

REPORT ON PROCEEDINGS BEFORE

PORTFOLIO COMMITTEE NO. 4 – LEGAL AFFAIRS

BUDGET ESTIMATES 2018-2019

POLICE

CORRECTED

At Macquarie Room, Parliament House, Sydney, on Wednesday 31 October 2018

The Committee met at 9:40 am

PRESENT

The Hon. Robert Borsak (Chair)
The Hon. David Clarke
The Hon. Catherine Cusack
The Hon. Trevor Khan
The Hon. Shaoquett Moselmane
Mr David Shoebridge (Deputy Chair)
The Hon. Lynda Voltz

UNCORRECTED

The CHAIR: Welcome to the supplementary hearing of the Police portfolio for the inquiry into budget estimates 2018-19. Before I commence, I acknowledge the Gadigal people, who are the traditional custodians of this land. I also pay respects to elders past and present, and extend that respect to other Aborigines present. Today the Committee will examine proposed expenditure for the portfolio of Police, and I welcome the police commissioner.

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

There may be some questions that a witness could only answer if they have more time or with certain documents to hand. In these circumstances, witnesses are advised that they can take a question on notice and provide an answer within 14 days. Any messages from advisers or members' staff seated in the public gallery should be delivered through the Committee secretariat. Commissioner, I remind 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 from the website tomorrow. To aid audibility of this hearing, I remind both Committee members and witnesses to speak into the microphones. In addition, several seats have been reserved near loudspeakers for persons in the public gallery who have hearing difficulties. I ask everyone to please turn their mobile phones to silent for the duration of the hearing. I declare the proposed expenditure for the Police portfolio open for examination.

MICHAEL FULLER, Commissioner, NSW Police Force, on former oath

The Hon. LYNDA VOLTZ: I will begin with some procedural questions relating to threats that might be received by people working in the justice area. What procedures do you have in place regarding police who may be the victims of death threats or physical violence? What protective measures do you have in place for them?

Mr FULLER: Threats to New South Wales police employees, Ms Voltz? Or do you mean the justice system more broadly, like magistrates?

The Hon. LYNDA VOLTZ: I will go to the justice system more broadly, but I want to know what the process is.

Mr FULLER: There is immediate response from the officer's home command, and with urgency there is a risk assessment completed in terms of the safety of the officer and the officer's family. There is a risk assessment checklist that they go through that will look at a whole range of things from safety at work, safety en route to work and safety at home. There is also an assessment done to work out whether it is a high, medium or low risk. That then would determine what sort of mitigating factors we would put in place.

The Hon. LYNDA VOLTZ: What about elsewhere within the justice system, say in Corrective Services? Do you have a procedure if Corrective Services officers are subject to physical violence or threats?

Mr FULLER: In that sense, we would treat the matter as a criminal investigation. In terms of if they were a witness in a matter and they were threatened, then we would—like we would with any witness—apply a different test around safety. But if it were a Corrective Services officer, outside of our obligation to investigate the matter, it would be Corrective Services' responsibility to respond to any potential threats outside the workplace, at home and other types of things. But we would certainly give advice and guidance on what we think the risk rating is.

The Hon. LYNDA VOLTZ: Has the Department of Corrective Services sought your advice on any occasion in the last year or two in regard to Corrective Services officers facing risk?

Mr FULLER: Not me personally, but could I take that on notice in terms of checking our records to see if we have received any? We do have a liaison unit with Corrective Services and it is possible that they have received those and passed it to the relevant police area command district or investigative body to look at. If I could take that part on notice?

The Hon. LYNDA VOLTZ: I turn to some matters that the Committee followed up on previously. The last time you were before the Committee we spoke about a trial for the movement of prisoners to remove police from the process. Where is that trial up to?

Mr FULLER: There are a few moving wheels in that space, and there is a matter before the Industrial Relations Commission now in relation to prisoner transport. I am working through that with the Police Association of NSW. There were proposed trials at Parkes, Newcastle and one other location that was a commitment between the head of Justice, myself and the Police Association of NSW and we are waiting to clear funding in relation to starting those trials.

The Hon. LYNDA VOLTZ: The trials have not begun?

Mr FULLER: There have been funds made available to certain areas, such as Parkes, where we are backfilling police to ensure that when police are undertaking prisoner transport there is still a presence in the town. My major concern in this issue is that whether or not we should be doing prisoner transport is an issue that needs to be debated. But the second part is that we need to have some sense of a guarantee that there are police in these towns to protect local communities.

The Hon. LYNDA VOLTZ: I refer to the previous estimates hearing regarding the counterterrorism asset management report that was completed for the Sydney Cricket and Sports Ground Trust. Have there been any similar requests for either Town Hall or Wynyard stations?

Mr FULLER: I know our counterterrorism command provide advice and guidance to many, particularly our vital and major State infrastructure. I would have to take those two locations on notice. But if they had, there would certainly be a record at counterterrorism command.

The Hon. LYNDIA VOLTZ: Would you provide those recommendations directly to the Minister for Transport and Infrastructure? If you had a request to carry out an asset assessment, would you then provide that to the Minister for Transport and Infrastructure?

Mr FULLER: It would depend on who the asset owner is. As you would be aware, some of the major significant assets are privately owned assets and some are owned by the New South Wales Government. It would just depend on who is the owner of the asset. Certainly, if it were a Transport-owned asset, I would like to think that the Minister for Transport and Infrastructure was informed.

The Hon. LYNDIA VOLTZ: Is your asset assessment reactive or proactive? Do you react only to the requests, or are you proactive in seeking out areas where you say this is a high-risk area where there needs to be something done?

Mr FULLER: New South Wales police has a shared responsibility with the Government in relation to managing critical infrastructure. Police area commands and districts have a list of the infrastructure in their area. They have to record their patrols in relation to those assets based on the risk. We also then engage more aggressively as the risk goes up to major and vital. That links in closely with the Federal Government's crowded places document, which helps the asset owners themselves make good decisions based on risk in terms of what needs to be done. But we certainly patrol these assets, and we do provide training and education through our counterterrorism command to, particularly, the major and the vital assets.

The Hon. LYNDIA VOLTZ: The reason I am asking is that there was a lot of expenditure on stadiums based on an assumption of terrorism threats and the risk around them. Martin Place has had bollards placed in that precinct. At the end of the day, the reality is that a lot of the overseas attacks have been in the subway, particularly in London, England. You could not have not noticed the safety risk already at Town Hall, in particular, from overcrowding on those platforms and the fact that they have had to be closed down. I am surprised that whilst we have had this investment in other assets, there has not been any in Town Hall. I wonder why there has been such a lag on that precinct, in particular, in regard to this risk.

Mr FULLER: From a police perspective, we have the public transport command and we have a police presence, certainly aggressively, around Town Hall and Central. There is extensive closed-circuit television [CCTV] through those areas and we work closely with transport in relation to that. In terms of the types of attacks that you have seen, particularly on the London subways, they are often individual lone actors working with bladed weapons or improvised explosives. That is a much more complex space than trying to target hard something from a vehicle.

Mr DAVID SHOEBRIDGE: Commissioner, thank you for coming down.

Mr FULLER: Good morning.

Mr DAVID SHOEBRIDGE: On notice, I put a question to you, which was about training for the New South Wales police regarding the use of lethal force and near lethal force against people with mental illness. I asked, "Is this considered satisfactory?" Do you stand by your answer that you believe current police training regarding lethal and near lethal force against people with mental illness is satisfactory?

Mr FULLER: Yes, I do. I am always open to changes to training and we reassess our training annually, Mr Shoebridge. Mental health, as an issue, is a consistent concern for me in terms of police safety and public safety. But in terms of the use of lethal force, it is one of 10 tactical options and it is not the only one. There are 10 tactical options that we train people to use and we have, as you know, one-day and four-day courses in relation to dealing with people with mental health. If there is more to be done—if there is a course out there that someone can show me that changes—I am happy to put it in place, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: I assume when are you talking about the 10 options you are talking about that circle with the various options and different types of force and de-escalation police are given?

Mr FULLER: Absolutely, yes.

Mr DAVID SHOEBRIDGE: Is that the tactical options training?

Mr FULLER: Yes.

Mr DAVID SHOEBRIDGE: At any point does that circle, which has a fair amount of alternative options, make reference to mental health conditions?

Mr FULLER: You cannot assume en route that someone has or has not got a mental illness, unless our records obviously show that they do, and that information is important. But that is part of the assessment that

police will make on arrival at the scene and hopefully that information will be provided to them en route to the scene, if that is available to us.

Mr DAVID SHOEBRIDGE: Commissioner, that did not answer my question.

Mr FULLER: Is mental health training intrinsically linked in everything that we do? Having a second tactical option just for one group of people makes it very complex for police. Sometimes the expectation on how much we can train police to do, people think that is a better thing. But I would argue you can reach a point of saturation that police do not know whether they are moving tactical model A or one or two or three or B and is this a mental health issue at the moment or is it more about domestic violence? I think there are certain dangers in trying to create a different response to every different type of crime and person.

Mr DAVID SHOEBRIDGE: Commissioner, you still have not answered my question.

Mr FULLER: Could you ask the question again because I thought I did the second time?

Mr DAVID SHOEBRIDGE: Does the tactical options model at any point reference mental illness?

Mr FULLER: No, but the training does. The model itself does not have mental health illness in it, but the training at the academy does.

Mr DAVID SHOEBRIDGE: Can you provide details on notice of training materials provided on the tactical options model that relates to mental illness?

Mr FULLER: Yes, I can.

Mr DAVID SHOEBRIDGE: Sitting there, you say that you believe there is adequate training in tactical options training specifically focused on mental illness? Is that your evidence?

Mr FULLER: Absolutely.

Mr DAVID SHOEBRIDGE: Do you know what that is?

Mr FULLER: It is a one-day course and a four-day course in relation to mental health training specifically.

Mr DAVID SHOEBRIDGE: I am asking you about the tactical options model.

Mr FULLER: At the New South Wales Police Force Academy we have extensive training around the 10 tactical options. Is it dealing with people with mental health issues? We have ongoing training in relation to that. We have officers who are specifically trained in mental health. We have a whole range of things which we have provided before on notice.

Mr DAVID SHOEBRIDGE: There is no hierarchy is there? There is no preferred hierarchy of police response on the tactical options model?

Mr FULLER: It depends on the threat. If there is a threat, then the first responder will be the first officer at the scene.

Mr DAVID SHOEBRIDGE: My question is: Is there a hierarchy? Is there a preferred initial response?

Mr FULLER: Well the preferred response would be a health response, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Is the preferred response de-escalation or communication, because the tactical options model provides no hierarchy at all? I am asking you what you are expecting from your officers.

Mr FULLER: I am expecting that they assess the scene on arrival. Every scene will be different, every offender is different, every victim is different. There is a real danger in trying to box police into a certain response when every situation is different, and I think it is setting us up to fail.

Mr DAVID SHOEBRIDGE: I am not asking about boxing officers into a certain response.

Mr FULLER: But a hierarchy is boxing it in because there is an assumption that one thing is a priority over another.

Mr DAVID SHOEBRIDGE: Surely there would be an implicit direction to police, I would imagine, that wherever possible and practical force should not be used? Is there that basic direction?

Mr FULLER: We have to meet the legal threshold. There needs to be a legal threshold met for the use of force. There is a legal threshold that needs to be met.

Mr DAVID SHOEBRIDGE: I just want to understand. Is there a basic assumption that when police go about their duties that force will not be the first option and, indeed, will only be resorted to reluctantly by police? Is there that basic assumption or is that not even there?

The Hon. TREVOR KHAN: That is the law.

Mr FULLER: Of course communication would always be the first option, but that is the law.

Mr DAVID SHOEBRIDGE: I know what the courts will say if police use unreasonable force. I am asking you what directions you give, what guidance you give, to those officers under your control and command? Do you say to them, "We expect you, wherever possible, to not rely upon force"?

Mr FULLER: There is a legal threshold to the use of force, but I would say to you that communication is the most important step in starting, but you will arrive at a scene where that may not be possible as well.

Mr DAVID SHOEBRIDGE: Is there anywhere you can point me to where you have given a direction to police, or there is a directive from a prior commissioner, that says you should, wherever possible, try and not rely upon force, rely upon negotiation and other communications to de-escalate the situation? Will I find that in writing anywhere?

Mr FULLER: From me personally or from my policy and legislation that I control?

Mr DAVID SHOEBRIDGE: From you as commissioner, or from a prior commissioner, is there a current "in place" directive or memorandum to that effect?

Mr FULLER: I would have to check. But in terms of me specifically giving a direction about what an officer should do when they arrive at a scene, it is a very dangerous practice. My training and our ability to apply the legislation is what is important, and the evidence that we are doing that. I would be happy to provide you the type of training that we provide the police in relation to an escalated model and how you apply the all best, and how you need to meet the threshold in terms of using force and particularly lethal force.

Mr DAVID SHOEBRIDGE: The tragic death of Ms Topic, who the Coroner has now reported on, are you aware that officers with mental health training arrived just seconds after that young woman was shot dead?

Mr FULLER: Yes.

Mr DAVID SHOEBRIDGE: Are you aware of how long the delay was between the arrival of the first police and Ms Topic being shot dead—how long that period was?

Mr FULLER: A short amount of time.

Mr DAVID SHOEBRIDGE: Less than a minute.

Mr FULLER: Yes.

Mr DAVID SHOEBRIDGE: Then less than a minute later police trained with mental health training—an officer who had done the five-day course—turns up, only to find the tragic circumstances of Ms Topic shot dead. Do you accept that there was a failure in communication by the police in that tragic circumstance?

Mr FULLER: No, I do not. Would I like every officer trained in the five-day course, yes, I would, Mr Shoebridge, and I will continue to drive training—the four-day course—I will continue to do that. It is extremely unfair to those police who are deploying in these urgent situations. They face a high-risk situation where a young female adult is brandishing a large knife and is clearly not responding to police, and what you are suggesting is a risk transference for police to put their lives in danger.

Mr DAVID SHOEBRIDGE: What I am suggesting is that the police, whoever is in charge of mustering the police forces for that response, if they were aware that one of the officers who had done the five-day mental health training is just minutes away that a life could have been saved.

Mr FULLER: Look, Mr Shoebridge, you are assuming there was some magical statement that they had been trained on that was going to talk her down and I think that is unreasonable. That is the hindsight policing that puts us in a very difficult position.

Mr DAVID SHOEBRIDGE: I am assuming you are doing the training for a purpose and I am assuming that the five-day training is for a purpose so that they have more skills in dealing with people such as Ms Topic, who had never shown any violent tendency before—

Mr FULLER: There are doctors out there who have trained for 12 years, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: —and was shot dead despite a police officer being minutes away. That is what I am suggesting.

The CHAIR: Order!

The Hon. TREVOR KHAN: Point of order—

Mr DAVID SHOEBRIDGE: The witness is not allowed to speak over me any more than I am allowed to—

The CHAIR: Order!

The Hon. TREVOR KHAN: That is a demonstration of the problem, Chair. There is a heightened raising of tension in the room. It is difficult for Hansard to take this down when there is over-talking by both parties. I think if it is slowed down a bit it might be easier on Hansard, at the very least.

The CHAIR: I take the point of order. I do not think there is anything wrong with heated questioning; equally, I do not think there is anything wrong with heated answers, Commissioner, but can we try to do one thing at a time, please.

Mr DAVID SHOEBRIDGE: Did you hear the question?

Mr FULLER: Could you ask the question again just so I am clear?

Mr DAVID SHOEBRIDGE: I am suggesting to you, Commissioner, that the five-day training is for a purpose and that if an officer who had had the five-day training on mental health was only minutes away, an obvious, rational and safe response from the police would have been to say, "Hold off those first two general duties who haven't got the training. We have got someone with the training. Wait 30 seconds, wait 45 seconds. No individual was at risk."

Mr FULLER: Well, you have got a person standing metres away with a knife who within two steps could put it into your chest, Mr Shoebridge. I think that is, one, an unfair statement to make; two, we have psychologists with 12 years training, 14 years training. When they are faced with dangerous situations they do not ring their professor; they ring us, Mr Shoebridge, because not every person can be talked down with a magical statement based on training. You are two metres away from someone with a long-bladed weapon who could kill you within two steps. I think just assessing or assuming that a statement is going to talk everyone down in those situations is unrealistic and unfair to responding police.

Mr DAVID SHOEBRIDGE: Commissioner, I think you have misunderstood the premise of my question. The premise of my question was that the two police who, on arrival, had a situation where they did not have the training and, on arrival, Ms Topic approached them with a knife. That situation could have been avoided if they had held back and they had been advised that a police officer with the five-day training was only a minute away—"Don't attend and wait for that officer to attend."

The Hon. CATHERINE CUSACK: Point of order—

Mr DAVID SHOEBRIDGE: Do you understand the difference?

The Hon. CATHERINE CUSACK: My point of order is the question is hypothetical. What we are doing now is going down endless versions of hypotheticals of what could have occurred at a very tragic incident. This can go on forever and those hypothetical questions are in fact out of order.

Mr DAVID SHOEBRIDGE: There is nothing in the standing orders about hypothetical questions.

The CHAIR: I do not think there is anything in the standing orders about hypothetical questions and the commissioner can decide to answer a hypothetical question if he wants to or not. That is really what it gets down to.

Mr FULLER: Chair, I would only give the same answer I gave previously.

Mr DAVID SHOEBRIDGE: Commissioner, a trained officer turning up after the situation had escalated and Ms Topic was approaching the two officers with a knife, you say there was no magic that could have applied at that point. That was your answer, correct?

Mr FULLER: At the end of the day, we will never know what was in her mind. It is all hindsight policing, which just undermines operational police and the challenges that we face, Mr Shoebridge, every day.

Mr DAVID SHOEBRIDGE: Commissioner, what I am suggesting to you is that the problem was general duties police without adequate training turned up and the situation escalated and a far better response would have been for the Police Force to have been aware that a police officer with the five-day training was only less than a minute away and to direct those general duties not to approach but to allow for an adequately trained police officer to attend. Do you not agree that would have been far preferable and a young life would not have been lost?

Mr FULLER: Not in an open situation necessarily where you do not have control of the person of interest.

Mr DAVID SHOEBRIDGE: The police reports made no suggestion, and indeed there was no evidence, that Ms Topic was a threat to anybody else at that point when the first police arrived. You know that?

Mr FULLER: And it is a big risk to get wrong as well, Mr Shoebridge; these assumptions of what was in her mind at that time other than the fact we know now—post—that she was misdiagnosed or was not properly diagnosed in her 20 years of life and police had to face a very dangerous situation. Now, I wish we never shot her; I wish she was still alive, for everyone's sake. Again, as I said earlier, my commitment is that we will get everyone through the five-day course so we do not have to have this conversation again.

Mr DAVID SHOEBRIDGE: When will everybody be through the five-day course?

Mr FULLER: We are 16,800, Mr Shoebridge, and it is an intensive course. I have asked Assistant Commissioner Walton, who was the overall facilitator of this to double the amount of training and that has happened since I have taken up as the commissioner, and I will continue to drive it and I will continue to try to also make it mandatory training at the academy as well. So I am a believer in training; I am a believer in improving our response to these situations but I think at times we can be over harsh on police who have to respond to make very difficult decisions.

Mr DAVID SHOEBRIDGE: Commissioner, to be honest, when you say you are a believer in the training, that answer is somewhat undermined by your earlier evidence referencing training to magic and comparing it to magic. I have got to say I was surprised at your evidence in that regard.

Mr FULLER: Because I have said you could train for 12 years; you could be the most eminent psychologist in this State but when you face a violent patient they call us. They call us, Mr Shoebridge, because there is no magical one statement that will talk an individual down because they are violent, they are mentally unstable, they could be under a substance abuse, they are challenging to deal with. The experts call us when they are in an entire risk situation.

Mr DAVID SHOEBRIDGE: Commissioner, you do know that Ms Topic had had no history of violence before this. You do know that, do you not?

Mr FULLER: She was also misdiagnosed for 22 years, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: You know she had no history of violence?

Mr FULLER: I do not know that but I accept and take it on record that is the case.

Mr DAVID SHOEBRIDGE: Commissioner—

Mr FULLER: But also—sorry—

Mr DAVID SHOEBRIDGE: No, feel free,

Mr FULLER: People with her mental condition are known to be violent and dangerous. Now I am not saying she was.

Mr DAVID SHOEBRIDGE: Commissioner, can I say that answer is, I find, disturbing, coming from the police commissioner.

The Hon. TREVOR KHAN: Point of order—

Mr DAVID SHOEBRIDGE: —suggesting that somebody with a kind of mental illness is a violent threat is disturbing.

The Hon. TREVOR KHAN: I take a point of order.

The CHAIR: Order!

Mr FULLER: I said "can", by the way.

The CHAIR: Order! What is the point of order?

The Hon. TREVOR KHAN: My point of order is this: Mr Shoebridge is entitled to ask questions. He has now, on a number of occasions, not asked a question but has simply made a statement and, indeed, at least on two occasions now has made what I would consider an outrageous statement to the witness. I would ask that he throttle it back; that he ask questions alone rather than press the outrage button yet again.

The CHAIR: Pressing the outrage button or a statement to that effect is not a point of order, and you know that.

The Hon. TREVOR KHAN: I know that but his performance is outrageous.

The CHAIR: That is in the *Hansard* now and I accept that.

The Hon. TREVOR KHAN: I accept that.

The CHAIR: Mr Shoebridge is entitled to have a preamble in relation to his questions just as the commissioner is to also answer the way he sees fit.

Mr DAVID SHOEBRIDGE: He does not need you, Trevor.

The CHAIR: If members take points of orders, can they be real points of order in relation to these matters.

The Hon. TREVOR KHAN: That is a real point of order. He is to ask questions; it is budget estimates.

The CHAIR: He is to ask questions.

The Hon. LYNDA VOLTZ: To the point of order: I think badgering the witness when he is giving an answer is probably the point that the Hon. Trevor Khan is making. I am not sure that it is helpful to imply that the police commissioner was saying that psychiatry and dealing with mental health illnesses—that he was equating that with magic is particularly helpful.

Mr DAVID SHOEBRIDGE: Just because he did.

The CHAIR: Order!

The Hon. LYNDA VOLTZ: Can we just come back to the point of order? When you are dealing with these very difficult issues—and we all know that 70 per cent of people in jails have mental health issues—it is actually not the police's job as the core function of mental health; it is actually the Department of Health. Police are often in a very difficult position in dealing with mental health.

Mr DAVID SHOEBRIDGE: Is there a point of order here?

The Hon. LYNDA VOLTZ: Yes, there is a point of order. There are some important questions around the mental health training that you should be asking but going back five or six times to the same point and badgering the police commissioner in regard to what was the state of mind of police officers who turned up for a person who was holding a knife—

Mr DAVID SHOEBRIDGE: Which was never one of my questions.

The Hon. LYNDA VOLTZ: Yes, it is completely being reintroduced—

The CHAIR: Order!

The Hon. CATHERINE CUSACK: I would like to make one submission on the point of order.

Mr DAVID SHOEBRIDGE: I will not be lectured to by Labor on questions to police. It is shaming. The Guy Zangari camp.

The Hon. LYNDA VOLTZ: You are out of control, Dave.

The CHAIR: The next unnecessary comment from a member and I will put them on a call to order. The same rules apply here as in the House. Keep that in mind. If things get out of hand and you have three calls to order I will throw you out. It is as simple as that. I expect everyone to treat each other decently. I have no problem with lines of questioning or even the way questions are delivered. The commissioner is big enough and bold enough and I am sure man enough to answer the way he wants, and he can give as well as he takes. The reality is we have to keep this professional. Please proceed.

Mr DAVID SHOEBRIDGE: Commissioner, I commend you for agreeing to meet with the family. I note that there will be a coronial in relation—will there be a critical incident review in relation to that case?

Mr FULLER: Yes, Mr Shoebridge. There is one underway at the moment. That is being undertaken by the Surry Hills Police Area Command and they have been in contact with the family. From the outset, I promised a transparent and expeditious investigation into that. That has seen an officer charged with serious driving offences.

Mr DAVID SHOEBRIDGE: You will meet with Mr Vieira before the conclusion of the critical incident review and before the conclusion of the charges against the police officer?

Mr FULLER: I would not say at the end of any of those because they could drag on because of the criminal process. It is at a time that the police Minister and Mr Vieira have discussed. It is not something I am hiding from.

Mr DAVID SHOEBRIDGE: It will be sometime this year, is that your expectation?

Mr FULLER: If that lines up with the family and the police Minister, then I am absolutely happy to.

Mr DAVID SHOEBRIDGE: I put this question to you on the premise that it is entirely appropriate: I assume that is because of the tragedy that the family have faced?

Mr FULLER: These types of matters are of such significance, they have a huge impact on the community as well as they do on the NSW Police Force. Obviously I cannot meet with everyone that is a victim of a crime. Particularly when there is a great deal of public interest, as the commissioner, it is important that I show my hand in relation to it.

Mr DAVID SHOEBRIDGE: Will you meet with the family of Ms Topic?

Mr FULLER: We have been reached out and asked to meet with them. I have given approval for the New South Wales police to meet with them. If they specifically want to meet with me I am happy to do that. I have to be careful, Mr Shoebridge; I cannot possibly meet with everyone. I think it is only reasonable that a senior member of the New South Wales police meet with the Topic family and/or myself.

Mr DAVID SHOEBRIDGE: It is a simple request. Will you give the commitment to meet with the Topic family, as the commissioner, if they formally request it of you?

Mr FULLER: If they formally request it of me, yes, I will.

The CHAIR: Turning your mind to the Firearms Registry, can you explain to the Committee what is going on at the Firearms Registry at the moment?

Mr FULLER: Thank you, Chair. We have put a new commander in place at the Firearms Registry, a sworn police officer, Superintendent Tony Bell. He has recently been appointed with the task of conducting a review on the structure of the Firearms Registry and review in terms of the performance of said registry. He is making extremely good headway in relation to that. I met with him yesterday, Mr Chair, in relation to if we could implement a more effective registry what would that look like. That is progressing quickly. It is not about saving money. It is not about removing staff. It is about making sure we have the appropriately trained expertise to do the job. We have changes as a result of the firearms licensing and firearms lifecycle management system [FLMS], which thankfully since the last time we met is now up online. There are two key forms online and hopefully two more to be online before the end of the year. That could bring around changes in relation to the Firearms Registry because the manual processing of information may not be there.

The CHAIR: Thank you very much for explaining what Tony Bell is going to be doing. First, when he does produce a report can you table it?

Mr FULLER: Absolutely.

The CHAIR: I am keen to know what is going on at the registry. Ever since Deputy Commissioner Milkins was appointed—I do not know if she still there or not—is she still there?

Mr FULLER: She is there until the end of the year. A new appointment has been made but has not been approved by Cabinet.

The CHAIR: Given the experience in my office, there has been a massive collapse in the service capabilities of the Firearms Registry. On behalf of some of my constituents, things are not good and people are not happy with the service levels they are getting and in the way the service is being delivered. Let us wait and

see what happens as far as that is concerned. Are you actually happy that large parts of the service capability of the registry have been taken out of the registry and is now being handed over to Service NSW?

Mr FULLER: It is only the front end in relation to people applying online for the guns, the industry applying online. The back-of-house assessment, the risk assessment of this, will still be done by humans. It is only merely the application process. Much like a drivers licence and you still have to go in and be properly assessed.

The CHAIR: You raised the issue of licences and one of the ongoing complaints we have had—and I tried to amend it earlier this year—was the physical delivery of licences and them being lost in the post. I am not sure exactly where in that chain of activities you go to Service NSW to get your licence renewed, but you cannot go to pick it up like we did in the past. Licences seem to be getting lost in the mail. Are you satisfied the security requirements that were built into the Firearms Registry processes in the past still function? I am getting a lot of complaints about people's mail going astray.

Mr FULLER: I am, sir. But I will take that on notice and see how many have been lost and what is the reason and I will come back to you personally.

The CHAIR: I have personally had someone else's permit to acquire mailed to my address and vice versa—I have had my permit to acquire sent somewhere else and then posted to me at Parliament House. I have actually forwarded that to your office, or certainly to the registry.

The Hon. TREVOR KHAN: What, your permit?

The CHAIR: My permit to acquire. I do not know who is doing the mail merging, or what company is doing all of that, but they have made a bloody mess out of it and it is totally unacceptable.

The Hon. SHAOQUETT MOSELMANE: Especially when you are dealing with guns.

The CHAIR: The whole idea of the Firearms Registry and the fact that you do not have your residential address on your firearms licence is a matter of security. Yet, somehow or other, as these changes are being made—I am not suggesting that the police are complicit in this—I think what has happened is the Government has forced this on the New South Wales police in relation to the registry functions and procedures and it is unacceptable as far as I am concerned. It places the public and licensed firearms owners in danger. Have there been any staff reductions at the Firearms Registry? We heard a bit of stuff about this earlier in the year. What is the official position at the moment?

Mr FULLER: The official position is that it has not changed. There was a contingent workforce there, which means it is a part-time workforce that is brought in to do certain tasks and there is a review of them becoming permanent. However, talking to Superintendent Bell yesterday, I can certainly see in my time the Firearms Registry growing as we need to improve the service that comes out of it. That will be the challenge for me as the commissioner, in finding those resources.

The CHAIR: I am very happy to hear that. Certainly the impression I have been getting in the last six or eight months it has been going the other way, and resources are being removed from you or the registry.

Mr FULLER: I think a lack of certainty has seen staff leave. I think that is a fact, and we are in the process of backfilling them. It is my understanding that we have not deleted any positions. I will triple check that on notice for you.

The CHAIR: Is there any view that the registry should be moved from Murwillumbah to somewhere else.

Mr FULLER: Selfishly, it would be easier if it was closer to me, but I do not see any need to move it. I have given that certainty to the commander yesterday, who only recently moved up there. It is not on my agenda to move the location of the registry and I have never mentioned that to anyone.

The CHAIR: No, I am sure you have not. It is one of those perpetual rumours that run around the place.

Mr FULLER: I asked him to go back and let the staff know that the Government and/or the commissioner has not turned their minds, or will turn their minds at any time in the near future, to moving the registry.

The CHAIR: I turn now to the issue of permits for suppressors. Can you explain why up to 25 September only one of 79 applications for suppressor permits was approved under "RECREATIONAL/SPORTING PURPOSES genuine reason", whereas 108 of the 109 applications were approved under "BUSINESS/EMPLOYMENT PURPOSES genuine reasons"?

Mr FULLER: From my reading information, and from looking at the NSW Civil and Administrative Tribunal, it appears that the "genuine reason" test does not fall favourably on those who are not engaged for business and, rightly or wrongly, those decisions have generally been supported at NCAT.

The CHAIR: Can you instruct the registry to perhaps give some more guidance in relation to what "genuine reason" means in relation to these matters?

Mr FULLER: Sorry if I have interrupted you. I apologise.

The CHAIR: No, please proceed.

Mr FULLER: I instructed Superintendent Bell yesterday to get an independent, unemotional view on "genuine reason"—particularly in relation to those who are not using it for a professional reason—to test if we are applying the right "genuine reason" test. That will be put in train in the coming weeks in relation to that review.

The CHAIR: Will Superintendent Bell review that?

Mr FULLER: Review the way that we are applying the "genuine reason" test—I think this is particularly only to non-professional use.

The CHAIR: That is really where I am going. As I said on the professional use side of things, 108 of the 109 applications were approved. Only one out of 79 applications was approved for "RECREATIONAL/SPORTING PURPOSES", yet they are one of the listed "genuine reason" application areas. There seems to be a bit of a dichotomy there; no-one really understands what a "genuine reason" is for recreational and sporting purposes. I turn now to the question of costs—and I have tried to get my hands on some of this stuff but have not been able to. What was the cost to the NSW Police Force arising from legal representation provided by the Office of General Counsel, the Crown Solicitor's Office, external barristers and solicitors, and expert witnesses as a respondent to the following cases dealing with the NSW Civil and Administrative Tribunal: *Marando v Commissioner of Police*, *Larsson v Commissioner of Police*, *Trigg v Commissioner of Police*, *Burge v Commissioner of Police* and *Burton v Commissioner of Police*?

Mr FULLER: We do have that information, and I can provide it on notice to the Committee as a result of this.

The CHAIR: During the budget estimates hearing on 30 August 2018 I asked what specific training adjudicators at the Firearms Registry received to enable them to objectively assess prohibited weapons silencer permit applications based on medical need. The response I received indicated that the registry staff received on-the-job training and that they rely on so-called fact sheets and materials available on the registry website. Do you believe the staff of the Firearms Registry are qualified and adequately trained to objectively and fairly assess suppressor applications when there is a genuine medical need, such as hearing impairment?

Mr FULLER: I would say if NCAT's decisions are one test—I think in many areas they are doing very good work up there too. If I could just go on record saying that I think there are some decent staff there doing hard work as well but, again, as I said in my previous answer to you, I have undertaken to do an independent review of the "genuine reason" test in those cases.

The Hon. LYNDIA VOLTZ: Following the Coroner's recommendations, has any additional funding or resources been put into mental health training for police officers?

Mr FULLER: No, but I had already doubled our commitment to training police in the four-day course. If I may just say, in the Coroner's recommendations there was not a specific course out there that someone had seen that they wanted me to implement; it was just about more training. I think it is so important that we identify what the training gaps are, rather than just continually say "more training". What are the specific gaps that I need to fix as the commissioner? As I said to Mr Shoebridge on record, I will fix those happily.

The Hon. LYNDIA VOLTZ: What about consideration being given to police radio operators having mental health training to better identify the first call-out?

Mr FULLER: Absolutely, and that has been passed on to the head of the communications and information command, or Comms group. They are a central point in police responding to many incidents, including mental health issues.

The Hon. LYNDIA VOLTZ: Can you provide on notice what action has been taken in response to that recommendation and police radio operators?

Mr FULLER: Absolutely.

The Hon. LYNDA VOLTZ: A few years ago there was a recommendation by the New South Wales Police Association about having mental health nurses in local area commands or regionally to assist police. Has any further consideration been given to that model?

Mr FULLER: No, there has not. I will say again: If Health was the first response I would be a very happy commissioner. I am certainly suggesting that Health can play a major role in this in helping New South Wales police. I personally do not feel having a nurse in every police area command or district would help—other than perhaps daily training. The real rub is out in the field and you never know when you are responding to a job necessarily.

The Hon. LYNDA VOLTZ: I think the intention was similar to that in domestic violence, where domestic violence officers would attend along with police officers to assist in incidents of domestic violence. As you would no doubt be aware, going back a number of years now crisis teams would normally attend, but police appear to have fallen into that role. I am asking whether the supplementing of mental health nurses in that process has been looked at?

Mr FULLER: I will take it on notice to go back and review the recommendation to see what decisions were perhaps made before my time. But I certainly have not progressed it in my time as commissioner.

Mr DAVID SHOEBRIDGE: I think everyone who looks at the issue is distressed at the fact that police are having to deal on the ground with so many instances of people who have florid mental health conditions. I think we can all agree on that, can we not?

Mr FULLER: Absolutely.

Mr DAVID SHOEBRIDGE: And different models are used in different jurisdictions. Have you undertaken any kind of review of police and other agency practices in other jurisdictions to see what the international best practice is?

Mr FULLER: Assistant Commissioner Mark Walton, who is the commander of the Central Metropolitan Region, is our spokesperson for mental health. I talk to him regularly about these issues. There is a new tactical model in North America—I think it is Chicago. You would have heard us talk before, Mr Shoebridge, around contain, negotiate—which is very much based on a bricks-and-mortar approach that you have someone in a room, in a house or in a building and you can contain, negotiate with them in there and then you safely negotiate a better outcome. If the topic matter is out in the open, it obviously makes it much, much more challenging to contain, negotiate. They have trialled and—I believe successfully—put in place some different tactics around using different types of shields to better contain, negotiate people in open environments. I have asked Mr Walton to progress—quickly, expeditiously—if this is something we could use in New South Wales. The answer is "yes" and that is one example.

Mr DAVID SHOEBRIDGE: Have you thought about approaching NSW Health and seeking a joint task force to look at what is a matter that must occupy a vast amount of your resources, but probably should be more appropriately occupying a significant amount of their resources? Have you thought about a joint task force or interagency meeting with NSW Health?

Mr FULLER: We do meet regularly. Obviously I have not had a meeting personally with the health Minister or with Elizabeth Koff, but we do meet. The Fixated Persons Unit was a unit I put in place in my first week as the commissioner. That was about Health and New South Wales police working together to have better outcomes for people who are just not law enforcement, and there are some very good examples of us at the moment. But is there a specific task force looking at this more broadly at the moment? Not to my knowledge.

Mr DAVID SHOEBRIDGE: Are you willing to explore that as an option?

Mr FULLER: Absolutely.

The Hon. LYNDA VOLTZ: I just want to go off that topic. In the use of tasers, do you know whether in the past two years—I know the Auditor-General does audits of them—there has been an increase in taser use?

Mr FULLER: We do have the statistics on it. I do not believe there is a marked increase in taser use, but I can certainly, on record, get you the statistics going back.

The Hon. LYNDA VOLTZ: Will you take that on notice and also a breakdown of them regionally—taser use by regional area command?

Mr FULLER: I certainly cannot see why not. If we can, we will do that. I think, Ms Voltz, it is important with tasers that they are a very important less lethal option but they are not foolproof either. They do have a failure

rate because clearly they need to connect two probes with the skin. I think people need to understand that I think around 50 per cent of the time there is a failure because they just do not connect because of clothing and other issues.

The Hon. LYNDA VOLTZ: I understand that, and particularly with ice they are also an issue. It would be interesting to know how they are being used and whether the use of them has increased. Is that consistent across the board or is it being used more in certain regions?

Mr FULLER: I have personally seen footage, reviewing it as assistant commissioner, where they have no doubt saved lives.

Mr DAVID SHOEBRIDGE: When was the last full review of the police pursuit policy?

Mr FULLER: It gets reviewed every 12 months. I could get you that date reasonably quickly.

Mr DAVID SHOEBRIDGE: When was the last substantive change made to it?

Mr FULLER: It gets changed every year when we do a review. It would be a progressive review. I cannot tell you the amount of reviews that happen every year but we would have a track change of that. But they are changes based on a whole range of different best practice and outcomes of inquiries of critical incidents and coronials.

Mr DAVID SHOEBRIDGE: Will you provide this Committee with a copy of the current policy? You may wish to ask for it to be confidential. I understand that.

Mr FULLER: There is methodology in it that we do protect because it does obviously talk about how we deal often with criminals in the space of pursuits. So it is something we do not normally release. But if I have to release it, then we would mark it.

Mr DAVID SHOEBRIDGE: I ask you to provide a copy and if you wish it to be kept confidential to clearly indicate that to the Committee.

The Hon. TREVOR KHAN: I think he is indicating now that if he does provide it he wants it confidential.

Mr DAVID SHOEBRIDGE: We have had this discussion before.

The CHAIR: There is no question of that. We can keep that confidential.

Mr DAVID SHOEBRIDGE: Statistics provided on notice in Parliament show that in 2014-15, 60 per cent of police pursuits were for traffic matters. In 2015-16, 57 per cent of police pursuits were for traffic matters. In 2016-17, 56 per cent of police pursuits were for traffic matters. In 2017-18, 53 per cent of police pursuits were for traffic matters. But in the first three months of this financial year it has gone back up to 60 per cent of police pursuits and chases were for traffic matters. Do you accept there is something seriously wrong with your pursuit policy when 60 per cent of pursuits are for traffic matters?

Mr FULLER: No, I do not. I have read the policy again in recent weeks. I think the policy and our training is sound. I think the framework around how we audit pursuits is sound. I think the fact that a pursuit can last two seconds and we still record it—I think it would be wrong to assume that all of those are a 30-minute pursuits through the wild west; it is just not the case.

Mr DAVID SHOEBRIDGE: I was not assuming that.

Mr FULLER: No, I was just putting it out there on record. A pursuit could go for two seconds or for five minutes. Often with traffic matters, sir, it is the case that many of the drivers have got their radio so loud they do not hear the sirens but we still ethically record that as a pursuit because it fits the definition.

Mr DAVID SHOEBRIDGE: Commissioner, the rate of pursuits for traffic matters in New South Wales is significantly higher than those jurisdictions that have reformed their pursuit policies. I point to Orange County in Los Angeles and, even closer to home, Victoria, Queensland and Tasmania. Do you agree with that?

Mr FULLER: I have not seen the statistics recently in relation to the others but I will assume that is correct.

The Hon. TREVOR KHAN: Orange County?

Mr DAVID SHOEBRIDGE: Yes, Orange County.

The CHAIR: Disneyland.

Mr FULLER: I certainly know that Victoria, Western Australia and Queensland have made changes to their pursuit policies that I would assume have reduced the numbers.

Mr DAVID SHOEBRIDGE: If they have made changes to their pursuit policies to reduce numbers, and every pursuit that does not happen is a risk that is avoided, why is New South Wales not doing this? Why is New South Wales so out of step, with its aggressive police pursuit policy?

Mr FULLER: I would disagree, sir, that it is aggressive. I think it is a well-managed policy. It is well administrated. A quarter of all pursuits are terminated because they are extremely highly regulated. We had a pursuit on 24 October from a traffic issue and we stopped the individual who had a firearm and balaclava in the car that we did not know about until we stopped him. So there are many, many examples of when we have stopped dangerous people who are trying to evade police who were en route to commit a criminal offence.

Mr DAVID SHOEBRIDGE: Have you seen the research that has come out of Victoria, in particular, that shows a police chase is statistically substantially more dangerous than having a driver with a mid-range prescribed concentration of alcohol reading? Are you aware of that research?

Mr FULLER: No, I am not. But I accept that pursuits are a high-risk business, and that is why we administer them so carefully and why we review and assess them so carefully.

Mr DAVID SHOEBRIDGE: A few years ago there was a notorious incident where a high-speed police chase followed a van doing an illegal U-turn, which ended with a police vehicle in a bus stop out the front of a childcare centre. Are you aware of that one?

Mr FULLER: Yes I am, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Is there a direction to not have police pursuits for very minor traffic matters like that?

Mr FULLER: Our policy is certainly clear that minor traffic matters are not the type of incident where we want a pursuit.

Mr DAVID SHOEBRIDGE: Is there a prohibition on pursuits for minor traffic matters?

Mr FULLER: You have to take everything into consideration that the minor traffic matter might be someone in a stolen vehicle or someone who has brandished a firearm.

Mr DAVID SHOEBRIDGE: Or someone who has not put on their blinker?

Mr FULLER: And I would certainly be disappointed if a vehicle was travelling at high speed. I would say they are definitely in breach of our policy if it was a minor traffic accident and they were driving in a dangerous manner. And in the Vieira matter, clearly we took strong action against the officer who was driving who, we will allege, has not followed the rules.

Mr DAVID SHOEBRIDGE: How many of the 2,589 police pursuits last financial year were found to be in breach of policy?

Mr FULLER: I would have to check. But, again, each one of them goes before a pursuit committee. Each one of them is reviewed and if there are problems people are essentially taken off the road while a whole range of other actions are taken.

Mr DAVID SHOEBRIDGE: I will ask that question in relation to each of those 2014-15, 2015-16, 2016-17, 2017-18 and partial financial year, which you have provided data on already—

Mr FULLER: I will take that on notice.

Mr DAVID SHOEBRIDGE: If you could, could you provide how many of those pursuits were for minor traffic matters?

Mr FULLER: If I can, I will certainly do that.

Mr DAVID SHOEBRIDGE: If you do not have a database that records that, will you explain why?

Mr FULLER: Yes, I can. I could probably explain that now but I will wait to see whether we can pull that information.

Mr DAVID SHOEBRIDGE: If you want to explain it now, by all means do.

Mr FULLER: We have minimum standards of record keeping. We are a law enforcement organisation; we are not a record-keeping organisation. We keep records on the needs, what the New South Wales Government sets in terms of record keeping. Often we keep information over and above that because of GIPA requests and other requests, but we are not a record-keeping organisation.

Mr DAVID SHOEBRIDGE: Commissioner, if you wanted to do a proper review of your police pursuit policy you would need data about your pursuits. If you did not have that data, what on earth are the reviews based on?

Mr FULLER: Every pursuit is reviewed by an independent panel. We just do not have pursuits and then write them off as a high five. There is a panel that reviews every one and there is an escalation, obviously, through critical incidents if they are more serious and a whole range of activity. But I think in the Vieira matter we have shown that we take this seriously. We did not whitewash the activity of the officer on the day and there is still a critical incident running that will obviously be put on hold as the criminal matter progresses.

Mr DAVID SHOEBRIDGE: We will get the data and see how many breaches there have been.

Mr FULLER: I have taken that on notice.

Mr DAVID SHOEBRIDGE: Commissioner, you provided some answers, which I appreciate, about the suspect target management program. In those answers you have noted that in the 12-month period ending 31 August 2018, 111 Aboriginal and Torres Strait Islander children 17 years and under were targeted. Do you recall that evidence?

Mr FULLER: Yes.

Mr DAVID SHOEBRIDGE: And that was out of a total of 269 juveniles who were targeted. Can you explain why 41 per cent of children and juveniles who were put on the suspect target management program were Aboriginal?

Mr FULLER: It comes as a local assessment. These assessments are done at police area command and/or districts. There is a committee that comes together and assesses who are the potential targets in their locations at those given times. Certainly, the colour of your skin is not, and would never be, an assessment in relation to it.

Mr DAVID SHOEBRIDGE: Given Aboriginal children make up maybe 4 per cent of the under-18 population, how on earth is it that your police force has 41 per cent of all Suspect Target Management Plan [STMP] targets as Aboriginal or Torres Strait Islander? How does that come to be if not because of a racist bias?

Mr FULLER: There is no racist bias in our organisation. We have an aggressive recruiting campaign for Aboriginals and every class we are seeing 10 to 20 Aboriginal students coming out into the police force. We are a diverse police force; we are not a racist police force.

Mr DAVID SHOEBRIDGE: Even if there is no explicit racist bias, there is clearly an inherent or implicit racial bias when 41 per cent of the children and juveniles who are on this Suspect Target Management Plan are Aboriginal. That cannot be explained by anything else, can it?

Mr FULLER: Yes, it can. There are indicators in STMP that would put you in a category. Judicial breaches would put you quite high. Many of these young people are not complying with bail, domestic violence and other orders, which is putting them in a higher-risk category. But there is wonderful work happening right across, particularly regional New South Wales. If you look at Bourke, the arrest rates for Aboriginals, particularly in domestic family violence, is halved because of a police initiative. We are rolling out police initiatives across the State, because I have gone on record here saying I am embarrassed about Aboriginal incarceration rates. So we are doing many wonderful things, including with Police Citizens Youth Clubs [PCYC], trying to minimise the amount of Aboriginals, particularly young people, who come into the justice system. I could wax lyrical about the RISEUP program and all we are doing there for all kids across New South Wales.

Mr DAVID SHOEBRIDGE: Given what I categorise as an appalling figure of 41 per cent of children on the STMP being Aboriginal, why is there not a directive or higher threshold required for police before an Aboriginal child is put on the list?

Mr FULLER: There is a higher threshold for anyone who is under 14 as a result of concerns that you and the Bar Association raised, and we made a strong policy—

Mr DAVID SHOEBRIDGE: Commissioner, I think everybody welcomes that. That is a good change.

Mr FULLER: It is an example that I am reasonable and I do go back and look at these things. I do not just listen to you and walk away. I took that seriously and the amount of young people under 14 on the STMP now is minimal—and that has to be approved by an assistant commissioner, we take it so seriously. The underpinning problem with all of this is that I am driving prevention as my number one strategy, but that will only work whilst I keep crime down. And things like STMP have been essential in New South Wales police achieving the crime statistics that we continue to have.

Mr DAVID SHOEBRIDGE: You say that, Commissioner. What evidentiary basis do you have to show that STMP works, that the large number of Aboriginal children who are on the STMP are being deterred from otherwise offending? What is your evidence base?

Mr FULLER: The broader philosophy of proactivity that was brought in around 2002, 2003 as a result of a whole range of different crimes happening: 90,000 break and enters a year, 10,000 robberies a year—crime was going north. We stepped up proactivity, and there is a direct link back to proactivity and overall crime reduction. I am happy to send you the chart, Mr Shoebridge—even outside of notice. The second biggest drop was when DNA was brought in, and that technology has been so important in terms of us being able to target recidivist and dangerous criminals.

Mr DAVID SHOEBRIDGE: There was not an independent expert review done before STMP was started, and there has not been an independent review done on it since it has operated. That is the state of play, is it not?

Mr FULLER: In terms of proactivity broadly or STMP?

Mr DAVID SHOEBRIDGE: In terms of STMP?

Mr FULLER: STMP is a very effective way of pinpointing those individuals who are recidivist offenders.

Mr DAVID SHOEBRIDGE: You make that assertion, but I am asking you if there is any independent expert advice that you can point to that says STMP was a good idea before you implemented it, or that shows that it is working now?

Mr FULLER: I will take that on notice to see if we have had it independently assessed over its life and different iterations.

Mr DAVID SHOEBRIDGE: Of the adults who are on the STMP, 28 per cent are Aboriginal. How do you explain the differential? And I am not suggesting 28 per cent is acceptable, but how do you explain the differential between 28 per cent of adults being Aboriginal, and 41 per cent of kids being Aboriginal?

Mr FULLER: Again, I would revert to my previous answer. It is around the judicial-type breaches—being bail, domestic violence type orders and other orders that are put in place. They are regularly breached by this cohort, and it is something that we are working on, such as—particularly for young people—giving them more than one address as an option in bail, knowing that some of these kids lead very complex lives.

Mr DAVID SHOEBRIDGE: That sounds like things that would help kids, but putting a child on an STMP, where every time they walk down the street and see a police officer they are stopped, questioned, searched and interrogated, is not helping. How do you think that is helping young people have a respect for police or keep clear of the law?

Mr FULLER: That is why we have set up youth panels, and we are rolling them out across the State. All government agencies are trying to find better options for young people than the STMP and the justice system. I agree with you, but what underpins all of that is I have to keep crime down; I have to keep people safe. If I cannot do that then prevention loses its entire meaning in this State.

Mr DAVID SHOEBRIDGE: I sent correspondence to your office regarding the Hillsong Church and Assemblies of God and Case Study 18 of the Royal Commission into Institutional Responses to Child Sexual Abuse. Do you recall that correspondence?

Mr FULLER: I apologise, I do not.

Mr DAVID SHOEBRIDGE: It is not funny.

The Hon. CATHERINE CUSACK: It is a ludicrous question. Do you recall correspondence?

The CHAIR: Order!

Mr DAVID SHOEBRIDGE: Case Study 18 is about the repeated sexual abuse by Frank Houston, who was then the head of the Hillsong Church. It dealt with the fact that his son, Brian Houston, was aware by repeated reports of the abuse, including minuted meetings, and to date has failed to report that to police. Are you aware of Case Study 18?

Mr FULLER: No, I am not. I am aware broadly that there were some allegations; but no, I am not.

Mr DAVID SHOEBRIDGE: They were not allegations; they were unambiguous findings of the royal commission that Brian Houston was aware of the repeated sexual abuse by Frank Houston, including the time that Brian Houston was heading the Hillsong Church—which he still heads—and failed at any time to tell the police about it, in breach of section 316 of the Crimes Act.

Mr FULLER: Again, I apologise but I did not read your correspondence.

Mr DAVID SHOEBRIDGE: The New South Wales police indicated that, for a variety of reasons, that investigation was not continuing. One of the reasons was they said a prosecution required the consent of the Attorney General. Will you look into Case Study 18 and seek to reopen the investigation for what appears on the face of it to be a pretty appalling breach of the Crimes Act?

Mr FULLER: I will give you an undertaking that I will track your correspondence and our answer to you, and I will personally review it.

Mr DAVID SHOEBRIDGE: In doing that, can you review whether or not there was a friendship or a personal relationship between the then police commissioner and Mr Brian Houston at the time of the initial police investigation?

Mr FULLER: No .

Mr DAVID SHOEBRIDGE: You will not review that?

Mr FULLER: No, sorry. I thought you said was I aware of it. I apologise.

Mr DAVID SHOEBRIDGE: Will you review that fact—whether or not that was the case?

Mr FULLER: Only if it was relevant to the investigation, sir.

Mr DAVID SHOEBRIDGE: Will you review whether or not there were arrangements put in place to ensure that there was no conflict of interest between the police commissioner, who had a friendship with Mr Brian Houston, and the police undertaking the investigation arising from Case Study 18?

Mr FULLER: Could I just ask a quick question?

Mr DAVID SHOEBRIDGE: By all means.

Mr FULLER: My advice is that the matter is still open with us, Mr Shoebridge. And perhaps I could provide further information out of session in relation to your letter, not so much the commentary around the previous commissioner and the relationships, but if I could perhaps provide out of session or on notice information in relation to the broader investigation.

The CHAIR: For a change of pace, getting back to the Firearms Registry, earlier this year I wrote to Deputy Commissioner Milkins about a registry employee—and I will not mention her name—who had publically expressed her strong opposition to hunting. An investigation was carried out and the letter I received following the investigation stated the employee was exonerated for any wrongdoing or bias. The letter stated:

The Firearms Registry is committed to consistent, unbiased decision-making across all adjudication functions.

Commissioner, are you confident that all registry adjudication decisions are unbiased?

Mr FULLER: I am confident there is a decent group of people up there certainly doing their best. Has the structure up there supported them? Perhaps not. I would like to think that putting a new commander in, Mr Chair, and giving him clear direction—"I do not want you to save money, I do not want you to move it; I want you to make it work better"—and part of that would be sending a clear message to the staff in relation to expectations. Whilst everyone in the registry was reminded of their responsibilities around our media policies, I think that was extremely important. I think employees need to be careful what they post on their own websites, even if they are not breaching the rules, because there may be a perception of bias. I understood where you were coming from in relation to that. There was not a clear breach, but we did send a clear message to all employees in relation to the commissioner's expectation around perceived biases.

The CHAIR: Thank you for that. Further to that, and it is rather a black box, but will you issue written public guidelines on adjudications explaining why and how certain decisions were derived and will be derived?

Mr FULLER: I do not exactly understand that question, Chair. I apologise.

The CHAIR: All I am saying is, what has become apparent over many years, and we are in a worse space now than ever before, is that a lot of adjudications in relation to various matters—whether they are PTAs, an arranged matter, all that sort of stuff—seem rather idiosyncratic and, generally speaking, on the face of it could also be said to be illogical and sometimes quite stupid to anyone who has even the most peripheral knowledge of firearms and their use and safe storage, et cetera. It is very hard when you are then asked for the background for why these decisions are made to get a rational answer. In fact, most of the time we get no answers at all that make any sense. To my way of thinking, what actually should be happening is that you should consider reducing those guidelines for adjudications to writing or to instructions—and they probably do exist, anyway; I am not really sure—but then publishing them and making them public so that people who are using the registry, the general public, can be confident that, first, safety is being enhanced; and, secondly, the law is being administered fairly and justly.

Mr FULLER: There are two things in that. The law needs to be administered fairly and justly. That needs to be the number one priority. The second part is really customer service, and it appears with some that we may not be necessarily meeting the standard. But applying the law appropriately is certainly the most single important thing. I will talk to Superintendent Bell. I am sure we can organise a meeting with yourself and others to talk about the broader performance of the unit, and see if there are better ways to manage customer service. But that should not erode our ability to refuse people getting licences and firearms.

The CHAIR: Absolutely not. One of the key functions of the registry is to make sure the law is not just administered fairly, but that it maintains public safety. That is one of the key issues. On a completely different matter, the recent law changes around slowing to 40 kilometres an hour while passing emergency services or police vehicles with flashing lights, are you satisfied that the way it is being run and/or administered is satisfactory and is in fact safe in all circumstances?

Mr FULLER: I certainly believe that that legislation was struck in the interests of the safety of emergency services. I think it is prudent we review that to see if that is the case. I am preparing information for Minister Pavey from the police perspective in relation to what our thoughts are, and I am waiting to receive that from Assistant Commissioner Corboy, who runs our Traffic and Highway Patrol unit, and we will give that feedback to Government.

Mr DAVID SHOEBRIDGE: I do not think anyone in the community understands. I was driving down to Wollongong and Dapto on the weekend—

The Hon. TREVOR KHAN: In the Prius?

Mr DAVID SHOEBRIDGE: In the Prius, of course. I am a Greens MP; that is compulsory. I slowed down to 40 on that freeway stretch because there were police with lights on. Everybody shot past me at 110. It felt dangerous slowing down to 40. I am a supporter of it as a policy, but it felt like the community was not aware of it and, in the absence of community knowledge, it felt unsafe to be driving at 40 with people shooting past at 110.

Mr FULLER: I have got similar examples, Mr Shoebridge. We will provide that un-vetted to the Government in relation to our feedback.

The Hon. LYNDA VOLTZ: When you look at it, can you look in particular at places like the Gore Hill Freeway, where you are coming down into that deep trench? I saw a car slowing down to 40. Police vehicles had two B-doubles behind it. One of them jackknifed, but luckily everyone missed him. They are the areas where it could be dangerous—on steep hills when are you in 110 zones, in particular.

Mr FULLER: Absolutely.

The CHAIR: I think everyone is concerned, particularly with the incidents that brought those changes about, and our party led the charge in relation to that. We are very satisfied but I am not really sure we have it fine-tuned enough. We look forward to seeing whatever report or recommendations you are going to make. I suppose in the first instance they will be privately made to the Minister, will they?

Mr FULLER: At the end of the day, they will be a collection of information from the police who have heard and seen what you have talked about as well. They understand it was struck in the interests of our protection, but it is timely for a review.

Mr DAVID SHOEBRIDGE: Ms Voltz was talking about Mooney Mooney Bridge.

The Hon. LYNDA VOLTZ: I was talking about Mooney Mooney Bridge, not Gore Hill. That was the one in particular because of the number of semis going down that very steep hill.

The Hon. TREVOR KHAN: I will vote on that one too.

The Hon. LYNDA VOLTZ: That is the one where everyone has noticed it.

Mr FULLER: The M1, M5, those sorts of areas.

Mr DAVID SHOEBRIDGE: Yes.

The Hon. LYNDA VOLTZ: Where there is a hill it is a problem, particularly for a lot of trucks and semis.

The CHAIR: Or particularly where vehicles are off the road or even on a side road. If they are within eyesight you are supposed to slow down. I almost got back ended by a semitrailer when I forced a slowdown. I know exactly what you are talking about.

The Hon. TREVOR KHAN: It is the same on both sides of the Hawkesbury River.

Mr DAVID SHOEBRIDGE: We have all had our own personal concerns. We are passing that on to you to fix it.

Mr FULLER: Thank you.

The CHAIR: It concerns me that there is a reluctance on the Government benches to address this.

The Hon. TREVOR KHAN: I would not say that.

The Hon. LYNDA VOLTZ: Not Trevor's bench.

Mr FULLER: I did not get that feeling, to be honest, Mr Chair. I think it is about—

The Hon. LYNDA VOLTZ: It is there for a good reason. How do we get the measure right?

Mr FULLER: It is there for a good reason. What is a good piece of legislation that will make this safe?

The CHAIR: Commissioner, we have only two more sitting weeks for the Government to fix it. I would hate to think that we go into the Christmas break without this being sorted out.

The Hon. LYNDA VOLTZ: I am not sure he is looking at you, Commissioner.

The CHAIR: I am not looking at you, Commissioner. I am looking at the people who are expunging the neo-Nazis out of their party.

The Hon. TREVOR KHAN: I often bay at the moon and get very little response.

Mr DAVID SHOEBRIDGE: One of the suggestions to me was that instead of it being a flat 40, maybe it should be half the legal speed limit.

The Hon. TREVOR KHAN: That makes it 55 going down into the Hawkesbury River. I do not know that that will make much of a difference.

Mr DAVID SHOEBRIDGE: It does make a significant difference.

The CHAIR: It is a difficult area. Commissioner, thank you. I note you have taken a number of issues and questions on notice—too numerous for me to outline to you now. You have until 19 November to respond to those questions. Thank you very much for coming.

(The witness withdrew)

(Short adjournment)

The CHAIR: Welcome to the supplementary hearing for the Corrections portfolio 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 also pay my respects to elders past and present of the Eora nation and extend that respect to other Aboriginal people present. Today the Committee will examine the proposed expenditure for the portfolio of Corrections and I welcome Mr Cappie-Wood, Ms Hawyes, Ms Rafter and Mr Severin to this hearing.

Before we commence, I 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. 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 questions on notice and in this particular circumstance provide answers by 19 November. Any messages from advisers or members of staff seated in the public gallery should be delivered through the Committee secretariat. I remind witnesses that they are free to pass notes and refer directly to the advisers seated at the table behind them. Transcripts of the hearing will be available on the website tomorrow.

To aid the audibility of this hearing, I remind both 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 to turn their mobile phones to silent for the duration of the hearing. I remind Mr Cappie-Wood and Ms Hawyes from the Department of Justice, Mr Severin from Corrective Services NSW and Ms Rafter, Inspector of Custodial Services, that they do not need to be sworn as they have been sworn at an earlier budget estimates hearing.

PETER SEVERIN, Commissioner, Corrective Services NSW, on former oath

MELANIE HAWYES, Executive Director, Juvenile Justice, on former affirmation

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

FIONA RAFTER, Inspector of Custodial Services, on former affirmation

The CHAIR: I declare the proposed expenditure for the portfolio of Corrections open for examination. I understand, Ms Rafter, that you have requested to make an opening statement. This is not a usual practice for budget estimates. However, in the circumstances the Committee will allow it.

Mr DAVID SHOEBRIDGE: To that extent, I formally move that we allow an opening statement.

The CHAIR: We have already done that.

The Hon. LYNDA VOLTZ: We have resolved it.

The CHAIR: We did it when you went upstairs.

The Hon. TREVOR KHAN: In fact, I think you moved it.

The CHAIR: You moved it.

Mr DAVID SHOEBRIDGE: I thought we were going to move it here.

The CHAIR: No, you moved it. It is already done. Ms Rafter, please proceed.

Ms RAFTER: Thank you, Mr Chair. Thank you for the opportunity to appear before you today. I would like, firstly, to acknowledge the Gadigal people of the Eora nation. Prior to addressing issues in relation to my draft report on the use of forced separation, segregation and confinement of detainees in the New South Wales juvenile justice system, I would like to provide some background about my role and function, as well as the recent activities of my office. The Inspector of Custodial Services is an independent statutory office created in October 2013 pursuant to the Inspector of Custodial Services Act 2012 and reports to Parliament. The position of inspector is appointed by the Governor. It is independent of Corrective Services NSW and Juvenile Justice NSW and reports directly to Parliament.

Section 17 of the Act provides that the joint Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission has responsibility to monitor and review the performance of the inspector and their functions. The independence of the inspector is reinforced by section 19 of the Act, which makes it an offence to obstruct or hinder the inspector in the exercise of the functions under the Act. The activities of the inspector relate to the inspection of custodial facilities and services as required by the Act. The purpose of the inspector is to provide independent scrutiny of the conditions, treatment and outcomes for adults and young people in custody and to promote excellence in staff professional practice. The principal function of the inspector is to inspect each custodial centre at least once every five years and inspect each juvenile justice centre at least once every three years and report to Parliament on each such inspection.

There are currently 40 correctional centres, six residential facilities, 12 24-hour court cells and six juvenile justice centres that require inspection. The office of the inspector also has jurisdiction for 64 court cell locations, a fleet of 113 escort vehicles and a detaining transport fleet of 25 vehicles. This represents a substantial body of work. The first inspector, Dr John Paget, was appointed on 1 October 2013 and worked as the inspector until October 2015. Since my appointment by the Governor in March 2016 and commencement in the role in April 2016, my office has continued the schedule of inspections started by Dr Paget. At the time I was appointed there were seven juvenile justice centres, two of which had been inspected; one of the juvenile justice centres that had already been inspected by Dr Paget was subsequently closed.

I have had to undertake significant recruitment to try to meet the obligations placed on the office of the inspector under the Act. The permanent staffing of the office of the inspector is small. Since my appointment, staff have grown from four to 12, in addition to myself. Expert consultants have been engaged for the purposes of assisting with the conduct of inspections to enhance the capacity of the office to examine specialised operational areas. In addition to inspections, I conduct liaison visits to centres to inform inspection work, monitor the implementation of recommendations, provide the opportunity for information sharing and meet with official visitors. These liaison visits are an essential part of building strong, effective, productive relationships with key stakeholders.

To respond to legislative obligations using the resources available to the office of the inspector, a model of inspection has been developed which allows multiple centres to be included in a single, theme-based inspection. The office of the inspector consults with relevant agencies and stakeholders when determining inspection themes and centres to be examined so that priorities, risks and issues can be identified and canvassed. Over the 2017-18 financial year the office of the inspector has been undertaking the following seven thematic inspections: management of radicalised inmates in New South Wales correctional centres; 24-hour court cells in New South Wales; use of forced separation, segregation and confinement of detainees in New South Wales juvenile justice centres; women on remand; minimum security; provision of health services; and programs, employment and education in adult corrections New South Wales.

The Committee is currently concerned with the draft report about one of these seven themes. This inspection examined how use of force against detainees in juvenile justice centres in New South Wales is managed. When I commenced, five juvenile justice centres were required to be inspected by October 2016. Terms of reference to assess use of force were issued in June 2016 and consultation with relevant stakeholders commenced. The first inspection was due to commence for the first centre on Tuesday 26 July 2016—coincidentally, the day before *Four Corners* aired its report on Don Dale Youth Detention Centre in the Northern Territory.

In October 2016 the Minister for Corrections asked that I consider an expansion of the terms of reference for our existing inspection to include an examination of the use of separation, segregation and confinement in juvenile justice centres. I agreed, and issued the expanded terms of reference in November 2016. The expanded terms of reference incorporated consideration of the Chisholm Behaviour Program, which was utilised at two juvenile justice centres. The Chisholm Behaviour Program ceased in May 2016. During the inspection of the juvenile justice centres a range of material was reviewed, including legislation, policy documents, training materials, academic literature and reports by government bodies and non-government stakeholders.

All six juvenile justice centres across New South Wales were inspected—namely, Acmena, Cobham, Frank Baxter, Orana, Riverina and Reiby juvenile justice centres. Each inspection can take up to three days. Wide consultation with internal and external stakeholders occurred as part of this inspection, including centre staff, nurses, psychologists, school principals, official visitors and young people. Although the facilities had already been inspected, it became apparent that due to the nature of the information obtained in the expanded terms of reference further centre visits were required in connection with the inspection. Some centres were visited on multiple occasions.

Consequently, to ensure the expanded terms of reference were appropriately addressed I have conducted more than is required during the period under the Act. I have taken a hands-on role in relation to these inspections, attending the majority of inspections together with my team. This has been a significant undertaking for the small team at the office of the inspector. We have had significant stakeholder interest and cooperation with our inspection by internal and external stakeholder groups who provide us with essential information, often on a confidential base. The inspection process requires a team of up to four officers and up to three days for each centre. This does not include travel time to regional parts of New South Wales.

Data is then requested from juvenile justice centres. It takes time for those centres to gather data and for my office to analyse and consider it. The gathering of information for each inspection is a significant logistical undertaking. Once the office of the inspector has gathered our initial information and data, the information is analysed and reports drafted. Once reports start to be prepared, serious and extensive consultation obligations are triggered for me under the Act. Section 14 (2) of the Act states that I must not make a report to Parliament that sets out an opinion that is either expressly or impliedly critical of a public service agency other than one critical of Corrective Services or Juvenile Justice or any individual person unless I have afforded them the opportunity to make either oral or written submissions.

For this purpose, in late December 2017 I provided a copy of the draft report on a confidential basis to the Executive Director of Juvenile Justice. At the same time, I provided to the Minister a copy as a courtesy so that he had visibility as to the status of the inspection—particularly in light of his request that I consider broadening the terms of reference. I have also consulted with other relevant agencies and individual persons to offer them the opportunity to make submissions. As a result of the confidential consultation process, I have considered a number of fulsome submissions received in respect of the consultation draft from relevant agencies and individuals.

As required by section 14 (2) of the Act, I took those submissions into account and investigated the issues raised in them prior to formalising my draft report. This is a lengthy and time-consuming process. By the time I appeared before you on 4 September, the consultation process was well progressed but not final, and I was close to preparing a final draft report. I am required by section 14 (1) of the Act to provide the Minister with a draft of

each report to be made by Parliament under the Act and give the Minister a reasonable opportunity to make submissions, either orally or in writing, in relation to that draft report. On 30 October 2018 I provided my draft report to the Minister as required under section 14 (1) of the Act. The previous courtesy copy of the report provided to the Minister did not constitute a formal provision for the draft report for the purposes of section 14 (1) of the Act. I am not bound to amend my draft report in light of any submissions I receive, including from the Minister. However, section 14 (3) of the Act requires that I must consider and identify any submission prior to finalising my report and providing it to the Presiding Officers.

During this consultation phase, I have also been responsible for the inspection of 22 adult custodial facilities, which occurred between February and October this year. I also undertook a number of liaison visits in that time. In total, 60 adult centres must be inspected every five years, 40 of which are correctional centres. Many of these centres have never been inspected before, so the process is new for them. In early June 2018 I tabled two reports, including the report titled "The management of radicalised inmates in NSW". This complex report took two years to complete. In preparing and finalising my draft report that the Committee is interested in, I not only have consultation obligations but also obligations to protect sensitive information. Under section 15 (1) of the Act I must not disclose information in a report to Parliament if there is an overriding public interest against disclosure of the information. Section 15 provides a range of information that must be protected under the Act, including information that would allow the identification of a person who is or was detained at a juvenile justice centre or correctional centre. It also includes information that could reveal the identity of custodial centre staff or prejudice any system for protecting their life, health or safety.

In preparing my final report, I must take great care so as not to inadvertently disclose this kind of sensitive information, which is contained throughout the draft report. There is a significant degree of scrutiny involved in checking to ensure that such information is not disclosed. Great care must be taken to ensure small and otherwise innocuous pieces of information are not released that, when put together by motivated individuals, could disclose a complete statement of information that would otherwise be protected under section 15 of the Act or other available mechanisms. If information were to be inadvertently or otherwise disclosed it would have a dampening effect on the willingness of internal and external stakeholders to provide critical information to the inspection process. Without the free flow of information to the office of the inspector, my role and function as the inspector—and of the office generally—would be hampered. This important process is not complete until such time as my final report is prepared for tabling before Parliament.

The Committee has called for the production of my draft report. I find myself in a difficult position in relation to the provision of the draft report. The Act expressly requires that I undertake specific functions, including the provision of reports to Parliament, the provision of a draft report to the Minister, consultation with interested agencies and individuals, and taking into account any relevant submission. The Act also requires that I not disclose certain sensitive information. Although I am here to assist the Committee, I must also comply with the obligations placed on me under the Act. I am in receipt of two advices from the Crown Solicitor's Office, dated 24 October 2018 and 29 October 2018 respectively—and to assist the Committee a copy of these advices has been provided to Ms Main, Committee Clerk. However, for the reasons identified in the advices, I find I am not in a position to produce my draft report. In particular, the advice of 24 October states requiring production of the draft report, which had been provided to the Minister, would involve a significant degree of inconsistency—if not interference—with the operation of the statutory scheme established by the Inspector of Custodial Services Act 2012, under which the inspector reports to each House.

Whilst I wish to assist the Committee in any way possible, I must draw the Committee's attention to the inconsistency or conflict that exists between my ability to perform my functions and obligations under the Act and the powers of the Committee and the important work it is undertaking. Therefore, based on the two advices from the Crown Solicitor's Office and my obligations under the Act, I cannot produce the draft report requested. However, I am happy to otherwise assist the Committee in any way that I can, and I am able. In closing, I should note that October 2018 marks five years since the establishment of the office of the inspector. In the first five years of this office we will meet our legislative mandate to inspect each custodial centre every five years and juvenile justice centre every three years in New South Wales. In the first five years, eight reports, including six thematic inspection reports and two public interest reports, have been tabled by the office relating to the inspection of 30 centres, resulting in 200 recommendations. A further five thematic inspections have commenced or are ongoing during this period.

Since my appointment in April 2016, my office has also undertaken approximately 95 liaison visits to centres and 50 centre inspections. This translates, on average, to approximately four liaison visits and two centre inspections each month. During this period we have tabled three significant reports in Parliament and will soon have tabled our fourth report. In the last 12 months alone, 98 per cent of our recommendations relating to adult

centres were accepted and 100 per cent of our recommendations in relation to juvenile justice centres were accepted. The office of the inspector continues to achieve significant results and has proven it can deliver against its legislative requirements. Thank you.

The CHAIR: Thank you, Ms Rafter. The Committee will now adjourn. I ask everyone to please clear the room while the Committee has a short deliberative meeting.

(Short adjournment)

The CHAIR: The Committee ordered the production of the draft report on Juvenile Justice prepared by Ms Fiona Rafter, Inspector of Custodial Services, from the Minister for Corrections, the Secretary of the Department of Justice and the Inspector of Custodial Services. The ordered document has not been provided by any party. In response to the non-production of documents, the Committee summonsed the inspector and the secretary to attend before the Committee today to give evidence as to and concerning the matters to be inquired into by the Committee and that such evidence include the answering of questions and the production of the draft report on Juvenile Justice prepared by the inspector. The secretary and inspector have not provided the ordered document and provided further advice from the Acting Crown Solicitor on this matter.

Notwithstanding the power of the Committee to order the production of the document, the Committee has resolved to delay taking immediate action to enforce provisions of the summons concerning the production of the draft report until further legal advice has been obtained. We note the correspondence from Mr Cappie-Wood and Ms Rafter and that public servants are bound to accept the advice of the Acting Crown Solicitor. The Committee will seek further legal advice on this matter, noting the inconsistencies between the various advices provided by the Crown Solicitor's and the Acting Crown Solicitor. The Committee has resolved not to conclude its inquiry into budget estimates at this stage and may consider recalling Ms Rafter and Mr Cappie-Wood to attend a further hearing. We will seek an extension of our reporting date until 28 February 2019.

Mr DAVID SHOEBRIDGE: Thank you all for attending today. Ms Rafter, you asserted in your opening statement that the draft of the report that was provided initially to the Minister's office was not pursuant to the statutory process under your Act. Is that right? Is that how I understand your opening statement?

Ms RAFTER: I will take that on notice.

Mr DAVID SHOEBRIDGE: Ms Rafter, you just gave the statement. Are you seriously taking on notice a question about the statement you just gave?

Ms RAFTER: I am going to take that on notice.

Mr DAVID SHOEBRIDGE: You said in your opening statement that the draft report that was provided to the Minister, which we discussed at the last budget estimates hearing, was not provided pursuant to section 14 of the Act. Do you remember saying that?

Ms RAFTER: It was not provided under section 14 (1) of the Act, that is correct.

Mr DAVID SHOEBRIDGE: I am in a difficulty because I have your letter that you sent to the Committee only this week where you say that on 30 October 2018 you finally provided it to the Minister under section 14. Is that right?

Ms RAFTER: That is correct.

The Hon. LYNDA VOLTZ: Are you saying that the copy that you provided to the Minister on 20 December 2017 was not provided under section 14 (1) of the Act?

Ms RAFTER: That is correct.

The Hon. LYNDA VOLTZ: We asked you in estimates last time when you sent the draft copy of the report to the Minister did you provide any correspondence and, if so, could you provide us with a copy?

Ms RAFTER: Yes.

The Hon. LYNDA VOLTZ: You took that question on notice. That is correct?

Ms RAFTER: I did.

The Hon. LYNDA VOLTZ: You came back and said, "A copy of the draft report was delivered to the Minister's office as a courtesy on 20 December 2017. There was no associated correspondence." Is that correct?

Ms RAFTER: That is correct.

The Hon. LYNDA VOLTZ: So you provided a draft report to the Minister. You provided no attached correspondence to that draft report. How was the Minister aware that you were not fulfilling the requirements under section 14 (1) of the Act?

Ms RAFTER: I just refer you back to my opening statement where I said that I provided the draft report at the time to the Executive Director of Juvenile Justice and then provided the courtesy copy to the Minister.

The Hon. LYNDA VOLTZ: Yes, but that is not my question. My question was you provided a copy of the draft report to the Minister's office. You are required under section 14 (1) of the Act to provide a copy to the Minister's office for him to provide feedback. You did that on 20 December 2017. You have provided no correspondence to indicate to him that that draft report is not being provided under section 14 (1) of the Act. How did you make it clear to the Minister that that draft report you provided to him was not fulfilling the requirements of section 14 (1) of the Act?

Ms RAFTER: When I seek a submission from the Minister under section 14 (1) of the Act, as I have done now, I make it clear that I have requested it subject to that provision.

Mr DAVID SHOEBRIDGE: How was the Minister to know that? When a draft report lobs on his desk there is a statutory process for feedback on it. You just lobbied a report on his desk without any associated correspondence. What was the Minister meant to take of that?

Ms RAFTER: The Minister's office was aware that I had provided it to the Executive Director of Juvenile Justice for agency feedback.

Mr DAVID SHOEBRIDGE: How? That was not mentioned in any covering letter. How was the Minister aware of that?

The Hon. LYNDA VOLTZ: How did you make it clear to the Minister that this was not your fulfilment of section 14 (1) of the Act? You provided him with a copy of a draft report; how did you make it clear to him that you were not fulfilling section 14 (1) of the Act?

Ms RAFTER: I would have contacted the Minister's office at the time to make sure that there was someone there to receive the courtesy copy. I can take that on notice about exactly how that happened.

The Hon. LYNDA VOLTZ: But you have the statutory requirement under section 14 (1) of the Act to provide a draft report.

Ms RAFTER: Yes.

The Hon. LYNDA VOLTZ: The Minister is required to respond to it. You provided him a copy of the draft report. There is no correspondence that says—

The Hon. CATHERINE CUSACK: Point of order: This question has been answered already. It was clearly answered. I believe this is bordering on bullying the witness. It has been asked many times and it has now been answered.

Mr DAVID SHOEBRIDGE: The Hon. Catherine Cusack knows that that is not a point of order. Members are allowed to press a question—

The Hon. CATHERINE CUSACK: It is tedious repetition of a question and it is being done in a way that is bullying and inappropriate.

Mr DAVID SHOEBRIDGE: I reject the assertion of bullying. This is a long way from tedious repetition. There is no point of order.

The Hon. CATHERINE CUSACK: It is bullying when she has already answered it.

The Hon. LYNDA VOLTZ: There was a requirement of section 14 (1) that you deliver it to the Minister?

Ms RAFTER: I refer the Committee back to the response I gave in the earlier Committee hearing and to my opening statement around this issue. If there is anything that is different from what has been previously requested I am happy to take it on notice.

The Hon. LYNDA VOLTZ: At the previous hearing you were not clear on whether you provided correspondence and you actually undertook to provide us with that correspondence.

The Hon. CATHERINE CUSACK: We are going around in circles.

Ms RAFTER: I believe I took the question on notice at the last Committee and then provided a response to the Committee.

Mr DAVID SHOEBRIDGE: For the sake of clarity, I have the transcript. You were asked:

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

And your answer was:

Ms RAFTER: As a courtesy.

That was the answer you gave on record.

Ms RAFTER: I stand by that response.

Mr DAVID SHOEBRIDGE: Inspector, did you have any communication with the Minister's staff about the contents of the draft report?

Ms RAFTER: No, I did not.

Mr DAVID SHOEBRIDGE: How many recommendations were in the draft report?

Ms RAFTER: That is a matter which I do not wish to comment on because of my obligations under the Act. The report is now, as a draft, final but it is not yet finalised.

Mr DAVID SHOEBRIDGE: For the sake of clarity, do you purport to rely upon the advice of the Crown Solicitor to not answer the question that I am putting to you directly about the contents of the report?

Ms RAFTER: I am relying on the sections, on my statutory obligation.

Mr DAVID SHOEBRIDGE: Yes, you and Mr Cappie-Wood have each provided us with advice from the Acting Crown Solicitor. I am asking, for the sake of clarity, are you purporting to rely upon the content of that advice—

Ms RAFTER: That is subject to legal professional privilege.

Mr DAVID SHOEBRIDGE: Sorry, you are asserting legal professional privilege about the content of the draft report?

Ms RAFTER: No. I am trying my best to assist the Committee. I am relying on the provisions of my legislation, as I have referred to in my opening statement.

Mr DAVID SHOEBRIDGE: Ms Rafter, you know there is no legal professional privilege in advice that has been tendered to us. You have waived that legal professional privilege. You understand that?

Ms RAFTER: I do understand.

Mr DAVID SHOEBRIDGE: Are you purporting to rely upon legal professional privilege in relation to the advice you provided to us?

Ms RAFTER: I am relying upon the provisions of my legislation, as I referred to in my opening statement.

Mr DAVID SHOEBRIDGE: I am going to press the question: How many recommendations were there in the draft report that you provided to the Minister—not the one on 30 October but the one that you provided earlier?

Ms RAFTER: Because of my statutory obligations, I do not intend to answer that question.

Mr DAVID SHOEBRIDGE: Are you aware that in the time that this Parliament has been waiting for that report the Northern Territory has instituted a royal commission, held a royal commission, provided a report from the royal commission with 227 recommendations, had a government response to the royal commission and funded a \$226 million response to what is happening in their juvenile justice centres, whilst we are still waiting for your report? Can you explain how so much has been achieved in the Northern Territory and so little in New South Wales?

Ms RAFTER: In response to your question, I refer back to my opening statement. The report into Juvenile Justice that I have been completing is in no way linked to that royal commission, and the inspection of juvenile justice centres was in accordance with the provisions of my legislation. It is a matter which is being—the inspections are being conducted, along with all of the other activities of the office that I have outlined in the opening statement. It is quite different from a royal commission.

The Hon. LYNDA VOLTZ: You stated last time you were here that you had sent the report to the Executive Director of Juvenile Justice to provide feedback. Has it provided that feedback?

Ms RAFTER: Yes. I believe that I covered that. I think I responded to that at the last hearing.

The Hon. LYNDA VOLTZ: No, you said you had provided it. Has it provided the feedback?

Ms RAFTER: Yes.

The Hon. LYNDA VOLTZ: Was some of that feedback around potential recommendations?

Ms RAFTER: Yes. As I said in my opening statement, I have consulted with all impacted agencies and that is around recommendations.

The Hon. LYNDA VOLTZ: Were any of the recommendations modified as a response to that feedback?

Ms RAFTER: Again, I just rely on the provisions in my legislation in relation to my functions and the processes that I have to adhere to.

Mr DAVID SHOEBRIDGE: I take that as you objecting to answering the question. Is that right, Ms Rafter?

Ms RAFTER: I am just referring back to my opening statement where I addressed that issue.

Mr DAVID SHOEBRIDGE: Yes, but are you purporting to rely upon those statutory provisions to object to answering the question?

Ms RAFTER: To provide the detail of what is in a draft report, yes.

The Hon. LYNDA VOLTZ: Has the Minister's office provided any feedback around potential recommendations?

Ms RAFTER: No. The report has been provided to the Minister now, and this is now his opportunity to make a submission. And, as I have said in my opening statement and at the previous hearing, I am obliged to obtain a submission; I am not bound to accept it.

Mr DAVID SHOEBRIDGE: Is it purely a coincidence that you finally get the draft report to the Minister's office the day before this Committee has its further hearing? Are we to take that as pure coincidence or is there another explanation?

Ms RAFTER: When I appeared before the Committee last time on 4 September, I refer you back to what I said at that stage about I was working on finalising the report, and I have been working diligently on doing that ever since it was in a position to be sent to the Minister yesterday.

Mr DAVID SHOEBRIDGE: My question was quite clear: Is it pure coincidence or is there another explanation for the report being provided the day before this hearing?

Ms RAFTER: I have been anxiously trying to finish it as quickly as possible.

The Hon. LYNDA VOLTZ: Have you had any conversations with the Minister regarding the draft report that you previously delivered to him since the last hearing?

Ms RAFTER: No, I have not.

The Hon. LYNDA VOLTZ: Have you had any conversations with him since you provided the draft report to him?

Ms RAFTER: The draft report yesterday?

The Hon. LYNDA VOLTZ: Yes.

Ms RAFTER: No. I will be waiting for his submission.

Mr DAVID SHOEBRIDGE: Ms Hawyes, between the provision of the courtesy copy of the report by the inspector and before yesterday, have you had any communication with the Minister's office about the contents of the draft report?

Ms HAWYES: Obviously I meet with the Minister regularly and we talk about the progress of the review. It is a comprehensive and significant piece of work that has been underway for a long time now, and naturally I update him on my perception as to how it is progressing and inspections, and operational matters naturally as a matter of course. I have not spoken with him about the report that was tabled last night, and I have not yet received a copy myself.

Mr DAVID SHOEBRIDGE: But you would have spoken to the Minister, I assume, about the—I am not quite sure how we describe it—courtesy report.

Ms HAWYES: From my point of view, the report I received in late December was a working draft demonstrating analysis and some observations that had been, I guess, put together as a result of inspections and having a look at documents that had been provided to date. We were asked to review it from the point of view of: Does this reflect, is this accurate in terms of the activity, the operational reforms that you are progressing and the activity that you would consider to be needing to be reflected in a report of that nature? And from my point of view there were some significant omissions. It might assist the Committee if I talk through the change program that Juvenile Justice has been undertaking since 2016. That will explain to the Committee why there is a need to regularly update the inspector's office as to major reform activity that is going on in our organisation.

Mr DAVID SHOEBRIDGE: I am perfectly happy for you to do that, once we finish this line of questioning—and I do note the detailed response you have given to questions on notice about what has been implemented.

Ms HAWYES: Substantial.

Mr DAVID SHOEBRIDGE: And I do not think anyone is critiquing you for responding to the draft report. I think we would all commend you for doing that work. Did you speak to the Minister about the draft report and the contents of the draft report prior to the previous budget estimates hearing?

Ms HAWYES: At the time of receiving the report I spoke with the Minister's office. I recall the conversation where I spoke with the Minister's office to advise them that in my view there were substantial inaccuracies in terms of the review had not kept pace with the reform that had been undertaken in Juvenile Justice and that I would have been endeavouring to provide the inspector with up-to-date information on fundamental aspects of practice that we are changing, such as recruitment, training, the introduction of caseworkers and our approach to detainee risk management planning. They are absolutely relevant to the findings and, from my point of view, I have a responsibility to ensure that the inspector is entirely up to date with what is occurring in Juvenile Justice, and that is what I then did.

Mr DAVID SHOEBRIDGE: You see, you had that conversation with the Minister's office. You have also indicated, and quite appropriately, that you regularly meet with the Minister. Did you discuss any of that or the contents of the draft report with the Minister prior to the previous budget estimates hearing?

Ms HAWYES: I do not recall specifics. I do recall updating him that my intent and actions were to update the inspector as to current activity, particularly, as I say, some of the major reforms that are directly relevant to the review and its findings.

Mr DAVID SHOEBRIDGE: So you would have spoken to the Minister about the December report and said, "This is what we are doing. This is what we are clarifying."?

Ms HAWYES: That is right. I would have said, "Yes, this report has come in to me. It is inadequate, in my view, in terms of it is missing some key information, and I am embarking on ensuring that the inspector is apprised of relevant information."

Mr DAVID SHOEBRIDGE: As best as you can recall sitting there now, those conversations would have started soon after the receipt of the report and have been a continuing feature? Is that how I am to understand it?

Ms HAWYES: It is a continuing feature, that I update on progress. More recently, that has not necessarily been the case because we have been waiting for a formal report to come through, with recommendations that we can provide commentary on. That is a routine part of a review like this: You receive a report, you review its recommendations and you provide a response.

Mr DAVID SHOEBRIDGE: To be utterly clear, those conversations included the period prior to the previous budget estimates hearing?

Ms HAWYES: As I said, I meet with the Minister every week. I am not so good that I can recall the exact detail of every conversation, but the review comes up. Late last year I definitely gave opinion to the Minister's office that, in my view, we needed to update the inspector's team, and from there on the conversations have been about progress and the likely timing of the draft.

Mr DAVID SHOEBRIDGE: Progress on dealing with the draft recommendations in the report and clarifying inaccuracies of the report—those two aspects were discussed with the Minister?

Ms HAWYES: My feedback to the inspector has taken various forms of feedback from discussions and liaison through to providing large amounts of information and documents, including things like copies of our new training packages and programs so that the team is entirely up to date with activity that we are undertaking in the portfolio.

Mr DAVID SHOEBRIDGE: Ms Hawyes, it is a very simple question: It is about your communications with the Minister directly. Those communications about the draft report, raising the draft report and issues in relation to the draft report—those conversations happened prior to, not exclusively but at least in part prior to, the previous budget estimates hearing?

Ms HAWYES: I have kept the Minister apprised of the progress of the review from my perspective as the executive director with responsibility for ensuring that we cooperate fully.

Mr DAVID SHOEBRIDGE: And that is on and from December of last year?

Ms HAWYES: Every week we speak.

Mr CAPPIE-WOOD: Can I assist in clarification on that matter?

Mr DAVID SHOEBRIDGE: If you can.

Mr CAPPIE-WOOD: I have been present during the conversations with the Minister on a weekly basis. There has been no discussion with the Minister in the updates that Ms Hawyes has given that relate to specific recommendations. They relate to ensuring that the inspector is apprised of changes and reforms in Juvenile Justice and, therefore, the communication to the inspector of those changes. From our perspective—and I am just trying to get an understanding because obviously something we would anticipate is what would be the likely timing—it is outside our control. But we want to make sure that every update, every change, is available to the inspector. I just needed to clarify that there is no discussion with the Minister about specific recommendations.

Mr DAVID SHOEBRIDGE: You are not trying to disagree with Ms Hawyes' evidence are you, or qualify it?

Ms HAWYES: No.

Mr CAPPIE-WOOD: No, you asked about the recommendations and I am saying to you there was no direct conversation with the Minister about specific recommendations in the updates we gave him.

Mr DAVID SHOEBRIDGE: But the fact of the report, issues in the report, the content of the report—at least in a general way—was discussed with the Minister? You are not cavilling with Ms Hawyes'—

Mr CAPPIE-WOOD: In generic terms it was discussed.

Ms HAWYES: We have not discussed in detail any specifics, given my advice to the Minister that the report needed to be informed substantially by contemporary information about what we have been doing in the portfolio. That was the nature of our conversation and, of course, the Minister's response to me was that is the progress of the review.

The Hon. LYNDA VOLTZ: Mr Cappie-Wood, you have provided in your advice to the Committee, in regard to legal advice, advice from the Solicitor-General. Will you provide the Committee with a copy of that advice?

Mr CAPPIE-WOOD: I have provided advice to the Committee of the Acting Solicitor-General in letters of 24 October and 29 October. Is that what you are referring to?

The Hon. LYNDA VOLTZ: No, that was the Acting Crown Solicitor. You referred to advice from the Solicitor-General. Will you provide that advice to the Committee?

Mr DAVID SHOEBRIDGE: So there is no ambiguity about the request, it is paragraph 4.4 of the advice, where you say, "However, the Solicitor-General has recently indicated that in his view it is"—and then you quote from that earlier advice—"more likely than not that if the question were to be the subject of a decision of a court, a finding would be made that a committee of the New South Wales Parliament has the power to call for a witness to attend and give evidence, including by the production of a document." That is the advice.

Mr CAPPIE-WOOD: You are asking do I waive my legal privileges in this matter?

The Hon. LYNDA VOLTZ: No, I am not asking you whether you waive your legal privilege. I am asking to provide the Committee with a copy of the Solicitor-General's advice.

Mr DAVID SHOEBRIDGE: Given you have already disclosed part of it.

Mr CAPPIE-WOOD: Thank you. Can I take that on notice and provide an answer to you expeditiously?

The Hon. LYNDA VOLTZ: If you like.

The Hon. CATHERINE CUSACK: Good answer.

Mr DAVID SHOEBRIDGE: You can provide an answer or you can provide the report, but expeditious is nice.

The Hon. LYNDA VOLTZ: I want to turn to some other matters, Mr Severin. Last time we were before the Committee, I asked you questions in regard to sexual or inappropriate relationships between prison officers and inmates. You recall that at the time you indicated there had been four reports, or the Minister indicated there had been four reports to him. Have you received any more recent reports of a prison officer having an inappropriate sexual relationship with an inmate?

Mr SEVERIN: I think we need to take that back to the origin of the establishment of Task Force Themis. I think the Minister's reference to four cases related directly to cases that were currently being looked at by Task Force Themis. Task Force Themis obviously also looks at the occasion of any kind of complaint being made in this regard or any kind of allegation being made in this regard going back 10 years. We have had a number of people coming forward identifying that there have been other occasions in various locations. These are all subject to investigation. I am not sure of the entire number of those. It is not an insurmountably big number, but through Task Force Themis and the very active pursuit of people coming forward to bring inappropriate behaviour to the attention of authorities, it has had some responses. I need to take on notice the exact number—if that is your question—of complaints that have been made since the last estimates hearing.

The Hon. LYNDA VOLTZ: Let me ask the question another way. Have you received any complaints in the last week?

Mr SEVERIN: I was not on duty last week. I need to refer that back to the acting commissioner at the time.

Mr DAVID SHOEBRIDGE: Has each of those instances of sexual relations between a prison officer and a prisoner compromised the security or the good order of those correctional facilities, and do you have evidence to that effect?

Mr SEVERIN: Fundamentally, any kind of inappropriate relationship where it is not disclosed has the potential to compromise the good order of the operation of a prison facility. The clear focus is on staff crossing the line and, therefore, jeopardising the safety and security of the ordered operation of a prison, or any kind of operation really across our area of responsibility. Fundamentally, my belief is that inappropriate relationships where they are occurring in the execution of somebody's duty when they are not disclosed—for example, we could have situations where a father has their child in custody for a period of time, or vice versa, and that is declared. I would not categorise those types of occurrences in the same way. However, the starting point for me is to say that inappropriate relationships have every potential to compromise safety or security.

The Hon. LYNDA VOLTZ: Mr Severin, you were on duty this morning. Were there any more recent reports sitting on your desk today?

Mr SEVERIN: No, nothing this morning.

The Hon. LYNDA VOLTZ: No reports?

Mr SEVERIN: I returned to duty this morning, had a briefing and then I came straight to this Committee.

The Hon. LYNDA VOLTZ: And there were no new cases raised in the briefing?

Mr SEVERIN: I have not been made aware of any cases. However, I was away since 13 October. So, quite clearly, I am not across every investigation that may have started or commenced between 13 October and me returning to duty on 31 October.

The Hon. LYNDA VOLTZ: How many under Task Force Themis are historical and how many are more recent?

Mr SEVERIN: I need to take that on notice. I have just been handed a note from the then acting commissioner to say that there has been a complaint received from an inmate yesterday. I am not aware of the

detail of that complaint at this point in time. Obviously any complaint is subject to a proper investigation. If they are criminal matters that relate to the complaint, the Corrective Services investigation unit is investigating. They are always investigated by the Corrective Services investigations branch.

The Hon. LYNDA VOLTZ: So you did have one complaint this week?

Mr SEVERIN: I personally did not receive a complaint but the then Acting Commissioner for Corrective Services just handed me a note indicating that there was a complaint received yesterday from an inmate.

The Hon. LYNDA VOLTZ: Was it a male or a female inmate?

Mr SEVERIN: I am not across that detail. I will need to take that on notice.

The Hon. LYNDA VOLTZ: There is no detail?

Mr SEVERIN: No detail. I was literally just handed a handwritten note this very second.

Mr DAVID SHOEBRIDGE: We all saw. It was bright yellow.

The Hon. LYNDA VOLTZ: Mr Severin, as you have taken that on notice, can you also ascertain if that complaint contained any complaints about the provision of contraband and also take on notice if there were any complaints about the provision of contraband, whether that contraband constituted drugs of any nature?

Mr SEVERIN: Absolutely, but I also would encourage you quite actively, Ms Voltz, that if you have information that is relevant for the investigation of a complaint to make that available to us.

The Hon. LYNDA VOLTZ: Well, I am just asking the questions.

The Hon. TREVOR KHAN: Yes, help, Lynda, help.

The Hon. LYNDA VOLTZ: I am happy to do that. Let us go to another issue. Mr Severin, in regards to Corrective Services officers, particularly ones who may be covered by whistleblower status, what provisions do you have in force to protect people who may be at risk from those other people they work with?

Mr SEVERIN: It is a very difficult area and we clearly have had occasion, most recently in the public inquiry by the Independent Commission Against Corruption [ICAC], identifying that there have certainly been occasions where staff who have come forward and provided evidence have indicated that they have had to endure some retribution. As a result of that and also as a result of the anticipated report that will be handed down by the Commissioner of the ICAC in the near future, we have commissioned a steering committee. Amongst other things, the terms of reference of the steering committee, which looks at use of force and other things, looks at a very clear analyses of what else we can do to better protect witnesses, not witness protection but support witnesses, support staff who come forward. We are also learning from the NSW Police Force and it is clearly a concern that anybody who comes forward to provide evidence that indicates inappropriate behaviour by others should be subject to any retribution. They should actually be the heroes in this process rather than the victims.

The Hon. LYNDA VOLTZ: Mr Severin, I would like to hand you some documents for you to have a look at. Firstly, I just ask if you have seen these documents before?

Mr SEVERIN: These are officers' reports from—

The Hon. LYNDA VOLTZ: I am just asking if you have seen them before?

Mr SEVERIN: I cannot recall that I have seen those before, no.

The Hon. LYNDA VOLTZ: In regards to these statements from this officer, there were some quite serious assaults, the firebombing of their vehicle, blood thrown over their vehicle. Do you know if there have been any investigations into this behaviour?

Mr SEVERIN: I understand, and I need to qualify that this comes from the GEO Group. The GEO Group is the private operator of Parklea and Junee correctional centres at this point in time. I am aware of one particular situation where there were allegations made by a former officer in relation to inappropriate behaviour that he or she was subject to by fellow officers. I am also aware that that officer themselves had engaged in some behaviour that compromised the safety and security of the centre. I am happy to take on notice the consequences that that had. I know it has been investigated. I know there were consequences but I have not got that detail in front of me.

The Hon. LYNDA VOLTZ: Mr Severin, if you had a Corrective Services officer who had had their car firebombed, who had been assaulted in the street, had damage to their house and property and had on numerous

occasions damage to their vehicle and had made numerous reports, would that be a common occurrence in Corrective Services?

Mr SEVERIN: It is most certainly not and it is very concerning if that behaviour is related to the employment of that person and not to factors relating to their private lives. And yes, I am across occurrences where that was alleged, not just related to the GEO Group. In the context of Corrective Services NSW, any time an employee comes forward and makes allegations of this nature, we take that extremely seriously because it could be—

The Hon. LYNDA VOLTZ: This is just one person that all these incidents have happened to who has made numerous reports. Are you aware of any investigation or anything that has happened from Corrective Services in regards to protecting that officer?

Mr SEVERIN: Can I just qualify again that this officer is an employee of the GEO Group. He is not an employee of Corrective Services NSW, so the GEO Group, as their employer, is responsible for the employment-related issues of this officer. Where we would get involved very clearly is with any allegations of criminal behaviour, which clearly this is the case and, as I said, I take on notice the action that was taken by the NSW Police Force as a result of being initiated by us.

Mr DAVID SHOEBRIDGE: But, Commissioner, surely you have an arrangement, a very clear arrangement in place with anyone operating a private prison in New South Wales where if any of their employees are under duress or potential threats to their property or person as a result of their duties there is an obligation to report that to you?

Mr SEVERIN: Absolutely.

Mr DAVID SHOEBRIDGE: Has it been reported?

Mr SEVERIN: We certainly are aware of incidents. As I said, I just have not got the details in front of me. I am very happy to provide those details.

The Hon. LYNDA VOLTZ: But you are saying incidents. I am talking about one person—

Mr SEVERIN: Yes.

The Hon. LYNDA VOLTZ: —who has had a pattern of quite violent and very serious damage and assaults happening to them and you are not aware of that. Have there been more serious incidents than this?

Mr SEVERIN: If I could just clarify. I clearly said I am aware of an occurrence at the Parklea Correctional Centre where a GEO officer literally was subject to very, very inappropriate behaviour. The matter was investigated. The matter was appropriately referred and the matter was appropriately reported back to us. So it is not that this is something that went under the radar. The matter was even reported in the media at the time, if I recall correctly. So, very clearly, if we have an officer in our employment, that is Corrective Services NSW, who comes forward and makes any kind of report indicating that they are subject to this type of behaviour, we immediately undertake a very comprehensive risk assessment. We are looking at the threats that the officer is subject to, we are looking at the link between the employment of the staff member and these types of threats and behaviours and we certainly involve on every occasion the NSW Police Force. This is done by our Security Operations Group, who are the technical experts in this area and we, under no circumstances, condone this behaviour—not take it seriously, not investigate it, not follow up on it—and we make sure the welfare of the officer is looked after.

The Hon. LYNDA VOLTZ: Let us go through that systematically. We are not talking about inappropriate behaviour here, are we?

Mr SEVERIN: No. This is clearly not inappropriate behaviour between an inmate and an officer.

The Hon. LYNDA VOLTZ: But that is the term you used. That is why I am wondering why you used it.

Mr DAVID SHOEBRIDGE: It would be better to classify it as violent and criminal.

Mr SEVERIN: Because something can be inappropriate; it does not need to be sexual. For me, this is a very—

The Hon. LYNDA VOLTZ: No, I am not saying it is sexual. I am saying it is criminal behaviour.

Mr SEVERIN: If I could just—

Mr DAVID SHOEBRIDGE: It is violent, criminal behaviour.

The Hon. CATHERINE CUSACK: I think he is explaining the process rather than the incident.

Mr SEVERIN: It is very clear. I used one term and I think I have used it quite accurately. To just recap again, if we have been made aware by an officer or by anybody—it could be a third party—that there are any issues relating to the employment resulting in threats or action being taken against an employee of Corrective Services NSW, we undertake a comprehensive risk assessment. We do that in situ. If it happened at their home, we do it there. We involve the NSW Police Force. We investigate matters and we do everything possible to ensure that the safety and welfare of staff are protected.

Mr DAVID SHOEBRIDGE: But, Commissioner, this is about a private prison. If I understand your answers earlier, when it is a private prison it is not your business; it is done by the private operator in a manner that you cannot clearly articulate to us?

Mr SEVERIN: But I can. I mean, the process is very clear that we are not the employer of the staff of the GEO Group, so we are not marching in there and undertaking investigations. That is the obligation in the first instance of the private operator and the employer of that employee.

Mr DAVID SHOEBRIDGE: Do they have the equivalent of your Special Operations Group that will be able to undertake it?

Mr SEVERIN: If they request that we undertake any kind of assessment, of course we make our resources available, as is appropriate.

Mr DAVID SHOEBRIDGE: Did they in this case? I have looked at the material. It is some of the most appalling threats against somebody. Have they requested it on this occasion?

Mr SEVERIN: I have to take on notice if they requested us or if they used other means to undertake the risk assessment.

Mr DAVID SHOEBRIDGE: What other means?

Mr SEVERIN: They could have engaged their own experts from elsewhere. I do not want to speculate. What I am saying is these are serious allegations. My understanding is they were investigated, they were followed through and they were brought to the notice of authorities and reported on in the media at the time, or later on. My understanding is there were actions taken as a result.

The Hon. LYNDA VOLTZ: What were those actions?

Mr SEVERIN: I need to take that on notice, as I mentioned before.

The Hon. LYNDA VOLTZ: Is the person still employed in Corrective Services?

Mr SEVERIN: They are not employed by Corrective Services NSW. If they are employed by the GEO Group, I have to take it on notice.

Mr DAVID SHOEBRIDGE: Are there specific arrangements in place with current private prison operators and those who are about to have the operation of further private prisons in New South Wales? Are there specific arrangements in place that says your Special Operations Group needs to be involved and undertake investigations when these kinds of threats and criminal behaviour are happening to prison officers in private employ?

Mr SEVERIN: They would not be as specific as that. Again, we are not telling an operator how to deal with their employees in the first instance. However, if there are any matters related to the employment of the person and the conduct of corrective services in New South Wales by the private sector, we make sure that matters are appropriately dealt with, that matters do not affect the safety and security of corrections in this State. What we are not doing is we are not becoming a surrogate employer for a private sector operator's employees.

Mr DAVID SHOEBRIDGE: Does GEO have the expertise that you have in the Special Operations Group? Is it a requirement of the tender? Absent the expertise, how can you ensure the integrity of private prisons?

Mr SEVERIN: I can ensure the integrity of private prisons because, first of all, we have very clear specifications as to how these prisons need to operate. Secondly, we have monitors on site that identify that the prisons are operating appropriately and we have a catalogue of interventions. And a question was asked in a different place in relation to those contractual arrangements being available and they are online. I refer again, all the documents are there that outline all the obligations on both sides. We, of course, have very clearly also the

ability to provide support through the Special Operations Group if the operator feels that they do not have that expertise within their own organisation or they cannot source that expertise elsewhere if it is indeed needed. My example referred to Corrective Services NSW employees. It did not refer to a mandatory requirement to use us every time there is a concern in relation to alleged inappropriate or criminal behaviour against an employee.

The Hon. LYNDA VOLTZ: Mr Severin, you say there has not been a more serious example before you of someone being intimidated and harassed than being firebombed, assaulted on the street and having their house and vehicles damaged, yet you cannot tell us whether that person is still employed. You cannot tell us what protections were put in place. You cannot tell us whether you undertook the investigations. How many types of these allegations come before your office?

Mr SEVERIN: If I can correct you, I did not say that I have not seen any more serious incident. That is not to say in any way that this is not serious. I did indicate very clearly that the matter was investigated, that action was taken, that consequences ensued from that action and I need to take on notice to provide you with the detail of what actually happened. The matter, to the best of my knowledge, was duly investigated, followed through and action was taken.

The Hon. LYNDA VOLTZ: Action was taken. Were there charges laid?

Mr SEVERIN: As I said and I reiterate again, or repeat again, I will take that on notice.

The Hon. LYNDA VOLTZ: At one stage in your earlier responses you made a statement that there were complaints from a person who was then later complained about by officers. Is that not a common response when someone is a whistleblower, that they then become the target of complaints?

Mr SEVERIN: Again, I do not want to speculate on this. As I said before, the details of what happened at the time we take on notice.

The Hon. LYNDA VOLTZ: I was just surprised.

Mr DAVID SHOEBRIDGE: Inspector, you took on notice the question as to whether or not the prohibition on confinement for 24 hours in juvenile detentions had been breached in circumstances where a child had been locked in the cells at night and had then been confined during the day. That the period was continuous and whether or not that breached the 24-hour prohibition—do you remember taking that on notice?

Ms RAFTER: I do.

Mr DAVID SHOEBRIDGE: In your answers on notice you reference page 19, but I think it is accurately a reference to the question asked at page 25. You say:

Juvenile Justice has advised that it has not breached the maximum 24-hour confinement period in the last financial year. The terms of reference for the Juvenile Justice inspection include how the use of separation, segregation and confinement of detainees in Juvenile Justice centres in New South Wales is managed.

Do you remember giving that answer?

Ms RAFTER: Yes, I do.

Mr DAVID SHOEBRIDGE: Inspector, you are an independent statutory officer?

Ms RAFTER: Yes.

Mr DAVID SHOEBRIDGE: Do you understand I was asking you about what you knew, not what Juvenile Justice said to you? Do you understand the question was to you in your role as a statutory officer?

Ms RAFTER: Yes, I do.

Mr DAVID SHOEBRIDGE: I ask that again. I am not asking you to recite to me the opinion of Juvenile Justice. I am asking you whether you in your role as an independent statutory officer do you have any evidence or have ever seen a circumstance where the 24-hour confinement prohibition was breached in the circumstances outlined?

Ms RAFTER: To address that, I maintain the response that I provided to the Committee. I have powers under my legislation to request data and information from Juvenile Justice and I do that to obtain information in relation to these types of matters. That is what I have done on this occasion, requested data, which has informed my response. I referred to the report that I am currently drafting and again I refer back to my opening statement that under the provisions of the Act I will discuss these sorts of matters in the report, in the final report when it is tabled.

Mr DAVID SHOEBRIDGE: Inspector, I do not care if this is raised in the report. I do not want you to reference the report. I want you to give me the information that you have as a statutory officer. Has the prohibition on confinement been breached in the circumstances I outlined in the question: yes or no?

Ms RAFTER: The answer that I provided to you is, my response today is consistent with that answer.

Mr DAVID SHOEBRIDGE: Your answer was that Juvenile Justice says "no". I am asking you as a statutory officer?

Ms RAFTER: On the data, I accept that based on the data.

Mr DAVID SHOEBRIDGE: You have been looking at segregation—

The Hon. TREVOR KHAN: You wanted a yes or no, she has given you a yes or no.

Mr DAVID SHOEBRIDGE: You have been looking at segregation independently of Juvenile Justice in your statutory role. I am not simply asking about the data that has been provided by Juvenile Justice. I am asking from your analysis of that data your understanding of the statutory regime and whether or not the prohibition has been breached? If I wanted Juvenile Justice's opinion I would ask them.

Ms RAFTER: I refer you back to my opening statement around my obligations under section 15.

Mr DAVID SHOEBRIDGE: I am not asking you about your report. I do not care if it is referenced in your report. I want an answer to my question.

Ms RAFTER: It is relevant to the report.

The Hon. LYNDA VOLTZ: To be fair, as the Inspector, the Committee has a right to ask questions regarding your responsibility.

Ms RAFTER: Absolutely.

The Hon. LYNDA VOLTZ: Not only as to a report you provide to the Government but also to satisfy ourselves as to your role as an independent inspector of those facilities. So in asking you whether your independent undertakings confirm that the data you have provided is the same or different, I do not think you can refer to a report; otherwise a "report" will systemically cover everything.

Ms RAFTER: I am trying to assist the Committee in the answer I have provided. I can take it on notice if you are asking me a different question to that you asked previously.

The Hon. TREVOR KHAN: Why do you not ask Ms Hawyes? I think she knows. In fact, I think she has been busting to tell us.

Ms HAWYES: I think it might help the Committee if—

Mr DAVID SHOEBRIDGE: We will get to Ms Hawyes in a bit. Ms Rafter, you understand the reason we are asking you is because you are meant to be statutorily independent of Ms Hawyes?

Ms RAFTER: Yes.

Mr DAVID SHOEBRIDGE: And you have your own independent view. Yet the only answer you have given is on the data provided by Ms Hawyes: no. Can you not understand how an inspector's job is to do more than simply regurgitate the response from the organisation you are meant to be an independent inspector of?

The Hon. CATHERINE CUSACK: Can I just clarify? Is the question: Do you not understand?

Mr DAVID SHOEBRIDGE: Ms Rafter, do you understand the question?

Ms RAFTER: Can you—

The Hon. CATHERINE CUSACK: Are you asking her does she not understand the question?

The CHAIR: Order!

The Hon. CATHERINE CUSACK: I am not convinced it is a real question.

The Hon. TREVOR KHAN: We are not getting anywhere.

The CHAIR: If the Hon. Catherine Cusack wishes to speak then she should seek the call.

The Hon. CATHERINE CUSACK: Thank you.

The CHAIR: I note that the Inspector responded to a number of questions by referring to the secrecy provisions in the Act. It is our view that these statutory secrecy provisions do not apply, except by express enactment. I would suggest that the Inspector seek her own legal advice on this matter.

The Hon. CATHERINE CUSACK: "Do you not understand?" is not a valid question. It is battering and confusing rather than asking a genuine question of the witness. The member should be directed to ask a genuine question, not to have a debate under the guise of asking "Do you not understand?"

The Hon. TREVOR KHAN: Why do we not let Ms Hawyes tell us something?

The Hon. LYNDA VOLTZ: Because our question is not to Ms Hawyes, it is to the Inspector.

The CHAIR: The question relates to the Inspector's role.

The Hon. CATHERINE CUSACK: They are not questions. They are a whole lot of assertions with ironical statements and questions like "Do you not understand?"

Mr DAVID SHOEBRIDGE: The Government can continue to run defence through the Hon. Catherine Cusack.

The Hon. TREVOR KHAN: That is not what is going on.

The CHAIR: Order!

The Hon. CATHERINE CUSACK: It is just torturous; it is not progress.

Mr DAVID SHOEBRIDGE: Ms Rafter, you are an independent statutory officer. You understand that, correct?

Ms RAFTER: Yes, I do.

Mr DAVID SHOEBRIDGE: That means your job is not simply to regurgitate the advice given by the agency you are meant to be an independent inspector of? Do you understand that?

Ms RAFTER: Yes.

Mr DAVID SHOEBRIDGE: Therefore, do you understand the frustration when I ask you a question about something as important as potential unlawful confinement of children and your answer simply refers to the advice you got from the agency you are inspecting without your own independent analysis of it? Do you understand the frustration?

The Hon. CATHERINE CUSACK: "Do you understand the frustration?" That is not a question.

The CHAIR: Order!

Mr DAVID SHOEBRIDGE: Do you understand why that is an inadequate answer from an independent inspector?

Ms RAFTER: I do not believe it is because I have powers to request information from Juvenile Justice that is not necessarily available. I do so and then I formulate my response.

Mr DAVID SHOEBRIDGE: Ms Rafter, my final question in this fairly barren landscape is: Are you required to give the Minister a reasonable opportunity to respond to the draft report that you provided to him yesterday?

Ms RAFTER: Yes, I am.

Mr DAVID SHOEBRIDGE: Did you set a time frame or do you have a time frame for a reasonable opportunity, given that we are now two years and four months into this process?

Ms RAFTER: The usual time frame that I provide is four weeks to respond, but I have asked the Minister to respond to me as soon as possible.

The Hon. LYNDA VOLTZ: Mr Severin, in an earlier budget estimates hearing this year I asked you how many Corrective Services staff were disciplined for misconduct in 2017-18. Your answer to that question taken on notice was 118. Do you think that is a high figure?

The Hon. CATHERINE CUSACK: This constant series of questions: "Do you think?"—

The CHAIR: What is your point of order?

The Hon. CATHERINE CUSACK: This is a budget estimates hearing. The purpose of this hearing is to obtain information about portfolios. It is one question after another such as "Do you think" or "Do you agree" or "Would you not be frustrated?" They are not fact-finding questions relating to portfolios.

The CHAIR: I will allow the question and we will see whether it is a factual question seeking factual information.

The Hon. LYNDA VOLTZ: Do you think 118 Corrective Services staff being disciplined for misconduct in 2017-18 is a high number?

Mr SEVERIN: I think we need to qualify that and differentiate in the context of how we view those numbers. On 30 June this year we had 8,640 employees, so in that context it would be a very low number. However, disciplinary action can be the result of a number of things. Obviously somebody has done the wrong thing and it has been brought to the attention of his or her superior officers, been duly investigated and subsequently disciplinary action is taken. It is a process that occurs in every law enforcement agency and other agencies as well. It could be the result of very vigilant and very clearly focused reporting on matters that are relevant in the context of appropriate professional behaviour. If it is that, then for me it is clearly not a high number because I want any kind of misconduct to be brought to attention, duly investigated and then obviously dealt with, if necessary, under the provisions of the Government Sector Employment Act.

It is certainly not indicative of an organisation that has a crisis in relation to its staff constantly breaching the rules. It is not indicative of an organisation where the staff are not on a daily basis doing an absolutely outstanding job, 24 hours a day, seven days a week, and, at times, under very trying and testing circumstances. I cannot really answer a question in the context of yes or no, is it high or is it low. If it is the result of diligent work done by staff who are responsible in bringing matters to the attention of the authorities or if it is identified through other means, then it is a very appropriate number. Would I like to think that we could eliminate that? Yes, absolutely I would like to. But 8,640 employees in that context I have to say, spread over more than 100 areas of operation in this State, is not a number that raises any significant concerns with me.

The Hon. LYNDA VOLTZ: So if you say that number is the result of staff being diligent and bringing matters to the attention of the service, how many of those reports are as a result of staff members bringing those matters forward?

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

The Hon. LYNDA VOLTZ: Would that not be one of the key criteria you set as to whether or not those 118 were the result of the behaviour of staff? How do you assess that?

Mr SEVERIN: Any time there is an allegation of an officer or any staff member engaging in behaviour that is not consistent with the provisions of the law or provisions of procedures, and the matter is brought to the attention of the authorities, it is expected that that is followed through, that it is duly investigated and then action is taken as a result of that, as deemed appropriate. Whenever an allegation is made it goes to the Professional Standards Branch within Corrective Services NSW and it is considered by a committee, which includes the strategic HR group, operations and the investigations branch. If the matter is serious, it is referred to investigations, and if it is a matter that relates more to the performance of a staff member, it is referred to strategic HR for follow-up.

The Hon. LYNDA VOLTZ: Is that true across the board? You said earlier organisations like the GEO Group do not necessarily rely on your organisation to do that?

Mr SEVERIN: Of course, the professional standards unit does not concern itself with complaints in relation to misconduct by employees who have a different employer—

The Hon. CATHERINE CUSACK: Point of order—

The Hon. LYNDA VOLTZ: So the 118 does not include privately run prisons?

Mr SEVERIN: That is correct.

The Hon. CATHERINE CUSACK: Our time has expired for the hearing.

The CHAIR: It has not expired because we took a 10-minute adjournment. I will see how we go.

The Hon. LYNDA VOLTZ: The 118 were Corrective Services run prisons. How many are in privately run prisons?

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

The Hon. LYNDIA VOLTZ: Do you know if it is higher than the 118?

Mr SEVERIN: It most certainly will not be higher but I do not want to speculate.

Mr DAVID SHOEBRIDGE: Ms Rafter, I asked on notice, through the Minister, how many strip searches were conducted on juvenile prisoners in the last financial year. The answer that I was given was that not all strip searches are required to be recorded. Were you aware of the fact that strip searches were not required to be recorded? Are you aware of any data in relation to strip searches of juvenile detainees?

Ms RAFTER: I will have to take that question on notice.

Mr DAVID SHOEBRIDGE: Has the conduct of strip searches come up at any point in your inspection of juvenile detention facilities?

Ms RAFTER: Yes, it has. And it has in the previous inspector's report as well; there were recommendations in relation to strip searching.

Mr DAVID SHOEBRIDGE: Have those recommendations been implemented?

Ms RAFTER: I believe they have been partially implemented in response to the previous inspector's report but I will take it on notice to give you a fulsome answer.

Mr DAVID SHOEBRIDGE: Now is your opportunity, if you want, to put something on record about that question of 24-hour confinement and the cumulative sleep/following confinement, whether that was breached.

Ms HAWYES: Before I do that I might just clarify the point about strip searching.

Mr DAVID SHOEBRIDGE: I was going to ask that next but you speak to it first if you like, or whatever order you like.

Ms HAWYES: Searching is clearly a necessary part of the business in response to mitigating the risk of contraband. Items that are secreted upon a person such as a lighter can cause significant risk. As a result, we are authorised to conduct searches of detainees. They are partially clothed. There are two officers present at all times. A detainee has the right to request the sex of the officers. The way that the search is conducted is to do it in a way that maintains the dignity of the young person. One officer is giving directions about the search—top then bottom, partially clothed, never all clothes off at the same time—and the other officer observes the officer conducting the search. That explains to the Committee the way we conduct searches. In response to the recent royal commission into child sexual assault we have brought in new practice, our new policy, around searches because it clearly is such a difficult part of our practice, and we are keen to ensure that it is done with all due respect and dignity for the detainees. I hope that clarifies the practice of strip searching in our organisation.

Mr DAVID SHOEBRIDGE: If you can, on notice, will you table that current policy and provide any data that you have?

Ms HAWYES: Yes, definitely.

Mr DAVID SHOEBRIDGE: And then on the 24-hour detention.

Ms HAWYES: The response to the question was clearly we collect data. The independent inspector has access to our database, as does the Ombudsman at all times. It is a live database. Officers are required to report daily management of detainees but particularly the application of a practice such as confinement. Confinement is a lawful part of the restrictive practices we are authorised to utilise. We operate under a spectrum of restrictive practice for safety, for the safe and secure operation of the centres and for the safety of detainees who are, at times, exposed to risk as a result of the behaviour of other detainees.

We operate under a lawful spectrum of practice, which includes segregation and confinement. They are not the same thing. Confinement is a very specific provision which relates to the use of time in room as punishment for misbehaviour. We have lawful limits on the use of confinement and they are 12 hours for a detainee up to 16 years, and 24 for a detainee who is between 16 and 21. In 2017 the average time a detainee spent in confinement was five hours and 20 minutes, and there were no exceedances of the legislative limits.

Mr DAVID SHOEBRIDGE: On your understanding of the combined time when a juvenile was locked in a cell at night and then had a consecutive period of confinement, do you say that cumulative period never exceeded 24 hours or are you saying that cumulative period, even if it does exceed 24-hours, is not a breach?

Ms HAWYES: I am not saying either. From a practical point of view, if a confinement is applied at midday we do not wake up the young person at midnight to say, "Your confinement is over. It is time to get up."

We have legislative limits on the application of confinement. Given the time of day, that can occur on a 24-hour cycle. If there is ever any concern that a young person feels that they had a reason to complain there are multiple mechanisms to complain. There is no practice of back-to-back confinement. Confinement is applied when there is a misbehaviour.

Mr DAVID SHOEBRIDGE: To illustrate the issue I will give an example. A young person was locked in their cell at 8 o'clock at night and is due to be unlocked at 8 o'clock in the morning. At 7 o'clock in the morning they behave in a very bad way in the cell, such that a decision is made to put a further confinement period of 20 hours—and it is a 16-year-old. That is then exercised immediately. The period that young person would have been in confinement would be 27 hours.

Ms HAWYES: Yes, I understand.

Mr DAVID SHOEBRIDGE: Has that cumulative period ever exceeded 24-hours?

Ms HAWYES: I would have to take that on notice to get specifics. It can occur but, as I say, it is down to the behaviour we are trying to manage. If a young person is assaultive then there is clearly high risk in bringing them out of their room. It is case by case and individualised and it is very much responding to the behaviour that we see. Our default is to have detainees out and engaged in a purposeful day with school, work, offence-based interventions, recreation as well as relaxation time as for any teenager. That is our default. We apply segregation and confinement where there is a risk or there has been a misbehaviour.

Mr DAVID SHOEBRIDGE: My question is whether that is a breach. We can discuss that after your answers to questions on notice.

The Hon. LYNDA VOLTZ: Mr Severin, in regard to investigations in privately run prisons, you stated at the last hearing that occurrences of inappropriate sexual relationships were undertaken by the Professional Standards Unit, Investigations Branch of Corrective Services. Is that the case for any allegation before the legislation within a privately run prison?

Mr SEVERIN: Yes.

The Hon. LYNDA VOLTZ: All complaints would have come to you for all allegations?

Mr SEVERIN: In relation to inappropriate relationship between prisoners and staff, those would be investigated through our investigations branch—and indeed the police, if that is necessary.

The CHAIR: I want to put on the record the Committee's thanks for the way it has been treated—

Mr DAVID SHOEBRIDGE: Accommodated, perhaps.

The CHAIR: Accommodated is probably a better word when visiting some of your jails. Would you please pass on our thanks to your staff who participated in the various facilities?

Mr SEVERIN: I will do that and I appreciate that the Committee took so much time to acquaint itself with the operations.

The Hon. TREVOR KHAN: Extraordinarily informative.

Mr DAVID SHOEBRIDGE: A good summary would be professional and helpful.

Mr SEVERIN: Thank you. I will pass that on.

The CHAIR: The Committee has resolved that answers to questions taken on notice be returned by Monday 19 November 2018. The secretariat will contact you in relation to the questions you have taken on notice. Ms Rafter, you have taken on notice a number of questions today. You have until 19 November to provide written answers to those questions. You also declined to answer a number of questions, apparently on the grounds of statutory secrecy provisions in the Inspector of Custodial Services Act. I would respectfully suggest that you might wish to carefully reconsider your approach in that regard.

I would urge you to consider the advice of the Solicitor-General, to which reference was made by the Crown Solicitor in paragraphs 3.9 to 3.11 of her advice to the Auditor-General, dated 10 August 2018, and included as an appendices to the Auditor-General's report on State Finances, tabled on 19 October 2018. You might also like to consider pages 7 and 8 of the advice of the Solicitor-General, dated 9 April 2014, tabled in the Legislative Council on 6 May 2014. We look forward to your further advice in relation to these matters in the context of your answers to questions on notice. As indicated earlier, the Committee will be seeking an extension of its reporting date and may be recalling you and others at some future time. Thank you for coming.

(The witnesses withdrew)

The Committee adjourned at 12.55 p.m.