



DATE

12 August, 2019

The Hon Niall Blair MLC  
Chairperson  
Legislative Council Standing Committee on Law and Justice  
Parliament House  
Macquarie Street  
Sydney NSW 2000

Dear Mr Blair

**Inquiry into Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2019**

**Response to further question concerning statistics**

I have been asked to provide the following further information:

- the number and % of trials result and acquittals for each of the categories
- the number and % of trials and convictions for each of the categories
- a breakdown of the 238 murder acquittals indicating any other outcome of the trials for example the number of convictions for another offence such as manslaughter
- any further information that will assist the committee's understanding of the data relating to the murder acquittals in the context of all murder cases.

*The number and % of trials, acquittals and convictions*

**s61JA – from 1.10.2001 to present**

Verdict by Direction	Trial	1	3%
<b>Verdict by Direction - Total</b>		<b>1</b>	
Verdict Guilty	Trial	17	55%
<b>Verdict Guilty – Total</b>		<b>17</b>	
Verdict Not Guilty	Trial	13	42%
<b>Verdict Not Guilty - Total</b>		<b>13</b>	
<b>Overall – Total</b>		<b>31</b>	

s66A(2) – from 1.1.2009<sup>1</sup>

Verdict by Direction	Trial	2	2%
<b>Verdict by Direction - Total</b>		<b>2</b>	
Verdict Guilty	Trial	46	43%
<b>Verdict Guilty – Total</b>		<b>46</b>	
Verdict Not Guilty	Trial	59	55%
<b>Verdict Not Guilty - Total</b>		<b>59</b>	
<b>Overall – Total</b>		<b>107</b>	

s66EA – from 2005

Verdict Guilty	Trial	13	57%
<b>Verdict Guilty – Total</b>		<b>13</b>	
Verdict Not Guilty	Trial	10	43%
<b>Verdict Not Guilty - Total</b>		<b>10</b>	
<b>Overall – Total</b>		<b>23</b>	

**Murder from 2005 to present**

Verdict by Direction	Trial	6	1%
<b>Verdict by Direction - Total</b>		<b>6</b>	
Verdict Guilty	Trial	418	64%
<b>Verdict Guilty – Total</b>		<b>418</b>	
Verdict Not Guilty	Trial	233	35%
<b>Verdict Not Guilty – Total</b>		<b>233</b>	
<b>Overall – Total</b>		<b>657</b>	

*Breakdown of the 238 acquittals for murder, indicating the outcome of the trial.*

As noted in my earlier response the ODPP has limited capacity to identify information about cases involving particular offences, without resorting to significant manual investigation of our case management system. It is not possible in the time frame to analyse the 238 files to

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<sup>1</sup> Note we indicated in our earlier response the number of acquittals for section 66A(2) was 66, this was an error the correct figure should have been 61.

identify what the outcome was. However, it is my experience that the issues in many murder trials require juries to be instructed as to the availability of manslaughter as a possible verdict; and that in such trials juries not infrequently find an accused not guilty of murder but guilty of manslaughter instead, which could account to some extent for the apparently high number of acquittals for murder shown by the raw figures.

Yours faithfully

**Peter McGrath SC**  
**Deputy Director of Public Prosecutions**