



STANDING COMMITTEE ON JUSTICE AND COMMUNITY SAFETY

JEREMY HANSON CSC MLA (CHAIR), MARISA PATERSON MLA (DEPUTY CHAIR), JO CLAY MLA

Inquiry into referred 2019–20 Annual and Financial Reports and Budget Estimates 2020-21
ANSWER TO QUESTION ON NOTICE

Asked by Ms Elizabeth Lee MLA: To the Attorney-General

In relation to: **COVID response to jury trials**

[Ref: JACS Annual Report p105]

1. In April 2020, the ACT Government moved amendments to, inter alia, *the Supreme Court Act* to allow criminal trials to proceed as judge only without the consent of the accused. What advice did the Government rely on before moving this amendment?
2. Was the ACT legal fraternity consulted prior to the decision being made?
 - i. If not, why not?
 - ii. If so, who, and when and by which method?
3. Were interstate legal jurisdictions examined or contacted to determine how they would proceed in a COVID environment?
 - i. If not, why not?
 - ii. If so, who, when and what was the outcome of those discussions?
4. How many criminal trials took place during this period?
 - i. How many proceeded to trial without a jury?
 - ii. How many proceeded to trial without a jury, without consent of the accused??
 - iii. How many are subject to appeal?

Shane Rattenbury MLA: The answer to the Member's question is as follows:—

1. Section 68BA of the *Supreme Court Act 1933* was introduced following engagement with the ACT Supreme Court on the COVID-19 pandemic. In developing the provision, the Government considered both the views of stakeholders and approaches being taken in other jurisdictions.
2. ACT legal representative bodies were consulted. In or around mid-March 2020, the office of the former Attorney-General approached the ACT Bar Association and the ACT Law Society regarding the change in prospect. Thereafter, representatives of the Justice and Community Safety Directorate spoke at the Bar Council meeting on 30 March 2020 and the ACT Law Society wrote to the former Attorney-General on 24 March 2020.



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

JACS No. 64

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3. Approaches to jury trials in other Australian jurisdictions were considered. No direct discussions with other jurisdictions were initiated as information was publicly available on their approaches.
4. 31 individual notices were given pursuant to subsection 68BA(4) of the *Supreme Court Act 1933*. Thereafter:
 - 13 defendants (in 8 trials) who received a notice, were tried by judge alone, by order of the Court under subsection 68BA(3);
 - four defendants who received a notice, made an election to be tried by judge alone, with no order under subsection 68BA(3) being made;
 - the remaining defendants who received a notice, were either tried by a jury or pleaded guilty, with no order under subsection 68BA(3) being made.

All trials where an order for judge alone trial was made have concluded. One defendant has appealed his conviction.

Approved for circulation to the Standing Committee on Justice and Community Safety

Signature:

A handwritten signature in blue ink, appearing to read "Shane Rattenbury", written over a blue circular stamp.

Date:

15/3/21

By the Attorney-General, Mr Shane Rattenbury MLA