

The Hon. Michael John DALEY, MP- Attorney General

Budget Estimates Hearing
28 February 2025

Questions Taken on Notice

QTON #	Transcript Page	Member	Question on Notice	Answer
1	6	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: All weekend decisions through Parramatta, and other decisions being during the week through magistrates. The acting magistrates who are employed for the weekend, are they new magistrates or are they people who were formerly magistrates who've come back in an acting capacity?</p> <p>Mr MICHAEL DALEY: I'd have to take that on notice. The placement of those magistrates is a matter for the Chief Magistrate, not for me.</p> <p>The Hon. SUSAN CARTER: If they're new magistrates, what training have they received before they start making bail decisions?</p> <p>Mr MICHAEL DALEY: Again, that's a matter for the Judicial Commission and for the Chief Magistrate, but I'll take that on notice.</p>	<p>I am advised:</p> <p>Weekend bail matters are heard by Acting Magistrates. The pool of Acting Magistrates is from both retired Magistrates and from recently retired members of the legal profession with at least five years' experience, who have undertaken specialist pre-bench training. All Magistrates undertake continual education. Those Acting Magistrates who joined the Local Court after retiring from the legal profession are trained by existing Magistrates and Acting Magistrates in a program developed by the Local Court and the Judicial Commission of NSW. This training program is provided under the supervision of the Local Court Bail Coordinating Magistrate.</p>
2	7	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: What's the estimated cost of the bail court?</p> <p>Mr MICHAEL DALEY: I'll have to take that on notice.</p>	<p>I am advised:</p> <p>It is not possible to provide a complete estimate of the cost of the Bail Court.</p>

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3	8	The Hon. TANIA MIHAILUK:	<p>The Hon. TANIA MIHAILUK: At this point you're here, so I'm asking you the questions. Let's ask something you might know about. I'll ask you a little bit about the inciting hatred legislation that passed Parliament the other day. Did you organise a briefing for the faith council, Mr Attorney General?</p> <p>Mr MICHAEL DALEY: I'd have to take that on notice. There was a raft of—</p> <p>The Hon. TANIA MIHAILUK: Did anyone from your office organise a briefing for the faith council?</p> <p>Mr MICHAEL DALEY: Just let me answer the question. Three bills, with various groups being consulted over the weeks that preceded those going into the House, and I'll take that on notice about who was consulted.</p> <p>The Hon. TANIA MIHAILUK: Can you come back in the afternoon with that information?</p> <p>Mr MICHAEL DALEY: In relation to the hate speech legislation, I think I wrote to the faith council, but I don't think that we did face-to-face consultation on that. But if that's wrong, I'll correct it later on in the day.</p> <p>The Hon. TANIA MIHAILUK: The question was put to Mr Joseph La Posta of Multicultural NSW the other day, and he advised the budget estimates hearing with Minister Kamper that, in fact, there were staff from the AGO and the Department of Communities and Justice, and that there was a request from your department and your office to meet with the faith council. So there was one. I don't know whether members of your staff attended, from your direct ministerial office, but there were apparently experts from the Department of Communities and Justice. You're not aware of that? I was going to ask you who attended.</p> <p>Mr MICHAEL DALEY: I just said I'll take that on notice, but it might well be that—as I said, there were three bills being worked on at the same time and various matters were discussed.</p> <p>The Hon. TANIA MIHAILUK: I understand they had one briefing, and I wanted to know what type of briefing that was and whether there were lawyers present, giving them a good understanding of what the inciting hatred legislation would mean.</p> <p>Mr MICHAEL DALEY: For the sake of accuracy, I will take that on notice and let you know who was there.</p>	<p>I am advised:</p> <p>Written submissions on the Crimes Amendment (Places of Worship) Bill (Places of Worship) and Crimes Amendment (Inciting Racial Hatred) Bill (Hate speech) were received from:</p> <ul style="list-style-type: none"> • NSW Police Force • Health NSW • Office of the Director of Public Prosecutions • Legal Aid NSW • NSW Bar Association • Law Society of NSW • Aboriginal Legal Service • Members of the Government's LGBTIQ+ Advisory Council. • Members of the Faith Affairs Council • Special Envoy to Combat Antisemitism • Special Envoy to Combat Islamophobia. <p>Written submissions on the Criminal Amendment (Racial and Religious Hatred) Bill 2025 were received from:</p> <ul style="list-style-type: none"> • NSW Police Force • Office of the Director of Public Prosecutions • Legal Aid NSW • Special Envoy to Combat Antisemitism. <p>Consultation was staggered and took place from 22 January - 17 February 2025.</p> <p>The Attorney General's Office with two Department of Communities and Justice representatives met with:</p> <ul style="list-style-type: none"> • members of the Government's Faith Affairs Council. • the NSW Jewish Board of Deputies and the Special Envoy to Combat Antisemitism, separately.

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4	10	The Hon. TANIA MIHAILUK:	The Hon. TANIA MIHAILUK: I need to know, and I think the public needs to know, whether you had discussions with any of these people prior to the inciting hatred bill being put forward at the Cabinet table. Mr MICHAEL DALEY: There was consultation about all three bills. They had nothing to do with trusts or church property. I've already said to you I'll take on notice the—	I am advised: See response to question taken on notice 3.
5	10	The Hon. TANIA MIHAILUK:	The Hon. TANIA MIHAILUK: Can I ask you to take on notice—that meeting that you had with the faith council. Apparently, as mentioned in the estimates the other day, divergent views were coming from the faith council about this legislation. Was that meeting minuted? Could you find out if it was? Mr MICHAEL DALEY: I'll take that on notice.	I am advised: Minutes were not taken at the meetings with the Faith Affairs Council. The views expressed by members were considered by Government.
6	12	Ms SUE HIGGINSON:	Ms SUE HIGGINSON: To this point, have you noticed a decrease in those offences based on the increased refusals of bail? Mr MICHAEL DALEY: I'd have to have a look at the latest BOCSAR stats, if they are available, because I said when I introduced-	I am advised: In the two years to December 2024, the number of recorded incidents of Break and enter dwelling, break and enter non-dwelling and motor vehicle theft remained stable. Source: BOCSAR 2025.
7	14	The Hon. SUSAN CARTER:	The Hon. SUSAN CARTER: I share your concern. Are you satisfied that every one of the victims whose matters were discontinued has received a statement of facts from the ODPP explaining why the matter was discontinued? Mr MICHAEL DALEY: I don't know if that's the case, but I can take that on notice.	See the answer to question 69.

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8	15	The Hon. NATASHA MACLAREN-JONES:	<p>The Hon. NATASHA MACLAREN-JONES: Thank you, Attorney, and everyone else, for being here. I want to turn back to bail laws and young offenders. The bail laws introduced last year, you recently extended those, I think it was last week.</p> <p>Mr MICHAEL DALEY: Yes.</p> <p>The Hon. NATASHA MACLAREN-JONES: Is there a time limit on that extension?</p> <p>Mr MICHAEL DALEY: Three years.</p> <p>The Hon. NATASHA MACLAREN-JONES: In making that decision, did you look at any data around whether those laws were working successfully?</p> <p>Mr MICHAEL DALEY: I think I've already answered that. I think I said I'd take those statistics on notice. If I haven't, I will. We're informed by a range of things and a range of discussions—principally by discussions with the police, as well, who have reported to us that it's still a battle for them in regional New South Wales in relation to these kids. We haven't seen any reason, at the moment, to let them sunset. In fact, there were good reasons, as I have just explained, to keep them going.</p>	<p>I am advised:</p> <p>The decision to extend section 22C of the Bail Act was informed by the most up-to-date information available, including relevant BOCSAR data.</p> <p>Extending the provision for a further three years will allow for:</p> <ul style="list-style-type: none"> • Government to receive and respond to the recommendations of the Parliamentary Inquiry into Community safety in regional and rural communities. • The Department of Communities and Justice to undertake a review, informed by longer-term BOCSAR data and stakeholder feedback. • Work to continue across Government and the community including community based and therapeutic responses to address youth, regional and rural crime.

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9	15	The Hon. NATASHA MACLAREN-JONES:	<p>The Hon. NATASHA MACLAREN-JONES: I have concerns that we have a case this morning of a 14-year-old who driving. Apparently, there's a 13-year-old child in a critical condition in hospital. There are reports last month of, allegedly, another 14-year-old driving a stolen vehicle—who apparently had breached bail on a number of occasions—and killed a man in Moree. Are these bail laws actually working?</p> <p>Mr MICHAEL DALEY: I think that's a question that I was directly asked by Mrs Carter, and I said I'd get you some statistics and show—</p>	<p>I am advised:</p> <p>Between March 2024 and December 2024 there were 195 first court appearances in scope of Bail Act s22C. Of these 195 appearances, 145 (74%) resulted in court bail refusal and the young person being remanded to custody.</p>

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10	20	The Hon. TANIA MIHAILUK:	<p>The Hon. TANIA MIHAILUK: Were you briefed on the fact that Ms Dowling sought the services of Sir Max Hill and Professor Julia Quilter to independently review this report?</p> <p>Mr MICHAEL DALEY: You can ask the DPP those—</p> <p>The Hon. TANIA MIHAILUK: Were you briefed? I'm asking whether you were briefed.</p> <p>Mr MICHAEL DALEY: You can ask the DPP about those questions.</p> <p>The Hon. TANIA MIHAILUK: Were you told that they were going to independently review the draft report?</p> <p>Mr MICHAEL DALEY: The DPP had the freedom to do a report into her own organisation as she saw fit and to brief who she saw fit. She doesn't need permission from me.</p> <p>The Hon. TANIA MIHAILUK: I didn't say that she had to acquire permission from you. I'm asking whether you were told that Ms Dowling would seek the services—</p> <p>Mr MICHAEL DALEY: I'd have to go back and have a look at minutes of our most—</p> <p>The Hon. TANIA MIHAILUK: —of the former DPP of England and Wales, Sir Max Hill, who now works for a private law firm?</p> <p>Mr MICHAEL DALEY: I will take that on notice. It might well be that that will appear in the minutes of our meeting. I do not want to be giving you an inaccurate answer.</p> <p>The Hon. TANIA MIHAILUK: You will take on notice whether you perhaps were notified of that?</p> <p>Mr MICHAEL DALEY: Yes.</p> <p>The Hon. TANIA MIHAILUK: Do you know whether he was paid a stipend or a fee for his services?</p> <p>Mr MICHAEL DALEY: You can ask the DPP. That's not my report.</p> <p>The Hon. TANIA MIHAILUK: She's right there. Can she answer it?</p> <p>Mr MICHAEL DALEY: Sure.</p> <p>SALLY DOWLING: Yes, he was paid for his time.</p> <p>The Hon. TANIA MIHAILUK: What was he paid, Ms Dowling?</p> <p>SALLY DOWLING: I'd have to check that.</p> <p>The Hon. TANIA MIHAILUK: Can you provide that by this afternoon?</p> <p>SALLY DOWLING: Probably.</p>	<p><u>I am advised:</u></p> <p>See the answer to question 64.</p>

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11	21	The Hon. TANIA MIHAILUK:	The Hon. TANIA MIHAILUK: If you could also provide what that fee was? SALLY DOWLING: Yes. The Hon. TANIA MIHAILUK: If you can provide that in the afternoon, that's great.	See the answer to question 64.
12	23	The Hon. TANIA MIHAILUK:	The Hon. TANIA MIHAILUK: Mr Attorney General, you said that there hasn't been a review of the AD Act for 12 years, right? Mr MICHAEL DALEY: I think the statutory review was something like 11 or 12 years late. The Hon. TANIA MIHAILUK: So this is essentially the review— Mr MICHAEL DALEY: Is that right? I'm not misleading the Committee? The Hon. TANIA MIHAILUK: You can take that on notice and provide proper information on that.	I am advised: A NSW Law Reform Commission (NSWLRC) review of the ADA was tabled in 2000. The NSWLRC is currently conducting a new review of the ADA. The Terms of Reference for the current review are available here: https://lawreform.nsw.gov.au/current-projects/anti-discrimination-act-review/anti-discrimination-act-review-terms-of-reference.html
13	24	Ms SUE HIGGINSON:	Ms SUE HIGGINSON: Literally the answer is "The Government remains committed to ensuring the New South Wales community has access" and "The DCJ will establish an in-house mediation service." This is great, but it basically said it's "for legislatively mandated referrals". I don't know. I'm still none the wiser about what's actually going to happen: What will happen to all of those people who will no longer be serviced, and what will actually happen in the community for— Mr MICHAEL DALEY: Under the Crimes (Domestic and Personal Violence) Act 2007, there are some—correct me if I'm wrong, Mr Tidball—court-ordered mediations, and they'll continue to be done by DCJ. Ms SUE HIGGINSON: Yes. What about all the others? I've sat in local courts a lot going, "There is a CJC we can help you with", more so than people know. There's thousands and thousands of people that deal with the CJC. Mr MICHAEL DALEY: I think Mr Tidball just wants to elucidate. MICHAEL TIDBALL: On notice, I could give you the number of matters settled.	I am advised: 522 mediations were settled in 2023/24.

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14	26	Ms SUE HIGGINSON:	<p>Ms SUE HIGGINSON: Can I confirm? Attorney General, right now, it is the New South Wales Government's agenda to impose more cost shifting to the public and to local government because you're devaluing the public services and demand that the community centres of New South Wales pick up, and you're saying you just can't afford them anymore? Is that right?</p> <p>Mr MICHAEL DALEY: No, that's your words.</p> <p>Ms SUE HIGGINSON: Okay, correct the bits. Which bits did I misunderstand?</p> <p>Mr MICHAEL DALEY: That's your words. I don't need to use your words. You use your words; I've got plenty of my own.</p> <p>Ms SUE HIGGINSON: Going back to the question I put on notice months ago that you didn't answer, who did you consult with about this?</p> <p>Mr MICHAEL DALEY: I'll take that question on notice.</p>	<p>I am advised: The Department of Communities and Justice was consulted.</p>

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15	26	The Hon. NATASHA MACLAREN-JONES:	<p>The Hon. NATASHA MACLAREN-JONES: I want to carry on from the CJC questions my colleague asked. Firstly, what is the current cost of the CJC's?</p> <p>Mr MICHAEL DALEY: I don't have it formally.</p> <p>The Hon. NATASHA MACLAREN-JONES: Could you take that on notice?</p> <p>Mr MICHAEL DALEY: I can get it for you.</p> <p>The Hon. NATASHA MACLAREN-JONES: With the decision that you've made—and they close on 30 June this year—what is the problem that you want to solve? What was the reason for closing them?</p> <p>Mr MICHAEL DALEY: Cost.</p> <p>The Hon. NATASHA MACLAREN-JONES: But you don't know the cost.</p> <p>Mr MICHAEL DALEY: No. It happened in the first of our budgets, two years ago, when we were having a comprehensive expenditure review, and savings needed to be identified. That's where it came about.</p> <p>The Hon. NATASHA MACLAREN-JONES: Two years ago you knew these were closing?</p> <p>Mr MICHAEL DALEY: No, two years ago we started having a discussion about expenditure review.</p> <p>The Hon. NATASHA MACLAREN-JONES: When did you make the decision to close them?</p> <p>Mr MICHAEL DALEY: I'll take that on notice.</p> <p>The Hon. NATASHA MACLAREN-JONES: Can I ask why you haven't told anyone? You didn't put out a press release, you didn't notify organisations and you haven't notified councils.</p> <p>Mr MICHAEL DALEY: We're going back in time now, so I need to have a look. I'll take on notice what the communications were that we made.</p>	<p>I am advised:</p> <p>The decision to close Community and Justice Centres was made by Cabinet. Decisions of Cabinet are Cabinet-in-confidence.</p> <p>The Budget Papers include detailed information on budgeted expenses, revenue, and capital expenditure. This includes detailed financial statements for individual agencies as well as for government as a whole. The Budget Papers also outline the financial impact of measures in the budget on individual portfolios as well as for government as a whole.</p> <p>Staff, mediators and key stakeholders were notified on 17 October 2024.</p>
16	28	The Hon. NATASHA MACLAREN-JONES:	<p>The Hon. NATASHA MACLAREN-JONES: Will any of the associations need to look at changing their constitutions if they rely on—</p> <p>The Hon. SUSAN CARTER: The Model constitution under Fair Trading—</p> <p>The Hon. NATASHA MACLAREN-JONES:—under Fair Trading?</p> <p>MICHAEL TIDBALL: I do not know the answer to that. I would need to take that on notice.</p>	<p>I am advised:</p> <p>The Department of Communities and Justice will ensure appropriate transitional arrangements are implemented.</p>

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17	31	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: Can you draw me to which provision in the Act prohibits a grant of a parentage order if a woman is a slave?</p> <p>Mr MICHAEL DALEY: I don't have the Act in front of me, so I can't go into that discourse.</p> <p>The Hon. SUSAN CARTER: Can you take that on notice, Minister?</p> <p>Mr MICHAEL DALEY: Sure, happy to.</p>	<p>I am advised that:</p> <p>The Surrogacy Act 2010 prescribes several mandatory and non-mandatory preconditions to making a parentage order. A Court cannot make a parentage order unless satisfied that all of the mandatory preconditions set out in the Act have been met. Mandatory preconditions include that:</p> <ul style="list-style-type: none"> • all affected parties, including the birth mother and their partner (if any) consent to the making of a parentage order, with limited exceptions in cases of death, lost capacity or inability to locate; • the birth mother must be 18+ years of age (or 25+ in some cases). <p>The Surrogacy Act 2010 also contains non-mandatory preconditions to the making of a parentage order. These non-mandatory pre-conditions include that the birth mother must have:</p> <ul style="list-style-type: none"> • signed the surrogacy agreement; • received counselling by a qualified counsellor both prior to the surrogacy arrangement being entered into and post-birth, before a parentage order is made; and • received independent legal advice. <p>An application for a parentage order must also be accompanied by an Independent Counsellor's Report which, among other requirements, must include:</p> <ul style="list-style-type: none"> • the counsellor's assessment of each affected party's understanding of the social and psychological implications of the making of a parentage order • whether any consent given by the birth parent or parents to the parentage order is informed consent, freely and voluntarily given.

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18	31	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: Given that New South Wales is now out of step with every other State and the Commonwealth regulations on this issue, have you raised this at meeting of SCAG?</p> <p>Mr MICHAEL DALEY: No, I haven't. I'm satisfied with the position we came to under the equality Act.</p> <p>The Hon. SUSAN CARTER: With respect to the appropriate safeguards, will these include appropriate safeguards for the child who is to be born as a result of the commercial surrogacy arrangement?</p> <p>Mr MICHAEL DALEY: I'll take that on notice. It's all in the Act.</p> <p>The Hon. SUSAN CARTER: Sorry? What's in the Act, Minister?</p> <p>Mr MICHAEL DALEY: I'll take that on notice. That's my answer.</p>	<p>I am advised that:</p> <p>Under the Surrogacy Act 2010, it is an offence for a person to enter into, or offer to enter into, a commercial surrogacy arrangement. This offence extends to both domestic commercial arrangements and commercial arrangements entered into overseas by NSW residents.</p> <p>Under amendments to the Surrogacy Act 2010 in the Equality Legislation Amendment (LGBTIQA+) Act 2024, which will come into effect on 1 July 2025, intended parents of children born from commercial surrogacy arrangements entered into outside Australia will have a pathway to obtain parentage orders in NSW.</p> <p>Criminal offences relating to commercial surrogacy, both in NSW and overseas, will remain in effect after 1 July, as will existing safeguards in the Surrogacy Act 2010 that protect the best interests of children born as a result of surrogacy arrangements. These include:</p> <ol style="list-style-type: none"> 1.The Surrogacy Act 2010 is to be administered by reference to the guiding principle that in relation to any surrogacy arrangement, the best interests of the child are paramount. 2.It is a mandatory pre-condition to the making of a parentage order that the Court is satisfied the order is in the best interests of the child. To assist the Court, an application must be accompanied by an Independent Counsellor's Report which, among other things, contains the counsellor's opinion as to whether the parentage order is in the best interests of the child and the reasons for that opinion. 3.The Surrogacy Act 2010 also sets out numerous other pre-conditions to the making of a parentage order, which are designed to protect the interests of all parties. Mandatory pre-conditions include that all affected parties consent, with relevant exceptions. Non-mandatory pre-conditions include that all affected parties have received counselling and legal advice. 4.A Court may make a parentage order if a non-mandatory precondition has not been met in exceptional circumstances or if it is in the best interests of the child (depending on the circumstances and timing of the relevant surrogacy arrangement).

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19	31	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: When you're taking that on notice, can you also perhaps draw our attention to safeguards, if they exist, to ensure that New South Wales commissioning parents are not convicted sex offenders?</p> <p>Mr MICHAEL DALEY: Sure.</p> <p>The Hon. SUSAN CARTER: You know? You understand the history of that risk?</p> <p>Mr MICHAEL DALEY: I'll take that on notice.</p>	<p>I am advised that:</p> <p>Under the Surrogacy Act 2010, it is a mandatory pre-condition to the making of a parentage order that the Court is satisfied the order is in the best interests of the child.</p>
20	32	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: What safeguards are there for spare embryos of New South Wales couples that they will not be sold to the highest bidder?</p> <p>Mr MICHAEL DALEY: I'm not sure. I'd have to take that on notice.</p>	<p>I am advised that:</p> <p>In NSW, this issue is regulated by the Human Tissue Act 1983 and the Assisted Reproductive Technology Act 2007, which are administered by the Minister for Health, Minister for Regional Health and Minister for Mental Health.</p> <p>If embryos are located overseas, the laws of the relevant jurisdiction will apply.</p>
21	32	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: How will these laws be enforced in overseas jurisdictions?</p> <p>Mr MICHAEL DALEY: I'll take that on notice and the Act is currently under review as well, so all these issues will be raised by the department and looked at.</p> <p>The Hon. SUSAN CARTER: These protections are in place, or these protections will be put into place?</p> <p>Mr MICHAEL DALEY: I said I'll take it on notice, but reminded you that the Act is under review as well.</p>	<p>I am advised:</p> <p>The Surrogacy Act 2010 is NSW legislation. Under amendments to the Surrogacy Act in the Equality Legislation Amendment (LGBTIQA+) Act 2024, which will come into effect on 1 July 2025, intended parents of children born from commercial surrogacy arrangements entered into outside Australia may obtain parentage orders in NSW. In order to grant a parentage order, the Court must be satisfied that legislated preconditions have been met either in Australia or overseas.</p>

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22	32	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: Thank you. Section 17 of the Surrogacy Act requires "an application for a parentage order must be supported by a report prepared by an independent counsellor." The report must address matters including whether any consent given by the birth parent "is informed consent, freely and voluntarily given". When an overseas commercial surrogate is the birth parent, how is an Australian counsellor to assess the consent of the birth mother?</p> <p>Mr MICHAEL DALEY: I'll take that on notice.</p>	<p>I am advised:</p> <p>Under the Surrogacy Act 2010, the independent counsellor's report must set out the independent counsellor's opinion as to whether the proposed parentage order is in the best interests of the child and the reasons for that opinion.</p> <p>The report is also to include an assessment of whether any consent given by the birth parent to the parentage order is informed consent, freely and voluntarily given.</p> <p>The Act does not prescribe how the counsellor is to make that assessment, which is a matter for the counsellor depending on the circumstances of the parties.</p> <p>It is a mandatory precondition to the granting of a parentage order that a birth parent consent to the making of the order, unless the birth parent has died, lost capacity or cannot be located after reasonable endeavours have been made to locate them. The independent counsellor's report is one indicator of consent, however other evidence may also be provided to the Court.</p>
23	32	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: If an overseas counsellor is to be used, what's the mechanism in place to ensure that the counsellor is independent as required by the Surrogacy Act?</p> <p>Mr MICHAEL DALEY: I'll take that on notice.</p>	<p>I am advised that:</p> <p>Currently, a counsellor exercising a function under the Surrogacy Act 2010 must meet the requirements of a 'qualified counsellor' prescribed by the Surrogacy Regulations 2016 (the Regulations). Among other requirements, a 'qualified counsellor' must be registered to practice (or otherwise recognised by or eligible for membership of the appropriate professional body) in Australia or New Zealand.</p>

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24	32	The Hon. SUSAN CARTER:	The Hon. SUSAN CARTER: Thank you. Clause 7 of the Surrogacy Regulation sets out the requirements for a qualified counsellor under the Act: Only those registered in Australia or New Zealand are recognised. Are you proposing to change that regulation? Mr MICHAEL DALEY: I'll have to take that on notice.	I am advised that: The Department of Communities and Justice is considering the implementation of the amendments to the Surrogacy Act 2010 contained in the Equality Legislation Amendment (LGBTIQA+) Act 2024, which come into effect on 1 July 2025. This process is ongoing.
25	32	The Hon. SUSAN CARTER:	The Hon. SUSAN CARTER: Have you been in discussions with AHPRA, RANZCP, or the Australian Association of Social Workers about potential changes to that regulation? Mr MICHAEL DALEY: I haven't. My department may have, so I'll take that on notice.	I am advised: The Department of Communities and Justice (DCJ) has not yet had discussions with AHPRA, RANZCP, or the Australian Association of Social about this issue. DCJ is considering issues relating to implementation of the Equality Act amendments to the Surrogacy Act, which are due to commence on 1 July 2025. DCJ notes that The Australian & New Zealand Infertility Counsellors Association, the Fertility Society of Australia and New Zealand, the Royal Australian and New Zealand College of Obstetricians & Gynaecologists and the National Health & Medical Research Council were invited to make submissions in the review of the Surrogacy Act, which is ongoing.

QTON #	Transcript Page	Member	Question on Notice	Answer
26	32	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: If you could provide details of that? If the birth mother has not given consent freely and voluntarily—for example, because she's been trafficked into surrogacy slavery—what happens to the child who is born as a result of that commercial and exploitative relationship?</p> <p>Mr MICHAEL DALEY: Again, I'll take it on notice.</p>	<p>I am advised that:</p> <p>In order to make a parentage order, the Court must be satisfied that the mandatory preconditions prescribed by the Surrogacy Act 2010 have been met. It is a mandatory pre-condition of a parentage order being made that the birth mother has consented to the order, unless she has died, lost capacity or cannot be located despite reasonable endeavours. If this precondition cannot be met, a parentage order cannot be made.</p> <p>A parentage order is not a necessary requirement for a child born through international commercial surrogacy to remain in Australia. A child's right to live in Australia is determined under Commonwealth law.</p>
27	32	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: The equality legislation, passed last October, considered the law governing prostitution as contained in the Summary Offences Act and one change was made to this law. Has your department now established an inquiry to consider further changes to this law, which we considered only four months ago?</p> <p>Mr MICHAEL DALEY: Yes. There's a review of those provisions underway now.</p> <p>The Hon. SUSAN CARTER: Why did you decide that this was a priority policy area?</p> <p>Mr MICHAEL DALEY: Who said it was a priority?</p> <p>The Hon. SUSAN CARTER: You've established a review. There are all sorts of things we could review. Why is this a priority for review?</p> <p>Mr MICHAEL DALEY: Because during discussions on the equality bill, we discussed with Alex Greenwich, who is the sponsor of that bill, if I can put it that way, about the best ways to achieve the objectives that he was seeking. Rather than us agreeing to or disagreeing with the provisions that he put forward, we thought it might be better to sit down with stakeholders and him and have a considered review of those provisions, and that's what we're doing now.</p> <p>The Hon. SUSAN CARTER: What are the terms of reference of the inquiry? Where can the public find them?</p> <p>Mr MICHAEL DALEY: I'll take that on notice.</p>	<p>I am advised:</p> <p>The Minister for Climate Change, Minister for Energy, Minister for the Environment and Minister for Heritage, the Hon. Penny Sharpe MLC, noted during parliamentary debate on the Equality Legislation Amendment (LGBTIQA+) Bill 2023 that concerns have been expressed about the need to retain the offences in Part 3 of the Summary Offences Act 1988 in modern New South Wales.</p> <p>The purpose of the review is to understand whether the offences remain relevant and appropriate, or whether the provisions of Part 3 should be amended or repealed. It does not extend to considering whether, for example, sex work should be re-criminalised or whether a different model of regulating sex work should be implemented.</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
28	33	The Hon. SUSAN CARTER:	The Hon. SUSAN CARTER: When was the inquiry established? Mr MICHAEL DALEY: I'll take that on notice.	The Attorney General announced the review of Part 3 of the Summary Offences Act 1988 on 16 October 2024, during parliamentary debate on the Equality Legislation Amendment (LGBTIQA+) Bill 2023. The Department of Communities and Justice released a targeted discussion paper to inform the review in January 2025.
29	33	The Hon. SUSAN CARTER:	The Hon. SUSAN CARTER: Is the consultation open to the public, or is it by invitation to selected stakeholders? Mr MICHAEL DALEY: I'll take that on notice as well.	I am advised: Refer to QTON answer 28.

QTON #	Transcript Page	Member	Question on Notice	Answer
30	33	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: Is this an area of law reform in which you are interested in hearing from the public?</p> <p>Mr MICHAEL DALEY: Of course.</p> <p>The Hon. SUSAN CARTER: So this will be open to the public to make submissions?</p> <p>Mr MICHAEL DALEY: I just said I'll take that on notice.</p>	<p>I am advised:</p> <p>See response to question taken on notice 28.</p>
31	35	The Hon. TANIA MIHAILUK:	<p>The Hon. TANIA MIHAILUK: It relates to the fact that I'm asking whether he has a policy document before him about how he manages that. That's what I'm asking. Is there a governance structure? Is there something before him on how he manages that? It's not specifically—</p> <p>The CHAIR: I think that question is out of order.</p> <p>The Hon. TANIA MIHAILUK: I don't see how it can be, because I'm asking him about what policies—how his office manages it, how the department manages it. There must be something. I asked a very similar question the other day of Kamper, and I got an answer. So that's absurd.</p> <p>The Hon. EMILY SUVAAL: Are you dissenting from the ruling?</p> <p>The Hon. BOB NANVA: Perhaps if the member could just ask if there's a conflict of interest protocol, full stop. I think that's a fair question.</p> <p>The Hon. TANIA MIHAILUK: It's a cover-up, but yes. Is there a conflict of interest protocol? How about that? It's an easier question for you, Attorney General.</p> <p>Mr MICHAEL DALEY: It's a bit vague, so I'll take it on notice.</p>	<p>I am advised:</p> <p>See answer to SQ 4.</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
32	36	Ms ABIGAIL BOYD:	<p>Ms ABIGAIL BOYD: Just a couple of quick ones from me. The first one, the independent Victims Services Commissioner I've been asking about for a little while in estimates. I understand a discussion paper has gone out, but it's not public. Can you give us an update on where this is up to?</p> <p>Mr MICHAEL DALEY: Mr McKnight might be able to give us an update on that, or Mr Tidball.</p> <p>PAUL McKNIGHT: We are currently undertaking consultation. Let me see if I can get you dates.</p> <p>Mr MICHAEL DALEY: On the model of what the new independent Victims Services Commissioner might look like, we've asked groups to give us their views on what the model of the new commissioner should look like.</p> <p>PAUL McKNIGHT: A discussion paper was distributed to stakeholders in January this year.</p> <p>Mr MICHAEL DALEY: On 13 January.</p> <p>PAUL McKNIGHT: It seeks submissions by 21 February, so last week. It goes to the model of the commissioner's structure.</p> <p>Ms ABIGAIL BOYD: Glad to see this commitment progressing. When will that discussion paper be made public? Or when will there be some public consultation, as opposed to just select stakeholders?</p> <p>PAUL McKNIGHT: I'll need to take on notice the detail of the process.</p>	<p>I am advised:</p> <p>See response to SQ 123.</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
33	36	Ms ABIGAIL BOYD:	<p>Ms ABIGAIL BOYD: The other one was in relation to industrial manslaughter. During debate on the bill that brought in the industrial manslaughter offence, assurances were provided that the Office of the Director of Public Prosecutions would establish a separate identifiable team with specialist expertise in that area. What is the progress of establishing that specialised unit?</p> <p>Mr MICHAEL DALEY: You might want to ask the director herself, if you like. As I understand, that's being given consideration.</p> <p>SALLY DOWLING: We are still sorting out the funding for that and we are working out the terms of the memorandum of understanding with SafeWork in terms of what the brief will look like when it comes to our office.</p> <p>Ms ABIGAIL BOYD: Is there a time frame for when that will be in place? I'm worried we're going to get a prosecution and not have the specialist expertise in place by then.</p> <p>SALLY DOWLING: It's well underway. I'll have to revert to you on the time.</p> <p>Ms ABIGAIL BOYD: On notice. Yes, that would be great. Any details you can give me on notice would be great.</p> <p>Mr MICHAEL DALEY: Sure.</p>	<p>I am advised:</p> <p>This information is Cabinet information and therefore not available for public release.</p>
34	37	Ms SUE HIGGINSON:	<p>Ms SUE HIGGINSON: I want to go back to the CJs very quickly. Is the cost-benefit analysis that you've undertaken something you would provide to the public? Is that something that can be made available?</p> <p>Mr MICHAEL DALEY: I'll take that on notice and see what the status of that is.</p>	<p>I am advised:</p> <p>This information is Cabinet information and therefore not available for public release..</p>
35	38	Ms SUE HIGGINSON:	<p>Mr MICHAEL DALEY: I'm always open. Mr Tidball might have some figures that you might be interested in too. He can sort that during the break, if you would like him to.</p> <p>Ms SUE HIGGINSON: In terms of those numbers and that matrix though, are they mediations completed? Are they intakes? I understand what picture can be painted with those numbers, but I'm curious as to the inputs to those numbers.</p> <p>MICHAEL TIDBALL: I think what I can provide to you is the number of— from mediations held— sorry, inquiry to mediation held. I do actually have percentages of resolution, which I can provide on notice.</p> <p>Mr MICHAEL DALEY: Do you want to get that on notice and we'll give you some detailed breakdown?</p> <p>Ms SUE HIGGINSON: I think that would be helpful</p>	<p>I am advised:</p> <p>In FY2005, 3,259 mediations were arranged, and 2,812 mediations were held. In FY2024, 796 mediations were arranged, and 728 mediations were held.</p> <p>Of those, approximately 72% were settled.</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
36	39	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: Is the electronic monitoring equipment available in regional centres and in the city?</p> <p>MICHAEL TIDBALL: I believe so, yes.</p> <p>The Hon. SUSAN CARTER: Are there no black holes where it's not possible to be monitored? I'm happy for you to take that on notice.</p> <p>MICHAEL TIDBALL: No. The answer to that question is that it is intended to be statewide, but I'm always very reluctant, with questions about technology, to underwrite the reception.</p> <p>The Hon. SUSAN CARTER: I understand the intention. This was not a gotcha; I just want to understand what's happening. I'm happy for you to take that on notice because I think it is an important question to understand exactly what the coverage is. How many alleged serious DV offenders have been retained in custody on remand, and is that an increase on previous figures, a decrease, or stable?</p>	<p>I am advised:</p> <p>This question should be directed to the Hon. Anoulack Chanthivong MP in his capacity as the Minister for Corrections.</p>
37	41	The Hon. NATASHA MACLAREN-JONES:	<p>The Hon. NATASHA MACLAREN-JONES: I move to the use and carrying of knives in public spaces and schools, and in particular sections 93IB and 93IC. What impact have these changes made?</p> <p>Mr MICHAEL DALEY: I'd have to take that on notice. I take it that you are referring to the crime stats?</p> <p>The Hon. NATASHA MACLAREN-JONES: Yes.</p> <p>Mr MICHAEL DALEY: I'll take that on notice. But these are all set out in BOCSAR reports that are publicly available.</p>	<p>I am advised:</p> <p>Please see https://bocsar.nsw.gov.au</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
38	42	The Hon. NATASHA MACLAREN-JONES:	<p>The Hon. NATASHA MACLAREN-JONES: I have to say it's a concern that you've got an Attorney General, those latest figures came out over a week ago, and you haven't even cast your eye over them.</p> <p>Mr MICHAEL DALEY: Who said I haven't cast my eye over them?</p> <p>The Hon. NATASHA MACLAREN-JONES: Because every time I ask a question in relation to any figures around BOCSAR, you basically have no answer.</p> <p>Mr MICHAEL DALEY: Okay, then do you want to sit here and wait while I turn around and get a note?</p> <p>The Hon. NATASHA MACLAREN-JONES: No.</p> <p>Mr MICHAEL DALEY: It will take me five minutes.</p> <p>The Hon. NATASHA MACLAREN-JONES: I'm happy to tell you because I've got a copy here.</p> <p>Mr MICHAEL DALEY: No, we'll do that. Let's go. How are we going with that note?</p> <p>The Hon. NATASHA MACLAREN-JONES: They haven't changed. Attorney General, I can let you know it hasn't changed.</p> <p>Mr MICHAEL DALEY: It's not a memory test. I will take it on notice.</p>	<p>I am advised:</p> <p>Please see response to question on notice 37.</p>
39	42	The Hon. NATASHA MACLAREN-JONES:	<p>The Hon. NATASHA MACLAREN-JONES: Attorney General, how many people have received a jail term in excess of two years for custody of a knife either under section 93IB or 93IC of the Crimes Act?</p> <p>Mr MICHAEL DALEY: Unless someone's got that at their fingertips, I'll take that on notice. In fact, I'll just take that on notice.</p>	<p>I am advised:</p> <p>In the 15 months from October 2023 to December 2024, there were 1,647 finalisations in the NSW Criminal Courts where the principal proven offence was under section 93IB or 93IC of the Crimes Act; 163 received a custodial penalty.</p>
40	44	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: Have they also made representations to you about increased workplace support?</p> <p>Mr MICHAEL DALEY: I'd have to go back and have a look at the minutes of my meetings with them.</p>	<p>I am advised:</p> <p>In accordance with the Premier's Memorandum M2015-05 Publication of Ministerial Diaries and Release of Overseas Travel Information, all Ministers publish extracts from their diaries, summarising details of scheduled meetings held with stakeholders, external organisations, third-party lobbyists and individuals. Ministers are not required</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
				<p>to disclose details of the following meetings:</p> <ul style="list-style-type: none"> • meetings involving Ministers, ministerial staff, parliamentarians or government officials (whether from NSW or other jurisdictions) • meetings that are strictly personal, electorate or party political • social or public functions or events • meetings held overseas (which must be disclosed in accordance with regulation 6(1)(b) of the Government Information (Public Access) Regulation 2018 and Attachment B to the Premier's Memorandum), and; • matters for which there is an overriding public interest against disclosure. Ministers' diary disclosures are published quarterly on The Cabinet Office's website (https://www.nsw.gov.au/departments-and-agencies/the-cabinet-office/accessto-information/ministers-diary-disclosures)
41	50	The Hon. NATASHA MACLAREN-JONES:	<p>The Hon. NATASHA MACLAREN-JONES: The other question is just following up from last year. I asked about the \$13 billion in savings, I think it was, in regard to the Crime Prevention Fund and the Graffiti Initiatives Fund. We've seen an increase in graffiti across the State, particularly antisemitic attacks but also more broadly. A number of shires have seen an increase in graffiti. Will you now reverse your decision to cut the graffiti fund?</p> <p>Mr MICHAEL DALEY: I'll take that on notice, but it's probably unlikely.</p>	<p>I am advised:</p> <p>There is little evidence that interventions of this nature represent value for money or were effective in the prevention of crime and graffiti. Other interventions are seen as more effective and cost-effective.</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
42	52	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: Mr D'Aeth, perhaps we could start with you, if that's okay. I hope these are allocated correctly, but I'm sure you'll direct them to whoever can answer if they're not. I'm curious about forensic mental health services and the impact on the court system of resignation by psychiatrists. I am wondering if you're monitoring the impact on 19B orders.</p> <p>MICHAEL TIDBALL: I can at high level, Mrs Carter. Can I respond and say we, until very recently, allocated a staff member full time to be the entire DCJ system, including courts, interfaced with Health. We have been daily receiving reports, and I've had a particular focus on Corrections, Youth Justice and other interfaces. In terms of the specific 19B question, I would need to take that on notice. I will say what I've been particularly seeking to do—I had discussions with heads of jurisdiction when the dispute emerged on the basis that if there were any blockages in the system, I would be alerted. I've not heard any disjunction arising, but I could give you a more considered and thorough response if we took it on notice.</p> <p>The Hon. SUSAN CARTER: If you wouldn't mind. Perhaps, as part of that—unless you feel comfortable answering it now—I'm also curious, because one hears things and one likes to test them, about the availability of beds for any accused that is the subject of a 19A order and whether there are any difficulties there.</p> <p>MICHAEL TIDBALL: I should take that on notice.</p>	<p>I am advised:</p> <p>The Supreme Court, Local Court, District Court, Children's Court, and Drug Court have not reported any impact on their jurisdictions. This includes their ability to issue orders under the Mental Health and Cognitive Impairment Forensic Provisions Act 2020, as well as the availability of beds for individuals subject to a 19A order.</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
43	53	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: Yes. You would be aware that details of a matter heard under the Children (Criminal Proceedings) Act were provided to and discussed on air on the 2GB Breakfast Show on 25 October last year?</p> <p>CHRIS D'AETH: I'm not sure I am familiar with that particular matter.</p> <p>The Hon. SUSAN CARTER: Okay. Well, the presenter, Ben Fordham, discussed in some detail, with clearly considerable knowledge of what had happened in a particular matter dealing with a young Indigenous boy, on air on 25 October. You weren't aware of that? That hadn't been brought to your attention at all?</p> <p>CHRIS D'AETH: I'd have to go back and check my notes, but I'm looking to my colleagues if they're—</p> <p>The Hon. SUSAN CARTER: I was wondering what investigations were ongoing in relation to that clearly authoritative covering of sensitive Children's Court matters.</p> <p>CHRIS D'AETH: I'm happy to take that on notice.</p>	<p>I am advised:</p> <p>This may be the subject of an ongoing investigation and it would be inappropriate for me to comment at this time.</p>
44	53	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: If you could. There are limited sources of that information. If it had come from, for example, DCJ, I assume that would be a breach of employment conditions.</p> <p>CHRIS D'AETH: I assume so, too. But, again, in the absence of full information, I don't wish to speculate.</p> <p>The Hon. SUSAN CARTER: Absolutely. I suppose you did not cause this matter to be reported to the police.</p> <p>CHRIS D'AETH: I'll take that on notice. I haven't made any referral to the police.</p>	<p>I am advised:</p> <p>The Courts, Tribunals and Service Delivery division in the Department of Communities and Justice did not cause this matter to be reported to police.</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
45	53	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: Perhaps you could also take on notice, once you're aware of it, what the appropriate steps are to ensure that this breach does not happen again.</p> <p>CHRIS D'AETH: I'm happy to take that on notice.</p>	<p>I am advised:</p> <p>This may be the subject of an ongoing investigation and it would be inappropriate for me to comment at this time.</p> <p>All DCJ employees must adhere to the Code of Ethical Conduct, and report suspected breaches of the code to their manager/supervisor and/or the Professional Standards Unit.</p>
46	53	The Hon. NATASHA MACLAREN-JONES:	<p>The Hon. NATASHA MACLAREN-JONES: I might cover off a couple of questions around CJC's. First of all, could I get an idea or find out who are the stakeholders that were consulted about the closure? I understand it was October last year, but I'm interested to know who was formally advised.</p> <p>CHRIS D'AETH: Stakeholders were advised. Stakeholders were not consulted. The decision had already been taken and we were advising stakeholders of the decision of the Government.</p> <p>The Hon. NATASHA MACLAREN-JONES: Are you able to speak into the microphone a bit more?</p> <p>CHRIS D'AETH: Apologies for that. I'll repeat what I just said. The notice on 17 October was notice of the Government decision. It wasn't consultation prior to the Government's decision.</p> <p>The Hon. NATASHA MACLAREN-JONES: Who was advised of the decision?</p> <p>CHRIS D'AETH: I can give you the full list of the people, but obviously the staff and the mediators and the Office of Local Government, the New South Wales Bar Association and the Law Society. But I'm happy to take that on notice and give you the full list.</p> <p>The Hon. NATASHA MACLAREN-JONES: Was anyone consulted on the decision?</p> <p>CHRIS D'AETH: I'll take that on notice.</p>	<p>I am advised:</p> <p>Staff, mediators, Local Court, Land and Environment Court, Legal Aid NSW, Office of Local Government, NSW Police, Public Service Association, NSW Law Society, Aboriginal Legal Service and NSW Bar Association were notified of the decision on 17 October 2024.</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
47	54	The Hon. NATASHA MACLAREN-JONES:	<p>The Hon. NATASHA MACLAREN-JONES: Do you know how much it currently costs for the CJC's?</p> <p>CHRIS D'AETH: The cost of the CJC's in the financial year 2024 was \$3.029 million.</p> <p>The Hon. NATASHA MACLAREN-JONES: Do you have a breakdown? Some of that would be administrative costs like the physical buildings and staff. Do you have that breakdown?</p> <p>CHRIS D'AETH: I don't have those figures instantly.</p> <p>The Hon. NATASHA MACLAREN-JONES: Are you able to take that on notice?</p> <p>CHRIS D'AETH: I'll take that on notice.</p>	<p>I am advised:</p> <p>In 2024/25, the funding for staff and mediator expenses is \$2.56 million and other operating expenses is \$0.469 million.</p>
48	54	The Hon. NATASHA MACLAREN-JONES:	<p>The Hon. NATASHA MACLAREN-JONES: Are there any volunteers involved that assist with CJC's?</p> <p>CHRIS D'AETH: I might take that on notice. I'm not sure.</p> <p>The Hon. NATASHA MACLAREN-JONES: If so, if you could also find out the number of volunteers that assist.</p> <p>CHRIS D'AETH: I'm happy to do so.</p>	<p>I am advised:</p> <p>There are no volunteers in Community Justice Centres.</p>
49	55	The Hon. NATASHA MACLAREN-JONES:	<p>The Hon. NATASHA MACLAREN-JONES: In relation to the cost, \$3.29 million over that last financial year, what are the cost savings you're expecting by making this change?</p> <p>CHRIS D'AETH: I'll take that on notice.</p>	<p>I am advised:</p> <p>The cost savings are expected to be greater than \$2.5 million per year.</p>
50	56	The Hon. TANIA MIHAILUK:	<p>The Hon. TANIA MIHAILUK: My questions are to Ms Dowling. Can we have a response to the questions that I asked earlier today in relation to the stipends?</p> <p>SALLY DOWLING: Just to clarify, there is no stipend. There is no regular ongoing payment.</p> <p>The Hon. TANIA MIHAILUK: So it is a one-off fee.</p> <p>SALLY DOWLING: It's a fee, yes. And I don't have the final details of the amounts that were charged. They haven't yet been paid, but I will take that on notice and provide it to the Committee in due course.</p>	<p>See the answer to question 64.</p>
51	57	The Hon. TANIA MIHAILUK:	<p>The Hon. TANIA MIHAILUK: What was the arrangement that you made with Sir Max Hill in that case?</p> <p>SALLY DOWLING: I would need to look at the documentation to answer that question accurately.</p> <p>The Hon. TANIA MIHAILUK: You will take that on notice?</p> <p>SALLY DOWLING: I will.</p>	<p>See the answer to question 64.</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
52	57	The Hon. TANIA MIHAILUK:	The Hon. TANIA MIHAILUK: Could you take on notice what the arrangement was or is still with Professor Quilter and the amount of money that either has been or will be paid for her services? I assume their services are not ongoing in that case. SALLY DOWLING: That's correct.	See the answer to question 64.
53	58	The Hon. TANIA MIHAILUK:	The Hon. TANIA MIHAILUK: Will they also be given some sort of fee to assist with the working group—the external—or has that not been considered yet? SALLY DOWLING: I can't answer that question at this stage. The Hon. TANIA MIHAILUK: You can take that on notice, if you intend to do that.	I am advised: The Trauma and Memory Working Group is yet to be established. As such, this question is unable to be answered at this stage.
54	59	Ms SUE HIGGINSON:	Ms SUE HIGGINSON: I would love to just start again with the Community Justice Centres, following on from what we talked about earlier. I think the Attorney General may have taken it on notice; I don't know. Will the cost-benefit analysis be a document or something that can be made public or is that something that you'll consider? MICHAEL TIDBALL: I have heard the Attorney General's response today, and I've heard your questions. If I can take that on notice and try to provide something to the Committee, that may be of assistance.	I am advised: See response to question on notice 34.
55	60	Ms SUE HIGGINSON:	Ms SUE HIGGINSON: Are we still spending \$2,814 per day to incarcerate a young person, or is it more if they are on remand? MICHAEL TIDBALL: I will need to check the number. That sounds about right.	I am advised: This question should be directed to the Hon. Jihad Dib MP in his capacity as the Minister for Youth Justice.
56	60	The Hon. SUSAN CARTER:	The Hon. SUSAN CARTER: Were you asked to contribute to the current review of the New South Wales Surrogacy Act? JAMES COCKAYNE: I would have to take that on notice.	I am advised: Yes, the Anti-Slavery Commissioner received a request from DCJ to contribute to the Review of the Surrogacy Act and Status of Children Act on 12 June 2024. The Anti-Slavery Commissioner provided his submission to the review on 2 August 2024. The submission is publicly available on the Anti-Slavery Commission website at https://dcj.nsw.gov.au/legal-and-justice/our-commissioners/anti-slavery-commissioner/strategic-plan-and-discussion-papers.html

QTON #	Transcript Page	Member	Question on Notice	Answer
57	62	The Hon. NATASHA MACLAREN-JONES:	<p>The Hon. NATASHA MACLAREN-JONES: Do you have a breakdown of the costs that have been paid to Legal Aid NSW for the additional private practitioners?</p> <p>MONIQUE HITTER: The Legal Aid application system? Yes, I do. I don't have it with me, so can I provide that on notice please?</p> <p>The Hon. NATASHA MACLAREN-JONES: Yes, that's fine. Just for the last 12 months is fine. I'm also interested to know about the work that has been undertaken to develop a needs-based funding methodology for the community legal centres.</p>	<p>I am advised:</p> <p>We understand that the question about costs relates to the new grants management system that is being developed. Since receiving additional funding in late 2023, Legal Aid NSW has expended \$2.542 million in capital funding and \$0.3 million in operational funding up to the end of February 2025. Of that amount, Legal Aid NSW has spent \$1.91 million in capital expenditure in 2024/25 to the end of February 2025.</p> <p>In regard to questions on a needs-based funding methodology for Community Legal Centres, refer to response to subsequent questions from the Hon. Susan Carter in the transcript.</p>
58	63	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: Can I just ask you, Mr McKnight, how much was provided to each CLC for its general legal services in the last financial year?</p> <p>PAUL McKNIGHT: That sits, I think, as a schedule in the Legal Aid space, so Ms Hitter might have that with us.</p> <p>The Hon. SUSAN CARTER: Can you provide that on notice and also where it can be publicly accessed?</p> <p>PAUL McKNIGHT: Absolutely. Perhaps Ms Hitter could take that one.</p> <p>MONIQUE HITTER: Yes, I can take that one.</p>	<p>I am advised:</p> <p>This information is set out in the Legal Aid NSW Annual Report 2023/24.</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
59	64	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: To the point of order: I believe Mr McKnight was trying to rephrase the question. I really just want a simple answer yes or no.</p> <p>The Hon. EMILY SUVAAL: He was trying to answer the question, Chair.</p> <p>PAUL McKNIGHT: Under the NLAP agreement, CLCs are required to provide a high level of information about the services they provide to their community. Those reports are received by New South Wales and they are passed on to the Commonwealth. It's comprehensive reporting. What is missing, and I think it is what everybody recognises is missing—the sector, Commonwealth, us—is an outcomes framework that would tell us whether those services are actually achieving an outcome in the world. There are commitments under the National Access to Justice Partnership to develop that outcomes framework at a national level. It's a commitment I particularly care about, and I think it's something that has been missing from our framework.</p> <p>The Hon. SUSAN CARTER: And a time frame for those being developed?</p> <p>PAUL McKNIGHT: My recollection is that is to be developed in the first two years of the NLAP. I could be wrong about that; it might be the first 12 months. Can I take that on notice?</p> <p>The Hon. SUSAN CARTER: Please. Thank you very much.</p>	<p>I am advised:</p> <p>The National Access to Justice Partnership 2025-2030 provides that a high-level outcomes-based framework is to be developed within the first 24 months of the National Access to Justice Partnership 2025-2030.</p>
60	66	Ms SUE HIGGINSON:	<p>Ms SUE HIGGINSON: On that basis, has BOCSAR provided any advice about what it's doing in terms of measuring? Has it been asked to measure any reduction in crime or the effectiveness of locking up kids on remand? I'm asking this because BOCSAR has clearly reported—I would suggest a 34.4 per cent increase in young people on remand in one year's time is unprecedented. I could be wrong, but I would suggest that's unprecedented. Have we ever had an entire one-third increase in the incarcerated figure—that is, young people being placed on remand? Have we ever before seen such an increase in such a short period of time; are you aware?</p> <p>MICHAEL TIDBALL: Ms Higginson, I'm very happy to take that on notice. I'm reluctant to speculate, which is what I would be doing.</p>	<p>I am advised:</p> <p>The 34.4% increase in young people on remand between December 2023 and December 2024 is not unprecedented. Between September 2021 and September 2022 the number of young people on remand increased 48.1% ..</p> <p>Source: BOCSAR 2025</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
61	67	Ms SUE HIGGINSON:	<p>Ms SUE HIGGINSON: As an adviser on such matters, when do you think we might see what I suspect the Government wants to see—namely, this massive figure on the scales weighing everything down justifies somehow—I suspect it never will—the crime rate. Is that happening? Is that the matrix you're looking for, or the Attorney General's looking for?</p> <p>PAUL McKNIGHT: I'm not sure I understand the question entirely.</p> <p>Ms SUE HIGGINSON: The crime rate comes down. Youth crime, offending stops, and it all comes down.</p>	<p>I am advised:</p> <p>In the two years to December 2024, the number of young people proceeded against by the NSW Police to court for a criminal offence remained stable. In the two years to December 2024, the number of young people proceeded against by the NSW Police by way of a diversion under the Young Offenders Act fell significantly by 8.9%.</p> <p>Source: BOCSAR 2025</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
62	68	Ms SUE HIGGINSON:	<p>PAUL McKNIGHT: I think the Government's made it clear that it's looking for reductions in the crime rate.</p> <p>Ms SUE HIGGINSON: But it hasn't seen any yet. Is that the evidence? I couldn't quite get what the Attorney was saying.</p> <p>PAUL McKNIGHT: I haven't got the crime figures in front of me, but I think the Attorney took some of that on notice this morning.</p> <p>Ms SUE HIGGINSON: Just to be certain and clear that the information is coming to the Committee, is that something that you can provide to the Committee—some understanding of what we're all staying up at night over and biting our nails to the quicks over and understanding we're locking more kids up? What are we looking for in terms of the crime rate?</p> <p>PAUL McKNIGHT: I think I can take that on notice.</p>	<p>I am advised:</p> <p>Trends in the 13 major crime categories over the two years to December 2024:</p> <ul style="list-style-type: none"> • Murder - stable • Domestic violence related assault - stable • Non -domestic violence related assault - stable • Sexual assault - stable • Sexual touching, sexual act and other sexual offences – stable • Robbery – stable • Break and enter dwelling – stable • Break and enter non-dwelling – stable • Motor vehicle theft – stable • Steal from motor vehicle - down 8.0% • Steal from retail store – stable • Other stealing offences – stable • Malicious damage to property - stable <p>Source: BOCSAR 2025</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
63	68	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: What steps have you taken since that matter to make sure this situation doesn't recur?</p> <p>SALLY DOWLING: The obligations upon Crown prosecutors under the Crown Prosecutors Act are well understood, I think, across the organisation, so this is not a common occurrence.</p> <p>The Hon. SUSAN CARTER: No, but it has occurred, so what steps, what training, what meetings, what have you put in place to make sure that whatever happened here doesn't recur?</p> <p>SALLY DOWLING: I have asked the Senior Crown Prosecutor to remind the Crown prosecutors of their obligations and the limitations on their functions under the Crown Prosecutors Act.</p> <p>The Hon. SUSAN CARTER: Have you had any communication following that reminder?</p> <p>SALLY DOWLING: I'd have to check that.</p>	<p>I am advised:</p> <p>No communications have been received following the reminder by the Senior Crown Prosecutor.</p>
64	69	The Hon. TANIA MIHAILUK:	<p>The Hon. TANIA MIHAILUK: Ms Dowling, on a similar matter, but back to this report, I think I asked you earlier to take on notice the full costs and fees that will be associated with both Sir Hill and the professor, who are reviewing it. Could you also provide the hourly rate that was agreed to, whether any payment has been made to date, what you expect will be the final payment, and whether there was an agreed cap? I want to get the parameters for both Sir Hill and the professor in question.</p> <p>SALLY DOWLING: Certainly.</p>	<p>I am advised:</p> <p>Professor Quilter's rate was \$1000 + GST/day, consistent with the daily UOW Professor academic rate. Professor Quilter provided an estimate of 4 to 5 working days.</p> <p>An invoice was received for \$4950 (4 ½ days + GST), which has been paid. Sir Max Hill was engaged in his personal capacity, as a former DPP of England and Wales. His rate was £500/hour. Sir Max provided an estimate of 15 to 20 hours.</p> <p>An invoice was received for £8500 (17 hours), which has been paid.</p>
65	70	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: Ms Dowling, at the time of the circumstances becoming public that gave rise to the audit of sexual assault matters and the completion of the audit, were there any sexual assault matters, in addition to those 17 that were discontinued, that were no-billed?</p> <p>SALLY DOWLING: As stated in the report, there were some matters that had already been referred for consideration prior to the report.</p> <p>The Hon. SUSAN CARTER: And how many of those were there?</p> <p>SALLY DOWLING: I'd have to check that for you.</p> <p>The Hon. SUSAN CARTER: Could you, please? Do you have it available to you now?</p> <p>SALLY DOWLING: I don't. I'll have to ask about it.</p> <p>The Hon. SUSAN CARTER: Will you provide it before the end of the day?</p> <p>SALLY DOWLING: I don't know. I'm sure it's in there.</p>	<p>I am advised:</p> <p>See footnote 52 of the Sexual Assault Review (SAR) Report.</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
66	70	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: Perhaps you can provide it before the end of the day. Is that possible?</p> <p>The Hon. BOB NANVA: Point of order: The witness has taken the question on notice, as she's entitled to do under the procedural fairness resolution. I ask that the member moves on.</p> <p>The Hon. SUSAN CARTER: These matters were no-billed, and they were in addition to the 17 matters that were discontinued?</p> <p>SALLY DOWLING: I'll come back to you with a correct and detailed answer.</p>	<p>I am advised:</p> <p>See the answer to question 65.</p>
67	70	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: Could the answer include whether they were in addition? Could the answer also include whether they were no-billed at the request of the defendants or whether they were no-billed as a result of the exercise of your discretion and without the request of the defendants?</p> <p>SALLY DOWLING: I won't be able to answer that last one.</p> <p>The Hon. SUSAN CARTER: Why not?</p> <p>SALLY DOWLING: Because I don't have it readily available.</p> <p>The Hon. SUSAN CARTER: If you're taking it on notice, you can provide it after you've looked at it.</p> <p>SALLY DOWLING: I'm so sorry, I thought you wanted it today.</p> <p>The Hon. SUSAN CARTER: I would like it today but, if I can only get that at a later date, I'll happily get it at a later date. As you said, we want accurate information.</p>	<p>I am advised:</p> <p>The ODPP does not maintain the specific data sought in an accessible form. The process whereby a matter is discontinued is the same, irrespective of whether representations are received from an accused person, or the matter is reconsidered internally. This process is detailed at pp 8-11 of the SAR Report.</p>
68	71	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: Where multiple charges had been laid, subject to the audit, were they all withdrawn or were there cases where matters were discontinued; so some of the charges were discontinued but other charges proceeded?</p> <p>SALLY DOWLING: It's the latter.</p> <p>The Hon. SUSAN CARTER: Do you have any figures on how many proceeded with some of the charges being withdrawn?</p> <p>SALLY DOWLING: I'll have to come back to you on that. It is contained in the report.</p> <p>The Hon. SUSAN CARTER: That would be very helpful.</p>	<p>I am advised:</p> <p>Where the SAR Report referred to discontinued matters, all charges were discontinued. There were 21 other matters considered as part of the SAR which were directed to proceed but with the charges amended (either a reduction in the number of charges, a change to the offences charged, or an increase in the number of charges).</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
69	72	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: And you are confident that every victim whose matter was not proceeded with has received that summary?</p> <p>SALLY DOWLING: I am confident, yes.</p> <p>The Hon. SUSAN CARTER: I have received correspondence from some who believe they have not received that.</p> <p>SALLY DOWLING: Is that a question?</p> <p>The Hon. SUSAN CARTER: I suppose I'm asking you to check your recollection and check your understanding.</p> <p>SALLY DOWLING: I can't respond to that without any further details</p> <p>The Hon. SUSAN CARTER: I will inquire whether my correspondents are happy to have their details shared, and perhaps you could check on notice that that has been provided to everybody in that category?</p>	<p>I am advised:</p> <p>The ODPP is satisfied that a summary of the reasons for discontinuance was provided to victims whose matters were discontinued as part of the SAR Report, as required by Chapter 5.6 of the Prosecution Guidelines.</p>
70	72	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: How often is the time frame for that Victims' Right of Review Policy not met?</p> <p>SALLY DOWLING: I'd have to take that on notice.</p>	<p>I am advised:</p> <p>Under the Victims' Right of Review (VRR) Policy, a senior prosecutor should complete their fresh review of a matter within 20 working days. As acknowledged by the Policy, this timeframe is not always able to be met. Whether it can be met will turn on the complexity of the matter and the workload and availability of the senior prosecutor conducting the review.</p>
71	73	The Hon. NATASHA MACLAREN-JONES:	<p>The Hon. NATASHA MACLAREN-JONES: I will ask them. In relation to one of the other items that was listed, which is the first one, under initiatives is: Additional judicial resources for Local (and Children's) Courts jurisdictions (including associated Legal Aid, Office of the Director of Public Prosecutions and police costs) for 6 months and additional Aboriginal Legal Service funding. I am interested to know how much funding has been allocated for judicial resources.</p> <p>MICHAEL TIDBALL: I'm going to be way more accurate if I provide that on notice, if that's okay?</p> <p>The Hon. NATASHA MACLAREN-JONES: That's fine.</p>	<p>I am advised:</p> <p>Funding has been provided for an additional Magistrate for a six month period. This included funding for Court support for the additional Magistrate for this period.</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
72	73	The Hon. NATASHA MACLAREN-JONES:	<p>The Hon. NATASHA MACLAREN-JONES: Well, you've been here all day! It's actually following up from questions from last year, in relation to the justice reinvestment sites at Kempsey and Nowra, and the Paul Ramsay Foundation. During questions, you mentioned that they had engaged Taylor Fry to undertake an experimental evaluation of both sites. I'm interested to know if that has commenced and the time frame. I presume the department will be advised of that evaluation.</p> <p>ANNE CAMPBELL: Yes, that's correct. Following the development of the memorandum of understanding, which is called the Monitoring, Evaluation and Learning Framework, they are looking at an economic evaluation to be carried out from this year and reported on in 2027, to look at the impacts.</p> <p>The Hon. NATASHA MACLAREN-JONES: Do you know when in 2027?</p> <p>ANNE CAMPBELL: I'd need to take that on notice.</p> <p>The Hon. NATASHA MACLAREN-JONES: That's fine.</p>	<p>I am advised:</p> <p>The Department of Communities and Justice (DCJ) has been advised that the Paul Ramsay Foundation has engaged Taylor Fry to undertake a quasi-experimental evaluation of the work of Just Reinvest NSW in Mt Druitt and Moree. DCJ has been advised that the first interim report is due in October 2026, and the final evaluation is due to be completed in December 2027.</p> <p>DCJ is also leading an evaluation of the NSW Government investment in Justice Reinvestment. For Stage 1, Inside Policy, an Aboriginal business, has been engaged to develop Understanding, Monitoring, Evaluation and Learning (UMEL) frameworks for individual sites and an overarching framework by early May 2025. For Stage 2, DCJ plans to procure a consultant to undertake an independent evaluation based on the UMEL frameworks, to commence in June 2025.</p>
73	73	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: Could I ask you to take on notice and perhaps inquire? I understand that because of the centralisation of bail decisions, there are technical difficulties. Absent a system that can digitise, we're talking about faxing paperwork through to courts, and that can take some time. There are sometimes cut-off windows being imposed. If you're not arrested before the cut-off window closes, you're on the next day's list. There are certainly reports of people spending 60 hours in police cells. In some stations, there are no cells, so you're spending all that time in the dock. The information that has been shared with me is that, as the Attorney suggested, there are multiple causes, and bail magistrate delays is definitely one of those causes.</p> <p>MICHAEL TIDBALL: People being held in police cells unnecessarily is clearly a concern. I'm unaware of it from the briefing that I've had. If there are specifics that would assist my inquiry, I'd be very open to receiving those.</p>	<p>I am advised:</p> <p>Refer to the transcript for the Attorney General portfolio Budget Estimates hearing held on Friday 28 February 2025.</p> <p>Refer to responses to questions from the Hon. Susan Carter on pages 31-32 of the transcript for the Police and Counter-Terrorism portfolio Budget Estimates hearing held on Wednesday 12 March 2025.</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
74	74	Ms SUE HIGGINSON:	<p>Ms SUE HIGGINSON: That's right. I vaguely remember reading stuff in law school millions of years ago. Are there any, that you are aware of, compelling research pieces at the moment about discharging or removing or lessening the current common law principle of doli incapax? Is there any evidence to support that? Are you aware of anything?</p> <p>PAUL McKNIGHT: I am not aware of any studies that are published to that effect, no.</p> <p>Ms SUE HIGGINSON: No, neither am I. It's interesting. None at all.</p> <p>PAUL McKNIGHT: That doesn't, of course, mean that there aren't any.</p> <p>Ms SUE HIGGINSON: No, I'm just curious. Have you actively sought those out at this point in time, or not necessarily?</p> <p>PAUL McKNIGHT: I can take on notice what research we've done in this space.</p>	<p>I am advised:</p> <p>The Department of Communities and Justice (DCJ) monitors developments in the law, judicial commentary, and academic research in relation to the operation of the presumption of doli incapax, including where the common law principle has been abolished or amended by statute. DCJ has not identified recent published academic research that would tend to support the removal of the presumption in NSW.</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
75	76	Ms SUE HIGGINSON:	<p>Ms SUE HIGGINSON: It's this idea that, for some reason, we did achieve some really good things in terms of getting the youth incarceration rates low—even America did that—and now it's coming back up because we've changed the approach for whatever reasons. When the Attorney said those young people are around the State, do you have a breakdown of the areas that the young people are held—not so much the centres but where those crimes were committed?</p> <p>PAUL McKNIGHT: It's not in front of me.</p> <p>MICHAEL TIDBALL: We could come back.</p> <p>Ms SUE HIGGINSON: I'm happy for it to be this cohort that we're talking about—that 145—to get a snapshot of the past 12 months and where it has happened.</p> <p>MICHAEL TIDBALL: I believe we can do that. We'll try.</p>	<p>I am advised:</p> <p>BOCSAR has data on the area of residence at time of charge for young people on remand. Of the 172 young people on remand on 30 December 2024, their area of residence at time of charge was:</p> <p>Greater Sydney</p> <ul style="list-style-type: none"> • Central Coast - 8 young people • Baulkham Hills and Hawkesbury- 2 young people • Blacktown - 16 young people • City and Inner South - 2 young people • Inner South West - 5 young people • Inner West - 4 young people • North Sydney and Hornsby - 4 young people • Northern Beaches - 1 young person • Outer South West - 9 young people • Outer West and Blue Mountain s- 9 young people • Parramatta - 10 young people • South West - 8 young people • Southerland - 3 young people <p>Regional NSW</p> <ul style="list-style-type: none"> • Capital Region - 1 young person • Central West - 8 young people • Coffs Harbour - Grafton - 4 young people • Far West and Orana -12 young people • Hunter Valley exc Newcastle - 4 young people • Illawarra - 11 young people • Mid North Coast - 7 young people • Murray - 1 young person • New England and North West - 23 young people • Newcastle and Lake Macquarie - 8 young people • Richmond - Tweed - 8 young people • Riverina - 1 young person • Southern Highlands and Shoalhaven - 1 young person • Other - 3 young people <p>Source: BOCSAR 2025 custody data</p>

QTON #	Transcript Page	Member	Question on Notice	Answer
76	76	Ms SUE HIGGINSON:	<p>Ms SUE HIGGINSON: That would be so helpful. One of the things that we are hearing is this idea that things have changed in community. I'm just wondering whether internally, in the department, you have some lens on the analyses of the justifications for the increase in crime and whether that's something you could share with the Committee. We read things in the media. That's obviously an incredibly limited lens. We speak with people in communities, and obviously we all speak to different people. I'm curious about the informing principles of the supposed increase of crime that the department is working with.</p> <p>PAUL McKNIGHT: Are you asking for some analysis of the causation of the crime? I think we can definitely provide a richer picture from BOCSAR data about the nature of crime levels, the contributors to the youth detention population and how that looks. I can take that on notice.</p>	<p>I am advised:</p> <p>BOCSAR regularly publishes statistics on crime rates, the nature of offending by children aged 10-17 over time (see for example, https://bocsar.nsw.gov.au/topic-areas/young-people.html) and incarceration of children aged 10-17 (see for example, https://bocsar.nsw.gov.au/statistics-dashboards/custody/custody-dashboard.html). The latest recorded crime statistics published by BOCSAR show that, over the last two years, 12 of the 13 major crime categories were stable and one was down. The number of young people proceeded to court was stable and the number receiving a diversionary option was down. Risk factors associated with young people's participation in crime (though not necessarily causal factors) include: socio-economic disadvantage; neighbourhood crime rates; parental involvement in crime; childhood neglect and victimisation; physical, psycho-social mental and cognitive disability; school performance and suspension; substance use; being male; impulsiveness and hyperactivity; family and social ties; and criminal involvement by peers.</p>
77	31	The Hon. SUSAN CARTER:	<p>The Hon. SUSAN CARTER: With respect to that, have you met with the Anti-slavery Commissioner to discuss appropriate safeguards?</p> <p>Mr MICHAEL DALEY: I have meetings with the Anti-slavery Commissioner, and what we've discussed I'd have to go back and have a look at.</p> <p>The Hon. SUSAN CARTER: If you could take that on notice, I'd be very grateful.</p>	<p>I am advised:</p> <p>Yes. Moreover, the Anti-slavery Commissioner has made a submission to the review of the Surrogacy Act 2010, which is ongoing.</p>