

The Hon. Michael John DALEY MP  
Attorney General

Budget Estimates Hearing  
6 March 2024

Questions on Notice

#	Transcript Page #	Member	QON title	Question on Notice	Answer
1	11	The Hon. Tania Mihailuk	DPP Sexual Assault Matters	<p>The Hon. TANIA MIHAILUK: I agree, Minister, without fear of any retribution or any further commentary from the DPP. I'm surprised that a statement was issued by the DPP in December in response to a judge's comment after a particular case and you're not involved in this as the chief law officer of the State. You're not concerned that there's open public warfare going on between judges and the DPP?</p> <p>Mr MICHAEL DALEY: I don't consider it to be public warfare.</p> <p>The Hon. TANIA MIHAILUK: It is when it's in the public domain, and now you've got people backgrounding The Australian that they have concerns as well about the office. What is the comment? The comment is, "Meritless cases are being brought before the courts."</p> <p>Mr MICHAEL DALEY: You can ask the DPP about whether she considers that the cases were meritless. It's open to the DPP, when a judge makes a public statement, to issue a correction or an explanation or clarification. It's open to—</p> <p>The Hon. TANIA MIHAILUK: How often does that actually happen? How often does that happen?</p> <p>Mr MICHAEL DALEY: I don't keep statistics on that.</p> <p>The Hon. TANIA MIHAILUK: Can you let me know? I'd like to know how many times in the last five years –</p>	Please refer to the transcript of the hearing.
2	13	The Hon. Natasha Maclaren-Jones	Raise the Age	<p>The Hon. NATASHA MACLAREN-JONES: On 15 November 2023 you met with the Raise the Age NSW lead group, along with Minister Dib, Minister Jackson and Minister Harris. What was the outcome of that meeting?</p> <p>Mr MICHAEL DALEY: I'd have to go back and have a look the notes, but the outcome—the meeting was just to hear from them their views about raising the age and to consult with them as a stakeholder.</p>	Please refer to the transcript of the hearing.
3	15	The Hon. Susan Carter	DPP Act	<p>The Hon. SUSAN CARTER: How often do you consult with the DPP in accordance with section 25 of that Act?</p> <p>Mr MICHAEL DALEY: We have a monthly meeting.</p> <p>The Hon. SUSAN CARTER: When did that last consultation occur?</p> <p>Mr MICHAEL DALEY: A couple of weeks ago, I think.</p> <p>The Hon. SUSAN CARTER: Great.</p> <p>Mr MICHAEL DALEY: I will check—I'll give you the date, but it was about a couple of weeks ago.</p>	I am advised: 31 January 2024.

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4	17	The Hon. Susan Carter	Judicial Commission - Public	<p>The Hon. SUSAN CARTER: I'm sorry. How many times have you—</p> <p>Mr MICHAEL DALEY: "Is it commonplace?" According to what standard?</p> <p>The Hon. SUSAN CARTER: How many times have you seen a judge criticise a prosecution brought by the DPP in a judgement in the last two years?</p> <p>Mr MICHAEL DALEY: I'd have to go back and have a look at that. I don't keep statistics, as I told you, on comments that judges make.</p> <p>The Hon. SUSAN CARTER: How many times since you have become Attorney General have you been made aware of situations?</p> <p>Mr MICHAEL DALEY: I'll have to go back. I can't answer this question in any different way.</p> <p>The Hon. SUSAN CARTER: It doesn't matter how it is reframed, you still can't answer the question, Attorney General. Thank you very much.</p> <p>Mr MICHAEL DALEY: You are asking me a question about frequency. I don't have the statistic at my fingertip. For the sake of accuracy, I will go back and check.</p>	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.
5	21	Ms Abigail Boyd	Disability Royal Commission	<p>Ms ABIGAIL BOYD: Following the disability royal commission recommendations, will the New South Wales Government amend its legislative definitions of family and domestic violence to include relationships in which people with disability experience domestic abuse?</p> <p>Mr MICHAEL DALEY: I'll have to take that on notice, Ms Boyd. It's not wholly within my own portfolio.</p> <p>Ms ABIGAIL BOYD: Is that not something that you have been looking at as Attorney General—</p> <p>Mr MICHAEL DALEY: I'll take that question on notice.</p>	I am advised: The NSW Government is carefully considering each of the 222 recommendations and is developing a formal response to the Disability Royal Commission's final report.
6	22	Ms Abigail Boyd	Coercive Control	<p>Ms ABIGAIL BOYD: In the time I have left, just one last question: In the last budget estimates you commented that every court location in New South Wales has either a safe room or a safe waiting arrangement for people who have experienced domestic violence. However, I understand that those safe waiting arrangements can include meeting somebody outside at a particular spot in the garden.</p> <p>Mr MICHAEL DALEY: Yes, I think that there are a small number that might have those rooms offsite, perhaps in a police station close by and things like that.</p> <p>Ms ABIGAIL BOYD: Not even. Apparently, you meet somebody somewhere that is away from the court. What is being done to ensure that there is actually a safe waiting room within the court?</p> <p>Mr MICHAEL DALEY: I'd have to take that on notice, but it's a good, important question. Thank you</p>	Please refer to the transcript of the hearing.

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7	23	The Hon. Tania Mihailuk	Prasad Direction	<p>The Hon. TANIA MIHAILUK: Attorney General, are you familiar with the Prasad direction?</p> <p>Mr MICHAEL DALEY: Not off the top of my head, Ms Mihailuk.</p> <p>The Hon. TANIA MIHAILUK: The Prasad direction was a practice available in criminal trials whereby a judge could inform a jury that it was open to acquit the accused at any point following the close of the prosecution case, if the evidence was considered insufficient to support a conviction.</p> <p>Mr MICHAEL DALEY: Yes.</p> <p>The Hon. TANIA MIHAILUK: The High Court actually ruled that the issuing of such a direction was unlawful. Would the Government be open to making this direction a statutory option for judges where judges are vested with the power at half-time to discontinue a matter where there's clearly insignificant evidence?</p> <p>Mr MICHAEL DALEY: I have to take that on notice and get some advice on that.</p>	I am advised: In <i>Director of Public Prosecutions Ref No 1 of 2017</i> [2019] HCA 9, the High Court held that Prasad directions were contrary to law on the basis that they allowed a judge to transgress the role of the jury. The Court also held that a jury is not fully equipped to make a decision to acquit until they have heard all the evidence, counsel's addresses and the judge's summing up. This has been the law since 2019.
8	23	The Hon. Tania Mihailuk	DPP and Prasad Directions	<p>The Hon. TANIA MIHAILUK: Can I also ask you about cost certificates, Attorney General? How many cost certificates have been awarded against the DPP in relation to sexual assault matters in the last five years? If you can't answer that, could you take that on notice?</p> <p>Mr MICHAEL DALEY: I'll have to take that on notice</p>	Please refer to the transcript of the hearing.
9	23	The Hon. Tania Mihailuk	Cost Certificates	<p>The Hon. TANIA MIHAILUK: If you could also take on notice for me that when a cost certificate is awarded, where does that come precisely out of the budget? I'd like to know where in the budget it comes from.</p> <p>Mr MICHAEL DALEY: It comes out of the global DCJ budget. But if I'm wrong—no, I'm right.</p> <p>MICHAEL TIDBALL: Correct.</p> <p>The Hon. TANIA MIHAILUK: Is your office notified when those sorts of awards are issued?</p> <p>Mr MICHAEL DALEY: Usually, yes.</p> <p>The Hon. TANIA MIHAILUK: At the end you're told what the amount is and why, is that right? I'm just asking. If you can take that on notice. I don't know what the process is. I'd like to know.</p> <p>Mr MICHAEL DALEY: I'm not sure what the form process is. I just aware that I've been notified of a couple in the time I've been Attorney General.</p>	Please refer to the transcript of the hearing.

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10	25	Ms Sue Higginson	Bowraville Issue	<p>Ms SUE HIGGINSON: Have you ever considered an ex gratia payment for the families of the victims of the Bowraville murders?</p> <p>Mr MICHAEL DALEY: I'm not sure if they have applied for one or not. I would have to take that on notice.</p> <p>Ms SUE HIGGINSON: Are you suggesting you haven't? You have never considered that?</p> <p>Mr MICHAEL DALEY: Have I proactively considered that?</p> <p>Ms SUE HIGGINSON: No, sorry. We've moved on. Have you considered an ex gratia payment to the families of the victims of the Bowraville murders?</p> <p>Mr MICHAEL DALEY: I would have to take that on notice and see whether the Attorney General of the day, whether it was me or not, has. I don't know.</p>	<p>As Attorney General, I agreed on 11 July 2023 for the ex-gratia application to be transferred to the Minister for Police for consideration and reply. I am advised that the Minister for Police and Counter-terrorism carefully considered and decided to decline the ex gratia payment request.</p>
11	28	The Hon. Susan Carter	Sexual Assault Category	<p>The Hon. SUSAN CARTER: Thank you for those answers to questions. Can I just ask a follow-up question. If the cost orders come out of the consolidated DCJ budget, does that impact other operations of the department? Perhaps you can take that on notice and tell me, and also if we can—</p> <p>Mr MICHAEL DALEY: I think the answer is that each year there's an anticipated allocation.</p> <p>MICHAEL TIDBALL: There is an allocation.</p> <p>PAUL McKNIGHT: There's a budget.</p> <p>The Hon. SUSAN CARTER: So it would only be if it exceeds the budgeted cost, then it would impact on other operations.</p> <p>Mr MICHAEL DALEY: Yes, and I think from having a look at those, you can see that over the four or five years that I've given you, they vary greatly. Some years would be under and some would be over, I would imagine.</p> <p>The Hon. SUSAN CARTER: You noted that they were cost orders generally. Can you separate them out so we have the sexual assault ones as a separate category?</p> <p>Mr MICHAEL DALEY: We'll take that on notice.</p>	<p>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.</p>
12	29	The Hon. Susan Carter	Industrial High Court	<p>The Hon. SUSAN CARTER: Thank you for your view on that, and I have one last question. The amount allocated for the establishment and running of the new Industrial Court, what impact will this have on the budgets of existing courts?</p> <p>Mr MICHAEL DALEY: You will have to wait until the budget comes out to see what that figure is.</p> <p>The Hon. SUSAN CARTER: Sorry, when this Industrial Court was planned, weren't impacts on other courts contemplated?</p> <p>Mr MICHAEL DALEY: You can talk to the Treasurer about budgetary impacts.</p> <p>The Hon. SUSAN CARTER: Minister, is it not your budget—the budget for your department?</p> <p>Mr MICHAEL DALEY: It is the Treasurer's budget.</p> <p>The Hon. SUSAN CARTER: So you've got no oversight, no control over the budget</p>	<p>Please refer to the transcript of the hearing.</p>

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				<p>for your department?  Mr MICHAEL DALEY: In what sense?  The Hon. SUSAN CARTER: In the sense that you say, "Treasurer, I need this much to run my department. I'm going to have this new court. I need an extra X," and he says yes or no.  Mr MICHAEL DALEY: No. The way the budget works is that departments—if I can use that word— are allocated a budget for their yearly activities. When a Minister proposes either a variation of the budget by way of over-expenditure of an existing budget or whether they are an aspect of the departmental budget or where they want to introduce a new program, a new policy—fs, they're called; new policy proposals—the Minister goes to ERC and argues or puts their case for an additional expenditure. Otherwise, in the normal course of the budget being prepared, Ministers propose budget bids to the Treasurer in loose terms and ask for the money.  The Hon. SUSAN CARTER: So the Industrial Court was pitched as an NPP?  Mr MICHAEL DALEY: I don't know if it was or whether they're just preparing it in the normal course of the budget.  The Hon. SUSAN CARTER: If you need to take that on notice, that's fine. I'm just interested in the impact of the Industrial Court on existing courts.  Mr MICHAEL DALEY: We'll take that on notice to give you an accurate answer.</p>	
13	29	The Hon. Natasha Maclaren-Jones	Court Wait Times and DV Matters	<p>The Hon. NATASHA MACLAREN-JONES: What's the average length of wait time for a domestic violence case?  MICHAEL TIDBALL: I would need to take that on notice.</p>	Please refer to the transcript of the hearing.
14	29	The Hon. Natasha Maclaren-Jones	Waverley Court	<p>The Hon. NATASHA MACLAREN-JONES: Attorney General, I put to you in relation to Waverley Court—which is in your electorate—are you aware of, first of all, how many cases are waiting at that court and, also, the length of wait time for a matter to be heard?  Mr MICHAEL DALEY: No, I'm not. It is my Local Court. It's in the electorate of Coogee, but that's neither here nor there. No, I'm not. I'll have to take that on notice.  The Hon. NATASHA MACLAREN-JONES: Has anyone raised with you the wait times in relation to that court?  Mr MICHAEL DALEY: For that court specifically, no.  The Hon. NATASHA MACLAREN-JONES: Do you have any wait times in relation to Bankstown Local Court?  Mr MICHAEL DALEY: No, I don't. I can get them. I just don't have them at my fingertip</p>	Please refer to the transcript of the hearing.

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15	31	The Hon. Natasha Maclaren-Jones	Magistrate Appointments	<p>The Hon. NATASHA MACLAREN-JONES: In relation to the previous Coalition Government committing funding for five additional magistrates to address waitlists, I'm interested to know how many new magistrates have come on?</p> <p>Mr MICHAEL DALEY: Since when?</p> <p>The Hon. NATASHA MACLAREN-JONES: Since you've come into government.</p> <p>Mr MICHAEL DALEY: I'd have to take that on notice. I don't think we've brought any new magistrates on with a view to reducing the wait time specifically for specialist matters.</p>	Please refer to the transcript of the hearing.
16	31	The Hon. Susan Carter	93Z Crime Act	<p>The Hon. SUSAN CARTER: Minister, how many prosecutions have there been under section 93Z of the Crimes Act?</p> <p>Mr MICHAEL DALEY: I don't have them with me, unless someone wants to flick me a note. I think the Premier gave answers to that question the other day, if I'm not mistaken. I can get them for you.</p>	<p>I am advised: As at December 2023, two individuals have been prosecuted and found guilty. Both individuals appealed with one appeal successful and the other pending a court outcome.</p> <p>For completeness, there have been nine charges under section 93Z of the Crimes Act finalised at seven court appearances involving seven distinct individuals. Two of those seven were found guilty of an offence under s.93Z (as per above) and five of those seven had charges under s.93Z withdrawn.</p>
17	32	The Hon. Susan Carter	93Z Crime Act - Media Release	<p>The Hon. SUSAN CARTER: That's very interesting. I note that you've announced a further review of section 93Z. You put out a media release on 19 January, which said: The review comes in the wake of concerns raised by some community groups about the effectiveness of section 93Z. What concerns are these, Minister?</p> <p>Mr MICHAEL DALEY: These are the concerns that those community groups expressed to the Premier.</p> <p>The Hon. SUSAN CARTER: Which community groups were they?</p> <p>Mr MICHAEL DALEY: You would have to ask the Premier that. I can try and get those on notice</p>	<p>I am advised: Details of concerns expressed by some community groups were published in the following media articles by The Australian:</p> <ul style="list-style-type: none"> <li>- 14.1.2024, 'UK would have prosecuted' Sydney hate speech clerics, says constitutional law expert <a href="https://www.theaustralian.com.au/nation/uk-would-have-prosecuted-sydney-hate-speech-clerics-says-constitutional-law-expert/news-story/e4738ab948d6550f85963448f5adbeb7">https://www.theaustralian.com.au/nation/uk-would-have-prosecuted-sydney-hate-speech-clerics-says-constitutional-law-expert/news-story/e4738ab948d6550f85963448f5adbeb7</a></li> <li>- 8.1.2024, Jewish leaders take on hate clerics amid government, law enforcement inaction <a href="https://www.theaustralian.com.au/nation/jewish-leaders-take-on-hate-clerics-amid-government-law-enforcement-inaction/news-story/2e0142e682c294faf04a8eaceccf22a8">https://www.theaustralian.com.au/nation/jewish-leaders-take-on-hate-clerics-amid-government-law-enforcement-inaction/news-story/2e0142e682c294faf04a8eaceccf22a8</a></li> <li>- 8.1.2024, We're not going to wait!: Jewish leaders threaten action against hatemongers <a href="https://readnow.isentia.com/reader.aspx?a=2010457380&amp;z=191479&amp;i=2ebf7&amp;d=20250124&amp;h=04f19024c682662f90f65b9cc42c4b1f">https://readnow.isentia.com/reader.aspx?a=2010457380&amp;z=191479&amp;i=2ebf7&amp;d=20250124&amp;h=04f19024c682662f90f65b9cc42c4b1f</a></li> <li>- 3.1.2024, Anti-Semitic Sydney cleric: 'Jews bloodthirsty monsters' who 'ran like rats' <a href="https://www.theaustralian.com.au/nation/antisemitic-sydney-cleric-jews-bloodthirsty-monsters-who-ran-like-rats/news-">https://www.theaustralian.com.au/nation/antisemitic-sydney-cleric-jews-bloodthirsty-monsters-who-ran-like-rats/news-</a></li> </ul>

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					<a href="https://www.abc.net.au/news/2023-07-27/law-reform-commission-terms-of-reference/10344384">story/7bda4143f0d28ff4dc1d4efc7f42efa7?btr=ccded43348a4d4f4389a7eb0b40eb001</a>
18	34	The Hon Susan Carter	Law Reform Commission	<p>Mr MICHAEL DALEY: When I refer the matter to the Law Reform Commission, I then issue terms of reference.</p> <p>The Hon. SUSAN CARTER: So they were settled at that time?</p> <p>Mr MICHAEL DALEY: Either at the time or shortly thereafter.</p> <p>MICHAEL TIDBALL: At the time.</p> <p>Mr MICHAEL DALEY: I write a letter saying, "Mr Bathurst, I refer this matter to you and here are your terms of reference."</p> <p>The Hon. SUSAN CARTER: Can we get copies of that?</p> <p>Mr MICHAEL DALEY: They're on the website, but, sure.</p> <p>The Hon. SUSAN CARTER: Can you direct us to it? That would be lovely.</p> <p>Mr MICHAEL DALEY: Yes, no worries.</p>	<a href="https://lawreform.nsw.gov.au/current-projects/section-93z/terms-of-reference.html">https://lawreform.nsw.gov.au/current-projects/section-93z/terms-of-reference.html</a>
19	35	Ms Sue Higinson	Police Conduct Civil Suits	<p>Ms SUE HIGGINSON: I've heard from many members of the community that Crown solicitors acting for the police will consistently leverage these non-disclosure agreements in their settlement negotiations. Are you aware of that?</p> <p>Mr MICHAEL DALEY: Sorry, say that again?</p> <p>Ms SUE HIGGINSON: The Crown solicitors will leverage non-disclosure agreements in all of those police accountability civil suits.</p> <p>Mr MICHAEL DALEY: I'm not sure. I'd have to take that on notice.</p> <p>Ms SUE HIGGINSON: Without being too hypothetical here, if that was the case and that is a practice— and it is the practice—do you think that's an appropriate practice, given we're talking about police accountability and where it intersects with the civil system?</p> <p>Mr MICHAEL DALEY: The concept of a full and final settlement usually is attended by some agreement as to the constraint of future action.</p> <p>Ms SUE HIGGINSON: But what about this idea of non-disclosure? Attorney, I'm just wondering whether you have any concern or it's a priority that, at the moment, the State is literally forking out hand over fist with police accountability with anywhere up to 500 civil suits. There's no disclosure around that and the costs of that, and the Crown sols and prosecutors are engaging these non-disclosure orders consistently.</p> <p>Mr MICHAEL DALEY: Yes, you're asking me about something that I don't have any knowledge of, Ms Higinson, but I'm happy to take whatever question you want on notice.</p> <p>Ms SUE HIGGINSON: Does it concern you, if that was the case that we've got this large—</p> <p>Mr MICHAEL DALEY: It's not prudent for me to say, "I don't have any knowledge of the matter but I'm concerned about it." That doesn't make sense. I've said I will take it on notice</p>	I am advised that this is a matter for the Minister for Police and Counter-terrorism.



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20	35	Ms Sue Higginson	Coronial Enquiry - Black Summer Fires	<p>Ms SUE HIGGINSON: I just want to turn quickly, if I can, to the coronial inquiry into the Black Summer fires and whether (a) you know and can tell the Committee what are the total costs of the New South Wales coronial inquiry into the Black Summer fires, excluding the costs for legal representation of government agencies?</p> <p>Mr MICHAEL DALEY: God, I'd have to take that on notice.</p> <p>Ms SUE HIGGINSON: If you could, what I'm looking for there is (b) the total cost incurred by the New South Wales Government in funding representation to the NSW Fire Service, the National Parks and Wildlife Service, Forestry Corporation, Fire and Rescue NSW and any additional costs for other entities whose representation in the coronial was funded by the New South Wales Government.</p> <p>Mr MICHAEL DALEY: Sure</p>	<p>I am advised:</p> <p>(a) A full costing of the inquiry has not been undertaken.</p> <p>(b) With respect to the NSW Rural Fire Service and Fire and Rescue NSW, the question should be directed to the NSW Minister for Emergency Services, the Hon. Jihad Dib.</p> <p>With respect to the National Parks and Wildlife Service, the question should be directed to the Minister for the Environment, the Hon. Penny Sharpe.</p> <p>With respect to the Forestry Corporation, the question should be directed to its shareholder Ministers the Treasurer, the Hon. Daniel Mookhey, and the Minister for Finance, the Hon. Courtney Houssos.</p>
21	36	Ms Sue Higginson	Black Summer Fires - Survivors Group	<p>Ms SUE HIGGINSON: Will do. Can you also explain, (a) in the application of the Mt Wilson RFS Backburn Survivors Group, why you determined that they did not meet the special circumstances in their application for representation?</p> <p>Mr MICHAEL DALEY: I would have to go back and have a look at that brief. I received that brief quite some months ago. I can take that on notice.</p> <p>Ms SUE HIGGINSON: In doing so, could you please provide an explanation as to (b) why that request was delayed nine weeks, until basically the close date of the hearings—why the delay in determining that application?</p> <p>Mr MICHAEL DALEY: Yes, happy to take that on notice.</p> <p>Ms SUE HIGGINSON: Also, in that, if you could also answer, (c) did the Attorney General grant funding for any community group or community representatives at the coronial hearings, and how many, and what the total costs were?</p> <p>Mr MICHAEL DALEY: Sure.</p>	<p>I am advised:</p> <p>(a) The Coroners Court did not identify the Mt Wilson RFS Backburn Survivors Group as having sufficient interest in the case.</p> <p>The Mt Wilson RFS Backburn Survivors Group did not meet special circumstances to warrant an act of grace payment as:</p> <ul style="list-style-type: none"> <li>• The State does not pay for legal representation costs of parties appearing in relation to coronial inquests or inquiries; the Group was not identified by the Court as having sufficient interest in the case.</li> <li>• It cannot be said that they suffered financial or other detriment as a result of the workings of government. The assistance sought related to a desire to engage legal representation in relation to the Bushfires Inquiry, which they actively sought leave to appear before;</li> <li>• Legal Aid NSW provides legal assistance in respect of coronial inquiries in limited circumstances. There is no statutory assistance scheme under the Coroners Act 2009 (NSW).</li> </ul> <p>(b) Records disclose that the former Attorney General was sent a letter on 22 February 2023 requesting an ex gratia grant. In response, on 22 March 2022 the Secretary wrote on behalf of the Attorney General encouraging an application be made in the first instance for legal aid.</p> <p>The Group advised DCJ that they had enquired about legal aid and were informed they were not eligible to a grant of aid.</p> <p>DCJ made enquires of Legal Aid NSW and was advised that its policy does not contemplate grants of aid in relation to coronial inquiries into fires (opposed to deaths), however, that there is residual discretion available if applicants satisfy the means test. Further, as at 14 April 2023, no application had been received from the Group, and that therefore there was no consideration whether a grant should be made.</p>

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					<p>An ex gratia request was sent to the Attorney General on 12 April 2023 and a response was provided to the Group on 3 May 2023. A further response was sent to the Group on 23 May 2023 following representations to Minister Dib.</p> <p>(c) No</p>
22	37	The Hon. Tania Mihailuk	Judicial commission	<p>The Hon. TANIA MIHAILUK: When do we expect an outcome from the Judicial Commission?</p> <p>Mr MICHAEL DALEY: I don't know.</p> <p>The Hon. TANIA MIHAILUK: Do they inform your office ordinarily prior to making their statements public?</p> <p>Mr MICHAEL DALEY: I don't know what the formal processes would be. I assume that they would.</p> <p>The Hon. TANIA MIHAILUK: Can we get some advice on that?</p> <p>Mr MICHAEL DALEY: I'll take that on notice. In any event, even if they don't formally notify me, I'll know within minutes anyway.</p> <p>The Hon. TANIA MIHAILUK: What, once it hits the media?</p> <p>Mr MICHAEL DALEY: I would imagine so, once it's made public, if they make it public.</p> <p>The Hon. TANIA MIHAILUK: How many have you had to deal with, these sorts of judicial complaints, in your time? None so far?</p> <p>Mr MICHAEL DALEY: I'd have to have a look at that. I don't know. I don't know the answer to that. They're rare.</p> <p>The Hon. TANIA MIHAILUK: Are there any other referrals to the Judicial Commission in the last nine months that you're aware of?</p> <p>Mr MICHAEL DALEY: Of judges?</p> <p>The Hon. TANIA MIHAILUK: Yes, of judges.</p> <p>Mr MICHAEL DALEY: I'd have to take that on notice.</p> <p>The Hon. TANIA MIHAILUK: If you could take that on notice, and by who, if they're in an official</p>	<p>I am advised:</p> <p>The Judicial Commission is an independent statutory body. Any person may make a complaint to the Commission about a matter that concerns or may concern the ability or behaviour of a judicial officer.</p> <p>There are two circumstances where the Judicial Commission is required to notify the Attorney General about a matter. These are:</p> <ol style="list-style-type: none"> <li>1. If the Attorney General refers a matter relating to a judicial officer to the Commission (under section 16 of the <i>Judicial Officers Act 1986</i>). The Commission is required to notify the Attorney General of the outcome of the matter (section 21A).</li> <li>2. When a complaint about a judicial officer is referred to the Conduct Division of the Commission and when and the manner in which the complaint is disposed of (section 37A(3)). This includes if the Conduct Commission determines the complaint is wholly or partly substantiated and could justify parliamentary consideration of the removal of a judicial officer (section 29).</li> </ol>

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23	38	Dr Amanda Cohn	Conversion Practices	<p>Dr AMANDA COHN: The Australian Medical Association has recently called on State and Territory governments to ban conversion practices that intend to change, alter or suppress a person's sexual orientation or gender identity. They have stated that there is strong agreement among the medical profession in Australia that conversion practices have no medical benefit or scientific basis, and that there is evidence of significant harm resulting from such practices. There was bipartisan support for a ban before the election last year. When will we see legislation before the Parliament?</p> <p>Mr MICHAEL DALEY: I've received a question in that regard already this morning and I've said that sooner rather than later but I can't give a specific time frame.</p> <p>Dr AMANDA COHN: Are you able to outline what consultation process has been undertaken for the legislation?</p> <p>Mr MICHAEL DALEY: I can take that on notice because it has been substantial but some of the—I'm not trying to dodge the question. There are some of the groups that have consulted with us who don't want their identifies known so I just have to be careful about what I say. I'll take that on notice.</p>	Please refer to the transcript of the hearing.
24	40	The Hon. Natasha Maclaren-Jones	NZYQ case	<p>The Hon. NATASHA MACLAREN-JONES: Did you provide the Premier with a briefing regarding the intervention of the NZYQ High Court case?</p> <p>Mr MICHAEL DALEY: Did I provide him with a briefing?</p> <p>The Hon. NATASHA MACLAREN-JONES: Yes.</p> <p>Mr MICHAEL DALEY: No, I didn't.</p> <p>The Hon. NATASHA MACLAREN-JONES: When asked in budget estimates, the Premier said he couldn't recall and had to take it on notice, so you're advising that you have not met with the Premier. Did you provide his office with any briefing in relation to the matter?</p> <p>Mr MICHAEL DALEY: I didn't. I don't know if my staff spoke to his staff about that. I would have to make inquiries about that. I don't know what communications there may or may not have been between DCJ and the Cabinet Office, so I can take both of those aspects on notice, but I didn't provide the Premier with a briefing on the NZYQ case.</p>	Neither the Attorney General nor staff of the ministerial office briefed the Premier regarding intervention into NZYQ High Court case.
25	41	The Hon. Susan Carter	93Z Crime Act	<p>The Hon. SUSAN CARTER: What was the delay between the media release of the review and the matter actually being referred for review?</p> <p>Mr MICHAEL DALEY: Waiting for me to get back from holidays so I could review it.</p> <p>The Hon. SUSAN CARTER: No, sorry, what was the time period, not the reason for the time period?</p> <p>Mr MICHAEL DALEY: I will take that on notice.</p> <p>The Hon. SUSAN CARTER: Thank you very much. Is it usual for a matter to be sent to review and then the terms of review workshop with the person who will do the review?</p> <p>Mr MICHAEL DALEY: I'm not sure that was the case. I'll take that on notice.</p>	<p>Premier Minns and Acting Attorney General Ron Hoenig announced a review into serious racial and religious vilification on Friday 19 January 2024.</p> <p>The NSW Law Reform Commission (NSWLRC) received the terms of reference on 14 February 2024.</p> <p>The terms of reference were drafted by the NSW Attorney General in consultation with the NSWLRC Chairperson, former Chief Justice of the NSW Supreme Court, the Honourable Tom Bathurst AC KC. It has been the practice of</p>

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				<p>The Hon. SUSAN CARTER: The press release indicates they are currently being developed with Mr Bathurst, who was the person to whom it had been referred for review.</p> <p>Mr MICHAEL DALEY: The press release was issued, as I understand, by the acting Attorney General, not me.</p> <p>The Hon. SUSAN CARTER: I'm asking you about general practice when a matter is referred for review. Is it normal practice that the person who will conduct the review actually also works up the terms of the review?</p> <p>Mr MICHAEL DALEY: I'll have to take that on notice.</p>	the current Attorney General to consult with Chairperson of the Law Reform Commission concerning draft terms of reference for this and other reviews.
26	43	The Hon. Susan Carter	Victim Services Commissioner	<p>The Hon. NATASHA MACLAREN-JONES: We might move on, Attorney General. An election commitment made by the Labor Party in 2022 was to deliver an independent victims commissioner. What steps have you taken to implement this?</p> <p>Mr MICHAEL DALEY: I've answered that question already. I think Ms Higginson might have asked me about that this morning already. I've answered it.</p> <p>The Hon. NATASHA MACLAREN-JONES: I missed the answer.</p> <p>Mr MICHAEL DALEY: I said that it was an election commitment and that we intend to honour all our election commitments.</p> <p>The Hon. NATASHA MACLAREN-JONES: Has it been budgeted for?</p> <p>Mr MICHAEL DALEY: You'll have to wait to see what's in the budget. I said that it is something that we are working on in conjunction with a review of the Act.</p> <p>The Hon. SUSAN CARTER: I might jump in. Minister, we don't need to know the amount. Will it be in the budget?</p> <p>Mr MICHAEL DALEY: You'll have to wait to see what's in the budget.</p> <p>The Hon. SUSAN CARTER: Did you put in an NPP for this program to appear in the budget?</p> <p>Mr MICHAEL DALEY: I will take that on notice</p>	<p>I am advised:</p> <p>The NSW Government will honour its election commitment to appoint an independent Victims Commissioner. Legislative changes are required to establish the position of Independent Victims Commissioner and define the functions and powers of the office. The NSW Government is currently considering the process and timing for progressing this work.</p>
27	45	Ms Sue Higginson	Rental Disputes Before NCAT	<p>Ms SUE HIGGINSON: Attorney, can I just ask, you committed, I think, to a review of NCAT prior to the 2023 election. Is that still a review you are committed to?</p> <p>Mr MICHAEL DALEY: I would have to just go back and see what the terms of the review we promised—it wasn't a review of NCAT per se; I think it was a review of certain practices of NCAT.</p> <p>Ms SUE HIGGINSON: Yes.</p> <p>Mr MICHAEL DALEY: It was a review of the role of NCAT in rental disputes. It was an election commitment that complements a broader package of reforms being led by the Department of Customer Service that aim to make the rental system safe and fairer for tenants.</p> <p>Ms SUE HIGGINSON: Is that happening?</p> <p>Mr MICHAEL DALEY: What's the latest on that?</p> <p>MICHAEL TIDBALL: It is happening. I think we would need, on the specifics, to</p>	<p>I am advised:</p> <p>There is to be an operational review of NCAT processes in relation to rental matters to be undertaken by the Department of Communities and Justice.</p> <p>The objective of NCAT is to resolve matters quickly and cheaply and to ensure the Tribunal is responsive to the needs of its users. This review will identify whether these objectives are being met in relation to rental disputes and whether any opportunities for procedural improvements exist.</p> <p>This is not a review of the legal and regulatory framework. The timing of this review is still being considered.</p>

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				<p>take it on notice.</p> <p>Mr MICHAEL DALEY: Yes, I don't have the timetable for you.</p> <p>Ms SUE HIGGINSON: If you could take it on notice.</p> <p>Mr MICHAEL DALEY: Yes, I will.</p> <p>Ms SUE HIGGINSON: It is because there is great interest.</p> <p>Mr MICHAEL DALEY: There sure is. We didn't make that commitment in vain. I intend to do it.</p> <p>Ms SUE HIGGINSON: If you could confirm when the review will take place and that accessibility to renters remains within the scope of that review. I understand that's what you are articulating, but if you could confirm that.</p> <p>Mr MICHAEL DALEY: Sure, yes. I can do that.</p>	
28	47	Ms Sue Higginson	Transforming Aboriginal Outcomes program	<p>Ms SUE HIGGINSON: What's your understanding of the funding for the Transforming Aboriginal Outcomes program at the moment? Does that end in June?</p> <p>Mr MICHAEL DALEY: I'd have to take that on notice.</p> <p>Ms SUE HIGGINSON: If you could, because my understanding is that the funding for that work ends in June, so I don't know whether that—</p> <p>Mr MICHAEL DALEY: I'll take that on notice. But you asked me about my goal. Things like Justice Reinvestment, that's the hope of the team, programs like that.</p>	<p>I am advised:</p> <p>In 2021, Transforming Aboriginal Outcomes Division (TAO) was established, incorporating two existing permanent Aboriginal teams – Aboriginal Strategy, Coordination and Evaluation team (ASCE) and the Aboriginal Services Unit (ASU). Temporary funding was also acquired for additional staff to support the Division.</p> <p>Funding proposals for TAO will be considered as part of usual budget processes.</p>
29	50	The Hon. Susan Carter	Conversion Practices	<p>The Hon. SUSAN CARTER: Minister, you discussed before, as I think you put it, the broad but closed consultation in relation to the conversion practices bill. How many women's groups were included in that consultation?</p> <p>Mr MICHAEL DALEY: I'll take that on notice.</p>	<p>I am advised:</p> <p>Of the stakeholders who were engaged throughout the consultation process, nine organisations represented gender advocacy or advocacy on behalf of women. This figure does not include organisations that primarily advocate in relation to other areas (e.g. health, education, faith communities, LGBTQ+ advocacy) regardless of gender or specific individuals (e.g. academics and researchers, victim survivors) who were engaged in the consultation.</p> <p>The consultation process was confidential to facilitate frank discussion and contributions from stakeholders on what are known to be sensitive issues. Stakeholders were identified by the joint working group with regard to the key sectors and stakeholders who were assessed to be impacted by the reform. Other stakeholders were also nominated by this initial cohort of stakeholders as having relevant expertise or interest in the reforms. These additional stakeholders were also included in the consultation process. Some stakeholders only engaged via stakeholder roundtables, while others only provided written submissions. A portion of stakeholders who were engaged opted not to participate.</p>
30	51	The Hon. Susan Carter	Judicial Salary	<p>The Hon. SUSAN CARTER: On another matter, have judicial salaries been frozen as part of your two-year pay cap?</p> <p>Mr MICHAEL DALEY: Yes.</p>	<p>I am advised:</p> <p>The Statutory and Other Officers Remuneration Tribunal is required to make an annual determination of the remuneration to be paid to office holders on and</p>

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				<p>The Hon. SUSAN CARTER: When did you discuss this with the heads of each jurisdiction?</p> <p>Mr MICHAEL DALEY: I didn't.</p> <p>The Hon. SUSAN CARTER: So how were they informed of this change?</p> <p>Mr MICHAEL DALEY: I'm not sure how they were informed. I would have to go back and have a look.</p>	<p>from 1 July in that year. The 2023 annual report and determination under section 13 of the <i>Statutory and Other Offices Remuneration Act 1975</i> was published on 26 July 2023 and is available here: <a href="https://www.remtribunals.nsw.gov.au/assets/remtribunals/documents/2023_annual_determination-soort-judges_and_magistrates_group_-_for_publication.pdf">https://www.remtribunals.nsw.gov.au/assets/remtribunals/documents/2023_annual_determination-soort-judges_and_magistrates_group_-_for_publication.pdf</a></p>
31	51	The Hon. Susan Carter	Drug Diversion programs	<p>The Hon. NATASHA MACLAREN-JONES: Attorney General, in response to a supplementary question at the last budget estimates, you were asked for a jurisdiction that had similar programs to the drug diversion programs here in New South Wales. The example provided was the Police Drug Diversion Initiative in South Australia yet South Australia currently has a higher level of prosecutions for drug-related offences than New South Wales. Would you say this is a good example of successful justice reform?</p> <p>Mr MICHAEL DALEY: I'd have to go back and have a look at what the question was and what the answer was.</p>	<p>I am advised:</p> <p>The Early Drug Diversion Initiative (EDDI) responds directly to the findings and recommendations of the Special Commission of Inquiry in to the Drug 'Ice'. Every Australian jurisdiction currently operates drug diversion schemes, including South Australia. The relevance of the level of prosecutions in South Australia is unclear as the volume of prosecution involves a range of drivers.</p>
32	53	The Hon. Susan Carter	ODPP	<p>The Hon. SUSAN CARTER: That's fine. The 11 that were dealt with by your office, they were dealt with, as in, authorised to proceed?</p> <p>SALLY DOWLING: That's right.</p> <p>The Hon. SUSAN CARTER: And you don't know the disposition of them after that?</p> <p>SALLY DOWLING: Two of them have proceeded summarily and resulted in convictions in the Local Court. Both of those matters are subject to appeal. One has been overturned on a conviction appeal for a fairly technical reason; the other one is listed for a conviction appeal on 28 March.</p> <p>The Hon. SUSAN CARTER: And the other nine you understand are still in the system awaiting trial somewhere?</p> <p>SALL</p>	<p>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.</p>
33	54	The Hon. Susan Carter	ODPP	<p>The Hon. SUSAN CARTER: Can you give us some rough estimate of what time delay we are looking at?</p> <p>SALLY DOWLING: We have a protocol for the provision of advice, and it depends on the complexity of the particular brief. I'd have to check the actual time frames in that, but I will revert to you shortly.</p>	<p>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.</p>
34	55	The Hon. Susan Carter	ODPP	<p>The Hon. SUSAN CARTER: Sorry, I'm not trying to interrupt you; I'm just conscious we have limited time. I value the broad description but I guess I'm really looking at the review process and the mechanisms.</p>	<p>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.</p>

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				<p>SALLY DOWLING: What I was wanting to explain to you is that there are points in time in the life of a particular matter in the ODPP at which these decisions to prosecute are overtly considered but they are also considered all through it.</p> <p>The Hon. SUSAN CARTER: Sorry, I'm not traversing the decision to prosecute.</p> <p>SALLY DOWLING: You want to know about—</p> <p>The Hon. SUSAN CARTER: I'm traversing, what are the internal processes? So the solicitor comes and brings this to your attention or to an intermediary.</p> <p>SALLY DOWLING: Depending on the level of solicitor who has the handling of it, a report will be done. A second report will be done by that person's more senior solicitor.</p> <p>The Hon. SUSAN CARTER: Do you remember, in this case, did it go to a superior or come straight to you?</p> <p>SALLY DOWLING: I'd have to check back on that.</p>	
35	56	The Hon. Susan Carter	Judicial Criticism	<p>The Hon. SUSAN CARTER: What is the internal process in terms of, "Did we do a good job? Does a staff member need more support? Does somebody need more training?" How do you respond, as a management pathway, I suppose, to quite a significant critique of work that comes from the office.</p> <p>SALLY DOWLING: There are a number of different responses that will happen with this criticism.</p> <p>The Hon. SUSAN CARTER: In this case what responses were there?</p> <p>SALLY DOWLING: I'd have to take that on notice.</p> <p>The Hon. SUSAN CARTER: Yes, thank you.</p> <p>SALLY DOWLING: There is a register that's kept of judicial criticisms. And the individual practitioners who are involved in that decision, an analysis is done on the papers. They are counselled. We reassure ourselves that they understand what went wrong in this particular matter. A decision may be made that there is a broader training and development deficit that needs to be addressed, in which case that will be developed. It may be as simple as an all-staff email. It may be training at one of our internal conferences. It may be having an external practitioner, such as a judge—</p> <p>The Hon. SUSAN CARTER: Can you tell me, what was the outcome of this judgement? Was there training at an internal conference? Was there an all-staff memo? Was it an individual staff issue?</p> <p>SALLY DOWLING: I'll have to take that on notice, in relation to this particular one. I can indicate that it is my position, and that of the Solicitor for Public Prosecutions and the Senior Crown Prosecutor, that there is no systemic problem with the way in which—</p>	<p>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.</p>
36	56	The Hon. Susan Carter	ODPP	<p>The Hon. SUSAN CARTER: What is the internal process in terms of, "Did we do a good job? Does a staff member need more support? Does somebody need more training?" How do you respond, as a management pathway, I suppose, to quite a</p>	<p>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.</p>

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				<p>significant critique of work that comes from the office.</p> <p>SALLY DOWLING: There are a number of different responses that will happen with this criticism.</p> <p>The Hon. SUSAN CARTER: In this case what responses were there?</p> <p>SALLY DOWLING: I'd have to take that on notice.</p> <p>The Hon. SUSAN CARTER: Yes, thank you.</p> <p>SALLY DOWLING: There is a register that's kept of judicial criticisms. And the individual practitioners who are involved in that decision, an analysis is done on the papers. They are counselled. We reassure ourselves that they understand what went wrong in this particular matter. A decision may be made that there is a broader training and development deficit that needs to be addressed, in which case that will be developed. It may be as simple as an all-staff email. It may be training at one of our internal conferences. It may be having an external practitioner, such as a judge—</p> <p>The Hon. SUSAN CARTER: Can you tell me, what was the outcome of this judgement? Was there training at an internal conference? Was there an all-staff memo? Was it an individual staff issue?</p> <p>SALLY DOWLING: I'll have to take that on notice, in relation to this particular one. I can indicate that it is my position, and that of the Solicitor for Public Prosecutions and the Senior Crown Prosecutor, that there is no systemic problem with the way in which—</p>	
37	56	The Hon. Susan Carter	Judge Lerve	<p>The Hon. SUSAN CARTER: Are you aware of a judgement of Judge Lerve, I believe, in 2023?</p> <p>SALLY DOWLING: I am.</p> <p>The Hon. SUSAN CARTER: I couldn't locate that. Is that a reported or unreported judgement?</p> <p>SALLY DOWLING: I don't know if it's on New South Wales Caselaw.</p> <p>The Hon. SUSAN CARTER: Are you able to provide me with a copy of that and any judgement in relation to a cost certificate that was made?</p> <p>SALLY DOWLING: Do you know the name of the case to which you are referring?</p> <p>The Hon. SUSAN CARTER: I don't, no. Perhaps it's in your register of judicial criticism, I think you said it was called. I presume it would be recorded in there and you could identify it from there.</p> <p>SALLY DOWLING: I'm assuming that you're referring to a decision called R v Cowled.</p> <p>The Hon. SUSAN CARTER: I just know the name of the judge.</p> <p>SALLY DOWLING: Yes, this is a decision of Judge Lerve.</p> <p>The Hon. SUSAN CARTER: If I could be given a copy of that.</p>	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.



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38	57	The Hon. Susan Carter	Judge Lerve	<p>The Hon. SUSAN CARTER: I'd love to see it when it's available. I don't have it. Perhaps we can havethat on notice.</p> <p>SALLY DOWLING: It is somewhat difficult to have this discussion if you don't have the judgement.</p> <p>The Hon. SUSAN CARTER: Which is why I asked if I could have copy.</p> <p>SALLY DOWLING: I can certainly make it available.</p>	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.
39	57	The Hon. Susan Carter	Judicial complaints	<p>SALLY DOWLING: May I make one point in relation to these four judgments? I have not received any complaint of this kind directly from any of these judges or from the Chief Judge of the District Court about the particular criticisms.</p> <p>The Hon. SUSAN CARTER: Can I ask you about that? Do you commonly receive complaints directly from judges?</p> <p>SALLY DOWLING: I do.</p> <p>The Hon. SUSAN CARTER: In what circumstances?</p> <p>SALLY DOWLING: They often call me up and will say, "I have a concern about a matter that has resolved"—never a current matter—"or about the way in which something happened."</p> <p>The Hon. SUSAN CARTER: You said you haven't received anything directly in relation to sexual assault matters. What matters have you received complaints from judges about?</p> <p>SALLY DOWLING: I'd have to take that on notice.</p> <p>The Hon. SUSAN CARTER: Sorry, this is something you just raised.</p> <p>SALLY DOWLING: Yes, but there could be complaints—and I don't have—</p> <p>The Hon. SUSAN CARTER: If you can take it on notice—</p> <p>SALLY DOWLING: I'm trying to answer your question.</p> <p>The Hon. SUSAN CARTER: I'm sorry, you just said you can't answer the question because you need to take it on notice.</p> <p>SALLY DOWLING: And I'm elaborating on my answer, if you'd let me please finish.</p> <p>The Hon. SUSAN CARTER: I'm very conscious that we have very little time, so if you could take it on notice and provide a list of all the matters which judges have raised with you as criticism of the operation and the prosecution, I would be very grateful for that list. C</p>	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.
40	58	The Hon. Susan Carter	All Staff email	<p>SALLY DOWLING: I believe there was an all-staff email rejecting the damaging comments of the judge.</p> <p>The Hon. SUSAN CARTER: Could you provide a copy of that for us, please?</p> <p>SALLY DOWLING: In due course. I would have to take that on notice.</p> <p>The Hon. SUSAN CARTER: Was there counselling of an individual staff member as a result of this judgement?</p> <p>SALLY DOWLING: I will also have to take that on notic</p>	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.

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41	61	Ms Sue Higginson	Police prosecutions	<p>Ms SUE HIGGINSON: Can I ask of you, Ms Dowling, are you aware of the issue of police prosecutions, and I'm talking about police prosecutions—I'll get there in a sec to your office's role—where allegations are made of a domestic violence nature, then they are retracted, and then police are laying charges against the person who has made the retraction on the basis of the retraction only? Have police and police prosecutors and crime managers asked your office at all for any advice in relation to those kinds of matters?</p> <p>SALLY DOWLING: As you know, my office is responsible for prosecuting indictable offences in the District Court and the Supreme Court. In some circumstances the ODPP has entered into agreements with other agencies to take over and prosecute certain summary offences in the Local Court and Children's Court. That does not currently include prosecution of persons who are accused of making false allegations in domestic violence matters. My office and I recognise that there are complex public policy issues involved in the investigation and prosecution of domestic violence offences. It's my evidence to this Committee that these are matters for police to grapple with, because they are the ones on the ground doing that investigating. Any questions of how the police deal with those types of prosecutions and the laying of those charges really should be directed to the police Minister or the police commissioner. At the moment there is no proposal on foot within my office or elsewhere, as far as I am aware, to refer any particular category of offences to the ODPP for prosecution, other than those that are currently contained in the relevant MOU between the Commissioner of Police and myself.</p> <p>Ms SUE HIGGINSON: No contact has been made for advice or assistance from police or crime managers at this point?</p> <p>SALLY DOWLING: I will have to take that question on notice. I'm personally not aware of any particular request for advice in a particular matter, but I can make that inquiry for you</p>	<p>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.</p>

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42	64	The Hon. Susan Carter	cost certificates	<p>The Hon. SUSAN CARTER: And then I think we come to the matter of Smith in February of this year and Judge Whitford, who seemed to have similar issues with a matter that was before him. Was that matter also the subject of a costs certificate?</p> <p>SALLY DOWLING: I think the costs application is being made, is my understanding, but has not yet been determined.</p> <p>The Hon. SUSAN CARTER: Is that listed yet?</p> <p>SALLY DOWLING: I don't think so. I'm sorry, I withdraw that. It is a costs judgement in the Judge Whitford matter.</p> <p>The Hon. SUSAN CARTER: Would we be able to get copies of all of those judgements?</p> <p>SALLY DOWLING: Sure.</p> <p>The Hon. SUSAN CARTER: Would it be possible also to get a list of all matters in which costs certificates have been awarded in sexual assault cases over, let's say, the last five years?</p> <p>SALLY DOWLING: Certainly.</p>	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.
43	67	The Hon. Natasha Maclaren-Jones	Court Houses	<p>The Hon. NATASHA MACLAREN-JONES: What are the Government's plans regarding courthouses presently not being used in Kogarah, North Sydney and Balmain?</p> <p>MICHAEL TIDBALL: Subject to any elaboration by my colleagues, I would need to take that on notice.</p>	<p>I am advised:</p> <p>The Chief Magistrate is responsible for the determination of listings and sittings in the Local Court of New South Wales and these are under constant review.</p>
44	68	Ms Sue Higginson	Ex gratia payments	<p>Ms SUE HIGGINSON: How many ex gratia payments have been made under the Attorney General since March last year?</p> <p>PAUL MCKNIGHT: I would have to take that on notice.</p> <p>Ms SUE HIGGINSON: Thank you.</p> <p>PAUL MCKNIGHT: It does happen, and it happens in a range of different kinds of circumstances. Let me take that on notice and give you a bit of commentary and some numbers.</p>	<p>I am advised:</p> <p>Since March 2023, three ex gratia payments have been approved by the Attorney General following advice.</p>

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45	71	The Hon. Natasha Maclaren-Jones	Legal Aid offices	<p>MONIQUE HITTER: We're always looking at the data. We've got various sources that we can look at, including the data that we get from LawAccess NSW, which is our telephone contact centre, and seeing where the calls are coming from. We also talk to our partners in other parts of the legal assistance sector. We have a good sense of where legal services are located and who is going where, and therefore we can see where the demand is that we could look to try to meet in a more fulsome way.</p> <p>The Hon. NATASHA MACLAREN-JONES: Is it possible to provide to the Committee a breakdown of the demand for those areas at a certain time, so on 31 December, what that demand is?</p> <p>MONIQUE HITTER: I can have a look at trying to provide that information to the Committee, yes, sure.</p>	<p>I am advised: Service delivery planning involves research of the following metrics by geographic area:</p> <ul style="list-style-type: none"> <li>- the current demand for services (based on Legal Aid service data and the LawAccess data),</li> <li>- the legal needs of the population in the geographic area</li> <li>- consultation with the staff, external partner and stakeholders and the broader legal assistance community from that geographic area about issues clients are facing, and</li> <li>- gaps in services for clients with unmet legal need.</li> </ul> <p>It means assessing who is most vulnerable to experiencing legal problems and who is most likely to need legal or justice system assistance to successfully resolve their problems.</p> <p>When undertaking service planning analysis, Legal Aid creates regional data packs that use data sources such as Legal Aid's own service data, demographic data from the Australian Bureau of Statistics, crime data from the Bureau of Crime Statistics and Research, domestic and family violence data, fines data from Revenue NSW, and data from Housing and from Child Protection. These are areas of government that intersect with Legal Aid's client base and can result in legal issues that require Legal Aid assistance to resolve. This analysis is done at a time when planning is relevant as a snapshot in time.</p> <p>The following information provides an example of how Legal Aid uses service data to analyse demand. According to data from LawAccess NSW (Legal Aid's telephone contact centre) for the 2023 calendar year, Legal Aid had 702 interactions with people from the Far South Coast LGA and 1,890 interactions with people from the Tweed Heads LGA. Legal Aid NSW does not have an office located in either of these regions and the distance between the nearest office is 1.5 hours for Tweed Heads and up to 4 hours for the Far South Coast.</p> <p>The top 5 topics of inquiry from clients were Crime and Offences, Family Law and Relationships and Motor Vehicle and Traffic Offences, Employment and Debt and Credit. This implies that clients require lawyers that specialise in crime, family law and civil law issues. This data along with other data sources mentioned above provides Legal Aid with information necessary to analyse demand and determine service delivery gaps.</p>
46	72	The Hon. Natasha	Legal Aid	<p>The Hon. NATASHA MACLAREN-JONES: In relation to rural and regional areas, and you have touched on the north, south and out west, is there a higher demand for legal practitioners in the regions? What challenges are there,</p>	<p>I am advised: Legal Aid NSW uses a mixed model of service delivery which is reliant on in-house lawyers and private practitioners. Private lawyers deliver more than 70%</p>

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		Maclaren-Jones		<p>particularly around funding, because National Legal Aid has come out saying in its report that there is underfunding? How are you finding that impacting on those regions?</p> <p>MONIQUE HITTER: There is certainly over time—and the Law Society has also been doing some work on this—a reduction in the availability of private practitioners in regional New South Wales, and we are aware that there is a supply issue. That supply issue is concentrated in different areas of the State and I'm very happy to provide the Committee with more detail on that.</p> <p>The Hon. NATASHA MACLAREN-JONES: That would be great.</p>	<p>of all ongoing casework and 40% of duty lawyer work. A large proportion of this is delivered in regional areas and in some locations legal aid duty services are exclusively provided by private practitioners. One source of pressure on this 'mixed model' comes from panel lawyers withdrawing from legal aid work.</p> <p>-</p>
47	73	The Hon. Susan Carter	Conversion Practices	<p>The Hon. SUSAN CARTER: Perhaps, Mr McKnight, you could take on notice the percentage of women's groups—that is specifically women's groups, not women who happened to be there in another capacity— who were part of the consultation?</p> <p>PAUL MCKNIGHT: Do you have a particular definition of "women's groups" in this context, Ms Carter?</p> <p>The Hon. SUSAN CARTER: I'm happy for you to apply a broad definition in terms of a group of women who congregate together for the welfare and betterment of women.</p> <p>PAUL MCKNIGHT: Great. I will do what I can.</p> <p>The Hon. SUSAN CARTER: Thank you very much. I'm happy to have discussions with you about that definition if it proves difficult to identify. I'm wondering too, you identify broadly academics, including in medicine.</p> <p>PAUL MCKNIGHT: Yes.</p> <p>The Hon. SUSAN CARTER: Were there any practising doctors who were involved in the consultation?</p> <p>PAUL MCKNIGHT: I don't have a list of the doctors that were involved in the consultation, but I imagine there were practising medical doctors involved.</p> <p>The Hon. SUSAN CARTER: Perhaps you could take that on notice.</p> <p>PAUL MCKNIGHT: I'm happy to do that.</p> <p>The Hon. SUSAN CARTER: So how many people were consulted in total?</p> <p>PAUL MCKNIGHT: In total, almost 150 organisations were involved.</p> <p>The Hon. SUSAN CARTER: Perhaps you could let me know how many doctors and what specialties: how many paediatricians, how many psychiatrists, how many geriatricians—how many of all the different specialties?</p> <p>PAUL MCKNIGHT: Indeed. I'm happy to take on notice what I can provide you in that area.</p> <p>The Hon. SUSAN CARTER: When you say what you can provide me, you don't have a full list of everybody who was consulted?</p> <p>PAUL MCKNIGHT: Not in front of me.</p> <p>The Hon. SUSAN CARTER: I understand, but when you say you're happy to provide me with what you can, I wonder whether you may have problems</p>	<p>I am advised:</p> <p>In relation to health sector stakeholders, the consultation engaged with a range of peak and representative bodies. This included representative bodies for psychologists, medical practitioners and psychiatrists. Specific identification of all specialties of the health professionals who engaged on behalf of these bodies is not available.</p> <p>See also response to question 29.</p>

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				<p>providing some of that detail on notice. I just wanted to clarify that now. In my head you have in your office a complete list of the close to 150 people or groups who were consulted.</p> <p>PAUL McKNIGHT: That's organisations.</p> <p>The Hon. SUSAN CARTER: So you can just pick from that according to the categories. Am I wrong with that?</p> <p>PAUL McKNIGHT: I think we can probably do something along those lines. We'll see what we can provide.</p> <p>The Hon. SUSAN CARTER: So you'll be able to give me a list of doctors and specialties?</p> <p>PAUL McKNIGHT: I'm taking your question on notice, Ms Carter.</p> <p>The Hon. SUSAN CARTER: But you'll be able to fulfil it?</p> <p>PAUL McKNIGHT: I'll do my best.</p> <p>Ms SUE HIGGINSON: Will you send a photo of your office?</p> <p>The Hon. SUSAN CARTER: I'd love it. Let's have a tour. Let's have a view. And psychologists?</p> <p>PAUL McKNIGHT: Indeed.</p> <p>The Hon. SUSAN CARTER: And particular specialties in which they may happen to practice?</p> <p>PAUL McKNIGHT: Indeed.</p>	
48	74	The Hon. Susan Carter	Conversion Practices	<p>The Hon. SUSAN CARTER: Perhaps you can provide me with the number of specialist groups within faith communities who work with the LGBTIQ community.</p> <p>PAUL McKNIGHT: I will see what we can provide you in terms of the number of LGBTIQ faith groups</p>	<p>I am advised:</p> <p>Of the stakeholders who were engaged throughout the consultation process, eight organisations which were specific to advocacy in relation to LGBTQ+ faith or multicultural communities were engaged. This figure does not include other LGBTQ+ organisations or faith community organisations who were engaged in the consultation, who may also advocate or provide services in relation to LGBTQ+ people from faith communities. This figure also does not include specific individuals (e.g. academics and researchers, victim survivors) who were engaged in the consultation.</p> <p>See also response to question 29.</p>

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49	75	The Hon. Susan Carter	Conversion Practices	<p>The Hon. SUSAN CARTER: But specialist ministries who deal with LGBTIQ people and who would understand the intersection of those issues were not there. I'm only raising this because this is the bit I know. These are the groups that I can see I would have expected to be in the consultation and I would have expected to have a seat at those round tables and they were not there. And so then I start thinking, "Who else wasn't there?" I raise issues about this process because we have seen it in this place before where we don't consult broadly enough and we—I'm sure entirely inadvertently—exclude people and that then risks it being quite a flawed process. In terms of LGBTIQ groups, were groups like the LGB Alliance Australia included?</p> <p>PAUL McKNIGHT: I don't have that list in front of me.</p> <p>The Hon. SUSAN CARTER: Perhaps you could check that.</p> <p>PAUL McKNIGHT: But I'm confident that a broad range of LGBTIQ+ advocacy groups were included.</p>	<p>I am advised: Of the stakeholders who were engaged throughout the consultation process, 26 organisations representing LGBTIQ+ advocacy were engaged. This figure includes organisations that may advocate on the basis of specific sexual orientations or gender identities, which represent or operate in specific locations in NSW, or which advocate on behalf of LGBTIQ+ people from faith or multicultural communities. This figure does not include individuals (e.g. academics and researchers, victim survivors) who were engaged in the consultation.</p> <p>See also response to question 29.</p>
50	76	The Hon. Natasha Maclaren-Jones	Justice Reinvest	<p>The Hon. NATASHA MACLAREN-JONES: Could I get an update on the Just Reinvest projects in Nowra and Kempsey?</p> <p>ANNE CAMPBELL: Yes, I'll just find out for you. I've got it here, Ms Maclaren-Jones. Recruitment of the justice reinvestment staff in Kempsey and Nowra, we've finalised the program logic and the theory of change for Nowra and Kempsey, the development of justice reinvestment circuit breakers in Nowra and Kempsey, establishment of local governance arrangements in Nowra and Kempsey, development of justice reinvestment implementation plans, and establishment of an outcomes framework. I'll just see if I've got any more concrete detail. I can maybe provide the rest of the update on notice.</p> <p>The Hon. NATASHA MACLAREN-JONES: Yes, that's fine. I might go to the Parramatta Justice Precinct. At the last estimates in a supplementary question we were advised that it was in the planning stage. I just wanted to find out if there was any further update or a date for completion.</p> <p>MICHAEL TIDBALL: I would love to have that in my head, Ms Maclaren-Jones. I don't. Can I please take that on notice?</p>	<p>I am advised: In June 2023, the Department of Communities and Justice entered into a contract with Just Reinvest NSW to fund justice reinvestment activities in Kempsey and Nowra over three years from June 2023 to June 2026.</p> <p>Just Reinvest NSW has been actively engaging with community in Kempsey and Nowra. However, due to delays in implementation (including due to the recent departure of its former CEO) contract milestones for Just Reinvest NSW in Kempsey and Nowra are currently being re-negotiated. Just Reinvest NSW will continue to report bi-annually to the DCJ on progress against the re-negotiated milestones throughout the contract period.</p> <p>Work on and consideration of the Parramatta Justice Precinct remains ongoing and will inform future government decisions.</p>

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51	78	Ms Sue Higginson	Bush fire inquiry	<p>Ms SUE HIGGINSON: Yes, okay, that's good to know because it's obviously a jurisdiction I've worked in and I'm just cognisant, working at this end of it, thinking, "Goodness gracious, there are serious impacts that are likely to eventuate in the coming period." I asked some questions, and I know they were taken on notice, just about the bushfire coronial that took place. I'm just curious as to some of the decisions that the Attorney made. I'm happy for you to confer on this. Is it better to just leave those questions on notice?</p> <p>MICHAEL TIDBALL: Can I confer with Mr McKnight for a moment?</p> <p>Ms SUE HIGGINSON: Of course.</p> <p>MICHAEL TIDBALL: Ms Higginson, I have a clear recollection of it. I'm nervous that the fount of all wisdom on these matters doesn't remember it quite as—I took an interest in it because I knew it would be a matter of concern. I think the smart thing for me to do is to take it on notice.</p> <p>Ms SUE HIGGINSON: I've got a couple of extra questions. Would you prefer me to put those now on notice or as supplementary questions?</p> <p>MICHAEL TIDBALL: If you want them on the record, of course that's respected but very happy to—I will need to take this on notice to give you an accurate and complete response.</p> <p>Ms SUE HIGGINSON: I did put questions but I didn't quite get to the last two. There were two further questions to be taken on notice. One of those is: Communities is one of the major stakeholders affected by bushfire disasters. Will the Attorney General establish a funding scheme to provide legal representation opportunities for community interests during coronial or other related inquiries into bushfires? Obviously this is in anticipation of our future. Finally, is the Attorney General confident that the New South Wales coronial inquiry into the 2019 and 2020 bushfires will serve the interests of the community? They were specific questions and particularly developed in consultation with directly affected participants in the coronial and people who lost a lot during that period. Thank you. I am happy to hand back to the Opposition.</p>	<p>I am advised:</p> <p>The NSW Government is currently considering the report of the Statutory Review of the <i>Coroners Act 2009</i>, tabled in Parliament on 14 February 2024.</p> <p>The State Coroner also handed down the Findings and Recommendations of the 2019/2020 NSW Bushfires Coronial Inquiry on 27 March 2024. The NSW Government is currently considering this.</p>
52	78	The Hon. Natasha Maclaren-Jones	Children's court	<p>The Hon. NATASHA MACLAREN-JONES: In relation to the Children's Court magistrate, has there been an increase or will there be one for 2024-25?</p> <p>MICHAEL TIDBALL: I can't speak prospectively. In terms of an increase, I probably should take that on notice—not that I recall and it's not in my notes.</p>	<p>I am advised:</p> <p>As of 18 March 2024, there are 16 Specialist Children's Magistrate positions. The appointment of a Children's Magistrate is a matter for the Chief Magistrate of the Local Court, in consultation with the President of the Children's Court.</p>
53	80	The Hon. Susan Carter	changes in ACT drug laws	<p>The Hon. SUSAN CARTER: Sorry, can I just clarify? Are you clarifying the New South Wales laws, or are you also drawing attention to the way in which they differ from the ACT laws?</p> <p>PAUL MCKNIGHT: I might take the detail of those communications on notice,</p>	<p>I am advised:</p> <p>Information on the NSW Early Drug Diversion Initiative (EDDI) is available at <a href="http://www.nsw.gov.au/EDDI">www.nsw.gov.au/EDDI</a>. This is supported by content on partner agency</p>



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				<p>perhaps.  The Hon. NATASHA MACLAREN-JONES: And also the cost of the communications campaign.  PAUL McKNIGHT: I will take that on notice. I'm not sure we'll be able to identify a cost, but I'll do what I can.  The Hon. SUSAN CARTER: Can I inquire why you wouldn't be able to identify costs for a specific communications project?  PAUL McKNIGHT: Maybe we can. I'll clarify that on notice.</p>	<p>websites (DCJ, Health and St Vincent's) and electronic e-news to targeted stakeholder groups. Fine recipients receive information on the fine notice, including options for resolving the fine, with 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 noting that similar diversion programs operate in other Australian states and territories, and that different rules apply, linking to <a href="http://www.nsw.gov.au/EDDI">www.nsw.gov.au/EDDI</a> for more information on rules that apply in NSW.</p> <p>The cost to DCJ of communications activities to support EDDI is \$4,762 which includes an Easy Read summary of EDDI and social media posts including geotargeting for border communities</p>
54	80	The Hon Susan Carter	Revenge porn	<p>The Hon. SUSAN CARTER: I have some questions perhaps for Mr Tidball in relation to the experience and operation of section 91Q of the Crimes Act. Would that be for you, or who would I address those to?  MICHAEL TIDBALL: I am relieved to advise it's going to be Mr McKnight.  PAUL McKNIGHT: Could you remind me what 91Q is?  The Hon. SUSAN CARTER: It's commonly called the revenge porn section.  PAUL McKNIGHT: Okay, yes.  The Hon. SUSAN CARTER: I want to put on record that my interest existed prior to the arrival of Ms Swift on our shores, but there is an emerging problem identified in a number of areas, particularly targeting young women—image-based assault, I believe it's being called. Essentially, people have always been able to take a photo and alter it. It used to be the scissors and the magazine, but now, of course, very sophisticated methods are available. If I can find two different ways in 30 seconds on the internet then, believe you me, other people can find a lot more. Has anybody looked at whether section 91Q is broad enough to capture those using AI to alter images? Has anybody looked at the adequacy of these provisions to prosecute anybody distributing images made using these AI programs?  PAUL McKNIGHT: That's a really interesting question. I will have to take it on notice. Those issues have not come directly to my attention so far, but that isn't to say that we haven't been doing some work in the space.</p>	Please refer to the transcript of the hearing.
55	81	The Hon. Susan Carter	Violence against women	<p>The Hon. SUSAN CARTER: What's being done in the area of pornography? That is a major driver of violence against women.  ANNE CAMPBELL: I'm happy to take that on notice. I know there is quite a little bit of work going on on that. I think your comment around AI and those sorts of things is a real issue in this space that we are really examining more closely at the</p>	<p>I am advised:  The NSW Sexual Violence Plan includes four cross-government actions under the primary prevention pillar that seek to address the impacts of pornography and increase the general online safety of young people. These are:</p> <ul style="list-style-type: none"> <li>- Review the Personal Development, Health and Physical Education mandatory syllabus to ensure delivery of consistent, age-appropriate</li> </ul>

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				<p>moment. The Hon. SUSAN CARTER: I'd love to be updated on that.</p>	<p>education on safe, healthy and respectful relationships, including consent, coercive control and pornography, as part of NSW Curriculum Reform <i>[Status: In progress]</i></p> <ul style="list-style-type: none"> <li>- Department of Education lead work to strengthen delivery of programs that address respectful relationships, coercive control, consent education and pornography for children and young people across settings, both within and outside educational environments. <i>[Status: In progress]</i></li> <li>- Develop resources to assist parents and caregivers in having conversations with children and young people about in-person and online sexual violence, respectful relationships, coercive control, consent and pornography. <i>[Status: In progress]</i></li> <li>- Identify strategies to address the role of pornography in contributing to harmful sexual behaviours and reinforcing stereotyped attitudes among children and young people. <i>[Status: Not yet commenced]</i></li> </ul> <p>The regulation of online safety and relevant reforms is governed by Commonwealth legislation through the <i>Online Safety Act 2021</i> (Cth) and the key oversight mechanism of the eSafety Commissioner.</p>