

The Hon. Michael John Daley MP  
Attorney General

Budget Estimates Hearing  
6 March 2024

Supplementary Questions

| Question #   | Member                 | Supplementary Question  | Answer  |
|--|------------------------|---|---|
| <b>Office of the Director of Public Prosecutions</b> |                        |   |   |
| For the last 5 years:                                |                        |   |   |
| 1  | Hon. Chris Rath<br>MLC | How many costs orders have been made against the DPP?   | Answers relating to the Office of the Director of Public Prosecutions (ODPP) will be provided on or before 5.00 PM Tuesday 16 April 2024 in accordance with the extension provided. |
| 2  |                        | In what amounts?  |   |
| 3  |                        | Please provide a copy of the reported or unreported judgment making the costs order.  |   |
| 4  |                        | For each year how many costs orders were made in sexual assault cases?  |   |
| 5  |                        | For each year how many costs orders were made in non sexual assault other cases?  |   |
| 6  |                        | For each year, what was the number of sexual assault cases prosecuted at hearing by the DPP?  |   |
| 7  |                        | For each year, what was the number of non sexual assault cases prosecuted at hearing by the DPP?  |   |
| 8  |                        | For each year, what was the number of sexual assault cases successfully prosecuted at hearing by the DPP?   |   |
| 9  |                        | For each year, what was the number of sexual assault cases prosecuted at hearing by the DPP where there was a verdict of not guilty?              |   |
| 10   |                        | For each year, what was the number of sexual assault cases prosecuted at hearing by the DPP where there was a hung jury?                          |   |
| 11   |                        | For each year, what was the number of sexual assault cases prosecuted at hearing by the DPP where there was a hung jury and a retrial took place? |   |
| 12   |                        | For each year, what was the number of non sexual assault cases successfully prosecuted at hearing by the DPP?                                     |   |

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| 13                    | Hon. Chris Rath<br>MLC | For each year, what was the number of non sexual assault cases prosecuted at hearing by the DPP where there was a verdict of not guilty?              |   |
| 14                    |                        | For each year, what was the number of non sexual assault cases prosecuted at hearing by the DPP where there was a hung jury?                          |   |
| 15                    |                        | For each year, what was the number of non sexual assault cases prosecuted at hearing by the DPP where there was a hung jury and a retrial took place? |   |
| 16                    |                        | Please provide a list of judicial complaints made against the ODPP.   |   |
| 17                    |                        | What matters have the ODPP received complaints about?   |   |
| 18                    |                        | Is the audit of sexual assault cases to be conducted internally by the ODPP or externally?  |   |
| 19                    |                        | What are the terms of reference for the audit?  |   |
| 20                    |                        | Will staff be consulted?  |   |
| 21                    |                        | Will comments made by staff in the course of the audit be confidential or available to their managers?  |   |
| 22                    |                        | On what grounds was the complaint about the judgement of Justice Newlinds made?   |   |
| 23                    |                        | Please provide a list of all complaints made to the judicial commission over the last 5 years.  |   |
| <b>Drug diversion</b> |                        |   |   |
| 24                    |                        | Will the review of the programme take into account reports of similar programmes such as the PDDI in SA?  | <p>I am advised:</p> <p>Schemes in other jurisdictions, and any evaluations of those schemes, were considered by agencies in developing the Early Drug Diversion Initiative (EDDI) and will continue to be considered as part of regular and ongoing policy review. A cross-agency working group is overseeing implementation of EDDI. The NSW Bureau of Crime Statistics and</p> |

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|            |                        |  | Research (BOCSAR) will evaluate EDDI to assess whether it is meeting its intended objectives.   |
| 25         |                        | If those programmes are not successful will the review have the power to make recommendations to alter the programme to ensure it achieves the best outcomes?  | Please see response SQ -24  |
| 26         |                        | Is there a target percentage reduction in drug-related offences?   | Please see response SQ -24  |
| 27         |                        | Will the review take into account the rate of drug-related hospital admissions over the review period?   | Please see response SQ -24  |
| 28         | Hon. Chris Rath<br>MLC | <p>Was there an information campaign prior to the launch of the Initiative?</p> <p>(a) How was this campaign delivered?</p> <p>(b) Can you provide links to the information, or copies of materials produced for this campaign?</p> <p>(c) Did the campaign include information on the difference between this initiative and the drug reforms in the ACT?</p> | <p>I am advised:</p> <p>The government announced the initiative in October 2023 with an estimated start date of early 2024.</p> <p>Information on the Early Drug Diversion Initiative (EDDI) has been available on the NSW Government website since EDDI commenced on 29 February 2024 at <a href="https://www.nsw.gov.au/EDDI">nsw.gov.au/EDDI</a>. This includes an Easy Read summary of EDDI.</p> <p>This is supported by content on partner agency websites (DCJ, Health and St Vincent's) and electronic e-news to targeted stakeholder groups. Fine recipients will receive information on the fine notice, including options for resolving the fine, with a QR code for further information.</p> <p>DCJ is also supporting the commencement of EDDI through posts on social media. In border areas, this is being boosted with messaging that similar diversion programs operate in other Australian states and territories, and that different rules apply, linking to <a href="https://www.nsw.gov.au/EDDI">www.nsw.gov.au/EDDI</a> for more information on rules that apply in NSW.</p> <p>Information relating to EDDI is currently available at:</p> <ul style="list-style-type: none"> <li>• <a href="https://www.nsw.gov.au/EDDI">https://www.nsw.gov.au/EDDI</a>, including Easy Read material</li> <li>• <a href="https://dcj.nsw.gov.au/legal-and-justice/diversion-and-therapeutic-programs.html">https://dcj.nsw.gov.au/legal-and-justice/diversion-and-therapeutic-programs.html</a></li> <li>• <a href="https://www.health.nsw.gov.au/aod/programs/Pages/diversion.aspx">https://www.health.nsw.gov.au/aod/programs/Pages/diversion.aspx</a></li> <li>• <a href="https://www.svhs.org.au/our-services/list-of-services/alcohol-drug-service/early-drug-intervention-initiative">https://www.svhs.org.au/our-services/list-of-services/alcohol-drug-service/early-drug-intervention-initiative</a></li> </ul> |

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|   |                         |  | <ul style="list-style-type: none"> <li>Relevant social media posts are publicly available on DCJ's social media channels, including LinkedIn, Facebook, and X.</li> </ul>  |
| <b>S 93Z review</b>   |                         |  |  |
| 29  | Hon. Chris Rath<br>MLC  | What are the relevant stakeholders mentioned in the review's terms of reference?<br>(a) Will these stakeholder groups be publicly named?   | I am advised: This up to the NSW Law Reform Commission to determine, noting the independence of the Commission.  |
| 30  |                         | What is the time frame for the conclusion of the review?   | <p>I am advised: The timeframe for this review is a matter for the NSW Law Reform Commission to determine, noting the independence of the Commission.</p> <p>As per the terms of reference, the NSW Law Reform Commission has been asked to "expeditiously review and report on the effectiveness of section 93Z of the Crimes Act 1900 (NSW) in addressing serious racial and religious vilification in NSW".</p> |
| <b>Civil settlements for misconduct claims against the NSW Police</b> |                         |  |  |
| 31  | Ms Sue<br>Higginson MLC | In FY19-20, FY20-21, FY21-22, FY22-23, and the current financial year, how many civil suits were settled with the police that included non-disclosure agreements or clauses?<br>(a) Of which, how many such clauses or agreements were included at the suggestion of police? | I am advised: This is a matter for the Minister for Police and Counter-terrorism.  |
| 32  |                         | Will the Attorney General advise crown solicitors against the inclusion of non-disclosure agreements in civil matters settled with the police, other than in exceptional circumstances or at the request of victims?   | I am advised: This is a matter for the Minister for Police and Counter-terrorism.  |
| <b>NCAT and the Courts NSW online system</b>                          |                         |  |  |
| 33  |                         | What resources were made available to consult, test and customise the Courts NSW online system for use in NCAT?  | <p>I am advised:</p> <p>Resources to consult, test and customise the Courts NSW online system for use in NCAT were made available by the DCJ project team and NCAT.</p>  |

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| 34                                       | Ms Sue<br>Higginson MLC | Was there any user testing of this system prior to being made public on November 20, 2023?   | I am advised:<br>Yes, user testing was conducted prior to the system being made public.   |
| 35                                       |                         | Are Tenant Advocates who are funded by the government to represent tenants able to use the online system in the same way real estate agents are able to use it in representing their owner clients?  | I am advised:<br>To access NCAT Online Services all users are required to register via the NSW Online Registry. Currently advocates are only able to lodge and interact with the online services if they do this as a party or if they have a legal representative in their office under whom they can act as delegate. |
| <b>2019/2020 fires – General inquiry</b> |                         |  |   |
| 36                                       | Ms Sue<br>Higginson MLC | <p>Did the RFS Commissioner or Minister for Emergency Services request a general inquiry by the State Coroner into the following fires that occurred during 2019/2020?</p> <p>(a) Bees Nest<br/> (b) Drake - Long Gully<br/> (c) Busby's Flat 4<br/> (d) Carrai Creek<br/> (e) Liberation Trail and Old Glen Innes Road<br/> (f) Stockyard Flat<br/> (g) Stockyard East<br/> (h) Gulf Road-Torrington<br/> (i) Muck Creek<br/> (j) Schultz Road<br/> (k) Kian Road complex<br/> (l) Myall Creek<br/> (m) Gospers Mountain<br/> (n) Mummel Road<br/> (o) Currowan – Clyde River<br/> (p) Green Wattle-Kowmung River – Yerranderie Road<br/> (q) Green Wattle-Kowmung River – Balmoral<br/> (r) Currowan – Clyde Mountain<br/> (s) Green Wattle -Kowmung River – Jenolan Caves<br/> (t) Currowan – Conjola Park<br/> (u) Green Valley<br/> (v) Dunns Road<br/> (w) Badja Forest Fire</p> | I am advised:<br>This is a matter for the Minister for Emergency Services.  |

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|---|---|---|---|-----------------|-------------------|-----------|------|-----------|------|-----------|------|-----------|------|-----------|-------|---------------|---------|
| <b>Establishment of an independent Victim Services Commissioner</b> |   |   |   |                 |                   |           |      |           |      |           |      |           |      |           |       |               |         |
| 37  | Ms Abigail Boyd<br>MLC  | The Labor Government made an election promise to appoint an independent Victim Services Commissioner, however this is yet to occur. When will the process of appointing this position commence?   | I am advised:<br>The NSW Government intends to honour its election commitment to appoint an independent Victims Commissioner. Legislative changes are required to establish the position of Independent Victims Commissioner and set out their functions and powers. The NSW Government is currently considering the process and timing for progressing this work.  |                 |                   |           |      |           |      |           |      |           |      |           |       |               |         |
| 38  |   | The NSW Trustee and Guardian hold payments for child victims till they are 18. In how many of the total cases each year are fees withheld?  | I am advised:<br>Fees were withheld (charged) in 2,072 matters finalised between 1 January 2019 and 31 December 2023. The following table provides a break down by each calendar year from 2019 to 2023.<br><br><table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Year</th> <th>Number of matters</th> </tr> </thead> <tbody> <tr> <td>2019</td> <td>526</td> </tr> <tr> <td>2020</td> <td>383</td> </tr> <tr> <td>2021</td> <td>439</td> </tr> <tr> <td>2022</td> <td>340</td> </tr> <tr> <td>2023</td> <td>384</td> </tr> <tr> <td>Total</td> <td>(2,072)</td> </tr> </tbody> </table> | Year            | Number of matters | 2019      | 526  | 2020      | 383  | 2021      | 439  | 2022      | 340  | 2023      | 384   | Total         | (2,072) |
| Year  |   | Number of matters   |   |                 |                   |           |      |           |      |           |      |           |      |           |       |               |         |
| 2019  | 526   |   |   |                 |                   |           |      |           |      |           |      |           |      |           |       |               |         |
| 2020  | 383   |   |   |                 |                   |           |      |           |      |           |      |           |      |           |       |               |         |
| 2021  | 439   |   |   |                 |                   |           |      |           |      |           |      |           |      |           |       |               |         |
| 2022  | 340   |   |   |                 |                   |           |      |           |      |           |      |           |      |           |       |               |         |
| 2023  | 384   |   |   |                 |                   |           |      |           |      |           |      |           |      |           |       |               |         |
| Total   | (2,072)   |   |   |                 |                   |           |      |           |      |           |      |           |      |           |       |               |         |
| 38 (a, b, c)  | <p>(a) What is the dollar value of fees withheld over the past 5 years?</p> <p>i. Please break down by each calendar year, from 2019 to present.</p> <p>(b) What is the process for fees being waived?</p> <p>(c) How are victims made aware that they can apply for fees to be waived?</p> | <p>I am advised:</p> <p>(a) \$3,118,987 was withheld for matters finalised between 1 January 2019 and 31 December 2023.</p> <p>i.</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th>Year</th> <th>Amount withheld</th> </tr> </thead> <tbody> <tr> <td>2019</td> <td>\$805,139</td> </tr> <tr> <td>2020</td> <td>\$629,653</td> </tr> <tr> <td>2021</td> <td>\$679,598</td> </tr> <tr> <td>2022</td> <td>\$475,707</td> </tr> <tr> <td>2023</td> <td>\$528,890</td> </tr> <tr> <td>Total</td> <td>(\$3,118,987)</td> </tr> </tbody> </table> <p>(b) Fees are waived in accordance with NSW Trustee and Guardian’s Fees – Waiver,</p> | Year  | Amount withheld | 2019              | \$805,139 | 2020 | \$629,653 | 2021 | \$679,598 | 2022 | \$475,707 | 2023 | \$528,890 | Total | (\$3,118,987) |         |
| Year  | Amount withheld   |   |   |                 |                   |           |      |           |      |           |      |           |      |           |       |               |         |
| 2019  | \$805,139   |   |   |                 |                   |           |      |           |      |           |      |           |      |           |       |               |         |
| 2020  | \$629,653   |   |   |                 |                   |           |      |           |      |           |      |           |      |           |       |               |         |
| 2021  | \$679,598   |   |   |                 |                   |           |      |           |      |           |      |           |      |           |       |               |         |
| 2022  | \$475,707   |   |   |                 |                   |           |      |           |      |           |      |           |      |           |       |               |         |
| 2023  | \$528,890   |   |   |                 |                   |           |      |           |      |           |      |           |      |           |       |               |         |
| Total   | (\$3,118,987)   |   |   |                 |                   |           |      |           |      |           |      |           |      |           |       |               |         |

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|  |                        |  | <p>Remission, Deferral and Reduction policy. When matters are being finalised the fees and charges are reviewed. Where the fees and charges are greater than the income and interest earned, the fees charged will be reduced to ensure the child victim receives the original amount awarded to them. Fees were reduced in approximately 80% of the matters finalised between 1 January 2019 and 31 December 2023.</p> <p>This practice does not apply to a small number of trusts where funds are advanced for the benefit of the child victim during the period the money is held prior to them turning 18.</p> <p>(c) The Fees – Waiver, Remission, Deferral and Reduction policy is published on NSW Trustee and Guardian’s website at <a href="https://www.tag.nsw.gov.au/sites/default/files/2020-10/Fees-Waiver-Remission-Deferral-Reduction-Policy.pdf">https://www.tag.nsw.gov.au/sites/default/files/2020-10/Fees-Waiver-Remission-Deferral-Reduction-Policy.pdf</a></p> <p>A statement is issued when the matter is finalised setting out all transactions in the matter. Contact details are provided in the letter accompanying the statement for any queries about the matter.</p> |
| <b>Safe waiting room arrangements at court locations</b> |                        |  |   |
| 39   | Ms Abigail Boyd<br>MLC | How many court locations in NSW currently have a dedicated safe waiting room onsite at the court?<br>(a) How many of these guarantee that victims are not at risk of having to see or be intimidated by their perpetrator? | I am advised:<br>101 court locations currently have a dedicated safe waiting room onsite. At locations where there is no dedicated safe room, a 'safe waiting arrangement' is identified, based on the availability of sheriffs and or police at that location.   |
| 40   |                        | How many court locations in NSW currently have a safe waiting room arrangement offsite at the nearest police station?  | I am advised:<br>6 court locations currently have a safe waiting room offsite at police stations.   |
| 41   |                        | How many court locations in NSW currently have a safe waiting room arrangement offsite at another location?  | I am advised:<br>4 court locations have safe waiting arrangements offsite at another location, including those provided by Women’s Domestic Violence Advocacy Service or other support agencies.  |



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| 42                       |                     | What actions are currently being taken to ensure that all waiting arrangements at all court locations are safe, and not where victims are at risk of having to see or be intimidated by their perpetrator?   | <p>I am advised:</p> <p>Every court location in NSW has either a safe room or a safe waiting arrangement for people who have experienced domestic violence. Other vulnerable persons attending court may also access these facilities. Due to the history of the NSW court network, safe rooms and safe waiting areas are not and cannot be consistent across the network. Approximately 75% of court houses are heritage listed and 60% are over 100 years old. In some instances, the safe waiting area may be off site at the police station. Safe waiting arrangements are determined by considering factors such as:</p> <ul style="list-style-type: none"> <li>- The size of the waiting area</li> <li>- Accessibility to sheriffs or security arrangements at that location</li> <li>- Use of security cameras monitored by sheriffs at a location</li> <li>- Use of and monitoring of duress alarm systems at a location</li> <li>- Unobstructed view of the waiting area of court participants</li> </ul> |
| <b>Domestic Violence</b> |                     |  |  |
| 43                       |                     | In July 2022, the Department of Communities and Justice undertook a statutory review of the Victims Rights and Support Act 2013. When can victims and the specialist domestic and family violence sector expect an outcome from the review?  | <p>I am advised:</p> <p>The stakeholder submissions on the Background Paper for the Statutory Review of the Victims Rights and Support Act 2013 are under consideration by Government. Stakeholders will be updated in due course.</p>   |
| 44                       | Ms Abigail Boyd MLC | The Domestic Violence Death Review Team is vital to moving towards a future free from domestic and family violence, however the Review Team has been chronically underfunded and overworked for many years. What is the NSW Government doing to ensure the team is funded appropriately so they can continue to perform this critical work, ensuring no woman or child dies in vain? | <p>I am advised:</p> <p>The Domestic Violence Death Review Team (DVDRT) Report for 2021-2023 is expected to be tabled in the NSW Parliament in April 2024. The report will include detailed quantitative analyses of all domestic violence homicides in NSW between 1 July 2000 and 30 June 2022 as well as recommendations regarding the future work agenda of the DVDRT. The NSW Government will respond to any recommendations made by the DVDRT in its 2021-2023 Report, when the Report is received. This includes consideration of the resources required for the DVDRT to undertake its future work agenda.</p>   |