPP consent or not.

The ACTING CHAIR: Other than whether or not you require consent for priests, correct.

Mr MARK SPEAKMAN: Whatever shortcomings there may or may not be with 316, that is why we have introduced a targeted offence with 316A, where it is not necessary to prove that the child sexual offence is an indictable offence. It is any child sexual offence.

The ACTING CHAIR: Attorney, since you referred the matter to the Council of Attorneys-General [CAG], you would be aware that the Truth, Justice and Healing Council, headed by Francis Sullivan and established by the Catholic Church, has recommended that there be a mandatory reporting requirement for priests, including in the confessional?

Mr MARK SPEAKMAN: Yes.

The ACTING CHAIR: Does that change your opinion about whether or not New South Wales should now act to finally get rid of the seal of the confession for child sexual abuse matters?

Mr MARK SPEAKMAN: It is certainly a factor to be taken into account in CAG's deliberations. But, as I have said, ultimately we want a national approach, if we can, on this. That will be a matter that can be taken into account. We want a national approach on this where there are uniform evidence Acts that apply in six out of nine jurisdictions and where our fail to report and fail to protect laws that started operation last week deal with the overwhelming majority of fail to report cases.

The ACTING CHAIR: Have you referred the Truth, Justice and Healing Council's recommendation to the Committee of Attorneys-General?

Mr MARK SPEAKMAN: I have not taken any action in the last week or two to refer more matters to the Council of Attorneys-General.

The ACTING CHAIR: Is the issue of removing the seal of the confession on the upcoming agenda for the Council of Attorneys-General and, if not, will you ensure it is put on the agenda so this matter is addressed?

Mr MARK SPEAKMAN: It was stood over from the last meeting and my expectation is that it will be on the agenda for the next meeting.

The ACTING CHAIR: When is that?

Mr MARK SPEAKMAN: It is on 23 November in Perth.

The ACTING CHAIR: Attorney, you would be aware of the real and deep criticisms from the former New South Wales Deputy Coroner Hugh Dillon about the inadequacy of resourcing and the delays in the coronial court system. I know that you have announced a capital upgrade.

Mr MARK SPEAKMAN: Yes.

The ACTING CHAIR: But what have you done to ensure that there will be additional coroners, additional court staff and additional judges who can hear coronial proceedings?

Mr MARK SPEAKMAN: Thank you for that question. I may not be aware of each and every comment that Mr Dillon has made but I am aware of the broad thrust—

The ACTING CHAIR: They were unflattering.

Mr MARK SPEAKMAN: —of his criticism. Among other things, we are building a $91.5 million facility at Lidcombe which will open early next year—I think you referred to that in your observations. We have set up a Coronial Case Management Unit to triage cases and to help grieving families to get clearer and earlier engagement with the court. The Coroner is liaising with State Deputy Coroners, the Chief Magistrate, the head of the Homicide Squad, and the Clinical Director of Forensic and Scientific Services regarding procedures. The allocation of magistrates to the Coroner's Court is a matter for the Chief Magistrate but it is our job and our commitment to make sure that the Coroner's Court is adequately resourced.

A number of the comments that have been made about resourcing have purported to compare our resourcing with Queensland and Victoria and, in particular, rely on data in the Productivity Commission's Report on Government Services [ROGS] in 2018 and 2017. The problem with those data is that it just captures—in the case of the New South Wales—Victoria and Queensland have standalone coronial jurisdictions. In New South

Wales the coronial jurisdiction is part of the Local Court. The problem with comparing those data is that they do not capture the resources of the Local Court that are devoted to coronial matters in regional areas and approximately 40 per cent of deaths are reported in regional areas.

It is not strictly appropriate to compare the ROGS data for that purpose. If you look at footnote (l) in the latest ROGS, it also notes that expenditure data for the Queensland Coroner's Court and the Victorian Coroner's Court include the full costs of government-assisted burials and cremations, legal fees incurred in briefing counsel assisting for inquests and costs of preparing matters for inquests, including the costs of retaining independent expert reports. Those costs are not included in the ROGS figures. Compared with New South Wales, the Victorian and Queensland figures are inflated by those items I have just mentioned and the New South Wales figures understate our coronial spend because it does not pick up what regional magistrates are doing.

I suppose the question must be: Is there a difference in performance? Is New South Wales underperforming? If you look at the ROGS data in the Productivity Commission's 2018 report, 1 per cent of coronial cases took more than 24 months in New South Wales—sorry, the percentage of coronial cases that took more than 24 months to complete in New South Wales was 2 per cent, in Victoria it was 6.1 per cent and in Queensland it was 2.7 per cent. The percentage of coronial cases that took more than 12 months to complete in New South Wales was 10.1 per cent, in Victoria it was 19.7 per cent and in Queensland it was 9.0 per cent. The percentage of coronial cases pending more than 24 months in New South Wales was 9.9 per cent, in Victoria it was 10.5 per cent and in Queensland it was 16.6 per cent. The percentage of coronial cases pending more than 12 months in New South Wales was 23.5 per cent, in Victoria it was 28.2 per cent and in Queensland it was 36.9 per cent.

In the four indicators of time to complete 12 and 24 months and pending more than 12 and 24 months, New South Wales outperforms Victoria and Queensland except on one measure where Queensland is sitting at 9 per cent and New South Wales is sitting at 10.1 per cent. That is across jurisdictions. Over time New South Wales is improving. Pending more than 24 months was 9.9 per cent in 2016-17—which was a little higher than 8.6 per cent in 2015-16 but it was considerably improved on earlier years—18.6 per cent in 2014-15, 24.6 per cent in 2013-14 and 22.3 per cent in 2012-13. The percentage of coronial cases pending more than 12 months in 2016-17 was 23.5 per cent, which was slightly higher than the previous year at 21.7 per cent but it was considerably improved on earlier years, with 27.9 per cent in 2014-15—

The ACTING CHAIR: Attorney, if you are reading from a table, you are welcome to tender it.

Mr MARK SPEAKMAN: I am reading from a note but I have only got two more figures.

The ACTING CHAIR: Very well.

Mr MARK SPEAKMAN: It was 35.5 per cent in 2013-14 and 36.7 per cent in 2012-13. In terms of delay, New South Wales is performing better than Victoria and Queensland. The trend is one of improvement over time in recent years in New South Wales.

The Hon. ADAM SEARLE: In the break we checked the Department of Justice website for the magistrates in the Children's Court and I do not see Magistrate Maher there. Are you aware that she has never sat as a children's magistrate?

Mr MARK SPEAKMAN: I am not aware of that.

The Hon. ADAM SEARLE: Will you look into that and get back to us?

Mr MARK SPEAKMAN: I will.

The Hon. ADAM SEARLE: Will you give us a full explanation about what has happened?

Mr MARK SPEAKMAN: I will look at what the questions were and I will answer them.

The Hon. ADAM SEARLE: If we are going to take that approach, what I would really like to know is, if the premise of my questioning is correct and she is not a children's magistrate, why is that so? You made a big announcement that she was going to be and if she is not, I would like to understand the chain of events and why she is not sitting in that capacity.

Mr MARK SPEAKMAN: I will take that on notice.

The Hon. ADAM SEARLE: Mr Shoebridge was asking you some questions about the Coroner's Court. The number of completed inquests has declined significantly over the term of your Government. I think in 2011 it was 290 completed inquests, which is down to 84 in the last year. I note you were looking at the Productivity Commission's Report of Government Services 2018 and you were making the case that the figures between New South Wales and Victoria and Queensland were not really comparable.

Mr MARK SPEAKMAN: The spend.

The Hon. ADAM SEARLE: The spend, yes. I think New South Wales was $6.73 million, Victoria was $13.23 million and Queensland was $10.721 million. I think even Western Australia was spending more than us with $6.702 million. Can you tell us what you say are the comparable figures, if you make the adjustments, including the things in our figures that are in the interstate figures?

Mr MARK SPEAKMAN: I will have to take that on notice but I can tell you that that comparison dramatically understates underlying New South Wales spend and, for the reasons I have given at footnote (l) in that report for comparable purposes, overstates Victoria and Queensland.

The Hon. ADAM SEARLE: Do you accept that the expenditure per finalisation in New South Wales is well below the national average and is the lowest in the country?

Mr MARK SPEAKMAN: I will have to take that question on notice. What is more important than output is outcomes—

The Hon. ADAM SEARLE: Yes.

Mr MARK SPEAKMAN: —and the figures I have given you demonstrate that New South Wales, in general, is getting through cases faster than Victoria and Queensland and that performance has improved over the last few years.

The Hon. ADAM SEARLE: But let us look at the number of inquests completed: 290 in 2011, 148 in 2012, 142 in 2013, down to 120 in 2016 and 84 in 2017. If those figures are correct there is a nosedive.

Mr MARK SPEAKMAN: I think delays in inquests or periods elapsed to do inquests are not just about what the Coroner's Court is doing; it is also Homicide Squad, Forensic Medicine, and that is why the Coroner is liaising with the Deputy State Coroners, the Homicide Squad, Forensic Medicine to get these matters dealt with as quickly as possible and why we are triaging cases in a way to make sure that there are not unnecessary delays and unnecessary inquests and inquiries, because the vast majority of deaths that are covered by the Coroners Act will not go to an inquest.

The Hon. ADAM SEARLE: If the figures I have just read out about the number of inquests being completed are right and your figures about the swiftness with which they are being dealt with are correct, the only conclusion you can draw reasonably is that New South Wales is getting through its inquests faster simply because they are doing less of them—290 eight years ago down to less than 100 now. The number of deaths has not gone down; the number of reported deaths has gone from just under 5,700 a year to nearly 7,000.

Mr MARK SPEAKMAN: Inquests are a proportion of the Coroner's Court work; they are not the totality of the work.

The Hon. ADAM SEARLE: No, a very important part though.

Mr MARK SPEAKMAN: In 2017, 6,602 deaths were reported to the Coroner and 84 inquests. You are honing in on an important but, because of the number of people affected, small part of the work of the coronial jurisdiction.

The Hon. ADAM SEARLE: Let me hone in on a couple of other things. The Law Society President Doug Humphreys has said that the under-resourcing of the Coroner's Court is a matter of significant concern, and the former Coroner, now the Ombudsman, has given evidence to a parliamentary inquiry that the resourcing of the Coroner's Court is a matter of concern.

The Hon. TREVOR KHAN: Was that in camera for that one?

The Hon. ADAM SEARLE: I do not believe so.

The Hon. TREVOR KHAN: I was just checking.

The Hon. ADAM SEARLE: We are not doing that one. You have got a situation where people quite closely connected or interested in this have significant concerns about the resourcing. You are aware of Associate Professor Dillon's observations? He is no longer a Deputy State Coroner but he said that the jurisdiction is under-resourced in New South Wales compared to what it needs to be. Do you accept that and are you taking steps to make sure that it is better resourced?

Mr MARK SPEAKMAN: We have a statutory review underway of the Coroners Act, and resourcing of the Coroner's jurisdiction is always something that the Government will consider closely, and commentary from respected figures like the Law Society president and Mr Dillon and Magistrate Barnes—or Ombudsman Barnes as he is now—are obviously a matter we take seriously. Ultimately, allocation of magistrates to the coronial jurisdiction is in the discretion of the Chief Magistrate—he decides whether someone goes to—

The Hon. ADAM SEARLE: Like the Children's Court, apparently.

Mr MARK SPEAKMAN: But that is in discussion with the President of the Children's Court. The Chief Magistrate decides whether someone goes to West Wyalong or whether they sit in the Coroner's Court. That said, the ROGS figures that I have cited I think demonstrate that the court is getting through its work; it is faster than Victoria and Queensland, overall its speed is improving and, to the extent that some of those commentators—Mr Barnes, I think, for example—rely on ROGS data to support their position, the data does not do that.

The Hon. ADAM SEARLE: And also the lived experience. Ombudsman Barnes would have a fair appreciation of the work of the Coroner's Court, would you not accept?

Mr MARK SPEAKMAN: Of course, but at the end of the day if you look at the hard numbers you will see that New South Wales is outperforming Victoria and Queensland and overall is improving its performance.

The Hon. ADAM SEARLE: In relation to that statutory review you mentioned, is it not significantly overdue?

Mr MARK SPEAKMAN: It is overdue, yes.

The Hon. ADAM SEARLE: Is that because it was going to be a sort of once-over-lightly, nothing to see here, until you got some pretty firm feedback, and that was not good enough?

The Hon. TREVOR KHAN: Come on, that is outrageous.

The ACTING CHAIR: I think the Attorney can take it. You can just say yes.

Mr MARK SPEAKMAN: A stitch in time saves nine. We want to get it right. We have got 22 submissions; there are more than 100 proposals to amend the Act; we have additional submissions through the review process; we have and are undertaking a targeted consultation with the former State Coroner, government agencies, victim support groups, cultural and religious groups, Indigenous representatives, health and legal agencies. We want to get it right. We have undertaken roundtable consultations. That is what we are doing, and when it is released it will have the benefit of all that consultation and all that detailed consideration.

The Hon. ADAM SEARLE: Can you tell us roughly when you expect it to be released?

Mr MARK SPEAKMAN: I think last year you or one of your colleagues came up with an expression "at the appropriate juncture". My desire is to have it released—

The ACTING CHAIR: I thought it was in "the fullness of time"?

Mr MARK SPEAKMAN: I cannot give you a particular time, but—

The Hon. ADAM SEARLE: We will get it before the end of the year?

Mr MARK SPEAKMAN: I cannot give you that guarantee but I am aiming to get it out as quickly as possible.

The Hon. ADAM SEARLE: The then State Coroner Michael Barnes and the Crown Solicitor's Office both informed your department last year during the statutory review that substantial reform to the coronial jurisdiction was needed. Do you support the views that they have advanced in that regard?

Mr MARK SPEAKMAN: I am not going to pre-empt the results of the statutory review. I know there is one school of thought that we should have a separate coronial jurisdiction. There is another school of thought

that it is best dealt with in the Local Court and that you get more well-rounded decision-makers if they have spent a bit of time in general matters in the Local Court—mostly crime—and go into the coronial jurisdiction and come out again. So there are different schools of thought which are probably impossible to reconcile, but ultimately the statutory review will deal with both those schools of thought and make recommendations.

The Hon. ADAM SEARLE: Just on that, I think it was Associate Professor Dillon in a paper he gave to a Law Society conference who said in training, both formal and informal, as a Coroner it can take between two and five years to develop the forensic expertise that is needed. Coroners get that training but the country magistrates you mentioned who do the coronial work outside the metropolitan areas do not and that must impact on the quality of the output through no fault of their own. What steps are you taking to make sure that every judicial officer who does coronial work gets the appropriate training and for the appropriate length of time?

Mr MARK SPEAKMAN: I will take that question on notice.

The Hon. ADAM SEARLE: And would that not be a benefit of a specialised court?

Mr MARK SPEAKMAN: This comes in other contexts as well. You do not necessarily need specialised courts in particular jurisdictions. You can have, like in the domestic violence space, specialised lists rather than separate or specialised courts. On one view you could treat the coronial jurisdiction like that as well; it has the name of Coroner's Court and separate procedures but it is almost like a list within the Local Court. So there are advantages and disadvantages in both approaches, but ultimately it is a matter for the Coroner and the Chief Magistrate, who sits above the Coroner, to determine the sort of training that their judicial officers have, and the Judicial Commission.

The Hon. ADAM SEARLE: Sure, but it is also about realistic access to that training. The fact is we have the lived experience of magistrates doing the coronial work who are not specially commissioned as coroners, who just do not get the training now. Or do you have a different view? Do you say they do get the training?

Mr MARK SPEAKMAN: I will take on notice what training they get, but I think it would be a fallacy to think that because someone is sent out to Wagga, Tamworth or Broken Hill they are basically not given any training.

The Hon. ADAM SEARLE: In the coronial jurisdiction I mean specifically.

Mr MARK SPEAKMAN: Yes, I understand.

The Hon. ADAM SEARLE: But it all comes back to adequate resourcing, whether it is part of the Local Court or whether it is a standalone court.

Mr MARK SPEAKMAN: I would agree with you on that. I think to some extent while there are advantages and disadvantages of a separate coronial jurisdiction it might be a matter of form over substance and the real question is resourcing, whether you have a separate court or part of a Local Court.

The Hon. ADAM SEARLE: But in regard to transparency and visibility of what access to training they do or do not get, or what the true figure is of the spending on delivering the coronial service in this State, noting our debate about the ROGS data, having a specialised jurisdiction, whether it is a formal separate court or some other arrangement, would give greater visibility and accountability to those things, would it not?

Mr MARK SPEAKMAN: In a sense that you might be able to have more easily discernible cost centres, but you would not split up the District Court into different jurisdictions so you can have a cost centre for drug crime, a cost centre for traffic crime, and so on.

The Hon. ADAM SEARLE: No. The Local Court has historically had subsets—you have the Children's Court, the Coroner's Court—it has a history of sub-jurisdictions.

Mr MARK SPEAKMAN: While I understand the arguments in favour of a separate coronial jurisdiction I think the idea of visibility over cost is not the strongest or really an argument in favour.

The Hon. SHAOQUETT MOSELMANE: Can I take you to matters of court delays. The Law Society president wrote to the Premier, copied to yourself, about delays in the district and local courts, and the lack of resourcing of courts. Your Government cut eight magistrates from the Local Court. When are you replacing those magistrates?

Mr MARK SPEAKMAN: I do not think the number of magistrates now is lower than at any time in the past. Let me take that on notice what the numbers are at a particular time. I do not have the figures in front of me. Broadly speaking, if you look at outcomes and not output the Local Court is the most efficient court at that level in Australia and delays in the Local Court are less than any other, or just about any other comparable court in the country.

The Hon. SHAOQUETT MOSELMANE: The shortage of magistrates has been seen as a crisis. Will local courts be properly funded?

Mr MARK SPEAKMAN: I have been passed a note. As of 4 September 2018, today, there are 134 full-time equivalent magistrates in the Local Court and Children's Court, and in 2012 there were 129. When you ask will it be properly funded, the proof is in the pudding and the Local Court is just about the fastest court of its kind in Australia.

The Hon. SHAOQUETT MOSELMANE: You have made indictable matters able to be dealt with summarily in the Local Court.

Mr MARK SPEAKMAN: Some.

The Hon. SHAOQUETT MOSELMANE: Without an increase in resources to the Local Court there is a shortage of magistrates and now you have made indictable matters able to be dealt with summarily in the Local Court—which are serious matters—increasing the burden on local courts.

Mr MARK SPEAKMAN: Last year the Governor appointed 17 new magistrates to the Local Court and again the proof is in the pudding, and the Local Court is getting through cases faster than just about any other magistrates court in Australia.

The Hon. SHAOQUETT MOSELMANE: Is that because there is more pressure on the local courts to get through matters?

Mr MARK SPEAKMAN: Our magistrates and the chief magistrate do a wonderful job. It is the busiest court in the country—it has a huge volume of work—but it gets through it very efficiently and continues to do so.

The Hon. SHAOQUETT MOSELMANE: There is a two-year backlog. As a result of the proposed efficiency dividend of 12 per cent, 3 per cent per year over the next four years, how many staff will be lost from already backlogged courts?

The Hon. TREVOR KHAN: Back to that. I think Mr Cappie-Wood will take this.

The Hon. ADAM SEARLE: Stop directing.

The ACTING CHAIR: We all agree that Mr Cappie-Wood should take this question.

The Hon. TREVOR KHAN: Another one over the fence.

Mr CAPPIE-WOOD: I will be repeating myself from this morning. The benefit of considering how to make efficiencies across the department is that we can aggregate some of the benefits. As I said, we are aiming specifically at looking at back-of-house costs through matters as already outlined, which were aggregation of procurement savings and I mentioned the fact that we have multimillion dollar savings through the telco purchase recently. There is considerable looking at where we can reduce discretionary expenditure on things such as travel and contractors etcetera and introducing efficiencies in a wide range of areas, not only continued digitisation.

We are focusing on the question of shared services and how to make sure that shared services, which is the repeat processes from recruitment through managing invoices, are done as smoothly and as simply as possible. We have introduced the new SAP system to make sure we have consistency across the department. We will be completing that rollout hopefully in this financial year. It will make sure that we have continued efficiencies and we are going to have to push consistent application of them and that means making sure we review our processes and review how we can save every dollar that is not going to impact frontline services. How do we rationalise our accommodation, how do we literally make sure that we are making best use of the facilities?

The Hon. SHAOQUETT MOSELMANE: In all of that how many staff will be lost?

Mr CAPPIE-WOOD: The good thing about it is there may well be some vacancies we do not fill because we are making efficiencies in the way we do business.

The Hon. SHAOQUETT MOSELMANE: Vacancies you will not fill, so how many staff will be lost?

Mr CAPPIE-WOOD: Yes. I am not looking at offering redundancies, I am looking at potentially keeping some of those current vacancies—they might remain. Because we have introduced digitisation, if we do reduce positions those positions are likely to be vacant. I am not looking at incurring redundancies this year for the purposes of achieving the efficiency savings.

The Hon. LYNDA VOLTZ: It is not about how many redundancies, it is about how much the staff is reduced. So, how many vacancies do you propose to leave? What is the number of staff vacancies that you propose to target?

Mr CAPPIE-WOOD: I took that on notice this morning in terms of the make-up and nature of the savings and our strategies to do so. If I could add that to this morning's question on notice.

The Hon. LYNDA VOLTZ: As part of the process of going through and making your savings you have identified fleet and you have identified communication, and there is not a lot in terms of frontline services in the courts so you must have across the department a staff figure of vacancies that you intend to leave as part of your savings: do you have that figure?

Mr CAPPIE-WOOD: I do not have that figure because our first port of call will be on looking at the efficiencies that can be achieved without touching staff.

The ACTING CHAIR: Can you give us, now or on notice, since 2010-11 the number of deaths reported to the Coroner each financial year as well as the number of inquests held by the Coroner in each financial year?

Mr MARK SPEAKMAN: I will answer that on notice.

The ACTING CHAIR: In your answers today about concerns about delay in resourcing regarding the Coroner you have been quite critical of the data contained in the Productivity Commission's report.

Mr MARK SPEAKMAN: I am not critical of it, I am just saying that it is not a basis for a proper comparison between New South Wales on the one hand and Victoria and Queensland on the other.

The ACTING CHAIR: It does not give a full picture? Earlier this year in March when I put questions on notice to you seeking an explanation and data on the delay in the Coroner's Court you answered the questions on notice by referring me to the data contained in the Productivity Commission's 2018 report. Why is it you say one thing on questions on notice but another when challenged in budget estimates?

Mr MARK SPEAKMAN: I do not have the answer to that question on notice in front of me.

The ACTING CHAIR: I can read it to you.

Mr MARK SPEAKMAN: Yes.

The ACTING CHAIR: The question was in relation to delay—what the longest delay was and what the median time was for completion. Your answer was:

> I am advised this information is not available. General data on coronial proceedings for financial years 2011-2017 is available in the Productivity Commission's report on government services available on the Productivity Commission website.

Which you then gave.

Mr MARK SPEAKMAN: The data about timing is comparable. The data about expenditure is not comparable because Victoria and Queensland have standalone coronial jurisdictions and all that the New South Wales cost data picks up in that report is the cost of the Coroner and the Deputy Coroner. It does not pick up a pro rata cost for regional magistrates.

The Hon. TREVOR KHAN: Not all data is of the same quality is what he is saying.

The ACTING CHAIR: Attorney, when you were asked questions on notice in Parliament, you referred us to the Productivity Commission. When you are tested on the same data here, you say it is not comparing apples with apples.

Mr MARK SPEAKMAN: It is in regard to delay.

The ACTING CHAIR: Do you have an answer on delay? The Productivity Commission report does not give a median time for delay, the longest time for delay. Do you have any knowledge about the delays in the Coroner's court system other than what is in the Productivity Commission report?

Mr MARK SPEAKMAN: If you want other measures of elapsed time that I have not given, please pose me those questions. The measures that I have seen in the ROGS such as cases pending for more than 12 months, pending for more than 24 months, cases disposed of over 12 months and disposed of over 24 months all generally point to New South Wales outperforming Victoria and Queensland. Those figures are comparable because they are dealing with all cases. What is not comparable is the spend for the reasons I have given.

The ACTING CHAIR: I will put those questions to you again on notice in this process because the answers are not found in the Productivity Commission report, despite your helpful referral in questions on notice. You would agree with me that one of the key indicators of delay is the number of times people have to keep turning up to court in proceedings?

Mr MARK SPEAKMAN: Again, that is a matter of how a Coroner chooses to list matters and what resources the Chief Magistrate allocates to the coronial jurisdiction, and how that jurisdiction chooses to operate its listing practices.

The ACTING CHAIR: If you have to keep coming back again and again before the matter is resolved, that would be an indicator of a system that is not efficiently and effectively dealing with the matter, would it not?

Mr MARK SPEAKMAN: It may be an indicator of the choices that a Coroner or Deputy Coroner makes about how long to allocate to a matter and whether estimates of time that are given by people when the matter is set down for hearing are accurate.

The ACTING CHAIR: Or whether there are adequate judicial resources after properly setting a matter down for a length of time to finally address the coronial hearing?

Mr MARK SPEAKMAN: If it takes some time to set a hearing down for the first time, that may indicate a delay. If a matter is part-heard and has to come back some time later, that may be more reflective of the listing choices that a Coroner has made and/or the estimates that that Coroner has been given by counsel, for example.

The ACTING CHAIR: Rather than have an abstract discussion, the Productivity Commission advises in its analysis that in Victoria the average number of appearances until a matter is completed in the Victorian Coroner's Court is 1½ times. Are you aware of the average number of appearances before a matter is concluded in the New South Wales Coroner's Court?

Mr MARK SPEAKMAN: I have not got the figure at my fingertips, but I know it is considerably high.

The ACTING CHAIR: It is 6.8 times. That means 3½ times as many appearances are required in New South Wales until a matter is completed, with all of the costs, the strains and the emotional burden on families, in particular, knowing the matter is coming back to court again and again. Do you think that that is a satisfactory situation?

Mr MARK SPEAKMAN: You would want to minimise the number of attendances in court for families and victims and others as much as you can. I do not accept, though, that 6.8 versus 1.5 is reflective of under-resourcing of the coronial jurisdiction. You would have to delve into why people come back multiple times and the listing practices of that court. If the court were under-resourced, a Coroner or someone might say, "We have such a backlog, do not come back for another three years, or two years, but once you are there, we will set you down for two months, or six months, or one week, or whatever it takes." You would have to delve into the listing practices to see what has caused someone to come back a multiplicity of times. I would not accept it is under-resourcing.

The ACTING CHAIR: I invite you to do that and to provide a considered answer on notice.

Mr MARK SPEAKMAN: I have given you an answer, but I will supplement it on notice.

The ACTING CHAIR: Earlier today we had a budget estimates hearing involving Corrections. Minister Elliott helpfully referred these matters to you.

Mr MARK SPEAKMAN: Very kind.

The ACTING CHAIR: The evidence that we had this morning was that 42 per cent of the female prison population are being held on remand, having been refused bail. What is going so horribly wrong with our criminal justice system that 42 per cent of the women in jail today are there because of our broken bail laws, which means they have been denied bail?

Mr MARK SPEAKMAN: As a Government, we will never apologise for putting community safety first. That is what our bail reforms do. They build on the results of the Hatzistergos review, recommendations of the Sentencing Council and the Lindt Café coronial inquest. At the end of the day, community safety comes first. People are refused bail because there is an unacceptable risk, as assessed by an independent court, or they are charged with a show-cause offence where, given the nature of the crime, the court is required to order the accused to show cause. Of course, when you toughen bail laws to protect the community, the number of people on remand will rise.

The ACTING CHAIR: As the Attorney General, are you saying it is an acceptable state of affairs that almost one in two women prisoners are in jail, having not been convicted of the offence for which they are held?

Mr MARK SPEAKMAN: Leaving aside show-cause offences, which are more serious offences, the court has to weigh up whether there is an unacceptable risk. It is always a balancing exercise of the risk to the community on the one hand and the liberty of the accused on the other hand. That is an appropriate balancing process that a court undertakes.

The ACTING CHAIR: As Attorney, do you have an explanation why 42 per cent of the female population have been denied bail? That is significantly higher than the male population, of which 33 per cent have been denied bail. What is the explanation for the disparity in gender?

Mr MARK SPEAKMAN: I do not think the explanation is a problem with bail laws. You would have to look at the particular offences with which females are charged and analyse whether, for example, there is a high proportion of show-cause offences for females. I would have to take that question on notice, but I would certainly reject any suggestion it is a broken bail law.

The ACTING CHAIR: Attorney, are you aware of what proportion of women who are being held in jail have dependent children? Do you follow the impact that our bail laws have on dependent children?

Mr MARK SPEAKMAN: I think the majority of women who are in jail have children.

The ACTING CHAIR: The evidence we heard earlier today from Commissioner Severin was that 60 per cent of the women in jail, across both the remand and sentence population, have dependent children.

The Hon. TREVOR KHAN: You are in agreement.

The ACTING CHAIR: As the Attorney, are you comfortable with the fact that more than 400 women are being held on remand who, in the majority of cases, have been taken away from their dependent children and their parent role but who have not been found guilty of an offence?

Mr MARK SPEAKMAN: Of course not, but what is the alternative? The alternative is to do away with a regime where an independent court balances the risk to the community and the risk to witnesses, the risk of absconding on the one hand and the liberty of the accused on the other hand. In a perfect world, crime would not happen, people would not have to be charged, people would not have to be on remand or, alternatively, on bail. But we are not living in a perfect world. Am I comfortable with 400 women in prison with dependent children outside? Of course not. Is there a better demonstrated alternative at the moment? No.

The ACTING CHAIR: You put the dichotomy as to whether or not you allow independent judges to determine bail. Surely the other obvious solution is to allow women with dependent children to have a second chance at obtaining bail rather than the unfair laws at the moment where they get just one shot and if they fail on that they are held on remand until trial. Why will you not give women with dependent children a second go at bail and give their children a second go at getting their mum back?

Mr MARK SPEAKMAN: Our bail laws have been the subject of enormous scrutiny and independent review. We had Mr Hatzistergos look at our bail laws to review them. The Sentencing Council looked at them.

The ACTING CHAIR: Ray Hadley.

Mr MARK SPEAKMAN: We had that independent review. We have a Bail Act monitoring group that includes representatives from, among others, Legal Aid. I am not aware of the Bail Act monitoring group, for example, making a recommendation along the lines you are suggesting, although I stand to be corrected. We have these independent review processes to get the balance right—on the one hand the liberty of the accused and on the other hand protecting the community, witnesses and the justice system, for example, with interference with witnesses, the accused absconding and so on.

The ACTING CHAIR: What recommendations has the Bail Act monitoring committee made in relation to bail laws in the last three financial years?

Mr MARK SPEAKMAN: If you want a catalogue of those I will have to take that on notice but I am not presently aware, although I stand to be corrected, of any recommendation along the lines that you have suggested.

The ACTING CHAIR: Do you consult with the Minister for Family and Community Services in relation to the impact upon vulnerable children in particular once they have their mother incarcerated and are then put into the child protection system? Do you consult with the Minister about that?

Mr MARK SPEAKMAN: There is a social policy committee of Cabinet that meets about every two to three months, of which the Minister for Family and Community Services is the Chair. Members include the Minister for Health, the Minister for Education and the Minister for Police. There is a cross-portfolio discussion of all matters that affect individuals across portfolio and incarceration is one of them.

The ACTING CHAIR: Have you put this issue on the agenda of that committee? Has it considered the impact, in particular, of bail laws and the effect of tough bail laws on separating parents, mothers and children in particular?

Mr MARK SPEAKMAN: I am not going to disclose what is or is not part of Cabinet-in-confidence discussions but I can say, as I said before, that the Bail Act has had a thorough review by Mr Hatzistergos, now His Honour. The Sentencing Council has looked at additional show-cause offences. We have a Bail Act monitoring group that looks at the operation of the Bail Act. We have had a statutory review. We have had an enormous amount of scrutiny about bail legislation.

The ACTING CHAIR: Most of that has taken it backwards and made it harder for women and men to get bail, which is why we have 42 per cent of the female population being held on remand. Is that not true?

Mr MARK SPEAKMAN: Most of it has enhanced community safety. I make no apology for making community safety a priority of this Government.

The ACTING CHAIR: Are you aware of what proportion of Juvenile Justice numbers are being held on remand? Again the Minister referred these concerns to you earlier today.

Mr MARK SPEAKMAN: It is about 50 per cent.

The ACTING CHAIR: It is actually 59 per cent—almost 60 per cent—of the children held in jail today have not been convicted of their offence and are being held in remand. Why is more than one in two of the children in jail today being held on remand, not having been convicted of an offence?

Mr MARK SPEAKMAN: One in two has a numerator and a denominator. The denominator, the total—

The ACTING CHAIR: Why 59 per cent? Let us not quibble.

Mr MARK SPEAKMAN: Hang on. Fifty-nine per cent is a fraction. By definition a fraction has a numerator and a denominator. You are concentrating on the numerator. The reason that the numerator as a proportion is going up is that the denominator, that is, the total number of juveniles in juvenile justice centres—

The Hon. ADAM SEARLE: Do you mean people?

Mr MARK SPEAKMAN: Yes, juveniles. The number of people in juvenile justice centres has gone down over time. It is about 25 per cent to 30 per cent less than it was a couple of years ago. To some extent that high proportion of people—juveniles or human beings—on remand in juvenile justice centres—

The ACTING CHAIR: Children.

Mr MARK SPEAKMAN: —reflects what has been a fall in the number of people in juvenile justice centres generally.

The ACTING CHAIR: Why are 59 per cent of the children held in juvenile detention being held on remand? Why are they being denied bail? Have you looked into this? Do you know whether it is about accommodation? Do you know whether it is about substance abuse? Do you know whether it is about the nature of their offending? Why are 59 per cent of the children in jail being held on remand?

Mr MARK SPEAKMAN: Because they have been charged with crimes that are pending. That is why they are there—

The ACTING CHAIR: Attorney, that is a flippant response.

Mr MARK SPEAKMAN: Hang on. Will you let me finish? Unlike the adult jurisdiction there is not the added layer of show-cause offence. So there is an unacceptable risk to the community and witnesses of these juveniles not being detained.

The ACTING CHAIR: Have you tried to unpack the so-called unacceptable risk? Is it because they just have nowhere to live and the State Government is not providing them with some stable accommodation? Is it because they have drug dependency issues and you cannot get them into treatment? These are the questions that I would expect an Attorney General to be answering and I would expect you to have those answers in budget estimates, not just a flippant response that they are considered an unacceptable risk.

The Hon. TREVOR KHAN: Point of order—

The ACTING CHAIR: What is the member's point of order?

The Hon. TREVOR KHAN: Mr Acting Chair, you should treat the Attorney with the respect to which he is entitled. You are entitled to ask a question and not shower any witness with multiple questions. Mr Acting Chair, you should slow it down and have a civil inquiry.

The ACTING CHAIR: I note the member's point of order. Attorney, I think you are answering my question.

Mr MARK SPEAKMAN: My response is not flippant. I make no apology for putting community safety number one. But, of course, as a government the incarceration of young people is a last resort. The number of people who are incarcerated in juvenile justice centres now is considerably lower—thankfully lower—than it was a couple of years ago. As a holistic approach to Juvenile Justice, of course, we look at drug and alcohol programs and at alternative accommodation. But the fact that the remand population is 59 per cent does not necessarily mean the remand population is unduly high. It may be good news in the sense that it shows that the general custodial population has fallen and that is why that proportion has risen.

The ACTING CHAIR: I heard you refer to the words "may" and "might". I invite you to take my question on notice and to provide a considered response about why 59 per cent of the children in jail are being held on remand. You can take me up on that or not.

Mr MARK SPEAKMAN: Despite your characterisation, that is a considered response but I am happy to supplement it.

The ACTING CHAIR: Attorney, as I understand it, you announced the potential of a further review or law reform on the laws relating to strangulation.

Mr MARK SPEAKMAN: Yes.

The ACTING CHAIR: Changes were made in 2014 by the former Attorney General. What processes are you undertaking in the review that is underway?

Mr MARK SPEAKMAN: It is not a review. Today I announced that we will be reforming section 37 of the Crimes Act. The Domestic Violence Death Review Team, chaired by the former State Coroner, made a number of recommendations about domestic violence deaths, some directed to me as Attorney General. One was to look at enhancements to the law of strangulation. We know that about one-quarter of intimate partner domestic homicides have been preceded by a non-fatal strangulation. The law that was introduced in 2014 has had more than 600 prosecutions but less than 50 per cent of those have resulted in a conviction. I am advised that is because

it has been difficult to prove one of the elements of one of the current offences, which is that strangulation, choking or suffocation has taken place. Strangulation in a domestic violence context is not necessarily about inflicting physical harm but coercion and control.

The ACTING CHAIR: Intimidation and power.

Mr MARK SPEAKMAN: Commonly these offences are being prosecuted as common assault offences. We want to toughen the law in that regard. We also want a red flag on someone's criminal record so that people see this alarm bell ringing, if you like, with domestic violence. It is not a review that we have announced today; it is a new provision—a third tier strangulation offence in the Crimes Act.

The Hon. LYNDA VOLTZ: I refer to the letter written by the Law Society relating to court delays. The Law Society identified that there has been an increase from 269,000 matters in 2012 to 330,000 by the end of 2017. The society states that the workload has increased by 23 per cent and that there have been no additional resources. Would you accept that argument from the Law Society?

Mr MARK SPEAKMAN: I accept that your data about caseload is broadly correct. We are doing a number of things to battle the delays in the District Court. A couple of years ago we appointed five extra judges. We renewed funding this year for those five judges. We have rollover lists in some parts of the District Court to deal with cases more efficiently. For table offences, to which the Hon. Shaoquett Moselmane referred, we have increased the Local Court jurisdiction so that cases can be dealt with more expeditiously than in the District Court. But being indictable offences typically the sentence that the prosecution is seeking is two years or less which is within the jurisdiction of the Local Court. The table offences that we have recently referred to the Local Court are cases where 90 per cent to 95 per cent of sentences are in that ballpark so it is best that they are dealt with in the Local Court rather than going through a lengthier process in the District Court. The appropriate guilty plea reform that we announced last year, legislated last year and started in April, will put a downward pressure—

The Hon. LYNDA VOLTZ: Is that the early pleas of guilty policy?

Mr MARK SPEAKMAN: That is it.

The Hon. LYNDA VOLTZ: That started in April, did it?

Mr MARK SPEAKMAN: Yes. That will put downward pressure on courts in a number of ways. It dispenses with committal hearings. It requires a sliding scale of, basically, fixed discounts for early guilty pleas. So, rather than in the past where there were potential discounts of up to 25 per cent on the day of trial for a guilty plea, now generally speaking you can only get that 25 per cent discount if you plead guilty in the Local Court. Part of the delay in the District Court has been that 75 per cent of accused end up pleading guilty on indictable matters, but 25 per cent of them are doing it on the day of trial.

So we want to declutter the District Court backlog in that way. What is more important than decluttering the backlog is reducing the stress on victims and on witnesses, and reducing the time on remand for those who might ultimately be found not guilty. So that puts downward pressure on court delays. As well as the additional District Court judges there are additional public defenders we have appointed. I am very conscious of delay in the District Court and that justice delayed is justice denied, but it is certainly very much on our radar and I am expecting these matters will have a positive impact on reducing the backlog.

The Hon. LYNDA VOLTZ: But the backlog is still sitting at about two years.

Mr MARK SPEAKMAN: It is at about 2,000 cases. It has escalated, but it is now stable or has slightly fallen from about 2,100 cases.

The Hon. LYNDA VOLTZ: That has improved significantly from 2012.

Mr MARK SPEAKMAN: It has.

The Hon. LYNDA VOLTZ: And now they will have the efficiency dividend on top of that. I know you say that you have put in five extra judges, but there is no way that leaving staff positions vacant is going to relieve that problem.

Mr MARK SPEAKMAN: We have put on extra judges and extra public defenders. With early guilty pleas we are putting on extra prosecutors and extra defenders so that matters are dealt with early and upfront in the process. There is compulsory case conferencing to try to distil the issues so that cases do not run as long in the

District Court. You have a narrowing of the issues. All those will put downward pressure on delays in the District Court.

The Hon. ADAM SEARLE: With the extra District Court judges your Government gave the District Court a significant additional jurisdiction with work health and safety being taken out of the former Industrial Court. Doesn't that erode the efficacy of the five appointments?

Mr MARK SPEAKMAN: I would have to take on notice what the volume of the caseload is—

The Hon. ADAM SEARLE: Please do.

Mr MARK SPEAKMAN: —but overall our reforms are putting downward pressure on the caseload of the District Court, as I said, with table offences going to the local court. The paradox is that New South Wales is probably safer than it was five, 10, 20 or 30 years ago. Crime, overall, is down, but the criminal caseload of the courts is up, because police are arresting more people. Their detection tactics are better and their technology is better. That is the conundrum that we have to deal with, and that is what we are attempting to deal with by appointing extra District Court judges and extra public defenders, and having a regime that was recommended by the Law Reform Commission of a sliding scale of early guilty plea discounts to put that downward pressure on the backlog in the District Court.

The Hon. LYNDA VOLTZ: What about regional courts? Are you going to reduce the number of days a week the regional courts operate?

Mr MARK SPEAKMAN: The decisions of where and when judges sit are in the discretion of the Chief Justice. I, as Attorney General, or the Government as a whole, have to take responsibility for the resources that he is given—

The Hon. ADAM SEARLE: True.

Mr MARK SPEAKMAN: —but the allocation of those resources between different locations is a matter for him. I am not aware of any suggestion that any regional sittings are going to be cut back. In fact, to the contrary, this Government funded an additional permanent judge in Wagga Wagga and in Tamworth-Armidale.

The Hon. ADAM SEARLE: Could you take that on notice and get us the answer about whether any of the heads of jurisdictions have plans to reduce or close regional court sittings.

The Hon. TREVOR KHAN: Write a letter.

The Hon. ADAM SEARLE: I am going through what I understand to be the appropriate channel.

The Hon. TREVOR KHAN: That is unusual!

Mr MARK SPEAKMAN: I will answer that question now. Pose it again. Are you talking about sitting days?

The Hon. ADAM SEARLE: Yes, either reducing sitting days or closing sitting locations.

Mr MARK SPEAKMAN: I am unaware of any such suggestions.

The Hon. LYNDA VOLTZ: In a letter to the President of the Law Society of New South Wales, the Chief Magistrate of the Local Court said, "The caseload at the Local Court at Broken Hill does not justify a full-time magistrate." Will a full-time magistrate continue at Broken Hill?

Mr MARK SPEAKMAN: The previous magistrate was replaced, or almost replaced, earlier in the year or late last year by a new magistrate, Magistrate Shields. As I understand it, he did not consider the residence in Broken Hill was of an appropriate standard. I understand that the Chief Magistrate agreed with him. We looked at finding an alternative residence. It is not like buying or selling real estate in Sydney, where there is a very deep market. The market in Broken Hill is pretty thin. After some months, the advice I was given was that basically it would be quicker to renovate the existing residence, which will take about 15 or 16 weeks, rather than attempt to buy a new one. In the mean time, there is a fly-in, fly-out magistrate, but my understanding is that when that residence is renovated the Chief Magistrate intends to send a permanent, full-time magistrate to Broken Hill.

The Hon. LYNDA VOLTZ: So you will commit to a full-time magistrate at Broken Hill?

Mr MARK SPEAKMAN: It is a matter for the Chief Magistrate where he sends magistrates and the number of sitting days, but the Department of Justice is arranging for renovation and repair of the magistrate's residence in Broken Hill so that if the Chief Magistrate so chooses he can have a permanent magistrate in Broken Hill. My understanding is that that is the choice that the Chief Magistrate intends to make.

The Hon. LYNDA VOLTZ: They have currently been cut from three weeks a month to two weeks a month. There is an expectation that once a full-time magistrate comes back, that they will be increased back to three weeks a month.

Mr MARK SPEAKMAN: I think he will be there full time. He may go on circuit from Broken Hill to Wilcannia or somewhere like that, but basically there will be a full-time permanent magistrate resident in Broken Hill.

The Hon. LYNDA VOLTZ: Yes, but what I am asking is: Will they get restoration back to three weeks of hearings a month?

Mr MARK SPEAKMAN: It is a matter for the Chief Magistrate, but I cannot imagine that he would send a permanent, full-time resident magistrate to Broken Hill and not expect that magistrate to be sitting every day.

The Hon. LYNDA VOLTZ: Minister, when will you provide a metal detector at Griffith Court House?

Mr MARK SPEAKMAN: I will take that on notice.

The Hon. LYNDA VOLTZ: You will take that on notice?

Mr MARK SPEAKMAN: Yes, I will. Thank you.

The Hon. ADAM SEARLE: How many sheriff's officers are stationed at Griffith Court House?

Mr MARK SPEAKMAN: I will take that on notice.

The Hon. LYNDA VOLTZ: How many courthouses in rural and regional New South Wales have metal detectors, and how many do not?

Mr MARK SPEAKMAN: My understanding is that every time a District Court is sitting there is perimeter security. My understanding is that risk assessments are done on each courthouse to assess whether perimeter security is or is not necessary, but I will invite Mr Cappie-Wood to supplement that answer.

Mr CAPPIE-WOOD: As a result of a decision a few years ago, the number of sheriffs was increased by 40, including some additional specialist officers to look at the nature of security assessments to ensure that the employment of additional resources met the varying needs of different settings. There is generally expected to be a sheriff's officer present for every sitting of a Local Court. There has been an increase in the service levels, and it is one that we certainly work very hard to maintain. In certain circumstances we have to review the nature of the listings to see whether additional security is required. We liaise with the police about that. We make sure that we are flexible in our response. In terms of the additional perimeter security, we have been implementing a program of progressively increasing those and updating them. A metal detector can take the form of a wand as well as a walk-through station. There is a variety of different locations with different security arrangements depending upon the nature of the settings and risk associated with them. Obviously, if there is a high security concern about that they are listed for courts with appropriate security in them. So it is a variable response.

The Hon. ADAM SEARLE: The Supreme Court was not that long ago damaged by flooding. Did the money to repair that come from within the existing resources for the Supreme Court or was it given additional funding?

Mr CAPPIE-WOOD: The money for repair was obtained through insurance and as such the Treasury-managed fund has covered those costs.

The Hon. ADAM SEARLE: What was the excess?

Mr CAPPIE-WOOD: That is what we contribute to in our payments to them.

Ms STRATFORD: Self-funding.

The Hon. ADAM SEARLE: So there is no excess; they just cover the cost.

Mr CAPPIE-WOOD: It is self-funding, yes.

The Hon. ADAM SEARLE: Will regional court locations be included in the rollout of the critical communications enhancement program, which, I think, is a four-year program?

Mr CAPPIE-WOOD: There is a general process of renewing critical communication infrastructure. We have been focusing particularly on audiovisual links, and replacing and updating digital equipment. That becomes a cyclical process of renewal and replacement. However, we have just come to the conclusion of our four-year audiovisual link installation process, which has now taken the total audiovisual link output points to over 550, which are mostly in courts. But, obviously, we have also made sure that we can extend that to expanding audiovisual link capacity in prisons, juvenile justice facilities as well as Legal Aid and other representative offices. It has been a substantial program and we are delighted to host other jurisdictions that have come to see how we have been doing it. Because, again, that is one of the things which, by this investment, has allowed us to make some efficiencies in the amount of prisoner transport and has improved the outcomes for the justice system both in speed and cost.

The Hon. ADAM SEARLE: How many regional courts have benefited from the program?

Mr CAPPIE-WOOD: I can give you a full list. I am very happy to do so. I will take that one on notice.

The Hon. ADAM SEARLE: This is not just a question for the Department of Justice but for your whole portfolio, Attorney. What is the number of contractors or contingent labour workers across your portfolio by agency and the cost by agency? I do not expect you to have it at your fingertips, but I would be happy for you to take it on notice.

Mr MARK SPEAKMAN: I will take it on notice.

The Hon. LYNDA VOLTZ: Camden Court sits two days a month and Picton Court sits nine days a month. Courts at Camden are backlogged. Will you commit to a new justice facility in south-west Sydney, particularly given the huge increase in housing that is going on there?

Mr MARK SPEAKMAN: You are right, there is a huge increase in housing and it is one of the fastest-growing areas of the State. We anticipate that over the next years and decades it will be possibly the fastest-growing area in demand for justice services. Capital works in the area are certainly very much on the radar and a planning process is underway.

The Hon. LYNDA VOLTZ: So, you are looking at a new facility there?

Mr MARK SPEAKMAN: We are looking at a new facility or an expanded facility in that general south-west area.

The Hon. LYNDA VOLTZ: Would it be one of those existing courts?

Mr MARK SPEAKMAN: That is a matter of planning and I cannot—

The Hon. ACTING CHAIR: Pre-empt.

Mr MARK SPEAKMAN: — pre-empt the decision that might be made.

The Hon. ADAM SEARLE: Do tell.

Mr MARK SPEAKMAN: But it is certainly at the top of our capital expenditure priorities.

The Hon. LYNDA VOLTZ: So Picton and Camden do not have security practices needed in modern courts, particularly in the context of domestic violence. What is the reason for that when a contractor charges $65,000 for $5,000 worth of work?

Mr MARK SPEAKMAN: Sorry, I do not—

Mr CAPPIE-WOOD: I will have to seek clarification. One question was about sittings and then there was is an issue about contractors. I am trying to—

Mr MARK SPEAKMAN: I did not understand your question, I am sorry, about contractors.

The Hon. LYNDA VOLTZ: There was a recent Independent Commission Against Corruption [ICAC] report that showed that you were overcharged for work at Camden and Picton courthouses—$65,670 for upgrades

for work that was of no more than $5,000. Both of those courts do not have the security you would expect you would need at Picton and Camden, particularly for domestic violence. Why is that? Is that because you have overspent on this contractor?

Mr CAPPIE-WOOD: I think they are separate issues. The ICAC process you refer to is, obviously, a matter of public record, but is there any connection between that and the functionality of the courts? There again, as the Attorney has previously mentioned, the determination of sittings and the number of sittings for domestic violence matters in the Camden Court, which are two days a month, are a matter for the Chief Magistrate. I understand that those decisions were as a result of the nature of the demand patterns relative to the other sittings that were achieved in Moss Vale, Picton, Camden and Campbelltown circuit.

The ACTING CHAIR: Attorney, I will go back to the audiovisual link and the facilities that are provided. Concerns have been raised by Legal Aid—I think if you asked the Corrections officers they would have the concerns themselves—about the inadequate number of audiovisual facilities at the Wellington prison; not the new one but the older Wellington prison. Is that on your radar for additional facilities? Are you aware of the concerns, particularly the one that is causing Legal Aid with having to back again and again and again instead of being able to deal with matters through audiovisual link?

Mr MARK SPEAKMAN: Questions about Wellington I will have to take on notice.

The ACTING CHAIR: Mr Cappie-Wood, are you aware of any concerns being raised about the lack of audiovisual links at Wellington?

Mr CAPPIE-WOOD: I have certainly seen the new ones at Wellington, but no explicit concerns have been expressed about the existing Wellington prison, which I visited a couple of times. I would be happy to raise that with the commissioner about the ways of remedying it.

The ACTING CHAIR: Attorney, you said that the law reform in relation to strangulation and domestic violence offences, in particular, that the laws have been drafted. When are they going to be—

Mr MARK SPEAKMAN: No, I did not say that. I said today we made an announcement. We announced today that we would be reforming strangulation law and my intention is to have legislation go through Parliament this session.

The ACTING CHAIR: Do you have draft legislation that is going out, particularly to women's advocacy and legal groups, to consult on?

Mr MARK SPEAKMAN: My expectation is that we would consult relevant stakeholders, which would include legal stakeholders such as the Legal Society, the Bar Association, and women's groups and victims groups.

The ACTING CHAIR: Attorney, I am told that the consultation process for the last review in 2013 did not seek submissions from women's organisations and key legal organisations. Could you check if that is true or not? But, more importantly, regardless of whether that is true, can you commit to consult with women's organisations and key legal organisations in this current round?

Mr MARK SPEAKMAN: I can. I think we have already put out a consultation paper, but I will take that on notice. But as a broad proposition, yes.

The ACTING CHAIR: As part of your work in this area, are you considering providing specific training on strangulation offences? If so, have you looked at what I am told is one of the leading international organisations—the Training Institute on Strangulation Prevention from San Diego—as a potential provider for training?

Mr MARK SPEAKMAN: I have not looked at that organisation, but I am happy to take up that suggestion to consider it.

The ACTING CHAIR: Whilst you are considering that, could you also look to the United States' Training Institute on Strangulation Prevention and see whether or not you will be partnering with NSW Health as well in rolling out the training?

Mr MARK SPEAKMAN: That is probably outside my portfolio, but I will pass along your suggestion to the Health Minister.

The ACTING CHAIR: Attorney, you point out that the comparative cut data on court delays has the New South Wales Local Court generally performing adequately or towards the top of the national data. But when it comes to Children's Courts, the New South Wales performance data is quite woeful. Are you aware of those failings and, in particular, that over a third of children's matters are taking greater than six months? What are you doing about it?

Mr MARK SPEAKMAN: The allocation of magistrates to the Local Court is a matter for the Chief Magistrate.

The ACTING CHAIR: But ultimately there is a limited pool there and you have heard the concerns about one recently appointed magistrate not finding her way onto the list for children's magistrates. We also have the Productivity Commission data which shows there are significant delays in the children's jurisdiction, much greater than in the broader civil jurisdiction in the Local Court.

Mr MARK SPEAKMAN: Yes.

The ACTING CHAIR: What are you doing about that?

Mr MARK SPEAKMAN: I will, like I do with all heads of jurisdiction from time to time, have discussions with that head of jurisdiction about the problems that affect his jurisdiction.

The ACTING CHAIR: Have you looked at the listings relating to children's matters to see whether or not there has been an increase that would be explaining the delay? Are you aware of what is causing the delay?

Mr MARK SPEAKMAN: I have not looked at those listing matters.

The ACTING CHAIR: Will you?

Mr MARK SPEAKMAN: I am happy to do so.

The ACTING CHAIR: Could you provide some further detail on notice?

Mr MARK SPEAKMAN: I will.

The ACTING CHAIR: Attorney, in 2016 the Government set a target to reduce the annual rate of adult reoffending by five percentage points by 2019.

Mr MARK SPEAKMAN: Yes.

The ACTING CHAIR: We are now more than halfway through. What has been the result?

Mr MARK SPEAKMAN: We are comparing a 2013 cohort with a 2019 cohort so we will not know until 2019 whether we get there. The reoffending strategy is across the whole justice cluster and not just in the Attorney General portfolio so, for example, our sentencing reforms that are due to start at the end of this month will see greater use of intensive corrections orders, which as an alternative to short periods of incarceration.

The ACTING CHAIR: But they will not play out for the 2019 data?

Mr MARK SPEAKMAN: They will; they may. I think they probably will, yes, because you will be sentencing people under new sentencing practices where you are looking at behavioural interventions using intensive corrections orders rather than short periods of incarceration on the one hand or good behaviour bonds, or section 10s, on the other hand. It is more in Minister Elliott's space but there has been enormous ramping up of intervention programs, with more than $230 million in Corrections high-intensity programs for those who are on short periods of incarceration, interventions with domestic violence offenders—the What's Your Plan? app, for example, EQUIPS, and other domestic violence behavioural interventions. So there is a whole plethora of interventions in Corrections and the courts that are designed to reduce reoffending.

The ACTING CHAIR: But there is a firm target of 5 per cent reduction by 2019?

Mr MARK SPEAKMAN: Yes.

The ACTING CHAIR: You must be tracking it. What does your tracking show? Has there been a 2.5 per cent reduction now? Have you overshot or have you undershot? What is the story?

Mr MARK SPEAKMAN: A number of the targets we set are ambitious targets. It is an ambitious target.

The ACTING CHAIR: Do I take it from that that you are not meeting it?

Mr MARK SPEAKMAN: You can take it from that that we know it is an ambitious target to meet and we are pulling every policy lever we can to meet it.

The ACTING CHAIR: It is a simple question: Where are you up to? Has there been a reduction, has there been no reduction, or is it going in the wrong direction?

Mr MARK SPEAKMAN: I will have to take your question about the precise percentages on notice. I am confident that we can meet that but it is an ambitious target.

The ACTING CHAIR: Attorney, the Government gave clear support to the concept of justice reinvestment in 2015 and you have supported the justice reinvestment model in Bourke. Given that model has been so obviously successful, will you commit to rolling out the concept of justice reinvestment across other parts of New South Wales and, if so, what is on your list?

Mr MARK SPEAKMAN: We have given a $250,000 grant to Just Reinvest to replicate its Bourke model elsewhere in New South Wales. We are doing things right across government that deal with avoiding what I call the upstream criminogenic factors that lead to Aboriginal overrepresentation in our justice system. For example, expenditure announced in this year's budget for police citizens youth clubs [PCYC], the Family Investment Model where in Dubbo and Kempsey we are spending about $4 million for 50 very dysfunctional families where you are getting wraparound education, health, and justice to intervene with those people. The idea of justice reinvestment is that you are better off spending money upstream to prevent the need to spend money downstream on police, courts and prisons.

The ACTING CHAIR: Attorney, you do not have to convince me about the benefit of spending money on things like child education, child nutrition and adequate housing, particularly for our Aboriginal community. But I am asking you whether anywhere on the current list you are considering replicating the justice reinvestment model in Bourke in any other part of the State and, if so, where?

Mr MARK SPEAKMAN: We have given Just Reinvest $250,000 to replicate its model elsewhere but the point I am making is that the Just Reinvest model is talking about the benefits you have identified of upstream investment in health, child care, education and so on. You do not have to earmark something out of the Justice budget and say, "We are reallocating that from Justice upstream". There is a whole-of-government approach and the examples I have given of the PCYC investment, the Family Investment Model, all sorts of education interventions, executive principals in high schools like Walgett, which you could characterise in a broad way as justice reinvestment.

The ACTING CHAIR: Where is that happening apart from Bourke because you are quite right, the Bourke community did not come asking for more money; it just came asking for some proper coordination and a focus on the existing resources where it will do best. Where else is that happening?

Mr MARK SPEAKMAN: I do know whether the Minister for Family and Community Services has been on yet but her department is spending $90 million on Their Futures Matter program, so it is happening across government. You do not need to earmark money in the Justice cluster and say, "That is money that we are reallocating to family services, to education, to health." It is happening right across government.

The ACTING CHAIR: But what Bourke shows is that somebody needs to take leadership and ownership and drive it. All you have given answers about is a hodgepodge of different projects run by different departments in different parts of the State. Is there anywhere else in the State where the Government is going to insist upon the leadership and a direct justice reinvestment model as has been so successful in Bourke?

Mr MARK SPEAKMAN: Well, they are not hodgepodge at all. You have the Minister for Aboriginal Affairs, who looks holistically at all these government programs, and the Minister for Family and Community Services. I mentioned before that we have a subcommittee of Cabinet, the social policy subcommittee, that looks holistically at these sorts of programs across government, including Aboriginal interventions.

The ACTING CHAIR: Has that committee recommended replicating the Bourke project anywhere else in New South Wales and, if so, where?

Mr MARK SPEAKMAN: As I said, Just Reinvest has been given a $250,000 grant to set up its structure elsewhere. You do not need to earmark money from Justice to do those sorts of intervention programs. You can

spend it from Police, PCYCs, from Family and Community Services or the Family Investment Model. Right across government we are seeking to intervene in Aboriginal disadvantage to turn lives around and ultimately to prevent crime.

The ACTING CHAIR: Attorney, the United Kingdom Parliament has introduced a justice impact test before laws are considered by that Parliament that place strain on the justice system, including additional resourcing requirements in courts, police and prisons. Is there a justice impact test that has been applied in New South Wales and if not do you support one?

Mr MARK SPEAKMAN: As a general proposition when, for example, law reform proposals are taken to Cabinet there is a criminal impact assessment done that purports to quantify the downstream effect that any legal change or justice initiative might have. The contents of that are Cabinet in confidence. For example, when I took the strangulation reforms to Cabinet that was accompanied by an assessment of what the downstream impact would be in police resourcing, court resourcing and prison resourcing or community corrections. That analysis of what is the impact of any justice initiative on the justice system is already done.

The ACTING CHAIR: Was that analysis done in 2015 when the bail law reforms were marched backwards, which have led to such a significant increase in the number of people held on remand in New South Wales jails?

Mr MARK SPEAKMAN: I was not the Attorney General at the time and I will have to take your question on notice.

The ACTING CHAIR: Forty-seven per cent of the Juvenile Justice population is Aboriginal, 24 per cent of the adult male prison population is Aboriginal and 34 per cent of the adult female prison population is Aboriginal. Do you support there being an Aboriginal impact statement before further criminal justice proposals for legislative change are considered by either Cabinet or Parliament, and if not why not?

Mr MARK SPEAKMAN: I do not think we need a formalised Aboriginal impact statement. The Minister for Aboriginal Affairs sits at the Cabinet table and her agency can put submissions about the impact on Indigenous people. But can I say generally speaking if there is a legal reform we look not only at the cost in dollar terms on police, courts, prisons and the number of people likely to be arrested and the number of people who might be incarcerated but also at the impact on Indigenous people. For example, we were very cognisant of the beneficial impact our driver disqualification reforms would have on Aboriginal people in particular when one-third of those who are incarcerated for driving offences are Aboriginal and about 14 per cent of people who were driving while disqualified are Aboriginal. As a government and within Cabinet we are certainly very conscious of identifiably separate impacts of legal proposals on Indigenous people.

The ACTING CHAIR: Your Government has passed dozens of legal changes—from consorting laws to move-on powers, to other discretionary police powers, to changes in the bail laws, to drug-driving laws—each of which has had a disproportionate impact upon Aboriginal people. At any point has there been a cumulative consideration of the impacts of the law and order changes under your Government on first nations people in this State?

Mr MARK SPEAKMAN: As I said, as a general proposition whenever there is a legal change—

The ACTING CHAIR: I am asking you about a cumulative impact, not one-off impacts.

Mr MARK SPEAKMAN: Whenever a significant law reform proposal goes to Cabinet there is not only a criminal impact assessment statement but also a separate calculation of the effect on Indigenous people. But, generally speaking, those law reforms you identified are about enhancing community safety at the end of the day. Sometimes when law reform will have a disproportionate effect on Indigenous people because there will be a disproportionate number of Indigenous offenders we also have to take into account that there are potentially a disproportionate number of Indigenous victims that we are seeking to protect. I read today, for example, that the Australian Institute of Health and Welfare reports that the hospitalisation rate for domestic violence among Indigenous females is 30 times the hospitalisation rate for non-Indigenous females. It is an awful conundrum but we have to look at the impact not only on potential accused or offenders but also on potential victims.

The ACTING CHAIR: We have run out of time for this hearing. I thank you and your officers for your attendance. Those questions you took on notice are required to be answered within 21 days. The secretariat will provide you with further details about them. That concludes this round of budget estimates.

(The witnesses withdrew)

The Committee proceeded to deliberate.