

PORTFOLIO COMMITTEE NO. 5 - JUSTICE AND COMMUNITIES

Friday 10 November 2023

Examination of proposed expenditure for the portfolio area

ATTORNEY GENERAL

CORRECTED

The Committee met at 9:15.

MEMBERS

The Hon. Robert Borsak (Chair)

Ms Abigail Boyd

The Hon. Susan Carter

The Hon. Greg Donnelly

Ms Cate Faehrmann

Ms Sue Higginson (Deputy Chair)

The Hon. Stephen Lawrence

The Hon. Natasha Maclaren-Jones

The Hon. Tania Mihailuk

The Hon. Cameron Murphy

The Hon. Damien Tudehope

PRESENT

The Hon. Michael Daley, *Attorney General*

CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS

Corrections should be marked on a photocopy of the proof and forwarded to:

**Budget Estimates secretariat
Room 812
Parliament House
Macquarie Street
SYDNEY NSW 2000**

The CHAIR: Welcome to the fourth hearing of Portfolio Committee No. 5's inquiry into budget estimates 2023-2024. I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders past and present, and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal or Torres Strait Islander people joining us today. My name is Robert Borsak and I am the Chair of the Committee. I welcome Attorney General Daley and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolio of Attorney General. I ask everyone in the room to please turn their mobile phones to silent.

Parliamentary privilege applies to witnesses in relation to the evidence they give today. However, it does not apply to what witnesses say outside the hearing. I urge witnesses to be careful about making comments to the media or to others after completing their evidence. In addition, the Legislative Council has adopted rules to provide procedural fairness for inquiry participants. I encourage Committee members and witnesses to be mindful of these procedures. I welcome our witnesses and thank them for making the time to give evidence today. All witnesses will be sworn prior to giving evidence. Attorney General, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament. I also remind Ms Tidball, Ms Campbell and Mr Thomas that you do not need to be sworn as you have been sworn at an earlier budget estimates hearing before this Committee.

Today's hearing will be conducted from 9.15 a.m. to 5.30 p.m. We are joined by the Minister for the morning session from 9.15 a.m. to 1.00 p.m., with a 15-minute break at 11.00 a.m. In the afternoon we will hear from the departmental witnesses from 2.00 p.m. to 5.30 p.m., with a 15-minute break at 3.30 p.m. During these sessions there will be questions from the Opposition and crossbench members only, and then 15 minutes is allocated for Government questions at 10.45 a.m., 12.45 p.m. and 5.15 p.m.

Mr MICHAEL TIDBALL, Secretary, Department of Communities and Justice, on former oath

Mr PAUL McKNIGHT, Deputy Secretary, Law Reform and Legal Services, Department of Communities and Justice, affirmed and examined

Ms ANNE CAMPBELL, Deputy Secretary, Strategy, Policy and Commissioning, Department of Communities and Justice, on former affirmation

Mr BRENDAN THOMAS, Deputy Secretary, Transforming Aboriginal Outcomes, Department of Communities and Justice, on former oath

Ms MONIQUE HITTER, Chief Executive Officer, Legal Aid NSW, affirmed and examined

The CHAIR: We will begin with questions from the Opposition.

The Hon. SUSAN CARTER: Good morning and thank you, Attorney, for being here. Can I say how delighted I am to welcome someone from your excellent educational background—the best law course in New South Wales.

Mr MICHAEL DALEY: Australia.

The Hon. SUSAN CARTER: In Australia—yes, of course.

The Hon. STEPHEN LAWRENCE: Point of order—

The CHAIR: Point of order! That's a quick one, that one.

The Hon. STEPHEN LAWRENCE: I withdraw that.

The CHAIR: We are getting off to the wrong footing here. Come on.

The Hon. SUSAN CARTER: So a big portfolio, a lot of activity, but let's start with some housekeeping. In relation to DLO secondments in your office, have you or your office ever requested specific public servants to fill DLO positions?

Mr MICHAEL DALEY: No, I have five DLOs. Correct me if I'm wrong, Mr Tidball. They have been selected by the department. They have undergone a selection process for suitability for work within the department. We had no input into their appointment. The department sent them down and they are excellent people and very good public servants.

The Hon. SUSAN CARTER: Can you confirm that those DLOs, while seconded in your office, have not undertaken work that would contravene the Cabinet memorandum?

Mr MICHAEL DALEY: I wouldn't expect so.

The Hon. SUSAN CARTER: So that's no?

Mr MICHAEL DALEY: That's no.

The Hon. SUSAN CARTER: Can I now take you to the amendment to the Fines Act, which will facilitate the introduction of your drug diversion scheme. Given its similarity to the ACT policy, are you concerned that there will be a similar effect on road deaths when it's introduced?

Mr MICHAEL DALEY: On road deaths?

The Hon. SUSAN CARTER: Yes. If you remember the testimony that was given on Tuesday by the New South Wales police commissioner—that the biggest contributor to road fatalities in New South Wales is speed, whereas in the ACT "70 per cent of fatal accidents were drug related"—was this considered as a factor in your decision to implement this new policy?

Mr MICHAEL DALEY: I can't foresee what might happen in that regard, but I do note that the Cannabis Cautioning Scheme, which operates on a similar basis, has been operational for 20 years now. The scheme that we have introduced as well is one that gives police discretion as to whether they want to issue a CIN. So I imagine that the police will look at the offender or potential offender they are dealing with and make an assessment as to whether they are suitable for that.

The Hon. SUSAN CARTER: I suppose the issue, Mr Attorney, is the policy impact this will have on road fatalities, and learning from the ACT experience of 70 per cent of road fatalities being drug related. I note that your diary indicates one meeting with the Police Association, one meeting with the police Minister about

sexual assault law reform, but no meetings with the police Minister or senior police to discuss drugs policy. Did you get their advice about the likely impact on road deaths before deciding to proceed with your new drugs policy?

Mr MICHAEL DALEY: We have very strong laws against drug driving, and we have random drug driving tests as well.

The Hon. SUSAN CARTER: No, that's not my question, Mr Attorney. The question is did you seek advice from the police, especially with respect to the ACT experience, about the likely impact of your drugs policy on an increase in road fatalities or drug-related deaths becoming more significant on our New South Wales roads?

Mr MICHAEL DALEY: When you say our drugs policy, it is actually the former Government's drugs policy and so—

The Hon. SUSAN CARTER: I think there are differences between the two policies, and we will explore those.

Mr MICHAEL DALEY: No, they are not. What we have done is implement the policy that was in train under the former Government, and I have to say—

The Hon. SUSAN CARTER: So the answer then is that you haven't actually got advice from the police.

Mr MICHAEL DALEY: No, let me answer. Please don't interrupt me. The chief medical officer was the one that put this policy together after consultation across government, and I assume that they would have taken all of those relevant considerations into consideration.

The Hon. SUSAN CARTER: So your answer then is that if we want to know the police input, we should speak to the chief medical officer about whether police input was sought into this policy. Is that your answer?

Mr MICHAEL DALEY: No, I imagine you would have asked the police Minister about those things the other day.

The Hon. SUSAN CARTER: In respect of the drug policy, what drugs will be included in your scheme?

Mr MICHAEL DALEY: All drugs in schedule 2, I think, to the Drug Misuse and Trafficking Act, with the exception of cannabis. Can I just note—small quantities only.

The Hon. SUSAN CARTER: So you are saying all drugs. Heroin?

Mr MICHAEL DALEY: As I understand it, yes.

The Hon. SUSAN CARTER: Ice?

Mr MICHAEL DALEY: Yes.

The Hon. SUSAN CARTER: So you think all drugs should be treated the same?

Mr MICHAEL DALEY: It's a partnership between New South Wales and the Police Force. That's their advice. It's their considerations that we have adopted.

The Hon. SUSAN CARTER: Ketamine, GHB—will they be on the list of approved drugs?

Mr MICHAEL DALEY: They were when your Government was in power, and that was the scheme that you put in play.

The Hon. SUSAN CARTER: And you are aware these are commonly used as date-rape drugs?

Mr MICHAEL DALEY: Don't ask me for my view on whether they are commonly used or not. Those statistics will be available for you to have regard to elsewhere.

The Hon. SUSAN CARTER: But you are aware that that is a use of those drugs?

Mr MICHAEL DALEY: It can be, yes.

The Hon. SUSAN CARTER: Your press release of 10 October indicates that your new drugs policy will apply for "small quantity drug possession offences". What exactly is a small quantity?

Mr MICHAEL DALEY: It varies from drug to drug. You'll have to have a look at schedule 2, I think, to the Drugs Misuse and Trafficking Act, which treats each substance differently, depending on its strength and danger, and quantities vary.

The Hon. SUSAN CARTER: Perhaps you could provide examples of exactly where these quantities are listed because the only details we have is your press release, which is 760 words long, which doesn't give us details of which drugs and which quantities.

Mr MICHAEL DALEY: And my second reading speech, which is quite a bit longer than that as well.

The Hon. SUSAN CARTER: So in your second reading speech, did you look at—what, 10 lines of coke? Is that a small quantity?

Mr MICHAEL DALEY: I need a scale to work out how big 10 lines of coke are. Having never actually ever seen a line of coke, you're asking the wrong person.

The Hon. SUSAN CARTER: These are important questions, though, for the people of New South Wales—

Mr MICHAEL DALEY: Yes, they are.

The Hon. SUSAN CARTER: —to understand what the limits are and therefore what the law—in fact, this is a question, Mr Attorney General, that goes to rule of law, because in a society ordered by the rule of law everybody has to know exactly what the law is, and this new law seems to be quite obscure at the moment.

Mr MICHAEL DALEY: No, it's not. If you open up the Drug Misuse and Trafficking Act, you can see it quite clearly.

The Hon. SUSAN CARTER: It's a press release—is the policy.

Mr MICHAEL DALEY: No—

The Hon. SUSAN CARTER: As your amendments to the Fines Act made clear, you are not amending the Drug Misuse and Trafficking Act. It's a press release and one change. I am just simply asking for more details for the people of New South Wales.

Mr MICHAEL DALEY: A press release is not legislation. So it's schedule 1, is it?

PAUL McKNIGHT: Yes.

Mr MICHAEL DALEY: Schedule 1.

The Hon. SUSAN CARTER: Will there be an education campaign about your new drugs policy, especially for border communities like Queanbeyan and Goulburn, about the similarities and differences between the ACT and New South Wales drug laws?

Mr MICHAEL DALEY: I'm not sure, because this is being driven as a partnership between police and NSW Health. Are we doing any education—

The Hon. SUSAN CARTER: I'm sorry, you are saying it's a partnership—

Mr MICHAEL DALEY: I'm seeking some advice.

The Hon. SUSAN CARTER: —between police and NSW Health, so the Attorney General's department isn't involved?

Mr MICHAEL DALEY: I'm seeking some advice. Let me answer the question.

PAUL McKNIGHT: Can we take on notice the details of the public education involved in this process? And we can perhaps give that to the Committee afterwards.

The Hon. SUSAN CARTER: Yes, very happy to take that on notice. Can I just confirm that the permitted carry amount for cocaine is one gram?

Mr MICHAEL DALEY: I think that's correct, yes.

The Hon. SUSAN CARTER: Therapeutic Guidelines, a clinical resource for Australian medical practitioners, says that cocaine exposures of one gram are potentially lethal. Minister, do you believe that the

system of waiving fines for possession and use of one gram of cocaine is the best way to achieve health outcomes for the community?

Mr MICHAEL DALEY: The best way to achieve health outcomes is to get people into drug and alcohol programs, and that's what this program seeks to do.

The Hon. SUSAN CARTER: But you are happy with the one gram limit, given the Therapeutic Guidelines' warning?

Mr MICHAEL DALEY: It's not a matter of whether I'm happy or not. We are acting on the advice of the chief medical officer and the police and adopting the existing quantities in the Drug Misuse and Trafficking Act, which has been in situ for quite some time.

The Hon. SUSAN CARTER: So you did get advice from the police in relation to this policy?

Mr MICHAEL DALEY: They wrote the policy.

The Hon. SUSAN CARTER: And that advice included possible impacts on the road toll?

Mr MICHAEL DALEY: I would have to take that on notice. I don't have the paper in front of me.

The Hon. SUSAN CARTER: I would appreciate that—if you could take that on notice. Minister, are there currently sufficient diversion programs in place to support all those who may be eligible for your new drugs program?

Mr MICHAEL DALEY: Sorry, I don't understand. What do you mean?

The Hon. SUSAN CARTER: The program that's being introduced would see all those in possession of a small quantity of any drug offered a diversion in lieu of payment of the fine.

Mr MICHAEL DALEY: They are not offered one—

The Hon. SUSAN CARTER: Are there sufficient facilities in place to provide diversions for all of those people who will be found to be in possession of a small quantity of drugs?

Mr MICHAEL DALEY: The advice from the police commissioner and the chief medical officer is that they will be ready to implement that scheme on the ground within six months.

The Hon. SUSAN CARTER: So there are not currently but there will be sufficient diversions in place within six months?

Mr MICHAEL DALEY: That's my advice from the chief medical officer, yes.

The Hon. SUSAN CARTER: What's the start date of the program?

Mr MICHAEL DALEY: Six months from the date that it went through Parliament, I think, or from when it was proclaimed.

The Hon. SUSAN CARTER: Sorry, I think the issue is that it didn't go through Parliament. There was an amendment to the Fines Act and a press release. Are you saying it will be introduced six months from 10 October, the date of the press release?

Mr MICHAEL DALEY: I'll check exactly what the mechanism is, but—

PAUL McKNIGHT: The program is to be implemented early next year.

The Hon. SUSAN CARTER: Early next year when? 1 January?

PAUL McKNIGHT: We don't have a specific date.

The Hon. SUSAN CARTER: When will you be able to share the details of the date with the people of New South Wales?

PAUL McKNIGHT: I can take on notice the question of how much detail we can provide you about implementation at this point. There is a range of implementation action going on within police and Health and within State Revenue, which you might imagine.

The Hon. SUSAN CARTER: I understand that, but you would also understand, surely, that it is an important matter of transparency, the date at which a really significant change comes into effect and the importance of the people of New South Wales being aware of that date?

Mr MICHAEL DALEY: And there will be plenty of notice given.

The Hon. SUSAN CARTER: There will be plenty of notice given?

Mr MICHAEL DALEY: Yes.

The Hon. SUSAN CARTER: Okay. Thank you very much. You have referred, Mr Attorney General, to our diversion policy, which was to be supported by an investment of half a billion dollars. This included almost \$360 million for targeted AOD health diversion initiatives to address what you have identified is a currently existing gap in treatment, which is why you are doing this implementation work. However, when we look at the detailed breakdown of your plans, it shows an investment of almost \$30 million less than we were going to make. What programs have you cut?

Mr MICHAEL DALEY: I think that that's probably better directed to the health department or the Minister for Health. The rollout of the program, is, as I understand it, a matter for the Minister for Health.

The Hon. SUSAN CARTER: So you're saying you can't answer what programs are being cut?

Mr MICHAEL DALEY: I can take it on notice, but I think it probably would have better been addressed to the Minister for Health.

The Hon. SUSAN CARTER: Coalition policy announced that our almost \$360 million in health supports would create 670 new jobs, with 63 per cent being in rural and regional areas. Are you cutting investment in rural and regional areas?

Mr MICHAEL DALEY: I think I will refer you to my previous answer.

The Hon. SUSAN CARTER: So you are saying that this is not a justice program? This is drugs, this is police, and you're saying it's not a justice program?

Mr MICHAEL DALEY: Did I say that? When did I say that?

The Hon. SUSAN CARTER: When you said that these are questions that need to be answered by the health Minister.

Mr MICHAEL DALEY: The specific details of the rollout, yes.

The Hon. SUSAN CARTER: So it's a justice program, but for details we have to go to the health Minister? Is that the answer I'm getting?

Mr MICHAEL DALEY: For the rollout, is my understanding, yes, of the diversion programs—the drug and alcohol programs, yes.

The Hon. SUSAN CARTER: Let's just do a role-play. I'm arrested with a gram of coke, and I'm offered—

The Hon. CAMERON MURPHY: Happens all the time.

The Hon. STEPHEN LAWRENCE: Calm down, Sue.

The Hon. SUSAN CARTER: I see members opposite laughing, and I'm happy that they regard that—

Ms SUE HIGGINSON: Can we have more role-play?

The Hon. NATASHA MACLAREN-JONES: That's The Greens party.

The Hon. SUSAN CARTER: I am offered a court infringement notice, and it's in six, seven, eight months' time—whenever this policy is introduced—and I am offered a diversion instead of paying the fine. That diversion is the penalty for the criminal offence that I will have committed. Why is the rollout of how those diversions will be managed not a justice matter and a health matter?

Mr MICHAEL DALEY: Who said it's not a justice matter?

The Hon. SUSAN CARTER: Attorney, with respect, you.

Mr MICHAEL DALEY: You're using your own words. I didn't say it's not a justice matter.

The Hon. SUSAN CARTER: But you can't give us details of the diversions. The diversions are in lieu of a criminal penalty. They are a justice measure as much as a health measure.

Mr MICHAEL DALEY: Well, they're actually a health measure. If they are completed—

The Hon. SUSAN CARTER: Is your answer, Mr Attorney, that for the first two offences, there will be no justice penalties? There will be no offences; it will be all health, and the justice system is not involved with drug possession for the first two times. Is that your policy, Mr Attorney General?

Mr MICHAEL DALEY: The policy is the policy that we have announced, and it's all in my second reading speech, so there's—

The Hon. SUSAN CARTER: With respect, it's very opaque.

Mr MICHAEL DALEY: Hold on, Ms Carter. Please don't interrupt me. I don't interrupt you, so be courteous. If the diversion programs are completed, the fine will be waived. That's the answer. So they are diverted into drug and alcohol programs and treated as a health measure for a maximum of two times for low-level drug offence.

The Hon. SUSAN CARTER: So the diversion is a precursor or a necessary precondition of not having to pay the fine, therefore it is under the purview of the justice system—it may be offered in conjunction with the health system—so I would expect that we would have details of implementation available from the Justice portfolio.

Mr MICHAEL DALEY: Except the drug and alcohol diversion programs don't live within the Justice portfolio; they live within the Health portfolio. They are being delivered by NSW Health. I don't understand what is so unclear about that.

The Hon. SUSAN CARTER: In your press release, you said:

We want to see people receive the health supports they need rather than see them caught up in the criminal justice system.

What did you mean by health supports when you said that? What exactly will a drug diversion look like?

Mr MICHAEL DALEY: NSW Health has designed an alcohol and other drug intervention to match the needs of criminal infringement notice recipients. The health intervention is well within the scope of practice for qualified and skilled alcohol and other drug specialist providers. NSW Health has designed an escalating health response that has been endorsed by the chief health officer to ensure that the health intervention proposed matches the need of the person it applies to. Every interaction with a health professional decreases the likelihood that people detected with minor quantities of drugs will fall through the gaps in care or not be able to access health interventions which could prevent further drug misuse.

The Hon. SUSAN CARTER: Thank you. I've read the press release.

Mr MICHAEL DALEY: That wasn't on the press release.

The Hon. SUSAN CARTER: What I was asking you was what would a health intervention look like. Perhaps we can turn to the words of Dr Kerry Chant in budget estimates on 26 October. She said:

It may be all the way through from a brief intervention to a discussion where there may be a recognition that the drug and alcohol issue is impacting on the person's life ... that they would be appropriate for ... residential rehab ...

What do you understand to be a brief intervention?

Mr MICHAEL DALEY: They are Kerry Chant's words, so you should have explored those expressions with her while you had the chance.

The Hon. SUSAN CARTER: So you are telling me that you don't have any concept of what the interventions that are offered as part of this offence program will look like?

Mr MICHAEL DALEY: I didn't say that.

The Hon. SUSAN CARTER: Then tell me. What will the intervention look like?

Mr MICHAEL DALEY: It will be as the health department intend it to be.

The Hon. SUSAN CARTER: Will there be a telehealth component to this or will it all be face to face?

Mr MICHAEL DALEY: I understand it will be telehealth components.

The Hon. SUSAN CARTER: If I'm in Broken Hill, will I have the option of face to face or telehealth?

Mr MICHAEL DALEY: As I understand it, both of them will be telehealth.

The Hon. SUSAN CARTER: If I'm in Brewarrina, there will be telehealth or face to face?

Mr MICHAEL DALEY: You could have asked Kerry Chant all of this, Ms Carter.

The Hon. SUSAN CARTER: I know, but I'm asking you.

Mr MICHAEL DALEY: The program is being rolled out by the health department. They are the ones who have the knowledge of what it entails in detail. But, yes, my understanding is that it will be telehealth or telephone calls.

The Hon. SUSAN CARTER: As the first law officer, are you not concerned that the options for anybody who receives a criminal infringement notice are not the same at every place in New South Wales? The rule of law requires that everybody is treated equally before the law. If the options in Bourke are different to the options in Bankstown—if there's telehealth in one place and face to face in another, if there's a three-month wait for a rehab bed in Bourke but a one-week wait in Bankstown and if that's part of the intervention—does that difference not constitute a major impact on the operation of the rule of law in New South Wales?

Mr MICHAEL DALEY: I'm not sure I agree with that characterisation. What's available to all citizens is an opportunity to have an intervention program. You are assuming that the way you have characterised the services available to people will be so, and I'm not sure you're correct. In any event, these are questions you can put to the health Minister or to me on notice and I'll try and get the advice from Health. But they are not being delivered by DCJ; those programs are being delivered by Health.

The Hon. SUSAN CARTER: It is a joint program. It is Health and Justice, and the justice implications—

Mr MICHAEL DALEY: It is a justice framework around it, with health interventions at the core of it. They are being delivered by different entities within government.

The Hon. SUSAN CARTER: Is not the role of Justice to ensure that the health interventions are being delivered in a way that there are equal opportunities for intervention for every citizen in New South Wales and you are not going to get a different intervention according to your postcode?

Mr MICHAEL DALEY: I would assume that that's the way the program is being delivered, yes.

The Hon. SUSAN CARTER: Is an assumption strong enough, Mr Attorney, or should you have investigated and be confident and certain that this is the way in which this program will be delivered?

Mr MICHAEL DALEY: I've trusted the advice of senior health and police officials.

The Hon. SUSAN CARTER: So you sought advice about this issue, then?

Mr MICHAEL DALEY: No, I trusted the advice.

The Hon. SUSAN CARTER: How can you trust advice you haven't sought?

Mr MICHAEL DALEY: I assume when someone like Kerry Chant puts together a drug and alcohol program—

The Hon. SUSAN CARTER: So you've assumed that people have given you advice that you've trusted but you have not asked the question about equal application of this program to every citizen in New South Wales?

Mr MICHAEL DALEY: No. The question hasn't arisen in my mind because the literature I've read on it says that the program will be delivered via telephone and telehealth programs. Unless you are someone who doesn't have access to a telephone or any telehealth, the programs will be equally delivered across the State. That's my understanding.

Ms SUE HIGGINSON: Attorney, were you pleased to see the result in the GLJ case?

Mr MICHAEL DALEY: Was I pleased to see it? I don't think that's the right question to be asking me, as the first law officer. I realise the destruction that's been brought upon way too many people over way too long in relation to sexual offences like that. But I'd also note some of the advice from the royal commission about permanent stays. I don't think it's appropriate for me to say whether I'm pleased or not with the delivery of a judgement from the High Court. It is what it is.

Ms SUE HIGGINSON: Do you welcome the fact that now some of those victims may be able to continue on their path to justice?

Mr MICHAEL DALEY: Yes, they will be greatly pleased. If there are instances where justice is denied because of permanent stays and the High Court judgement corrects that injustice, yes, that's a good thing for everybody.

Ms SUE HIGGINSON: Are you taking any steps to amend this part of the law?

Mr MICHAEL DALEY: Yes. What we are doing, Ms Higginson, is to take our time to have a look at what the implications of GLJ are.

Ms SUE HIGGINSON: Sorry, when you say you are taking your time—

Mr MICHAEL DALEY: I've asked. Immediately upon learning that the High Court had handed down that judgement, I instructed these good people sitting at this table to go away and prepare a brief for me on its effect and its implications, and what action it might require me to take or the New South Wales Government to take.

Ms SUE HIGGINSON: Have you received that brief?

Mr MICHAEL DALEY: No, I haven't yet.

Ms SUE HIGGINSON: When you receive that brief, and in the meantime, are you working with or are you planning to work with the relevant stakeholders, including the legal experts and the advocacy groups and the survivor support organisations, to work out what we can do going forward?

Mr MICHAEL DALEY: We will be ready to do all of that if the advice that comes back is that that's needed. If that's required, yes. I'll be working—

Ms SUE HIGGINSON: Hang on, Attorney. In your own mind, have you not already assessed that something really significant has been going terribly wrong for a sustained period of time? We have now seen a crack in the wall that's been denying victim-survivors access to justice and you're not already saying, "Right, we can move forward with all of these victim-survivors", and you don't yet have a plan in your mind as to what that would look like?

Mr MICHAEL DALEY: No, I'll wait until I get the advice on what the implications of GLJ are—of that decision.

Ms SUE HIGGINSON: So you don't understand what those implications are, even in principle and let alone the operation of what that would mean?

Mr MICHAEL DALEY: I've had a brief read of the judgement, but I'm waiting for the department to return considered advice and then I will see what that advice says.

Ms SUE HIGGINSON: Would it be news to you if I said that there are victim-survivors that have been denied justice for a sustained period of time and there are victim-survivors who have had to be forced into inadequate settlements because of the fear, and the advice from their lawyers, that they will be subject to stays if they carry on, and that they are now literally sitting in a system that has denied them access to justice? Does that surprise you to learn that?

Mr MICHAEL DALEY: Sorry, I didn't understand the first part of the question. It was such a long question.

Ms SUE HIGGINSON: It really wasn't. I'm just setting out some—

Mr MICHAEL DALEY: Were the first few words "do you understand"? Is that what the question was?

Ms SUE HIGGINSON: I said, "Would you be surprised to learn that they are the facts out there?"

Mr MICHAEL DALEY: I understand that there are people in that position, yes.

Ms SUE HIGGINSON: My question is—right now you're waiting for a brief. A decision was handed down a few weeks ago. It's a major, significant change in the legal landscape in New South Wales for victim-survivors of some of the most heinous offences.

The Hon. GREG DONNELLY: Point of order: Is this an adjournment speech or a question?

Ms SUE HIGGINSON: To the point of order: The Attorney asked for clarification about my question. I'm providing it.

The CHAIR: Yes, there is no point of order.

Ms SUE HIGGINSON: These are the facts. Is that right? Do you agree, Attorney, that that's what's happening in New South Wales right now?

Mr MICHAEL DALEY: I'm not going to move towards legislating in something as monumentally important as this—

Ms SUE HIGGINSON: Excuse me, Attorney. I accept that.

Mr MICHAEL DALEY: No, excuse me. Let me finish.

Ms SUE HIGGINSON: This is not the question.

Mr MICHAEL DALEY: Please don't interrupt me when I'm answering.

Ms SUE HIGGINSON: This was not my question.

Mr MICHAEL DALEY: I'm five seconds into the answer, Ms Higginson. I will not be moving—

Ms SUE HIGGINSON: Excuse me, Attorney General, in budget estimates I have the capacity to redirect the witness and I'm doing that now if that's okay.

Mr MICHAEL DALEY: And I have the capacity to insist that, having been 10 seconds into my answer, you allow me the courtesy of finishing what I'm saying. I will not be moving into legislation—

Ms SUE HIGGINSON: You've already answered that, and I understand. You're waiting for the brief.

Mr MICHAEL DALEY: —in such a monumentally important area of law until I get the advice from the department.

Ms SUE HIGGINSON: The brief. I understand.

Mr MICHAEL DALEY: Yes.

Ms SUE HIGGINSON: I am not questioning you about your legislative intent. I understand, and you provided an answer—that you're waiting for a brief. I understand that's the way it would work responsibly. I'm actually asking you now about what you're doing in relation to working with advocacy groups, legal experts and survivor support organisations. Have you met with them? Have you opened your door to say, "I'm getting a brief prepared. Have you got any input right now into this situation"?

Mr MICHAEL DALEY: Not in the time since GLJ has been handed down, no.

Ms SUE HIGGINSON: Since the decision, is this one of your priorities as Attorney General?

Mr MICHAEL DALEY: I'm waiting for the brief. I can't be any clearer than that. When I get the brief, we will know what the lay of the land is and I'll be directed towards future action on an educated basis.

Ms SUE HIGGINSON: And so in terms of the victim-survivors that have had to settle for compromised settlements, is that going to be part of your brief? Have you considered that component? Or are you just looking at what will happen for people who are currently subject to stays?

Mr MICHAEL DALEY: When I'm advised as to what the full ramification of the High Court's decision is, I'll be better able to make those decisions. I'm not trying to escape questioning on this, and I understand that you've been a passionate advocate and that there are many thousands of victims and advocates across the country who are waiting with bated breath to see what happens next. I understand the gravity of that, and that's why we'll treat the advice and this issue with all due seriousness, Ms Higginson.

Ms SUE HIGGINSON: And so what's your timing? The victim-survivors that I've been talking to, what can I suggest to them, including the ones who have had to be subjected to compromised settlements? What should I tell them about the timing of what the AG's department and the AG are considering?

Mr MICHAEL DALEY: I'll tell them now that I'll act with no delay—no undue delay.

Ms SUE HIGGINSON: I understand, but what does that mean for those people? What is undue delay?

Mr MICHAEL DALEY: This is too important a decision for me to speculate as to the time frame.

Ms SUE HIGGINSON: When is the date that you'll be receiving your brief and your advice?

Mr MICHAEL DALEY: When the department properly considers it and hands it to me.

Ms SUE HIGGINSON: And how long would that normally take in such a circumstance, which we have never really seen before?

Mr MICHAEL DALEY: I'm happy to take that on notice.

Ms SUE HIGGINSON: So you will get back to us with a time frame?

Mr MICHAEL DALEY: Yes.

Ms SUE HIGGINSON: Do you, as the Attorney General, the first officer of this State, see—and you have considered that this is an incredibly significant decision—that it may be appropriate to already start engaging with those people who are going to be looking for your guidance to help them through the next steps?

Mr MICHAEL DALEY: I don't know that it would be appropriate to start engaging with them yet—

Ms SUE HIGGINSON: So how are you going to understand the breadth?

Mr MICHAEL DALEY: —because it may raise expectations that something is going to happen where it might not. You're asking me to speculate about what future actions might be and to sit down with these poor long-suffering people and say to them that I'm going to look at a judgement but I don't know what the ramifications of it might be. I think that would be a bit cruel to do that as well. I don't want to act hastily here. This is hugely important, Ms Higginson.

Ms SUE HIGGINSON: I'm just struggling with the notion that you can see, I think, a grave injustice, because of our incorrectly applied legal system, that it has happened over a sustained period of time, victim-survivors have been denied access to justice, and I can't quite yet hear that first order of principle that, "Right, now we know there is a pathway to justice, the State will assist you." Is that your approach? Is that your forward face on this?

Mr MICHAEL DALEY: I don't know how many times I can restate my intentions here, Ms Higginson. As much as you want to keep drawing me out with different words—and I understand you're passionate about this—I don't see that I can answer that question any differently than I have this morning.

Ms SUE HIGGINSON: So you don't see it then as your job to be walking forward with victim-survivors who've been denied access to justice, to walk with them on a pathway to justice? You don't see that as your job?

Mr MICHAEL DALEY: The pathway I walk will be dictated by what the nature of the High Court's decision is and the advice that I receive from the department in respect of it. I can't see that you would expect me to conduct myself in any other way, frankly. It would be imprudent of me to do that and possibly cruel.

Ms SUE HIGGINSON: I think that many people in this State actually expect the Attorney General to be a champion for justice. And when the High Court, the highest court in this country, makes it very clear that access to justice has been denied through a perverse application of laws, such as these stays, and that the High Court has said the door is open now for those victim-survivors, I thought that you would think that you can now champion a path to justice.

The Hon. GREG DONNELLY: Is that a question or a statement?

Ms SUE HIGGINSON: It's what I want it to be, thank you.

The Hon. GREG DONNELLY: A statement.

Ms SUE HIGGINSON: Attorney General, moving on. When did the Standing Council of Attorneys-General last meet?

Mr MICHAEL DALEY: On 22 September this year.

Ms SUE HIGGINSON: And was raising the age of criminal responsibility discussed at that meeting?

Mr MICHAEL DALEY: I wasn't there, Ms Higginson, but I believe it was.

PAUL McKNIGHT: It was.

Ms SUE HIGGINSON: And so are you able to tell me whether or not New South Wales has a plan to raise the age of criminal responsibility?

Mr MICHAEL DALEY: Ms Higginson, consideration of whether the minimum age of criminal responsibility should be raised is occurring at a national level by the Age of Criminal Responsibility Working Group established by the Standing Council of Attorneys-General, which they're currently doing. The New South Wales Government supports the work of the Standing Council of Attorneys-General working group and New South Wales is represented on this working group by representatives from the NSW Department of Communities and Justice. At the most recent SCAG meeting on 22 September, amongst other things participants noted the final report of the working group on the services and supports needed to support children diverted from the criminal justice system under a raised minimum age of criminal responsibility. Participants agreed to consider the report and return to the next meeting with a position or update on minimum age of criminal responsibility reform in their jurisdictions.

One key consideration for New South Wales in any future decision about raising the minimum age of criminal responsibility will be the existing adequacy of appropriate intervention and support services for young people who would no longer be considered offenders but who would continue to cause harm and impact the community. Any change must ensure that young people and communities are safe and are adequately supported. Additionally, it's important to note that the Young Offenders Act 1997 already sets out a framework for alternative responses to offending behaviour, including warnings, cautions and Youth Justice Conferences. It can be used by

police and courts when dealing with children aged between 10 and 17 who commit certain offences. The Act is underpinned by key principles, including that the least restrictive form of sanction is to be applied against a child and that criminal proceedings are not to be instituted against a child if there are—

Ms SUE HIGGINSON: Thank you, Attorney General. Can I just interrupt you there. I think I get the gist.

Mr MICHAEL DALEY: —alternative and appropriate means of dealing with the matter.

Ms SUE HIGGINSON: Thank you. I definitely get the gist there. Can I ask why we're still waiting for some kind of national approach when it's really clear there is no national approach and States and Territories have gone their own way? Why is New South Wales continuing down a national approach? It's one thing to discuss the matter, but why are we waiting for the national rather than New South Wales forging its own path?

Mr MICHAEL DALEY: That's been the attitude of the former Government. Work is progressing at a national level. As is the case with things like defamation laws—

Ms SUE HIGGINSON: No, I'm asking you. What's your view?

Mr MICHAEL DALEY: —I think it's always better to be informed by experiences from other States, and that's what we are doing.

Ms SUE HIGGINSON: Attorney, thank you, but what's your view? What are you doing, other than not attending a meeting where something is discussed in the abstract about a national thing that's not happening?

Mr MICHAEL DALEY: I'm waiting to be informed by work that other States are doing, frankly.

Ms SUE HIGGINSON: About New South Wales?

Mr MICHAEL DALEY: We're coming off a very low base in New South Wales.

Ms SUE HIGGINSON: Attorney, what you just read out was all about the issues around New South Wales raising the age. I'm just asking you what are you doing about that.

Mr MICHAEL DALEY: One of the key considerations in raising the age is what happens to young offenders—

Ms SUE HIGGINSON: Attorney, with respect, we know that.

Mr MICHAEL DALEY: Hold on, can I answer the question?

Ms SUE HIGGINSON: You've just read it out. We know that. What are you doing about that?

Mr MICHAEL DALEY: I was just about to directly answer your question. One of the key considerations in an alternative pathway for when you raise the age is what are the key supports and other elements of an alternative regime that exist to deal with young people if you're not going to incarcerate them. In New South Wales there's been no work done on this at all, so I'm keen to see, if other States are going to move to this new model, what other interventions and diversionary programs they have, what drug and alcohol programs they have, what residential facilities they might have and all these sorts of things. Because at the moment in New South Wales no work's been done, and I'm not being—

Ms SUE HIGGINSON: I don't think that's quite the case, Attorney. I don't think that's true, actually. I really don't think that's the case.

Mr MICHAEL DALEY: We'll meet—

Ms SUE HIGGINSON: I sat in budget estimates and the former Attorney General talked about looking at the things that we would need—those wraparound services.

Mr MICHAEL DALEY: That's right, and that's the discussion that's going on within government now.

Ms SUE HIGGINSON: Attorney, what's your view at this point in time about raising the age of criminal responsibility?

Mr MICHAEL DALEY: My view is that you can't raise the age of criminal responsibility unless you've got somewhere to deal—

Ms SUE HIGGINSON: Attorney, do you know how many young—

The Hon. GREG DONNELLY: Point of order—

Mr MICHAEL DALEY: You can't raise the age of criminal—

The CHAIR: A point of order has been taken.

The Hon. GREG DONNELLY: My point of order is the Attorney, or in fact any witness here at the hearing, is entitled to answer the question that has been posed. Talking over the witness without providing them with an opportunity to answer is not consistent with why these hearings are conducted.

Ms SUE HIGGINSON: To the point of order: You're wasting time and I can redirect—

The Hon. GREG DONNELLY: Point of order: I'm going to take another point of order. I'm not wasting time. But if you want to waste time, that's the way it'll end up.

The CHAIR: Order! Well, we are wasting time while we argue about it. Please allow the Attorney a chance to answer the question before asking the next one.

Ms SUE HIGGINSON: Attorney, do you know how many young people under the age of 14 are currently in incarceration in New South Wales?

Mr MICHAEL DALEY: My advice is that between December 2021 and December 2022 there were 80 proven court appearances, with one aged 10 years old, one aged 11 years—

Ms SUE HIGGINSON: Sorry, that's not the question I asked, Attorney. Do you know how many young people under the age of 14 are currently incarcerated in New South Wales?

Mr MICHAEL DALEY: I don't have that at my fingertips but I can certainly find that for you.

Ms SUE HIGGINSON: Attorney, do you know the cost right now of keeping one young person under the age of 14 incarcerated per year?

Mr MICHAEL DALEY: I have heard figures. I don't want to repeat them because I don't know if they're correct at the moment but we can find out. But it's very expensive, I understand that.

Ms SUE HIGGINSON: Any ballpark idea of how much it costs?

Mr MICHAEL DALEY: The last figure I heard was somewhere in the figure of a quarter of a million dollars a year, but that's years old.

Ms SUE HIGGINSON: What if I was to tell you it was three-quarters of a million dollars per year per child?

Mr MICHAEL DALEY: If that's correct, I accept it.

Ms SUE HIGGINSON: And do you think three-quarters of a million dollars could produce and provide some decent wraparound services and support for those young people that we're keeping in prison? If I was to tell you there are five children currently in New South Wales being held in custody under the age of 14 and it's costing you and us three-quarters of a million to hold them there—around that—do you think we could be doing better?

Mr MICHAEL DALEY: I do. That's why we're looking into it, yes.

Ms SUE HIGGINSON: How long do you think it will take for you to make a decision about whether you're going to raise the age or not?

Mr MICHAEL DALEY: I can't give you a time frame. It won't be sooner rather than later. We're coming off a very low base in New South Wales.

The Hon. SUSAN CARTER: Mr Daley, you'd agree with me that as Attorney General you're responsible for the rule of law in New South Wales? That's not a controversial proposition?

Mr MICHAEL DALEY: Generally speaking.

The Hon. SUSAN CARTER: Of course. You'd also agree with me that it was certainly not beyond the bounds of possibility that, when the Premier agreed to light the Opera House sails in the colours of Israel on 9 October, pro-Hamas protests could occur somewhere in Sydney?

Mr MICHAEL DALEY: Could have occurred?

The Hon. SUSAN CARTER: Could, yes. Possible.

Mr MICHAEL DALEY: Yes, there's a possibility of that.

The Hon. SUSAN CARTER: In your role as the chief legal and constitutional adviser of the Crown and the Government of New South Wales, were you briefed on the protests that were expected to take place that night?

Mr MICHAEL DALEY: No.

The Hon. SUSAN CARTER: As Attorney General and as former police Minister, are you familiar with any situation where conflicting advocates have been allowed to confront each other?

Mr MICHAEL DALEY: None come to mind readily, no.

The Hon. SUSAN CARTER: Do you think you should've stepped in to ensure that the confrontation at the Opera House did not occur?

Mr MICHAEL DALEY: No.

The Hon. SUSAN CARTER: Given your experience in public law and order matters, would you have taken an active role to avoid Jewish people being told to stay away from their own vigil?

Mr MICHAEL DALEY: Would I have taken an active role in—

The Hon. SUSAN CARTER: To avoid Jewish people being told to stay away from their own vigil at the Opera House.

Mr MICHAEL DALEY: I don't know what you're suggesting.

The Hon. SUSAN CARTER: Perhaps I can take you to a time when you were the police Minister and when the Labor Government in 2010 closed streets and provided a police safety escort for Oprah Winfrey for her Opera House show. Do you see any inconsistency in how your Government failed to provide protection for the Jewish people in their own city but did provide an escort for Ms Winfrey?

Mr MICHAEL DALEY: That's a silly question, frankly.

The Hon. SUSAN CARTER: It's an important question, Mr Attorney General. I'm sorry you regard that as a silly question.

Mr MICHAEL DALEY: Are you really comparing the events of the last few weeks to giving Oprah Winfrey a police escort? Sorry, characterising the recent events in that manner suggests that you're not taking it seriously.

The Hon. SUSAN CARTER: One of the pieces of legislation you introduced in the Parliament was the religious vilification laws.

Mr MICHAEL DALEY: Yes.

The Hon. SUSAN CARTER: One of your election promises. The media reported that the crowd on the Opera House steps and on their way to those steps were chanting words which I am going to take on notice that we all know—I don't wish to repeat on this occasion. If those words were spoken, do you agree with me that that conduct would amount to religious vilification?

Mr MICHAEL DALEY: I don't want to pre-empt any work that the police might be doing. Can I just say, however, that the words that were spoken that night deserve comprehensive condemnation, and I abhor and condemn antisemitism and Islamophobia and vilification in all of its forms, which is why, after Paul Lynch's religious vilification bill had twice been defeated by the Coalition in the previous term of Government, we moved within the first 100 days to enact protections for people on the basis of religious vilification.

The Hon. SUSAN CARTER: And this was exactly the sort of situation that you would see that it would operate in?

Mr MICHAEL DALEY: Amongst many others, yes.

The Hon. SUSAN CARTER: And are you aware of section 93Z of the Crimes Act?

Mr MICHAEL DALEY: I am.

The Hon. SUSAN CARTER: For your information, it creates the offence of publicly—

Mr MICHAEL DALEY: Don't worry; I've got it sitting in front of me.

The Hon. SUSAN CARTER: Good, so you're aware of it. If the media reports are correct, do you agree with me that this conduct would amount to exactly the type of hate speech that is an offence under section 93Z?

Mr MICHAEL DALEY: It certainly has the potential to do that, but I don't want to put any pressure on the police. I've already indicated that they are examining and I think have taken legal action against some of the proponents of those speeches already.

The Hon. SUSAN CARTER: So you are aware of people being arrested while making those chants in proximity to the police?

Mr MICHAEL DALEY: Just in relation to media reports that police have already—

The Hon. SUSAN CARTER: So you have had no direct discussions with the police Minister or the police? You're relying on media reports for your information about the enforcement of your new laws in 93Z of the Crimes Act?

Mr MICHAEL DALEY: I haven't been briefed by the police on what prosecutions they are intending to bring or have brought.

The Hon. SUSAN CARTER: So you haven't been briefed?

Mr MICHAEL DALEY: By the police on the prosecutions that they're bringing?

The Hon. SUSAN CARTER: Yes.

Mr MICHAEL DALEY: No.

The Hon. SUSAN CARTER: If there are no clear public prosecutions, you would agree with me that there's not much point in having hate speech laws if people can chant racial epithets in front of the police and nobody is warned or nobody appears to be arrested for doing so? I would remind you that the only person arrested on the night of 9 October was a Jewish man who happily was waving a flag that didn't get burnt that night. I mean, rule of law requires public enforcement of the law so that community standards are clearly communicated. Would you agree with me that the law needs to be seen to be enforced for it to have any effect?

Mr MICHAEL DALEY: As a matter of principle, yes.

The Hon. SUSAN CARTER: If the law is unenforced, what impact does this have on the rule of law?

Mr MICHAEL DALEY: You are asking me to look into the minds of the police there, effectively, and ask them why they aren't bringing these prosecutions. I think it's premature of me to do that.

The Hon. SUSAN CARTER: No, Attorney General, I'm asking you to behave as the first law officer, liaise with the police and ensure that the rule of law is upheld, and that provisions like section 93Z are seen to actually matter—

Mr MICHAEL DALEY: You're presuming that there will be no prosecutions brought. It has been a mere matter of weeks. Police have indicated that they're looking at footage. I do know that the police are looking at footage from that night from various sources and they are investigating the conduct of people on the steps of the Opera House that night. I have been—

The Hon. SUSAN CARTER: I make no presumptions. I was hoping for answers today.

Mr MICHAEL DALEY: —briefed about that.

The Hon. SUSAN CARTER: You're the Minister responsible for the Summary Offences Act?

Mr MICHAEL DALEY: Yes.

The Hon. SUSAN CARTER: The way in which the Summary Offences Act works, a protest requires a permit in order for protesters to be permitted to march on public streets and interfere with traffic.

Mr MICHAEL DALEY: I'm not sure I'd characterise it exactly that way but, generally speaking, yes.

The Hon. SUSAN CARTER: The pro-Hamas protesters on 9 October didn't have a permit to conduct a protest march, did they?

The Hon. STEPHEN LAWRENCE: Point of order: I'm concerned about the characterisation of every single person who attended that event as being "pro-Hamas" in circumstances where the resolution of the House prevents reflections on third parties, and in circumstances where I'm sure even my honourable colleague would admit that that is a quite extreme characterisation and probably almost certainly wrong.

The Hon. SUSAN CARTER: I'm happy to reframe—

The CHAIR: Do you want to reframe the question?

The Hon. SUSAN CARTER: Yes. The protesters on 9 October didn't have a permit to conduct a protest march, did they?

Mr MICHAEL DALEY: No, I understand that they did not.

The Hon. SUSAN CARTER: When they proceeded to march from Town Hall to the Opera House, blocking roads, they did so illegally, didn't they?

Mr MICHAEL DALEY: I'm not sure they did block roads. I don't know; I wasn't there. If they did, then potentially they did not have the limited immunity that's granted under part 4 of the Summary Offences Act in relation to an authorised public gathering.

The Hon. SUSAN CARTER: If they did block roads as they were being escorted by the police from the Town Hall to the Opera House, and if they were in breach of the Summary Offences Act, and if all the police were doing was escorting them rather than stopping them, what is the point of the Summary Offences Act and having any lawful system of protest if it's not being enforced?

Mr MICHAEL DALEY: Dave Hudson was sitting here a few days ago. You could have asked him that.

Ms SUE HIGGINSON: Yes, we did.

Mr MICHAEL DALEY: In fact, he was asked and he did answer it—and I can't add to it.

The Hon. SUSAN CARTER: I'm asking you in terms of rule of law.

Mr MICHAEL DALEY: Basically what you are doing, and what the Coalition has been doing for the last few weeks, is to continue upon an unprecedented—in my time, anyway, in the 18 years I've been in this place—attack upon the NSW Police Force. What you are sitting here doing now is second- and third-guessing multiple times—not just you, but your leader and others—second-guessing and calling into question the decisions made by police at the most senior level. I can tell you, Ms Carter, I've never seen such a sustained attack on the police by an opposition in the 18 years that I've been here. As a former police Minister and a great admirer of the police, it's bordering on the offensive, frankly.

The Hon. DAMIEN TUDEHOPE: Quite frankly, Attorney, the attack is really directed at the Executive, which was in fact absent and missing in relation to that whole process. Let me ask you, in relation to that: You were interviewed—

Mr MICHAEL DALEY: I reject your characterisation, by the way.

The Hon. DAMIEN TUDEHOPE: Well, you have a characterisation and I have a different one. Attorney, you gave an interview to Ben Fordham on the morning of 10 October. Do you recall that?

Mr MICHAEL DALEY: Yes, I do.

The Hon. DAMIEN TUDEHOPE: Do you want to now apologise for your conduct in that interview?

Mr MICHAEL DALEY: In respect of which words, Mr Tudehope?

The Hon. DAMIEN TUDEHOPE: In respect of the manner in which you told the Jewish community to stay at home. It's a fair question, Attorney. Do you want to apologise for the manner in which you conducted that interview?

Mr MICHAEL DALEY: Let me go to the transcript. What I said was, at the end of the interview—what I meant by that was that it doesn't—

The Hon. DAMIEN TUDEHOPE: Not what you meant, what you said.

Mr MICHAEL DALEY: I'm reading the words from the interview—

The Hon. DAMIEN TUDEHOPE: What you said.

Mr MICHAEL DALEY: —and I will not have you interrupt me, either.

The Hon. STEPHEN LAWRENCE: Point of order—

Mr MICHAEL DALEY: You will act courteously, as I have acted this morning as well.

The CHAIR: A point of order has been taken. Please allow the Attorney to answer the question and then you can ask another one.

The Hon. DAMIEN TUDEHOPE: You didn't act courteously towards the Jewish community on that morning, Mr Daley.

Mr MICHAEL DALEY: That's not a question. It's your statement, and I reject it.

The Hon. DAMIEN TUDEHOPE: Well, good. Do you want to now take this opportunity to apologise to the Jewish community for your suggestion that they should have stayed at home?

Mr MICHAEL DALEY: What happened in the interview was that I assumed, as the questioner put to me, that there had been an order to stay at home. I had not been briefed on that. I said in the interview, and I will read what I said:

I think if people want to gather quietly in communities and reflect and mourn and pray and do all of those things, that's one thing. But marching down the street and waving banners and burning flags, that's another thing entirely.

The Hon. DAMIEN TUDEHOPE: Yes, I'm aware of what the interview was. It was a disgraceful interview, Attorney. Go to the part where you're suggesting—

Mr MICHAEL DALEY: I haven't finished my answer yet.

The Hon. DAMIEN TUDEHOPE: Go to the part where you're suggesting—

The Hon. STEPHEN LAWRENCE: Point of order—

Mr MICHAEL DALEY: I haven't finished my answer yet.

The CHAIR: A point of order has been taken.

The Hon. DAMIEN TUDEHOPE: Go to the part where you're suggesting they should have stayed at home.

The Hon. STEPHEN LAWRENCE: Point of order—

The CHAIR: A point of order has been taken.

The Hon. STEPHEN LAWRENCE: I would have thought when such frankly scurrilous and divisive things are put to the Attorney that my honourable colleague would allow him the dignity of responding. I think that is the least he could do in the circumstances.

The CHAIR: I've already ruled on that. Please allow the Attorney General to answer the question before you harass him again.

Mr MICHAEL DALEY: Thanks. When I gave that interview I was not aware of any direction or lack of direction by the police to anyone to stay at home. The Premier gave an interview later on in the day when he said that it's possible that my comments gave rise to—I think the words he used were "a sense of disproportionality". I accept that and so, sure, I'm happy to offer an apology, Mr Tudehope, to anyone who was offended by the comments.

The Hon. DAMIEN TUDEHOPE: Thank you, Attorney. We could have got to that position earlier.

Mr MICHAEL DALEY: If you would have stopped interrupting me, we certainly would have.

The Hon. DAMIEN TUDEHOPE: Well, we could have got to that position with a direct answer to my first question. Let me just ask you this—

Mr MICHAEL DALEY: I'll answer your questions as I see fit. I ask you not to interrupt me again constantly.

The Hon. DAMIEN TUDEHOPE: Attorney—

Mr MICHAEL DALEY: So far, your interruptions have been of a greater number than all the other people on this Committee put together in the three minutes that you've been speaking. It's very rude, Mr Tudehope.

The Hon. DAMIEN TUDEHOPE: Thank you, Attorney. When you appeared on that program on that morning, you indicated you weren't across the material.

Mr MICHAEL DALEY: No, I wasn't across—I should have been clearer. What I wasn't across was the—I assumed that there had been a direction by the police to the community to stay at home and I should have been clearer about that. I should have asked the interviewer for more details.

The Hon. DAMIEN TUDEHOPE: You told Mr Fordham that you were working late and had not been briefed on the material. Does that not—

Mr MICHAEL DALEY: No, I hadn't been briefed on a potential stay-at-home direction.

The Hon. DAMIEN TUDEHOPE: And you weren't really across it, were you?

Mr MICHAEL DALEY: I had no knowledge of a stay-at-home direction.

The Hon. DAMIEN TUDEHOPE: No, but you had no knowledge of what had occurred the previous evening.

Mr MICHAEL DALEY: No, I did, because it had been on the news and I'd read the newspapers in the morning. Yes, I knew there was a—

The Hon. DAMIEN TUDEHOPE: That wasn't the impression, though, you gave to Mr Fordham.

Mr MICHAEL DALEY: No, I accept that.

The Hon. DAMIEN TUDEHOPE: In fact, the impression you gave Mr Fordham was that you had not been briefed and weren't across the issue.

Mr MICHAEL DALEY: I accept that, yes.

The Hon. DAMIEN TUDEHOPE: In fact, you said it was a matter for—it wasn't in your portfolio.

Mr MICHAEL DALEY: Stay-at-home directions by the police aren't, that's right.

The Hon. DAMIEN TUDEHOPE: No, the issue relating to the demonstration that had occurred the previous night wasn't within your portfolio.

Mr MICHAEL DALEY: I accept that that could have given rise to a misunderstanding, yes.

The Hon. DAMIEN TUDEHOPE: When you go on a program like Mr Fordham's program, do you get a briefing before you go about the issues of the day?

Mr MICHAEL DALEY: I was invited to talk about drug reform and the things that Ms Carter has just been questioning me on, actually.

The Hon. DAMIEN TUDEHOPE: Indeed. But had your media officer—do you have a media officer working in your office?

Mr MICHAEL DALEY: Yes.

The Hon. DAMIEN TUDEHOPE: They had not briefed you in relation to that issue before you went on that program?

Mr MICHAEL DALEY: They had. I'd received all the media advice and there was no mention in the advices that I saw of a stay-at-home direction that had been given by the police to the Jewish community.

The Hon. DAMIEN TUDEHOPE: No, but had you, in terms the issues of the day—and assuming you're appearing on a program which is the most popular morning radio show—had you not been given a briefing in relation to the issues of the day?

Mr MICHAEL DALEY: Yes.

The Hon. DAMIEN TUDEHOPE: Why is it that you told the interviewer that you weren't across this issue?

Mr MICHAEL DALEY: I was referring to the aspect of his question that went to a direction to the Jewish community to stay at home.

The Hon. DAMIEN TUDEHOPE: No, Attorney—

Mr MICHAEL DALEY: I've got the question.

The Hon. DAMIEN TUDEHOPE: —if you have a transcript—that's a misleading characterisation of the initial questions. If you've got a transcript of that interview, that wasn't asked in relation to the stay-at-home order—

Mr MICHAEL DALEY: Really?

The Hon. DAMIEN TUDEHOPE: —was it?

Mr MICHAEL DALEY: Okay, then. Mr Fordham said:

We had a protest last night outside the Opera House. The Israeli flag was burned and Jewish Sydneysiders were told to stay at home.

The Hon. DAMIEN TUDEHOPE: Correct. That's the total characterisation and you said, "I haven't been briefed", in relation to that.

Mr MICHAEL DALEY: No, I hadn't.

The Hon. DAMIEN TUDEHOPE: Yes, to the whole incident.

Mr MICHAEL DALEY: No. What I meant, Mr Tudehope—I just conceded that my statement might have given rise to the apprehension that I didn't know that there was anything happening at the Opera House, and I accept that. My mistake—I should have been clearer.

The Hon. DAMIEN TUDEHOPE: That's what I'm putting to you.

Mr MICHAEL DALEY: And I've just told you that for the third time. It was the aspect of Jewish Sydneysiders being told to stay at home that I was referring to when I said I hadn't been briefed, but I accept that I could have been clearer.

The Hon. DAMIEN TUDEHOPE: In fact, you went on to characterise the reason as that you had been working late. Is that not the case?

Mr MICHAEL DALEY: Yes.

The Hon. DAMIEN TUDEHOPE: Do you want to tell us what you were working late on?

Mr MICHAEL DALEY: I was sitting in my ministerial office in 52 Martin Place with my chief of staff working on some Cabinet submissions. I finished work at about 9.30, went home, had dinner, watched the news and went to bed.

The Hon. DAMIEN TUDEHOPE: And you didn't see anything on the news that night?

Mr MICHAEL DALEY: I did. I saw that there had been protests at the Opera House, yes.

The Hon. DAMIEN TUDEHOPE: You were in a position to be able to form a view in relation to that protest, having seen it on the news that night, were you not?

Mr MICHAEL DALEY: My recollection was that there had been no mention of Jewish Sydneysiders having been told to stay at home on the news that night.

The Hon. DAMIEN TUDEHOPE: What time did you say you went home that night?

Mr MICHAEL DALEY: About 10 o'clock.

The Hon. DAMIEN TUDEHOPE: And you went straight to bed, did you?

Mr MICHAEL DALEY: By myself, I went to bed, yes.

The Hon. STEPHEN LAWRENCE: Point of order—

Mr MICHAEL DALEY: I'm not sure where this goes. I'm not sure my eating habits have anything to do with the Attorney General's portfolio.

The Hon. STEPHEN LAWRENCE: We've had extensive questioning that's now leading to what time the Attorney went to bed.

Ms SUE HIGGINSON: It is getting a bit silly.

The Hon. STEPHEN LAWRENCE: I would suggest that that's outside our task in terms of scrutiny of the budget. I would also say that this series of questioning has descended into badgering. We've had repetitive questioning on this issue of what was said in the interview. It doesn't seem to be going anywhere.

The CHAIR: There's really no point of order. I don't think he's getting anywhere, so let him carry on.

The Hon. DAMIEN TUDEHOPE: Attorney, on his radio program, Mr Ray Hadley suggested that you were affected by alcohol not only the night before but on the morning that you participated in that interview. This is your opportunity to respond to that allegation. What do you say to Mr Hadley in respect of the allegation which he made in relation to (a) your knowledge of the event and (b) the way you conducted yourself in that interview?

Mr MICHAEL DALEY: In respect of his claims about drinking, I reject them entirely. They are not true—simply untrue.

The Hon. DAMIEN TUDEHOPE: Simply untrue?

Mr MICHAEL DALEY: Totally untrue.

The Hon. STEPHEN LAWRENCE: What a disgraceful question.

The Hon. DAMIEN TUDEHOPE: As a member of this House—of this Parliament—who has the fourth largest Jewish community in New South Wales in their electorate, do you say that that interview is something which you now regret?

Mr MICHAEL DALEY: Not the whole interview, Mr Tudehope. But, as I've already answered to you, there were aspects of it where I could've been clearer, and I apologise for my lack of clarity.

The Hon. DAMIEN TUDEHOPE: Thank you, Attorney. I think it is probably one of the more regrettable parts of your performance as Attorney. You have had the opportunity of apologising, which you have done.

Mr MICHAEL DALEY: I know you're frustrated being out of government, and it's showing.

The Hon. CAMERON MURPHY: What a disgraceful line of questioning.

The Hon. DAMIEN TUDEHOPE: I just hope that I would've done things differently, Attorney. Maybe I would've known what I was doing before I appeared on a radio program.

The Hon. STEPHEN LAWRENCE: Point of order—

Mr MICHAEL DALEY: If you and your colleagues were such geniuses, you'd be sitting there and not there.

The CHAIR: Let's keep things civil, please.

The Hon. SUSAN CARTER: If I could take you to another topic, Mr Attorney General.

Mr MICHAEL DALEY: Please do, because that was—

The Hon. SUSAN CARTER: The Sheriff and Court Security Amendment Bill 2023, which is currently before the House. Has the proposed rank structure for sheriff's officers been costed?

Mr MICHAEL DALEY: Unless somebody can answer that, I'm happy to take that on notice.

MICHAEL TIDBALL: We'll take it on notice.

Mr MICHAEL DALEY: Yes, we'll take that on notice.

The Hon. SUSAN CARTER: While you're taking that on notice, perhaps you can tell us how much that will cost.

MICHAEL TIDBALL: Yes, happy to do that.

The Hon. SUSAN CARTER: And, if the bill is enacted, how this cost will be met. Will it come from DCJ's budget? Will it create a shortfall? Will a PTA be submitted to meet the shortfall? And, if not, from where will the funding be taken?

MICHAEL TIDBALL: Certainly.

Mr MICHAEL DALEY: You've got all that on notice?

MICHAEL TIDBALL: Yes.

Ms SUE HIGGINSON: Attorney, you said in answer to some questions just then about the protest at the Opera House that you have been briefed about the investigation into allegations of hate speech. I think you might have answered that.

Mr MICHAEL DALEY: I said that I had been briefed that police were having regard to video footage.

Ms SUE HIGGINSON: In those briefings that you've received, have you been made aware of any allegation around the truth of that video footage or the reliability of the video footage?

Mr MICHAEL DALEY: Reliability in what sense?

Ms SUE HIGGINSON: That what appears to be on the video footage is a reflection of what was actually chanted.

Mr MICHAEL DALEY: No.

Ms SUE HIGGINSON: Nothing of that degree?

Mr MICHAEL DALEY: No, it didn't go to that level. I understood that police were having regard to video footage taken from areas around the Opera House. I will have to be careful about what I say for security reasons.

Ms SUE HIGGINSON: Absolutely. I understand that. Thank you. When were you briefed about that?

Mr MICHAEL DALEY: I'm not sure I'm at liberty to disclose particular details, but it was within 48 hours.

Ms SUE HIGGINSON: Are you receiving ongoing briefs?

Mr MICHAEL DALEY: No.

Ms SUE HIGGINSON: So nothing since that 48 hours ago have you had any discussions with anybody?

Mr MICHAEL DALEY: Casual conversations with the Minister for police and her staff but no official briefings from the police, no.

Ms SUE HIGGINSON: In those less official conversations with the Minister for police, what's your understanding of where things are up to at the moment in terms of investigations of that night?

Mr MICHAEL DALEY: I haven't been briefed on that detail at that level. I wouldn't expect to.

Ms SUE HIGGINSON: Why wouldn't you expect to?

Mr MICHAEL DALEY: Because the police don't, as a matter of course, brief the Attorney General on prosecutions that they are looking at initiating.

Ms SUE HIGGINSON: I understand perhaps in general, but do you see this as something that is not of a general criminal nature? Do you understand that this is something that is incredibly novel, what's happening in New South Wales at the moment?

Mr MICHAEL DALEY: Yes, it is. It's novel and it's concerning. I hope it's over sooner rather than later, and it will be my intention to get an update from the police Minister in the next week or so. But, up to this time, one hasn't been offered, no.

Ms SUE HIGGINSON: I'm going to say at the outset that I'm going to say words that I would never naturally say, and they're words that are not repeated here for any reason other than to gauge a view. I'm sorry. I'm just pre-empting what I'm saying.

Mr MICHAEL DALEY: I understand.

Ms SUE HIGGINSON: Attorney, is your understanding of the words "gas the Jews", from a criminal perspective, different to the words "fuck the Jews" or "F the Jews"? Do you understand the difference in those in terms of the criminal law?

Mr MICHAEL DALEY: I'm not really sure what you're asking me here, Ms Higginson.

Ms SUE HIGGINSON: The former words, if they are chanted—

Mr MICHAEL DALEY: They're all inordinately offensive.

Ms SUE HIGGINSON: Without a doubt—unacceptably, disgracefully. But do you understand, from a criminal law perspective—would you see that there's a difference in the former words if they were chanted to the latter two sets of chants?

Mr MICHAEL DALEY: I suppose what you're really asking me is to have regard to the words and then apply them to the words that are said out of 93Z in the Anti-Discrimination Act. I'm not sure I can advise you in that regard today, Ms Higginson. I'm not sure where you're going with this line of questioning. I'm not sure what you're really after. I'm trying to help but I just don't know that I can.

Ms SUE HIGGINSON: If you've had a brief in relation to investigations, I would have thought—

Mr MICHAEL DALEY: No, I haven't.

Ms SUE HIGGINSON: —and correct me—

Mr MICHAEL DALEY: But I haven't.

Ms SUE HIGGINSON: I thought you said you had been briefed.

Mr MICHAEL DALEY: No, I had a briefing in the first 48 hours about the measures that police were adopting to have regard to the activities at the Opera House—nothing about the investigations after that.

Ms SUE HIGGINSON: All right. Can I just go back to Raising the Age? We'll move on, thank you.

Mr MICHAEL DALEY: Sure.

Ms SUE HIGGINSON: With the four children who are currently incarcerated in New South Wales, are you aware that three of those young people are Aboriginal children?

Mr MICHAEL DALEY: No, I'm not specifically aware. But it doesn't surprise me, unfortunately.

Ms SUE HIGGINSON: Your diary disclosures, Attorney—and I would love to be wrong, but I can't see anything that suggests that you have met with any of the Raise the Age campaigners or the organisations involved in raising the age. I can see only one meeting there with the Aboriginal Legal Service. Would that be correct?

Mr MICHAEL DALEY: I haven't got my diary in front of me. I'm meeting the Raise the Age group next week. I met with PIAC and discussed Raise the Age with them early on in my tenure as Attorney General.

Ms SUE HIGGINSON: Without disclosing, did you come away from those meetings with a view that a full understanding of the evidence that is piled very high, over months and years, of the impact of raising the age, and of the expert advice that raising the age of criminal responsibility is something in the public interest?

Mr MICHAEL DALEY: I accept that evidence.

Ms SUE HIGGINSON: Are you supportive of raising the age of criminal responsibility?

Mr MICHAEL DALEY: As a general principle I accept that there are greater ways in relation to some young offenders—not all—to divert them away from the criminal justice system and deal with them in different ways rather than simply locking them up. I accept that. But it's the alternative pathways that are the problem. As first law officer, I join with the Premier and the police Minister in saying that our first responsibility is to uphold community safety. That's our paramount consideration. But if you're going to go to an alternative model, you've got to make sure that there are comprehensive supports available in every corner of the State—not just in the city but everywhere, and we are a long way from that.

Ms SUE HIGGINSON: Attorney, are you aware, then, of what the sort of offences these young people are experiencing rates of incarceration?

Mr MICHAEL DALEY: Sorry, I just didn't hear your first bit.

Ms SUE HIGGINSON: Are you aware of the kind of offences and the criminality of the young people that we're incarcerating?

Mr MICHAEL DALEY: The offences they've committed? No, I've not received a brief—a breakdown. But from my experience as Minister for Police, I imagine and have some knowledge of the things that they would be incarcerated with, yes, in a range of offences, and some of them are quite violent—very violent offences.

Ms SUE HIGGINSON: And some of them are not so violent, Attorney.

Mr MICHAEL DALEY: That's right.

Ms SUE HIGGINSON: And some of them—I'm sure you know this, but the reason young people end up incarcerated is because of significant complex traumas—

Mr MICHAEL DALEY: Yes, I accept that.

Ms SUE HIGGINSON: —and because of significant disadvantage.

Mr MICHAEL DALEY: Yes, and we do have the Young Offenders Act, Ms Higginson. The Young Offenders Act—

Ms SUE HIGGINSON: Three of the four children incarcerated are Aboriginal children.

Mr MICHAEL DALEY: I accept that.

The Hon. GREG DONNELLY: Point of order: The point of order is the same one I made earlier. The Attorney is entitled to answer the question and not be talked over.

Ms SUE HIGGINSON: To the point of order: The Attorney and I were having a very civil conversation. Can I remind my honourable colleague, the Attorney General is very fit to defend himself here in the questioning.

The Hon. GREG DONNELLY: It's not about defending; it is about courtesy. g

The CHAIR: Order! The Attorney General is quite happy with the line of questioning and is dealing with it properly. I notice he nodded a few minutes ago and he's quite happy to continue.

Mr MICHAEL DALEY: So where were we?

Ms SUE HIGGINSON: I was pressing the point that three of the four young people are Aboriginal children.

Mr MICHAEL DALEY: Yes, I understand. The Young Offenders Act has significant provisions in it, as you know, to divert children away from prison so we end up with a small amount of children who are incarcerated. I speak to the police about this often. I have regular meetings with Nell Skinner, the President of the Children's Court, about this and it does weigh heavily on my mind. But we've got to have, Ms Higginson, alternative pathways for them. That's what I want us to start looking at in earnest, and we will. We are doing that, in conjunction with what we've done at a Federal level. Don't get me wrong here. It would be something that would bring great benefit if we could get it done. We need to bring the police on board with it if we're going to do it at all. It will be long and slow work and will require significant investment. We're nowhere near it yet, to be honest with you—nowhere near it yet. Mr Tidball might just give you some details.

MICHAEL TIDBALL: Ms Higginson, if I may assist the Committee by indicating the current numbers in youth detention. There are currently zero under 12 years in custody. There are currently six children under 14 years in custody. Each of those six is on remand and zero are on control.

Ms SUE HIGGINSON: I don't think they are the figures that were quite given to us in budgets a couple of days ago, but fair enough. Maybe something—

MICHAEL TIDBALL: I'm happy to—at the Youth Justice hearing—

Ms SUE HIGGINSON: I've literally got written here from answers that were provided in budgets less than a week ago—and it was that there are currently four children under 14 years of age in custody and three of those are Aboriginal children.

MICHAEL TIDBALL: I'm happy to clarify. My extraction date is 29 October, but I will clarify.

Ms SUE HIGGINSON: All right. Maybe there's some discussion there about what's happening. But I think the premise really is that anybody under the age of 14 in incarceration is really not where we should be. I think the Attorney knows that. When you say, though, we are—

Mr MICHAEL DALEY: I understand that, Ms Higginson, but you also have to keep in mind that some of these young children bring significant risk of danger to themselves and others. We have to make sure there's a regime that keeps them safe, keeps the community safe and seeks to divert them in a proper way, and we're not there.

Ms SUE HIGGINSON: Have you been to a detention centre, Attorney?

Mr MICHAEL DALEY: Not a children's detention centre, no.

Ms SUE HIGGINSON: Okay.

Mr MICHAEL DALEY: But I have sat with the police after I've been the Attorney General, and I have watched videos of some of the contact that these young children have been involved in, and it's pretty horrific. So community safety is our paramount concern. Let me make no mistake about that.

Ms SUE HIGGINSON: I just want to go to the outcome that you and I are both very familiar with in Kathleen Folbigg's matter, and obviously now the Bathurst full report has been tabled. Is it your view that here in New South Wales we should be concerned with both sides of justice—not just convicting people, but also freeing innocent people?

Mr MICHAEL DALEY: Of course.

Ms SUE HIGGINSON: Is that an "of course"?

Mr MICHAEL DALEY: Yes, of course.

Ms SUE HIGGINSON: Do you think it's important that legal processes are the best that we can be providing in terms of both sides of justice?

Mr MICHAEL DALEY: No doubt. I accept that, yes.

Ms SUE HIGGINSON: Attorney General, you're the only person right now in real terms who can provide a pardon to somebody, and you're actually responsible for determining if any case gets reviewed once somebody has been convicted. Is that right?

Mr MICHAEL DALEY: I certainly am—no? I know I do have the capability to do that but—

PAUL McKNIGHT: The Supreme Court can order a review in criminal cases of its own motion.

Ms SUE HIGGINSON: Sorry, my question was to pardoning.

Mr MICHAEL DALEY: As to pardoning—well, I recommend it to the Governor, yes.

Ms SUE HIGGINSON: But ultimately she—I mean, the Governor will act.

Mr MICHAEL DALEY: Yes, acts on advice, yes.

Ms SUE HIGGINSON: In terms of a pardon, you're it?

Mr MICHAEL DALEY: Yes. Not just me. There has to be a significant process under the Crimes (Appeal and Review) Act before that. I can't just wake up—well, I wouldn't wake up and pardon someone. It's not contemplated under the Act, no.

Ms SUE HIGGINSON: Do you think it's time that we have a better system than just you?

Mr MICHAEL DALEY: Than this? What are you getting at?

Ms SUE HIGGINSON: I think I wrote to you and asked you about whether you were open to us having a review of the way we do post-criminal conviction reviews, and whether a criminal case review commission would be something that you would be open to. Are you open to that idea of looking at what we could do and do better?

Mr MICHAEL DALEY: Yes. I was asked that question in the press conference where I announced the pardon. I said that it would be something I would be open to looking at, as I am in respect of all legislation under my purview.

Ms SUE HIGGINSON: Are you open to that?

Mr MICHAEL DALEY: I said it then and I am now. I do note that that would be a standing commission of inquiry, where none exist in Australia now. There are only a few that exist overseas. But the short answer to your question is yes, I'm open to it, but it's not a priority for me at this time, I have to say. But I'm open to receiving submissions about it, and if I receive them I will refer them to the department and we'll look into it. But I do acknowledge that there are some imperfections in the CARA scheme.

Ms SUE HIGGINSON: Does it not concern you then that what's just been dropped on your table is a comprehensive report of comprehensive failure? One woman—amongst others, I'm sure, and men—has been wrongly convicted and held in prison for, in Kathleen's case, 20 years. Every attempt that she made to access a post-conviction review process also failed her, and then, only just, we've seen how bad and how systemic that failure has been, and that's not a priority for you to look at how we could do better in—

Mr MICHAEL DALEY: That is one characterisation of what has occurred. There are others.

Ms SUE HIGGINSON: What else do you think we did to Ms Folbigg?

Mr MICHAEL DALEY: No, I'm saying there are other characterisations of other parties that might differ from yours. I'm sure there are a range of views. However—

Ms SUE HIGGINSON: Hang on, Attorney. Can I just ask you there—

Mr MICHAEL DALEY: No, this matter is before the Court of Criminal Appeal, or it will be shortly, and I don't really wish to go into this at all.

Ms SUE HIGGINSON: Sorry, I'm a bit confused. Are you suggesting now that what's just happened does not show that there has been systemic failure?

Mr MICHAEL DALEY: No, I'm not suggesting that. I'm saying that you put to me a number of assertions with a conclusion at the end. I accept that that's one characterisation, and there will also be others.

Ms SUE HIGGINSON: Can I ask you, Attorney, what is another characterisation of what the State has done to Kathleen Folbigg?

Mr MICHAEL DALEY: I'm not going to go into hypotheticals.

Ms SUE HIGGINSON: I'm not asking for hypotheticals.

Mr MICHAEL DALEY: Well, you are because you are asking me to canvass possible views that other people might have.

Ms SUE HIGGINSON: No, you're the one who put to me that there are other views. What are those views, Attorney?

Mr MICHAEL DALEY: There would be other views, yes.

Ms SUE HIGGINSON: I have not heard any other views. I have not heard one other view.

Mr MICHAEL DALEY: That might differ with the characterisations, as you put them to me.

Ms SUE HIGGINSON: Have you read the full report that was tabled by Tom Bathurst?

Mr MICHAEL DALEY: This week?

Ms SUE HIGGINSON: Yes.

Mr MICHAEL DALEY: I've started it. It's 660 pages long and it's got dense medical evidence. Given—

Ms SUE HIGGINSON: Have you read the top lines of where she's been failed throughout the entire system?

Mr MICHAEL DALEY: Yes, and it accords with the preliminary advice that Mr Bathurst provided me in June.

Ms SUE HIGGINSON: What's your view in relation to wrongful convictions? What do you see—how grave do you see it is when an innocent person is incarcerated?

Mr MICHAEL DALEY: Hugely grave.

Ms SUE HIGGINSON: As the Attorney General of New South Wales, surely you would want to change the fact that we can now see how wrong the system can be.

Mr MICHAEL DALEY: And that's why we'll wait for what the Court of Appeal Criminal has to say and we'll look at any shortcomings that they might bring to our attention.

Ms SUE HIGGINSON: With respect, Attorney, there is Kathleen Folbigg's path of justice, and that's happening in the face of the gravest injustice.

The Hon. GREG DONNELLY: Time.

The Hon. NATASHA MACLAREN-JONES: We've given our time. She can go first.

Ms SUE HIGGINSON: No, I'm sorry. There's also the grave system failure that has taken place, including the post-conviction review process failing her several times. Why is it not a priority of yours to fix the post-conviction review process of New South Wales?

Mr MICHAEL DALEY: Fix it in what regard?

Ms SUE HIGGINSON: Improve it.

Mr MICHAEL DALEY: How?

Ms SUE HIGGINSON: Perhaps a post-conviction review commission of some sort.

Mr MICHAEL DALEY: I just told you that I'm open to that.

Ms SUE HIGGINSON: You said it's not a priority. I'm asking you to explain, in light of the circumstances which we've been presented through the Bathurst report—and there are others—why that is now not a priority for you.

Mr MICHAEL DALEY: When I say it's not a priority, it's not one of the initial things I'm working on at this time. But I am open to it and we will have a look at it in due course.

Ms SUE HIGGINSON: So if you're presented with material around what that reform would look like, you're very open to moving on that, and perhaps in a more swift manner than a non-swift manner?

Mr MICHAEL DALEY: I don't want to give any indication of the swiftness, but I've already indicated that it's something that I'm open to looking at, yes.

Ms SUE HIGGINSON: And you accept that a system that can fail so badly and hold somebody in prison in circumstances where they shouldn't be there, that that is a fundamental consideration for you as an Attorney General?

Mr MICHAEL DALEY: That would be one of the fundamental considerations if we were to look at going down that path, yes.

The Hon. NATASHA MACLAREN-JONES: Do you remember the alleged murder of Leisl Smith on the Central Coast in 2012?

Mr MICHAEL DALEY: I don't remember it, no, but I'm aware of it in general terms, yes.

The Hon. NATASHA MACLAREN-JONES: You're aware of the case. Her ex-boyfriend was arrested and faced a judge-alone trial and then took his own life a day before the verdict was due to be made public in July 2022. Justice Elizabeth Fullerton said the law prevented her from saying whether she had decided to find the defendant guilty or not. He pleaded not guilty. It has been reported that Leisl's sister has been in contact with your office in the hope of getting the law changed, but has not received a response. Has your office responded to Leisl's sister?

Mr MICHAEL DALEY: I'm not sure where that response is up to, but I am certainly aware that correspondence came in and I have referred it to the department. They're looking at it. I think we're probably close to getting a response out—I think, but we will take that on notice and see where it is.

The Hon. NATASHA MACLAREN-JONES: Attorney, could you attempt to get a response to that—of when you will respond to her—by the end of the session?

Mr MICHAEL DALEY: Yes, sure.

The Hon. SUSAN CARTER: I just have one more question in relation to the raise the age issue. I just wonder, Attorney General, if you could give us your view of the current functioning of the *doli incapax* doctrine and whether this actually allows for a child-by-child consideration.

Mr MICHAEL DALEY: Child-by-child consideration of what?

The Hon. SUSAN CARTER: Of their criminal responsibility.

Mr MICHAEL DALEY: Yes, it does—case by case.

The Hon. SUSAN CARTER: So you're happy that this child-specific test of criminal responsibility exists and that it's functioning well at the moment?

Mr MICHAEL DALEY: I'm not sure it's functioning well, but that's what the law is at the moment.

The Hon. SUSAN CARTER: You're satisfied with that law at the moment, and you see no reason to change?

Mr MICHAEL DALEY: That's something I'll look into, but it's not a perfect system because it relies on the prosecution having to go and get psychological and other evidence as to what the capabilities and mental capabilities and capacities of the child are. Sometimes that's difficult, but, in a difficult system, that's what we have at the moment. It's not perfect, but it's what we have. When faced with imperfection, one should always try to see if there are better ways to improve.

The CHAIR: We might take a break there. We will return in 30 minutes.

(Short adjournment)

The CHAIR: Questions from the Opposition.

The Hon. NATASHA MACLAREN-JONES: Attorney General, would you be aware of the—

Mr MICHAEL DALEY: Sorry, Ms Maclaren-Jones. Mr Chair, we took some questions on notice before. Would you like us to read some of the answers that we have into the record now or do it at the—

The CHAIR: Are you happy to do that?

The Hon. NATASHA MACLAREN-JONES: As long as they don't take too long.

Ms SUE HIGGINSON: Yes, as long as the clock doesn't start.

The CHAIR: It won't. Please do.

MICHAEL TIDBALL: I can be quick. Just clarifying, Ms Higginson, the youth detention question—you were right in your recall. We've checked that those figures which were given in evidence by Candice Neilson from YJ were on the day, they were correct. Mine quoted on 30 October were also correct. The thing about Youth Justice numbers at the moment is that it has been heavily driven by remand, and a number of those remands, as you probably know, are very short. In terms of the figures today, there are nine children under 14 years old and all are on remand. There is one child 11 years, there is one child 12 years, and seven children 13 years of age.

Ms SUE HIGGINSON: Do you have, by any chance, the proportion of Aboriginal or First Nations children?

MICHAEL TIDBALL: Yes, I do. Four of those nine identify as Aboriginal.

Ms SUE HIGGINSON: All nine identified—

MICHAEL TIDBALL: No, I said four of the nine.

Ms SUE HIGGINSON: Sorry, four. Thank you.

MICHAEL TIDBALL: So that's that one. In respect of the sheriff issue raised by Ms Carter, in respect of the miscellaneous sheriff amendment, so what that piece of legislation does is effectively formalise a rank structure that has been in practice, in place, for some time. Has it been costed? Yes, but the cost is zero because it's just formalising that structure, as I say, which has been in place.

The Hon. SUSAN CARTER: Thank you very much.

The Hon. NATASHA MACLAREN-JONES: Thank you very much—

Mr MICHAEL DALEY: Sorry, just one more. I was asked a question in relation to whether we had responded to correspondence in respect of Liesl Smith. I'm advised that a response will be provided within a week or two.

The Hon. SUSAN CARTER: Sorry, I found that very hard to hear. Could you talk into the mic?

Mr MICHAEL DALEY: I don't know what's wrong with my microphone. With respect to correspondence in response to the Liesl Smith matter, a response will be provided within a week or two. So it must be back from the department.

The Hon. SUSAN CARTER: Thank you.

The Hon. NATASHA MACLAREN-JONES: Attorney General, would you be aware of the Magistrates Early Referral into Treatment, also known as the MERIT program?

Mr MICHAEL DALEY: Yes.

The Hon. NATASHA MACLAREN-JONES: This program has been measured to reduce reoffending by around 12 per cent. What is the expected success rate of your new diversion program?

Mr MICHAEL DALEY: I think I will ask Anne Campbell from the department to answer that, please.

ANNE CAMPBELL: I will need to take that on notice, but I'm certainly happy to provide it this afternoon.

The Hon. NATASHA MACLAREN-JONES: That would be great. Thank you very much.

Mr MICHAEL DALEY: Could you just clarify what the question actually meant?

The Hon. NATASHA MACLAREN-JONES: The question is of the new program that you have announced—

Mr MICHAEL DALEY: So this is the new diversion for drugs?

The Hon. NATASHA MACLAREN-JONES: Yes.

Mr MICHAEL DALEY: Yes.

The Hon. NATASHA MACLAREN-JONES: If you have—how much you expect it will reduce the rates by.

Mr MICHAEL DALEY: Reduce people going into the MERIT Program, do you mean?

The Hon. NATASHA MACLAREN-JONES: Well, compared—reoffending.

Mr MICHAEL DALEY: They are different programs, though.

The Hon. NATASHA MACLAREN-JONES: Yes. I was just using the example that the MERIT program, when it was evaluated, found that the rate was around 12 per cent. I'm interested to know what you expect the rate to be of your new program.

Mr MICHAEL DALEY: Yes, I understand.

The Hon. NATASHA MACLAREN-JONES: Could you also advise if you have set a date of when you will review your program?

Mr MICHAEL DALEY: I'm not sure.

ANNE CAMPBELL: You are talking about the MERIT Program?

The Hon. NATASHA MACLAREN-JONES: No, the new diversion program.

Mr MICHAEL DALEY: The new Fines Act drug diversion—court diversion program.

ANNE CAMPBELL: No, I will need to take it on notice.

The Hon. NATASHA MACLAREN-JONES: Are you intending to review it?

Mr MICHAEL DALEY: I would have to go back and have a look at what the embedded mechanism for review is. I don't know off the top of my head. But it should be reviewed.

The Hon. NATASHA MACLAREN-JONES: Yes.

Mr MICHAEL DALEY: In fact, I would be very interested to see what the results of it are actually, so, yes, so there will be a review.

The Hon. NATASHA MACLAREN-JONES: In relation to the MERIT program, it's much more extensive than the health intervention proposed under your current policy. Why did you decide to introduce a new policy rather than resource or further expand the MERIT program?

Mr MICHAEL DALEY: On the basis of advice from the department of health and the Chief Health Officer. They are two distinct programs. One is run in the Local Court at a certain point in proceedings, and the other is pre-proceedings—it's designed to keep people out of the court.

The Hon. NATASHA MACLAREN-JONES: What exactly was the advice that you received from Health?

Mr MICHAEL DALEY: In respect of what?

The Hon. NATASHA MACLAREN-JONES: You said that they advised you that the MERIT program—or did they advise you that it wasn't successful or that you shouldn't expand it?

Mr MICHAEL DALEY: No, I don't think—I don't understand the question. Did they advise me about the MERIT program?

The Hon. NATASHA MACLAREN-JONES: You just said that you decided on your policy, rather than the MERIT program, based on advice from Health.

Mr MICHAEL DALEY: No, the pre-court diversionary program was all put together on advice from Health, but it's totally distinct from the MERIT program.

The Hon. NATASHA MACLAREN-JONES: I'm just wondering, getting clarity. The department of health advised you that you should implement this policy?

Mr MICHAEL DALEY: In relation to the MERIT program, it's available in 62 local courts. It has been expanded, and it will result in the service being available at 30 additional local courts. It will be 92 local courts that the MERIT program will be available to after it's fully expanded.

The Hon. NATASHA MACLAREN-JONES: But the policy that you have, your diversion policy, you said that it was based on advice by Health.

Mr MICHAEL DALEY: Yes, Health put the whole package together. We've been through this already this morning.

The Hon. NATASHA MACLAREN-JONES: Okay.

The Hon. SUSAN CARTER: Why did you follow that advice? Why were you persuaded by Health? Why did you decide to introduce that rather than further resource MERIT?

Mr MICHAEL DALEY: Because they are totally different concepts. One is a pre-court diversionary scheme for low-level drug offending, where we try to keep people out of the courts. We don't want them appearing in court. If we can get people who have been apprehended carrying drugs into treatment early and not have to put them through the justice system, that is a much better outcome than having them charged, put before the court and then put into the MERIT program.

The Hon. SUSAN CARTER: I understand that they are different. The question is—

Mr MICHAEL DALEY: But it's up to the police officer. If the officer thinks that the MERIT program might be of better assistance to them, then they will use their discretion to put them through the court and not have them issued with a CIN.

The Hon. SUSAN CARTER: The question is what persuaded you to follow the Health advice and introduce a diversion program as part of the criminal justice system?

Mr MICHAEL DALEY: I had no reason to question it, that's why, and it makes perfect sense.

The Hon. SUSAN CARTER: So any advice you get from Health, you just accept?

Mr MICHAEL DALEY: This work had been done largely before we got into government. My decision—the decision which was left to the new Government was whether we forsook all of the work the police and the health department had done over many, many months and wait until the drug summit to see what we would do or whether to put that good work into action now. We decided that the best course of action was to put the program that they had come up with into fruition now.

The Hon. SUSAN CARTER: And the question for the incoming government was whether it would be resourced equally throughout the whole of New South Wales?

Mr MICHAEL DALEY: Would you want me to take that on notice? I think we have gone there as well. I think it is. If you want me to go and check what that is, I can do it, but I will have to get the advice from Health.

The Hon. SUSAN CARTER: I would be delighted to receive details of how it's to be implemented across the entirety of New South Wales.

Mr MICHAEL DALEY: Well, that will be advice that we'll have to get from Health, so it won't be forthcoming today.

The Hon. SUSAN CARTER: Thank you.

The Hon. NATASHA MACLAREN-JONES: Attorney General, just following on that, in relation to the advice that you did get from Health, I'm interested to know about particularly the rehabilitation beds and what will be made available. Were you given advice and details about how many rehabilitation beds would be available and the cost?

Mr MICHAEL DALEY: This is a telephone counselling and telehealth counselling program. There will be no drug and alcohol rehab beds attached to it, unless I'm mistaken.

The Hon. SUSAN CARTER: Can I take you to the information we received from Kerry Chant in estimates where she said it could go from telehealth up to drug and rehabilitation?

Mr MICHAEL DALEY: Sure. If that's the advice that you have been given by the person who's running the program, then I have no reason to question it.

The Hon. SUSAN CARTER: But if it's your program, have you costed rehab beds as part of the program, since you say it doesn't include rehab beds?

Mr MICHAEL DALEY: I'll get some advice on that. We will take that on notice.

The Hon. NATASHA MACLAREN-JONES: Attorney General, I come from a health background and nursing background. I don't have a legal background, but I am interested particularly—as the first law officer, you indicated before that your role was to facilitate a framework for this. Did you ask the questions about how Health intends to roll this out equally—whether it's metropolitan or regional areas—to ensure that some of our most vulnerable people are supported?

Mr MICHAEL DALEY: No, because the regime that was left to us was where there was advice that was sought from the commissioner of police and from the Chief Health Officer as to the state of readiness of those two departments in respect of if such a scheme was going to be introduced, and the advice came back that they would be operationally ready within six months. They gave it an approval based on operational readiness within six months. That was the framework that was left to me from the previous Attorney General and the previous health Minister and the previous police Minister.

The Hon. NATASHA MACLAREN-JONES: But you didn't ask the questions?

Mr MICHAEL DALEY: Ask what questions?

The Hon. NATASHA MACLAREN-JONES: Did you ask them to clarify when they would be up and running and whether or not they had the resources and the support to actually implement this?

Mr MICHAEL DALEY: The written advice that was sought was as to how long it would take for them to be operationally ready to implement the scheme. Their written advice came back that they would be operationally ready within six months.

The Hon. NATASHA MACLAREN-JONES: Do you have a start date of when this will come into effect? Before you said it will be some time next year.

Mr MICHAEL DALEY: Six months is some time next year.

The Hon. NATASHA MACLAREN-JONES: But you don't know when.

Mr MICHAEL DALEY: I can get the precise date for you, if it's possible to ascertain one. But it will be, really, up to the department of health to say, "We're ready to go." But the advice in writing from the Chief Health Officer was that they will be operationally ready within six months.

The Hon. SUSAN CARTER: Could you tell us what your instructions were to the departments as to what operational readiness meant?

Mr MICHAEL DALEY: No. That was an instruction that was given by the previous Government, and we received the advice. The advice was sought by the previous Government, and it was delivered in this term of government.

The Hon. SUSAN CARTER: You are simply saying that you are a conduit through which this program passes and you have no oversight over it?

Mr MICHAEL DALEY: Not over the delivery of the health aspect of it, no.

The Hon. SUSAN CARTER: As first law officer, you do not have oversight over how this intervention, which takes the place of a criminal infringement notice, operates?

Mr MICHAEL DALEY: I don't know. Ms Maclaren-Jones, have you ever had an Attorney General ring you up and tell you how to administer matters within your nursing capabilities?

The Hon. NATASHA MACLAREN-JONES: I'm not—

Mr MICHAEL DALEY: No. The answer is no.

The Hon. NATASHA MACLAREN-JONES: We're not here to ask about when I worked as a nurse 20 years ago; we're here to ask you questions, as the Attorney General, who put forward legislation, about whether or not you are actually across the detail of what you are recommending.

Mr MICHAEL DALEY: Sure.

The Hon. NATASHA MACLAREN-JONES: That's your answer? "Sure"?

Mr MICHAEL DALEY: No. You just made a statement. There was no question in that.

The Hon. SUSAN CARTER: I heard my colleague ask the question: Are you across the detail of the program that you are responsible for implementing?

Mr MICHAEL DALEY: Insofar as the responsibilities and legislative aspects of it fall to me, yes.

The Hon. SUSAN CARTER: And your responsibilities stop at ensuring equal implementation for every citizen in New South Wales, do they?

Mr MICHAEL DALEY: No, my responsibilities don't include the administration of drug and alcohol rehab services that fall within the purview of the Minister for Health.

The Hon. SUSAN CARTER: Do your responsibilities include making sure that there are equal interventions available in the AOD space for every person who is given a CIN?

Mr MICHAEL DALEY: In what respect?

The Hon. SUSAN CARTER: In the respect that this program is a Justice program and, if somebody is given a CIN and the opportunity under your amendments to fulfil that as a diversion program, that every single citizen has the opportunity for the same diversion program, regardless of their postcode.

Mr MICHAEL DALEY: I think we've been over this already, three or four times.

The Hon. SUSAN CARTER: It would be nice to get an answer.

Mr MICHAEL DALEY: I think I have answered it already, many times.

The Hon. CAMERON MURPHY: He's answered it very well. Multiple times—25, even.

The Hon. SUSAN CARTER: Can I ask you, if an offender in a regional area receives a tailored health intervention which requires treatment in rehab and then there is no rehab bed available for them, what happens?

Mr MICHAEL DALEY: Happy to take that on notice. I'll ask the Minister for Health to provide me with some advice. And I do know—

The Hon. SUSAN CARTER: So the Minister for Health will tell you the consequences for somebody who has a CIN. Because the question I have for you, Minister, is—

Mr MICHAEL DALEY: No, that wasn't the question.

The Hon. SUSAN CARTER: That is the question. If an offender in a regional area receives a tailored health intervention of the kind foreshadowed as part of your plan, and that tailored health intervention requires rehab treatment and there is no rehab bed available for them, what happens? Do they have to pay the fine because the Government has not invested in the health services in regional New South Wales?

Mr MICHAEL DALEY: That question goes to the provision of health services, and I'm not able to answer that.

The Hon. SUSAN CARTER: With respect, Attorney General, it goes to "I am an offender. I have been given a CIN"—

Mr MICHAEL DALEY: The responsibility is on the Ministry of Health to provide the treatment that the scheme makes available. That's their responsibility.

The Hon. SUSAN CARTER: What we are to take from that is that the first law officer is telling us that, under the drug diversion program, there is no responsibility to make sure that there are equal outcomes for people with criminal infringement notices and that's a matter for health and, somehow, delivery of offender prevention programs has become a Health matter, not a Justice matter?

Mr MICHAEL DALEY: I don't know if you are deliberately conflating two issues, but you are.

The Hon. SUSAN CARTER: Let's go back to the role-play.

Mr MICHAEL DALEY: No.

The Hon. SUSAN CARTER: I am a drug offender in Dubbo, and I have a criminal infringement notice. I ring up for my telehealth and my telehealth tells me that what I really need is a rehab bed in the way that was foreshadowed by Dr Chant. I can't get a rehab bed for four months—not unusual in regional New South Wales. Because I can't get the rehab bed because it hasn't been resourced, do I have to pay the fine?

Mr MICHAEL DALEY: I'm confident that won't happen. You are asking me a hypothetical. You can turn this inside out as many ways as you want. I can't answer it differently.

The Hon. SUSAN CARTER: I'm not trying to turn it inside out; I'm trying to establish whether the people of regional New South Wales will have the same access to justice as the people in the cities—

Mr MICHAEL DALEY: I'm sure they will.

The Hon. SUSAN CARTER: —which is a fundamental question which goes to administration of law in this State.

Mr MICHAEL DALEY: I've got confidence in the department of health, and I'm sure they will.

The Hon. SUSAN CARTER: Could you say that again? What I heard you say was that you have confidence in the department of health delivering equal justice outcomes for the whole of New South Wales.

Mr MICHAEL DALEY: No, equal health outcomes across New South Wales.

The Hon. SUSAN CARTER: But this is a Justice outcome.

Mr MICHAEL DALEY: The consequence of it is, but the delivery of health services is not mine.

The Hon. SUSAN CARTER: With respect, I think the person responsible for the conflation is you.

Mr MICHAEL DALEY: Mr Chairman, I can't answer this question—

The Hon. SUSAN CARTER: I can see you can't answer the question.

Mr MICHAEL DALEY: —differently, and 10 times I've been asked it. Let's move on.

The Hon. NATASHA MACLAREN-JONES: How many magistrates are authorised under the DSPO scheme?

Mr MICHAEL DALEY: I'm not sure. I'll take that on notice.

The Hon. NATASHA MACLAREN-JONES: Can I also then ask what you are doing to promote the scheme amongst the magistracy?

Mr MICHAEL DALEY: I'll have to take some advice on that.

The Hon. NATASHA MACLAREN-JONES: Could you then answer, potentially, how many DSPOs have been approved to date?

Mr MICHAEL DALEY: I'll take that on notice.

The Hon. NATASHA MACLAREN-JONES: And how many have not been approved?

Mr MICHAEL DALEY: We'll get that.

The Hon. SUSAN CARTER: Perhaps we can go to western and regional New South Wales. Have you had any discussions with the police Minister about crime rates and rising crime rates in these areas?

Mr MICHAEL DALEY: Briefly.

The Hon. SUSAN CARTER: Are you considering any law reform, as a result of your brief discussions, to support police operations and public safety in these areas?

Mr MICHAEL DALEY: Not at this stage.

The Hon. SUSAN CARTER: Are you considering implementing or funding any crime prevention initiatives in affected communities?

Mr MICHAEL DALEY: That's not a matter for the Attorney General; it's a matter for the police.

The Hon. SUSAN CARTER: If you are not considering any law reform at this stage, what would have to occur for you to consider law reform initiatives to protect the public safety?

Mr MICHAEL DALEY: I have confidence that the police will do their job and will continue to do their job. One of the things that they are hampered with, of course, is that they are short of officers. That's one of the concerning things that this Government has inherited from the past.

The Hon. SUSAN CARTER: Minister, perhaps you could update us in relation to OPCAT and where the negotiations are with respect to Commonwealth and funding.

Mr MICHAEL DALEY: OPCAT is being discussed at a Federal level through the coalition of attorneys-general, at the next meeting. Correct me if I'm wrong, Mr McKnight—

MICHAEL TIDBALL: It's 1 December.

Mr MICHAEL DALEY: It's 1 December?

PAUL McKNIGHT: It's not on the agenda.

Mr MICHAEL DALEY: It's not on the agenda. So it's being progressed at SCAG but it's not on the agenda for the December meeting.

The Hon. SUSAN CARTER: Has the Commonwealth committed to fully fund New South Wales' costs to implement the protocol?

Mr MICHAEL DALEY: Not at this time.

The Hon. SUSAN CARTER: Do you anticipate that they will?

Mr MICHAEL DALEY: I don't know. You'd have to ask Mark Dreyfus and the Federal Treasurer about that.

The Hon. SUSAN CARTER: I wonder, Attorney General, whether it's a question you should be asking Mark Dreyfus rather than us.

Mr MICHAEL DALEY: Mark Speakman had no success in convincing him, so we'll keep progressing it.

The Hon. SUSAN CARTER: What are you doing to advance these negotiations?

Mr MICHAEL DALEY: Getting involved in them at SCAG with my other State colleagues to try and land a good outcome.

The Hon. SUSAN CARTER: If it's not on the next SCAG agenda, do you have any understanding of when it will be considered by SCAG?

Mr MICHAEL DALEY: I can take that on notice.

The Hon. SUSAN CARTER: Thank you, that'd be good.

MICHAEL TIDBALL: There are officer discussions which are happening to really specify the requirements that would arise and the specifics around the manner in which the national preventative mechanism would operate.

The Hon. SUSAN CARTER: Are you seeking to put it on the agenda of SCAG?

Mr MICHAEL DALEY: Am I seeking to? No, it has a life of its own. It will be put back on the agenda at the appropriate time.

The Hon. SUSAN CARTER: So we're not playing any active role in this; we're just waiting for it all to happen?

MICHAEL TIDBALL: No, if I can just amplify my earlier response, Ms Carter. The national preventative mechanism, although it's national, will be stood up effectively on a federated basis, so we are working with the Commonwealth to seek to determine what the requirements would be at the point of implementation because from that you can actually work out what the cost will actually be and the impact on resources.

The Hon. SUSAN CARTER: And is there any understanding for who is going to meet those costs for New South Wales?

MICHAEL TIDBALL: The position of New South Wales remains that the Commonwealth should pay.

The Hon. SUSAN CARTER: Does the Commonwealth share New South Wales' position?

Mr MICHAEL DALEY: That's what negotiations are all about.

The Hon. SUSAN CARTER: If and when negotiations are sufficiently advanced, do you anticipate any law reform to support implementation of OPCAT?

Mr MICHAEL DALEY: Any law reform?

The Hon. SUSAN CARTER: To support implementation?

Mr MICHAEL DALEY: I'm not sure that there would have to be law reform. There might have to be some access reform within departments. But law reform, I'd have to take that on notice.

The Hon. SUSAN CARTER: OK, if you could take it on notice—

Mr MICHAEL DALEY: I'm not sure.

MICHAEL TIDBALL: Not to my knowledge.

Mr MICHAEL DALEY: No, I don't think so.

The Hon. SUSAN CARTER: So you think it could be purely administrative?

Mr MICHAEL DALEY: I think it's just funding and access.

The Hon. SUSAN CARTER: Funding, access, administrative—

MICHAEL TIDBALL: And the operational requirements. We have very clear operational requirements about when an oversight body visits any facility. Clearly those arrangements would be important in the operation of OPCAT.

The Hon. SUSAN CARTER: And it would cover all facilities? You wouldn't be seeking to exclude any?

MICHAEL TIDBALL: That's correct—police cells. It's not just the 36 prisons in the State. It would be police cells, youth justice centres and forensic health facilities.

The Hon. SUSAN CARTER: Including forensic health facilities?

MICHAEL TIDBALL: Yes.

The Hon. NATASHA MACLAREN-JONES: Attorney General, how many attorneys-general meetings have been held?

Mr MICHAEL DALEY: Sorry, I'll just get Mr McKnight—

PAUL McKNIGHT: Sorry, there is one piece of law reform that will be necessary—

The Hon. SUSAN CARTER: Sorry, it's very hard to hear.

PAUL McKNIGHT: Excuse me. There is one piece of law reform that will be necessary should there be a national preventative mechanism established in New South Wales, and that is to allow for inspections of police cells. There is an inspection regime in place at the moment that covers prisons and youth detention centres and a regime that covers psychiatric hospitals where people are detained, but there is not a regime that covers police cells.

The Hon. TANIA MIHAILUK: Good morning, Attorney General.

Mr MICHAEL DALEY: Good morning, Ms Mihailuk.

The Hon. TANIA MIHAILUK: How are you? Good? Are you enjoying being the first law officer of the State?

Mr MICHAEL DALEY: It's a great privilege. Yes, I am.

The Hon. TANIA MIHAILUK: Not a little bit daunting?

Mr MICHAEL DALEY: Not at all.

The Hon. TANIA MIHAILUK: No? That's good. Can I just ask you a couple of questions. One, I wanted to just ask you in relation to how your modernisation of anti-discrimination, your plan, is going because you've taken on a very ambitious task of deciding to, in your words, "modernise the Anti-Discrimination Act". It hasn't had a review since 1999. How are you going with that?

Mr MICHAEL DALEY: The first thing we did, as you know, is to add religion as a protected attribute for the purposes of vilification only in the Anti-Discrimination Act. We did that within 100 days as we promised we would, and then we referred the entire Act to the NSW Law Reform Commission to—

The Hon. TANIA MIHAILUK: When will that be finalised?

The Hon. SUSAN CARTER: Point of order: I apologise. Would it be possible for the Minister to draw his microphone a bit closer? I'm really struggling to hear.

Mr MICHAEL DALEY: I don't know why. Is it on? It's on.

The Hon. TANIA MIHAILUK: I can hear you perfectly. I know you very well, Attorney General, so I can hear you very well. It's currently before the Law Reform Commission. Have people been invited to make submissions to that process?

Mr MICHAEL DALEY: That's chaired by Tom Bathurst. We've also given him the assistance within DCJ of an eminent person whose name escapes me. Kate Eastman is helping him do that.

The Hon. TANIA MIHAILUK: There is no draft yet available. It's still all being—

Mr MICHAEL DALEY: It's early days, but they—

The Hon. TANIA MIHAILUK: Okay, so it is early days. You're not expecting anything to come back obviously this year, so we're looking at next year.

Mr MICHAEL DALEY: No, it won't be this year. I don't want to put any pressure on Mr Bathurst and his team but it would be really lovely if we could get something by late next year.

The Hon. TANIA MIHAILUK: Late next year, so that's plenty of time.

Mr MICHAEL DALEY: It's a huge body of work, as you know.

The Hon. TANIA MIHAILUK: Yes, it would be, and it would be I think very contentious and a lot of people have a view about it.

Mr MICHAEL DALEY: Yes.

The Hon. TANIA MIHAILUK: Can I also ask you, how are you going with the conversion practices legislation? As you know, the Premier committed to banning gay conversion practices—and we all agree they're very abhorrent and so they should be banned—prior to the election.

Mr MICHAEL DALEY: Yes.

The Hon. TANIA MIHAILUK: In the meantime, the member for Sydney introduced his own legislation which isn't just about gay conversion practices but now just refers to "conversion practices prohibition".

Mr MICHAEL DALEY: Yes.

The Hon. TANIA MIHAILUK: Where is the Government up to in relation to its own bill?

Mr MICHAEL DALEY: That work is well underway and without giving you a timetable on which to hang me, we hope to have something to the Parliament as shortly as we can get it there.

The Hon. TANIA MIHAILUK: There must be a draft bill already? Is that right?

Mr MICHAEL DALEY: Are you asking me to talk about—

The Hon. TANIA MIHAILUK: Parliament is on in a week's time.

Mr MICHAEL DALEY: I'm hoping we will have something very shortly.

The Hon. TANIA MIHAILUK: At this stage, you don't have anything?

Mr MICHAEL DALEY: I don't want to give you a definite timetable.

The Hon. TANIA MIHAILUK: You've just said to me you're going to have something shortly to Parliament, so it will come in the November session. Is that what you're saying?

Mr MICHAEL DALEY: I've just told you I don't—

The Hon. TANIA MIHAILUK: Do you know what the name of the bill will be?

Mr MICHAEL DALEY: Please don't interrupt me. No, I do.

The Hon. TANIA MIHAILUK: You're not going to provide that?

Mr MICHAEL DALEY: No.

The Hon. TANIA MIHAILUK: Will you provide the Committee with the name of the bill?

Mr MICHAEL DALEY: You'll see it when it's introduced to the Legislative Assembly.

The Hon. TANIA MIHAILUK: Mr Attorney General, I note in your diary you've met twice on this issue up until September. I've looked at your diary from April to September. There is nothing available beyond September. You have met with obviously representatives that Mr Greenwich brought, ACON, Equality Australia, I think on 27 April, and then you met with religious leaders, I understand, on 1 August. Have there been any other—

Mr MICHAEL DALEY: Mr Donnelly also brought some concerned parents in to talk to me as well.

The Hon. TANIA MIHAILUK: Is that in the diary disclosure as well?

Mr MICHAEL DALEY: It should be. It might be outside the most recent disclosure period but I'm disclosing it now.

The Hon. TANIA MIHAILUK: So there was another meeting since September?

Mr MICHAEL DALEY: Yes. I don't know what date it was but I have met Mr Donnelly.

The Hon. TANIA MIHAILUK: So you've had three formal meetings about the conversion practices bill with stakeholders?

Mr MICHAEL DALEY: Yes, one of them was with Better Balanced Futures and we decided to condense 15 meetings into one. So there was a big contingent of religious leaders in that meeting. In fact, I've had two meetings with them, and there were a number of groups.

The Hon. TANIA MIHAILUK: So two meetings? In there I can see one meeting.

Mr MICHAEL DALEY: No, I've had two.

The Hon. TANIA MIHAILUK: Since September you might have another one. Is that what you're saying—

Mr MICHAEL DALEY: Yes, I think that might be right.

The Hon. TANIA MIHAILUK: —that perhaps I'm not aware of?

Mr MICHAEL DALEY: Yes, correct.

The Hon. TANIA MIHAILUK: I think you're meeting with religious leaders next week. Is that right, Mr Attorney General?

Mr MICHAEL DALEY: I don't know. I'd have to have a look at my diary.

The Hon. TANIA MIHAILUK: You don't know? Okay. Have you had a really good look at some of the submissions from the religious groups and organisations like Women's Forum? Have you met with Women's Forum, by the way?

Mr MICHAEL DALEY: I'd have to have a look at my diary, Ms Mihailuk.

The Hon. TANIA MIHAILUK: I understand they've requested a meeting to discuss with you the issue of gender dysphoria.

Mr MICHAEL DALEY: I'd have to look at my diary. I just don't have a copy of it in front of me.

The Hon. TANIA MIHAILUK: Can I actually discuss with you gender dysphoria, Mr Attorney General? Would you say that there is at the moment a rise in gender dysphoria?

Mr MICHAEL DALEY: I don't know.

The Hon. TANIA MIHAILUK: You haven't come across any data or any research in relation to it?

Mr MICHAEL DALEY: I don't have that data at my fingertips, but I'm happy to take that on notice.

The Hon. TANIA MIHAILUK: It's an issue that Mr Greenwich is very keen—certainly in terms of transgender, he was keen to make sure that gender and gender rights and so forth was put into this Conversion Practices Prohibition Bill of his own, so I imagine you'd have to be across that. Most of the submissions, religious groups and indeed women's forums, for example, have raised the issue of gender dysphoria. There's been a lot about it in the detail. In fact, Mr Greg Donnelly had a forum recently in Parliament that I attended where he had family members of women in particular who have suffered from gender dysphoria. You didn't have any discussions in relation to that, Mr Attorney General?

Mr MICHAEL DALEY: In relation to which one? You raised several—

The Hon. TANIA MIHAILUK: I'm raising that I suspect that the parents that met with you might have been talking to you about parental rights in relation to the conversion practices legislation that you're proposing. That is a big issue for parents right now. The fact that what's potentially being proposed—and certainly the Victorian legislation, if the Government chooses to go down the path of the Victorian legislation, does go into the area of gender and it certainly does go into the area of prohibiting the ability for parents to have a role in counselling their children or indeed providing support to their children and indeed providing support through pastoral care as well. Have you had a good look at the Victorian equivalent legislation?

Mr MICHAEL DALEY: Yes.

The Hon. TANIA MIHAILUK: And you're across the issues that have been raised there, particularly by religious organisations in terms of impacting the practice of religion and the freedom of faith and the ability for parents to have a role in supporting and counselling their children?

Mr MICHAEL DALEY: I'm familiar with those issues in a general nature. I won't say I've read every submission in respect of them, no.

The Hon. TANIA MIHAILUK: Have you read the submissions from the multi-faith groups that gave a very significant submission?

Mr MICHAEL DALEY: Some of them.

The Hon. TANIA MIHAILUK: It's not very long, but they have made a combined submission—to make life easy for you—and it actually has a plethora of religious groups ranging from Hindu, Islam, and a number of Christian groups, including the Maronites and the Catholics and Freedom for Faith and Baptist. There are a whole range of religions there. You haven't read their submission in relation to this?

Mr MICHAEL DALEY: I've got a folder of submissions. I'd have to go back and identify each one.

The Hon. TANIA MIHAILUK: Hang on, you've just said you're about to put the legislation in a week's time.

Mr MICHAEL DALEY: No, I didn't say that.

The Hon. TANIA MIHAILUK: No, you did. You said something's going—

Mr MICHAEL DALEY: I said shortly.

The Hon. TANIA MIHAILUK: —to be introduced shortly. So you're ruling out—it won't be November then?

Mr MICHAEL DALEY: I'm not ruling anything in or out. That's a matter for Cabinet.

The Hon. TANIA MIHAILUK: The Premier did say that it would come before the end of the year, didn't he?

Mr MICHAEL DALEY: A matter for him.

The Hon. TANIA MIHAILUK: Well, did he?

Mr MICHAEL DALEY: I don't know.

The Hon. TANIA MIHAILUK: You don't know? You don't know what the Premier's view is on this?

Mr MICHAEL DALEY: I'll have to go back and have a look—

The Hon. TANIA MIHAILUK: You've not read any of the media articles where the Premier has said that he's going to make sure this bill is introduced into the House?

Mr MICHAEL DALEY: I'd have to go back and have a look at those comments. I've given you an indication. It'll be shortly and I can't give you a timetable because that's a matter for Cabinet, as you well understand.

The Hon. TANIA MIHAILUK: Attorney General, back to gender dysphoria, we have had some very good forums in relation to that recently where we met some of the families that have had to suffer through horrible stories where their daughters in particular had suffered gender dysphoria, weren't given the necessary support they needed and are seeking support from the Parliament to understand and appreciate how important pastoral care and proper psychological care is at a time when a young woman in particular is suffering gender dysphoria. I just want to make it clear. Have you had any information put to you, before you as the lead first officer of the State in relation to that?

Mr MICHAEL DALEY: Some. But they're all important matters. They will require a considered response. A lot of the matters that you have put to me are really issues for the Minister for Health.

Ms ABIGAIL BOYD: I'm sure you're aware that domestic and family violence experts have raised issues around the current coercive control offence and the related amendments, and proposed that they require redrafting in order to be safe for women and children, particularly to prevent misidentification. What steps is the New South Wales Government taking to address those concerns?

Mr MICHAEL DALEY: Sorry, I just didn't hear the first part of your question.

Ms ABIGAIL BOYD: So domestic and family violence experts—

Mr MICHAEL DALEY: Yes.

Ms ABIGAIL BOYD: —have been calling for a review of the coercive control offence and associated amendments, so that legislation that came in last year.

Mr MICHAEL DALEY: Yes.

Ms ABIGAIL BOYD: They have very big worries that it's not fit for purpose and that it could actually cause more harm than it solves. What have you been doing to address those concerns?

Mr MICHAEL DALEY: I suppose there are two issues, Ms Boyd, really. One is whether one agrees with the legislation as it went through the Parliament and whether it should have been put through either at all or in that form. And that horse has bolted.

Ms ABIGAIL BOYD: Which horse? The horse of whether or not it should—

Mr MICHAEL DALEY: Whether it should have been put through Parliament at all at that time or put off for five years, or whether it should have taken another form. That's been settled by the Parliament. The second aspect goes to the implementation of the current legislation.

Ms ABIGAIL BOYD: Yes, can I just take you back, though, before that? We will talk about the implementation but, when it comes to the actual form of the legislation, it's been called the most conservative and perpetrator-friendly version of coercive control legislation anywhere in the world. I understand that Labor was in a position where it wanted to pass something rather than nothing last year, even though the domestic and family violence sector were not in favour of that particular version. And I think we all want coercive control to be criminalised. But now the domestic and family violence sector are saying you need to actually go and review it and, "Can we please have a better version?" Are there any plans to amend the legislation before it's implemented?

Mr MICHAEL DALEY: No, there's not. It'll be implemented in accordance with the legislation, which has a built-in legislative timetable. It also has legislated a taskforce to supervise the implementation. It also has a two-year, I think, statutory review timetable. That is when the legislation per se will be reviewed. It'll be implemented in its current form.

Ms ABIGAIL BOYD: Coming to implementation, there are very serious concerns around the resources and the time being dedicated to implementation. When this offence was implemented in Scotland, there were significant resources and time spent in training up police, in training up the judiciary to ensure that it didn't have unintended consequences when it came in. I know that in New South Wales we are doing something and I know that we're doing some form of training, but the domestic and family violence experts are saying it's not enough. Would you be open to delaying the implementation of the legislation or of the offence if we get to June next year and it's clear that we don't have everything in place to avoid those unintended consequences?

Mr MICHAEL DALEY: I'd have to amend the Act to do that, because I think it has a drop-dead start date within it.

Ms ABIGAIL BOYD: It does.

Mr MICHAEL DALEY: I'll be guided by the advice of the department that's overseeing the implementation of it. I don't anticipate there'll be any advice to me that it's not ready. The legislation requires the department to update me on a six-monthly basis as to its state of readiness or otherwise. At the most recent update, the advice was that it's on track. But if I form the view that there was some horrendous shortcoming in the implementation that made it inadvisable to proceed with it, of course I'd be prudent to say that I would—

Ms ABIGAIL BOYD: Will you be guided by the domestic and family violence sector, though, or are you looking at—

Mr MICHAEL DALEY: I'll be guided by the department. They are in consultation with the domestic violence sector, as am I open to whenever they wish to meet with me. I'm in conversation with Minister Harrison about this. Some of the domestic violence groups are on the implementation taskforce. So there is plenty of opportunity and many avenues for them to express their concern. But at the end of the day, I don't want to give a false indication to anyone or any group. It'll be the department that will provide me with the advice that I will rely on.

Ms ABIGAIL BOYD: But there is a difference, isn't there, between consulting with and listening to? I think what I've heard from the domestic and family violence sector, for instance, in relation to being so-called consulted on the version of the police training, is that their advice is not being taken up. We can say that we're consulting, but if we're not actually listening to the decades and decades of experts' advice and experience then it's not really real consultation. What are you doing to ensure that domestic and family violence frontline workers, experts and victim-survivors are not just being heard but listened to in the process of implementing this offence?

Mr MICHAEL DALEY: I'm guided by the advice that I'm receiving from my department about that.

Ms ABIGAIL BOYD: The Domestic Violence NSW forum in May 2023 pulled together a significant chunk of the domestic and family violence sector. There were six calls made out of that forum. They were focusing particularly on the issue of misidentification of the predominant aggressor in domestic and family violence matters, which is of particular concern, as you would know, in First Nations communities. Their number one call was that the Attorney General commission the NSW Law Reform Commission or a special taskforce to undertake a broad review of the Crimes (Domestic and Personal Violence) Act and other associated legislation in order to address widescale systemic misidentification. Has anything been done in response to that call?

Mr MICHAEL DALEY: The New South Wales Government recognises that, in some cases, victim-survivors of domestic and family violence may be misidentified as the predominant aggressors in those relationships. We acknowledge that Domestic Violence NSW and the sector have called for action to be taken to address and prevent misidentification across the service system, including in legal and child protection settings. The Government notes that misidentification has been highlighted as an issue of concern in domestic and family violence research, particularly for First Nations women, women from culturally and linguistically diverse backgrounds, women with disabilities and/or mental health issues, and women with substance abuse issues. The Government is carefully considering the issue of misidentification and assessing whether a policy, procedural or legislative reform or further education and training are needed to address and prevent misidentification. Stakeholders, including DVNSW, will be consulted throughout this process.

Ms ABIGAIL BOYD: Just going back to what the demand was—that you undertake a broad review of the legislation—is that actually happening? Is that what that response is saying?

Mr MICHAEL DALEY: Well, what I said was we're carefully considering the issue of misidentification and assessing whether—

Ms ABIGAIL BOYD: But the department's doing that, not a taskforce or the Law Reform Commission?

Mr MICHAEL DALEY: The department's doing that.

Ms ABIGAIL BOYD: Right. An associated issue, and again something that is really prominent in First Nations communities and with First Nations victim-survivors, is the phenomenon of going to the police and making a claim in relation to a domestic violence situation and then subsequently withdrawing that claim. That is done by victim-survivors who then get scared. In the case of First Nations victim-survivors, it's often because they're fearful that their perpetrator, who they just want to stop the violence, is actually going to end up in jail—we all know about the absolutely horrific levels of deaths in custody for First Nations people—or they think their children are going to get taken away from them because of the systemic racist biases against them in the family justice system.

But we also have a situation where men in particular, or whoever the perpetrator is, will also use false accusations as a way of controlling in a relationship and using that as a form of systems abuse. It's a very complicated area. What is the Government doing in terms of identifying hotspots where police are just not understanding what they're supposed to do in those situations and who the primary aggressor really is, particularly in those hotspot areas where that's happening?

Mr MICHAEL DALEY: I'm aware of those concerns that have been raised about police arresting and charging First Nations women who are victims of domestic violence if they retract their complaints. I want to thank Mr Lawrence for being one of the people who has brought that to my attention and the attention of the House.

Ms ABIGAIL BOYD: Let me make it very clear that the domestic and family violence sector is not calling for any legislative or procedural reform here; they're calling for training—

Mr MICHAEL DALEY: Yes.

Ms ABIGAIL BOYD: —because of that danger of picking up people who are doing systems abuse. But what are you doing in terms of the training of those police?

Mr MICHAEL DALEY: The training of police is a matter that's within the responsibility of the police Minister, but I've directed some time ago DCJ to facilitate a discussion between the Aboriginal Legal Service, Legal Aid and the NSW Police Force on this and related issues.

Ms ABIGAIL BOYD: Why wasn't Wirringa Baiya involved in that, in the family and domestic violence sector?

Mr MICHAEL DALEY: It might well be in due course, but the first step is for that discussion to occur as I've just described it to you.

The Hon. NATASHA MACLAREN-JONES: Prior to the State election in March the New South Wales Coalition Government announced they would provide victim-survivors of domestic violence with access to first home buyer support and interest-free rental bond loans. These reforms would help remove significant barriers for those escaping domestic violence. Has the Labor Government also committed to these initiatives in their budget?

Mr MICHAEL DALEY: I would have to take that on notice.

ANNE CAMPBELL: Yes, I can answer that. Yes.

Mr MICHAEL DALEY: They have? Thanks, Anne. Yes.

The Hon. NATASHA MACLAREN-JONES: Can you outline how much has been allocated?

ANNE CAMPBELL: I'd need to take that on notice—and that certainly sits with the Minister for the Prevention of Domestic Violence and Sexual Assault, Minister Harrison.

The Hon. NATASHA MACLAREN-JONES: Attorney General, do you recall the 21-year-old mother Mackenzie Anderson, who was allegedly killed by her 22-year-old ex-boyfriend in Newcastle on 25 March 2022?

Mr MICHAEL DALEY: No, not really.

The Hon. NATASHA MACLAREN-JONES: I'll outline some of the details. Her ex-boyfriend had been released from prison on parole weeks before she was allegedly killed. He is also the subject of an

apprehended violence order. Do you believe that the Domestic Violence Electronic Monitoring program is an important way of providing safety for women subjected to violence from their ex-partners?

Mr MICHAEL DALEY: That would be one of the programs that are run through Corrections, wouldn't it be? The answer is yes, and Corrections run the program.

The Hon. NATASHA MACLAREN-JONES: The previous New South Wales Coalition Government committed \$20 million to expand the State's electronic monitoring devices for high-risk domestic violence offenders following the Mackenzie Anderson alleged murder. This meant that the State would receive 200 more electronic monitoring devices in efforts to protect victim-survivors. How much money was allocated for electronic monitoring of offenders in the New South Wales budget?

Mr MICHAEL DALEY: Again, that is for the Minister for Corrections, but if we can get you that information before the end of today, we will.

ANNE CAMPBELL: We will.

The Hon. NATASHA MACLAREN-JONES: If you can also outline, based on how much has been allocated, how many bracelets that would cover?

Mr MICHAEL DALEY: Sure.

The Hon. NATASHA MACLAREN-JONES: Attorney General, does the Government prioritise women's safety?

Mr MICHAEL DALEY: Yes.

The Hon. NATASHA MACLAREN-JONES: Minister, we have discussed previously—and I'm sure you would agree—the importance of ensuring that people are aware of the law that's being enacted, but more importantly that we see that these laws are being enforced. Is that correct?

Mr MICHAEL DALEY: Yes.

The Hon. NATASHA MACLAREN-JONES: Can I ask who is responsible for the community education campaign about the new coercive control laws? Is it your department or that of Police?

MICHAEL TIDBALL: I'm happy to assist. It is under the umbrella and the mandate of the coercive control implementation taskforce, which I chair, with the input of a number of reference groups reporting to the implementation taskforce, which in turn have a number of community groups represented. There is a training program that is focused on the implementation with a budget allocation of \$5.6 million to support implementation of the reforms.

The Hon. NATASHA MACLAREN-JONES: That's \$5.6 million, you said?

MICHAEL TIDBALL: Yes.

The Hon. NATASHA MACLAREN-JONES: Is that all for communication to the public or is it broken down?

MICHAEL TIDBALL: It is training, education, and for the purpose of awareness with a two-phase public education program.¹

The Hon. NATASHA MACLAREN-JONES: Attorney General, coercive control includes seeking to control the choice of others. The New South Wales government website indicates that coercive control includes exploiting a person's medical condition to make decisions about their care to disempower or control them. Voluntary assisted dying laws commenced in New South Wales on the twenty-eighth of this month. Has your office assisted with the training of those who will be handling requests for voluntary assisted dying to ensure that they can identify coercive control and that all requests to die are made freely?

Mr MICHAEL DALEY: Has my office done that?

The Hon. NATASHA MACLAREN-JONES: Or your department.

Mr MICHAEL DALEY: I'm not sure. I don't know. I'll take that on notice, or do you want to—

¹ In [correspondence](#) to the committee received 29 November 2023, Mr Michael Tidball, Secretary, Department of Communities and Justice, clarified the evidence given.

MICHAEL TIDBALL: We'll take that on notice.

ANNE CAMPBELL: Take it on notice.

Mr MICHAEL DALEY: We'll take it on notice.

The Hon. NATASHA MACLAREN-JONES: Attorney General, can you provide an update on the rollout of the education campaign to support the reforms to legislation regarding the sexual consent laws in New South Wales?

Mr MICHAEL DALEY: I'll have to get the department to update you on that, if we can.

MICHAEL TIDBALL: Yes, a large amount of work has already been completed, but we can certainly provide an update on notice.

The Hon. NATASHA MACLAREN-JONES: We can do that this afternoon. Attorney General, are you concerned about the effect of the High Court decision in May this year—it's the matter BA versus the King—on women's safety?

Mr MICHAEL DALEY: Yes.

The Hon. NATASHA MACLAREN-JONES: Will you be supporting the shadow Attorney General's introduction of legislation to close the loophole in regard to break and enter laws that were exposed during this judgement?

Mr MICHAEL DALEY: No, we won't. When Mr Speakman was the Attorney General and I was shadow, we had a policy of no surprises. We respected each other greatly, and I still do. I share that same policy now with Mr Henskens, the shadow Attorney General. We've already, some weeks ago, met with him and told him that the department has expressed some concerns in respect of his legislation, particularly in respect of unintended consequences that may, in fact, adversely affect women and domestic violence victims. We've given him an opportunity to meet with the department to have those concerns expressed directly to him. I stand to be corrected, but I believe he has taken—no? Maybe he hasn't. Yes, he has met with the department and they've explained that to him. The question was will we be supporting it? No, but we'll be bringing our own legislation in respect of BA and the King.

The Hon. NATASHA MACLAREN-JONES: What's the time frame for that?

Mr MICHAEL DALEY: I don't know. But we're not mucking around with it; it's not on the backburner. It's something that we want to address readily.

The Hon. NATASHA MACLAREN-JONES: But you don't have a time frame?

Mr MICHAEL DALEY: No.

The Hon. SUSAN CARTER: Attorney, changes were made to the NSW Trustee and Guardian Act to allow the Trustee and Guardian to determine the fees payable in relation to their functions, in addition to the fees prescribed by the regulations. You agree with me that when fees are set by regulation, they are transparent and, most importantly, the Minister sees the fees and approves them?

Mr MICHAEL DALEY: I'm not sure whether that's the case here, but yes, they should be transparent. Whether in all circumstances the Minister has the power to set the fees or whether there are some delegations in respect to some regulations where it doesn't come to the Minister and there's another fee-setting mechanism, I'm not sure.

The Hon. SUSAN CARTER: But there is still oversight if it's done by regulation. It's a more public process.

Mr MICHAEL DALEY: It can be. It depends on what the terms of the regulation are.

The Hon. SUSAN CARTER: When the Trustee and Guardian can determine its own fees, then there is the ability for a CEO to cover any shortfalls in his agency budget by increasing fees, perhaps in an unreasonable manner.

Mr MICHAEL DALEY: If what you put to me is the case then, as it follows, yes.

The Hon. SUSAN CARTER: So what protections are there to stop price gouging of New South Wales consumers by the Trustee and Guardian unilaterally increasing fees?

Mr MICHAEL DALEY: Unless somebody has some advice about that, I'll take it on notice. But if you're talking about proposed charges, proposed changes to regulated fees charged to customers are part of NSW

Trustee and Guardian's overall plan for financial sustainability. They relate to fees that have not changed since 2016, and they aim to balance fairness, equity and market forces. The revenue from these changes is intended to strengthen Trustee and Guardian's capacity to provide better outcomes for customers by enabling it to manage the growth in demand and complexity of the services it provides.

Trustee and Guardian provides discounts, fee reductions and waivers to customers who have limited income and assets to pay for services. A discount is also provided for document storage fees for New South Wales seniors card holders. Trustee and Guardian is authorised under its governing legislation to waive, remit or reduce fees where there's clear evidence that those fees would cause extreme hardship or would be inequitable. The first changes to fees, which impacted clauses 11 and 28 of the regulations, commenced in January 2022. These included changes to fees for wills and estate planning services and managing customer investments. Additionally, Trustee and Guardian have provided me with a briefing on proposed fee changes. Fee changes will not proceed at this stage due to cost-of-living pressure considerations.

The Hon. SUSAN CARTER: I appreciate all the detail of the fees, but the question actually went to the mechanism and risks inherent in the mechanism, which has been changed by your legislation, and what protections were in place. I note that changes to both the Civil Procedure Act and the Dormant Funds Act also permit an increase in fees by regulation. Do you agree that here there is a similar risk that cost-of-living pressures will not be taken into account and fees could rise unreasonably?

Mr MICHAEL DALEY: I would have to take some advice on that. I don't have the provisions of those measures is in front of me, unless somebody else wants to—

The Hon. SUSAN CARTER: I suppose the question that we're asking is why are you seeking powers to allow for extra costs to be imposed on New South Wales citizens under these new changes?

Mr MICHAEL DALEY: As I've just said, I'll take that on notice.

The Hon. NATASHA MACLAREN-JONES: Attorney General, are you aware of comments by the Director of Public Prosecutions that her office frequently terminates prosecutions involving Indigenous complaints because existing trial processes are not culturally safe?

Mr MICHAEL DALEY: Yes.

The Hon. NATASHA MACLAREN-JONES: Were you consulted before these comments were made?

Mr MICHAEL DALEY: No.

The Hon. NATASHA MACLAREN-JONES: Are you concerned by the implications of the DPP statement?

Mr MICHAEL DALEY: I do have a note on that. The DPP raised that with me in a meeting and we'll be discussing that further. In relation to that matter, I would imagine that judicial officers are aware of those comments and they take those matters on board themselves and address any of those issues.

The Hon. NATASHA MACLAREN-JONES: What actions have you taken to ensure community safety?

Mr MICHAEL DALEY: I'm going to be having a further meeting with the DPP to discuss that and any suggested amendments. But I note that the DPP is independent of me—I can't give her directions—but we will be meeting to discuss that again.

The Hon. NATASHA MACLAREN-JONES: To clarify, you were or were not concerned by that statement?

Mr MICHAEL DALEY: Of course I was concerned, yes.

The Hon. NATASHA MACLAREN-JONES: Have you relayed that? Did you relay that to the DPP?

Mr MICHAEL DALEY: Yes.

The Hon. NATASHA MACLAREN-JONES: How many JPs are registered as court-appointed questioners?

Mr MICHAEL DALEY: I don't have that number at my fingertips. We will take that on notice.

MICHAEL TIDBALL: We can provide that today, though.

The Hon. NATASHA MACLAREN-JONES: What is being done to promote the uptake and ensure that vulnerable victims are given the chance to give their best possible evidence in court?

Mr MICHAEL DALEY: I might take that on notice, Ms Maclaren-Jones.

The Hon. NATASHA MACLAREN-JONES: Attorney General, one of the initiatives that was welcomed by the disability royal commission is the expansion of the program to divert people with cognitive disability from local courts into the NDIS, where they are supported. My understanding is that of the 155 courts we have, only six of these have a diversion program. Can I ask what you're doing to expand this statewide?

Mr MICHAEL DALEY: I'll take that on notice.

The Hon. SUSAN CARTER: As our first law officer, Attorney General, are you engaged in any discussions about treaty?

Mr MICHAEL DALEY: It's being led by Minister Harris.

The Hon. SUSAN CARTER: And you're involved in the legal discussions in relation to treaty?

Mr MICHAEL DALEY: Not at this time.

The Hon. SUSAN CARTER: Do you anticipate that you will be?

Mr MICHAEL DALEY: Yes.

The Hon. SUSAN CARTER: Would a treaty require an amendment to the New South Wales Constitution?

Mr MICHAEL DALEY: That's a matter for the Minister for Aboriginal affairs.

The Hon. SUSAN CARTER: So the Minister for Aboriginal affairs will decide if there's an amendment to the New South Wales Constitution?

Ms SUE HIGGINSON: Hopefully Aboriginal people will.

Mr MICHAEL DALEY: He'll come with—in consultation with a number of Ministers—what the model will be. I don't know what that—

The Hon. SUSAN CARTER: So it may or may not?

Mr MICHAEL DALEY: We'll have to wait and see.

The Hon. SUSAN CARTER: How would any treaty interact with the Aboriginal Land Rights Act of New South Wales?

Mr MICHAEL DALEY: We haven't arrived at that position yet.

The Hon. SUSAN CARTER: So we don't know anything yet?

Mr MICHAEL DALEY: That matter should properly be addressed to the Aboriginal affairs Minister.

The Hon. SUSAN CARTER: So, First Law Officer, you're not aware of any of these issues?

Mr MICHAEL DALEY: Don't put words into my mouth, please.

The Hon. SUSAN CARTER: I'm just trying to clarify, sir. Can I take you to a very different issue?

Mr MICHAEL DALEY: Sure.

The Hon. SUSAN CARTER: Can I take you to an issue at one of our busiest local courts in New South Wales; that is Burwood Local Court. This may not seem like a big issue but it is a major issue for the elderly, people with young families and prams, and anybody with a disability. As at yesterday, the lift which failed around 9 September is still not functioning, which has created enormous access problems at this local court for two months. I gather there have been numerous inquiries with senior court staff—still no indication as to when the lift will be back in action. Are you able to provide any update or are you able to escalate this matter in any way?

Mr MICHAEL DALEY: I'm happy to escalate it. Sure.

The Hon. SUSAN CARTER: Thank you. I recognise it doesn't rise to the same issues that you always deal with but it is a significant issue.

Mr MICHAEL DALEY: It does if you're disabled. It's very important so thanks for bringing that to my attention.

The Hon. SUSAN CARTER: Absolutely. I understand from answers to my colleague's question that you are intending to introduce a conversion therapy bill. Is there a date as to when that will be introduced?

Mr MICHAEL DALEY: No, not yet. Not until Cabinet decides it.

The Hon. SUSAN CARTER: Are you able to provide any details of the outcome of the consultations that you held in relation to that?

Mr MICHAEL DALEY: That was led by the departments, and I'm happy for—what consultation have we done about conversion therapy?

PAUL McKNIGHT: Considerable consultation on that. Your question was—

The Hon. SUSAN CARTER: The outcomes of the consultation that you held in relation to your proposed conversion therapy legislation?

PAUL McKNIGHT: The outcomes?

The Hon. SUSAN CARTER: Yes.

PAUL McKNIGHT: That would be reflected in the bill that the Government brings, or do you mean—

The Hon. SUSAN CARTER: Can you share any insights from those outcomes?

PAUL McKNIGHT: Okay. The outcomes of the consultation involved a range of face-to-face meetings with the stakeholders. I think the stakeholders' views are fairly well expressed in the submissions that they made. I'm not sure that the face-to-face consultations shed any further light on the different views in the community about the issues. Those views are fairly well rehearsed in the submissions, I think.

The Hon. SUSAN CARTER: How were the stakeholders who were consulted determined?

PAUL McKNIGHT: I'm sorry, I'll need to take that on notice. They would have been determined by an assessment of who made written submissions in relation to the matter, the organisations that we know would have been interested in the matter and we would have had discussions across government about—

The Hon. SUSAN CARTER: Can I take you back one step? It's my understanding that there was not a public call for submissions. Rather, stakeholders were identified and asked to submit.

PAUL McKNIGHT: You're right. I misspoke. Apologies.

The Hon. SUSAN CARTER: Is that the usual practice for a law reform matter—that only selected members of the public are invited to comment on a proposal?

PAUL McKNIGHT: Proposals of this nature—

The Hon. SUSAN CARTER: Which nature, sorry?

PAUL McKNIGHT: Sorry. Proposals of a law reform nature—the process for consulting on them and developing them is designed on a case-by-case basis for each proposal. There isn't a standard approach. Sometimes we release discussion papers publicly and seek public written submissions and have face-to-face consultations. Sometimes the matters are referred to expert bodies, like law reform commissions. Sometimes law reform is undertaken on a more targeted basis, including—

The Hon. SUSAN CARTER: Could you give me an example of the last time that a consultation was undertaken on a closed, private, targeted basis?

PAUL McKNIGHT: There is a reasonably significant list of those. I can take on notice some examples and provide them to the Committee.

The Hon. SUSAN CARTER: I'd be grateful if you could take it on notice. So therefore my question remains—

PAUL McKNIGHT: It's not uncommon.

The Hon. SUSAN CARTER: —how was the target list established? How was the targeted stakeholder list established?

PAUL McKNIGHT: We would have attempted to reach all the stakeholders that we understand to have been interested in the issue. We would have talked to colleagues and other government departments. In this case the Ministry of Health would have been involved in the process, and they have been involved in the work to reach out to community groups in their portfolio. We would have discussed the issue with the Attorney and his office. The aim is to get a broad range of voices and to ensure that people with views on the subject have an ability—

The Hon. SUSAN CARTER: But not a public range of voices? Just a targeted, private range of voices?

PAUL McKNIGHT: It was a fairly extensive consultation.

Mr MICHAEL DALEY: There were about 140 submissions received, I think, as well.

PAUL McKNIGHT: Yes.

The Hon. SUSAN CARTER: I'd be very interested in that list of other examples that I hope you're able to provide.

PAUL McKNIGHT: Absolutely.

The Hon. SUSAN CARTER: Attorney General, will you also be introducing your own version of the equality bill? Equality legislation amendment bill—I apologise.

Mr MICHAEL DALEY: Perhaps. That's a matter for Cabinet. But just going back to an earlier question, I was probably overly cautious. I am now able to advise that the conversion therapy bill will be introduced in the coming weeks of Parliament, before the end of the year.

The Hon. SUSAN CARTER: Thank you.

Mr MICHAEL DALEY: Mr Chair, can I get an indication of the time remaining? We want to clean up some of these questions on notice as well.

The Hon. TANIA MIHAILUK: You'll get time. Don't worry.

Mr MICHAEL DALEY: I didn't ask you. I'm asking the Chair.

The CHAIR: We can do it in the Government question time from quarter to one.

Mr MICHAEL DALEY: Okay.

The Hon. TANIA MIHAILUK: Attorney General, you've just clarified that the conversion practices or therapy practices prohibition bill will be introduced in November. I just want to clarify that.

Mr MICHAEL DALEY: Yes, it will.

The Hon. TANIA MIHAILUK: So an hour ago you didn't know, or 45 minutes ago you weren't sure, but you've just clarified that.

Mr MICHAEL DALEY: No, I was being—

The Hon. TANIA MIHAILUK: The first officer of the State has now finally got some information in the last five minutes.

Mr MICHAEL DALEY: —a bit cautious as to my authority to talk.

The Hon. TANIA MIHAILUK: No, I think you were being misleading. Are you saying that you didn't know 45 minutes ago that you were introducing the legislation in two weeks' time, or in a week's time when the November parliamentary session resumes?

Mr MICHAEL DALEY: Keep going.

The Hon. TANIA MIHAILUK: On that bill—and given that you're introducing it you must have a whole stack of knowledge about it, Attorney General. The member for Sydney's Conversion Practices Prohibition Bill specifically talks about suppression practices around gender identity and limiting psychological and pastoral care in relation to that. Is that what's going to be the same case with the Government bill? Will you also be referring to gender identity?

Mr MICHAEL DALEY: You do know that I don't talk about Cabinet matters outside of Cabinet.

The Hon. TANIA MIHAILUK: You've just told us that the bill is coming in a week's time. Okay. Can I ask you, Minister, about the Gillick competence. Are you aware of that?

Mr MICHAEL DALEY: About the—

The Hon. TANIA MIHAILUK: Gillick competence—G-I-L-L-I-C-K competence. Are you aware of that terminology?

Mr MICHAEL DALEY: No.

The Hon. TANIA MIHAILUK: You're not aware of that terminology, okay. Let me explain that to you. The member for Sydney, in his Conversion Practices Prohibition Bill, wants that competence to be clarified within the Children and Young Persons (Care and Protection) Act to ensure that a young person over the age of

16 can consent to their own medical treatment as an adult—effectively as an adult. It's a pretty important competence to understand. Is reference to it going to be put into this legislation, or you don't know, or you can't disclose?

Mr MICHAEL DALEY: I refer you to my earlier answer.

The Hon. TANIA MIHAILUK: You don't even know what the competence is, which is a bit disturbing.

Mr MICHAEL DALEY: I'm aware of the concept. I just wasn't—

The Hon. TANIA MIHAILUK: You just said to me you didn't know.

Mr MICHAEL DALEY: I wasn't aware of the term.

The Hon. TANIA MIHAILUK: You didn't know, okay. It's a pretty significant concept to be aware of as the first officer of New South Wales.

The Hon. STEPHEN LAWRENCE: Point of order: It's about questioning not insults, I would have thought, Chair.

The Hon. TANIA MIHAILUK: I'm not insulting at all, Mr Chair. I've clarified that he doesn't understand it.

The CHAIR: Order! We're progressing quite well. I think the Attorney General can look after himself, Mr Lawrence.

The Hon. TANIA MIHAILUK: Yes, I think he can.

The Hon. CAMERON MURPHY: I think he's giving back better than he's getting.

The Hon. STEPHEN LAWRENCE: It's not about him. It's about my urges too sometimes.

The CHAIR: He's giving as good as he's getting.

The Hon. TANIA MIHAILUK: Yes, I think he can. He doesn't need an up-and-coming attorney general to help him, okay? The two up-and-coming ones are over there, aren't they? Mick, you watch your back, mate!

Mr MICHAEL DALEY: It could have been you before you went to the dark side too, Tania.

The CHAIR: Order!

The Hon. TANIA MIHAILUK: I'm very happy where I am. I can tell you that.

Mr MICHAEL DALEY: We're happy with it too!

The Hon. TANIA MIHAILUK: Well, are you? I get to ask the questions now, Mick.

The CHAIR: Order!

The Hon. TANIA MIHAILUK: I know you too well, I'm afraid.

Mr MICHAEL DALEY: Good to see old friends.

The Hon. TANIA MIHAILUK: Putting all the fun and games aside—

The CHAIR: Ms Mihailuk, you're supposed to come to order when I call you to order, regardless of how funny it is.

The Hon. NATASHA MACLAREN-JONES: She's from the LA.

The Hon. TANIA MIHAILUK: This is a very serious matter to me—

The CHAIR: It's still not working.

The Hon. TANIA MIHAILUK: —and to many parents out there, this issue about the Gillick competence. If your Government is intending to put it into legislation—and you're not going to provide that detail now, but if I can put a scenario to you—

Mr MICHAEL DALEY: More role play?

The Hon. TANIA MIHAILUK: Your 16-year-old daughter comes home and tells you, Attorney General, that she wants to become a man and she decides that she's going to proceed with cutting off her breasts

and removing her uterus—you don't think that you as her parent would want to have something to say in relation to that?

Mr MICHAEL DALEY: That is a hypothetical question and I'm not here to answer hypothetical questions like that.

The Hon. TANIA MIHAILUK: No, it's a fair question because it's about the Gillick competence, which is what the member for Sydney is proposing in his legislation. You're not ruling it out. Will you rule that out then—that allowing that level of consent for a child at 16, where they no longer need their parental consent in relation to such serious medical treatment like sexual alteration surgery, where they remove their breasts or they remove their uterus? I am asking will you rule that out in your bill in a week's time?

Mr MICHAEL DALEY: No, I am not ruling anything in or out. You can wait for the legislation and see what's in the bill when it's second read.

Ms CATE FAEHRMANN: Good afternoon, Attorney General.

Mr MICHAEL DALEY: Is it afternoon? Yes, it is.

Ms CATE FAEHRMANN: Yes, it's afternoon.

Mr MICHAEL DALEY: Time flies when you're having fun.

Ms CATE FAEHRMANN: I want to just ask a few questions about the two-strike diversionary scheme, no doubt different questions to what was asked earlier today. The two-strike diversionary scheme, what additional work did Labor do on it? I understand it was largely formulated under the Coalition Government. Is that right?

Mr MICHAEL DALEY: Yes.

Ms CATE FAEHRMANN: Did you do any additional work or consultation?

Mr MICHAEL DALEY: No, I'd have to get some advice about what went on behind the scenes at the departmental level, and I can't speak for what happened within Health. My understanding is that the scheme that we adopted was pretty much what the earlier Government had put into place.

Ms CATE FAEHRMANN: So did you satisfy yourself as Attorney General that that was the best scheme to introduce at the time? Did you do your due diligence and homework around what you were introducing?

Mr MICHAEL DALEY: Well, as I explained earlier to Ms Carter, the Government had a decision to make as to whether to allow this scheme to come to fruition—with all the work that had been done by Health and by police, and all of the bona fides that they put into its preparation—or whether to park it and to see whether we should just proceed straight to our longstanding commitment to a drug summit and to see whether we would come up with a different scheme. The Government's view, on balance, was that, given all the work that had been put into it and the fact that inherently it made sense and was good policy, we would proceed with it.

Ms CATE FAEHRMANN: Are you aware of the way in which it differs from the ice inquiry's recommendations around a pre-court diversion scheme?

Mr MICHAEL DALEY: It's been a while since I've looked at those recommendations, I have to say.

Ms CATE FAEHRMANN: There are some key differences. First of all, the ice inquiry commissioner recommended, firstly, more like a decriminalised model, or a decriminalised model, and if that was not able to be stomachable by government, an alternative. The alternative was a three-strike scheme, in fact. So three strikes, plus it very, very strongly recommended or suggested that police not have discretion—that it be a mandatory referral, that it be legislated and that it be three times. So it veers quite strongly from those recommendations. As Attorney General, does that concern you? Do you understand why police discretion is an issue in this situation?

Mr MICHAEL DALEY: Yes, it is potentially an issue. But we had a binary choice, and I've described to you what that choice was. We decided to implement the scheme as it was, given the work that had already been done on it, and not to have to undertake months more work and to check out—

Ms CATE FAEHRMANN: So Labor so far in government hasn't really done anything. Because you've just implemented what was started and agreed to and committed to under the Coalition Government. The work had already started, the \$500 million has not been spent but allocated, the commissioner and the Chief Health Officer were going to report back anyway and it was due to start on 1 July. So Labor hasn't really done anything.

Mr MICHAEL DALEY: It's not a new initiative, but what we have done is to realise and to join with the former Government, if you want to characterise it that way, that it's time to look at the health issues and not just the narrow justice issues that arise with drug taking and possession. I think we should be given credit for not

simply sitting back and saying that we will wait until a future date and that we will move now on a scheme that had some work done on it already.

Ms CATE FAEHRMANN: It wasn't within your power or there was no mood to have a look to see whether it needed to be improved, from an Attorney General's perspective?

Mr MICHAEL DALEY: I was satisfied with the work that had been done, particularly the fact that we'd got buy-in from the police, which is hugely important.

Ms CATE FAEHRMANN: Did you get briefed by experts, particularly maybe First Nations groups, about it? This is where police discretion becomes very concerning, doesn't it?

Mr MICHAEL DALEY: It can, from some people's point of view.

Ms CATE FAEHRMANN: Did you get briefed?

Mr MICHAEL DALEY: No, because the decision—

Ms CATE FAEHRMANN: So the decision wasn't made largely by this Government; it was made by the Coalition Government. That's what this diversionary scheme is all about.

Mr MICHAEL DALEY: I've been through all this already this morning. I've been through this scheme up hill and down dale already this morning, and I don't really have much more to add to what I've said.

Ms CATE FAEHRMANN: I'm asking very different questions to what the Coalition member asked.

Mr MICHAEL DALEY: Not really.

Ms CATE FAEHRMANN: Can I just ask one more question around the detail. So it's two strikes—over what time period do those two strikes refer to?

Mr MICHAEL DALEY: I don't know that they have an expiry period, do they? I don't think so.

Ms CATE FAEHRMANN: So, what, over the whole—

Mr MICHAEL DALEY: I will have to check. I don't think it does. I think, in the adult life of a person, you can't get more than two strikes. We'll take that on notice, but I think that's how it works.

Ms SUE HIGGINSON: Attorney, the "m, no parole" laws—do you accept that they were introduced as a reaction to the Dawson conviction last year?

Mr MICHAEL DALEY: You'd have to ask the former Attorney General who introduced the legislation.

Ms SUE HIGGINSON: Are you, at the moment, considering reviewing those rules and those laws?

Mr MICHAEL DALEY: Not at the moment, no.

Ms SUE HIGGINSON: Are you satisfied with the potential unintended consequences they may have on people currently serving terms of imprisonment when their parole comes up?

Mr MICHAEL DALEY: I'm open to people of whatever capacity coming to me to express their reservations about that, and so far none have. In fact, I'm not even sure that it's my Act, is it?

Ms SUE HIGGINSON: No. The role of the commissioner can make recommendations around that. But if there was evidence or material put to you and the commissioner that these laws are impacting potential parole really unfairly, would you be open to having a look at the laws and reviewing those?

Mr MICHAEL DALEY: I've got a standing attitude, if you like, Ms Higginson, that, in respect of every law that I'm responsible for under the Allocation of the Administration of Acts, that principle applies. So yes. But it would have to be pretty serious, I've got to tell you. It would have to be serious unintended consequences.

Ms SUE HIGGINSON: I would suggest strongly—Attorney, would you agree that holding somebody in prison when they shouldn't be there is pretty serious, on every occasion?

Mr MICHAEL DALEY: As a bald proposition, yes.

Ms SUE HIGGINSON: Thank you.

Mr MICHAEL DALEY: And if you've got some concerns, my door is open for you to come and see me, by the way.

Ms SUE HIGGINSON: Thank you. Your diary disclosures don't show that you've met with the families of Evelyn Greenup, Clinton Speedy-Duroux and Colleen Walker-Craig or their advocates from the Jumbunna Institute. Have you considered meeting with them?

Mr MICHAEL DALEY: I don't know if I've received a request to meet them, but I'm happy to take that on notice and see if I have.

Ms SUE HIGGINSON: I've written to you about a request for an ex gratia payment for the families, and I haven't received any response to that. Are you considering an ex gratia payment of some sort to those families?

Mr MICHAEL DALEY: The way ministerial correspondence works—and sorry that I'm telling you how to suck eggs—is it doesn't come directly to me first; it goes to the department first. They prepare a brief, and it gets to me with advice. So if they've written to me, it will get to me in due course. But I—

Ms SUE HIGGINSON: And so what's your view in terms of an ex gratia payment to those families?

Mr MICHAEL DALEY: That's not appropriate for me to comment on specific requests from private individuals in a forum like this.

The Hon. NATASHA MACLAREN-JONES: I just have a couple of questions. How many times have the Commonwealth attorneys-general meetings been held?

Mr MICHAEL DALEY: In what time frame?

The Hon. NATASHA MACLAREN-JONES: Since you've become Attorney General.

Mr MICHAEL DALEY: Two.

The Hon. NATASHA MACLAREN-JONES: There has been two?

Mr MICHAEL DALEY: Two.

The Hon. NATASHA MACLAREN-JONES: Have you attended both of those?

Mr MICHAEL DALEY: No, I attended the first one. The second one, I was overseas with my family—it happened to fall in school holiday time.

The Hon. NATASHA MACLAREN-JONES: When is the next one scheduled?

Mr MICHAEL DALEY: On 1 December. Unless there's a disaster, I will be at that one.

The Hon. SUSAN CARTER: I just have one question. I note from your diary, Minister, that you had a meeting on 14 September with a number of people, including Ms Iles from Violet Co Legal & Consulting, to discuss sexual assault law reform. I wondered whether you wanted to share with us any law reform you are considering in the area of sexual assault.

Mr MICHAEL DALEY: I'm not sure how much I can or should say publicly about that matter. Although Ms Iles has raised these issues publicly, I am careful to not intrude on any confidences. One of the issues that she has raised—and I'm happy to canvass it now because she has raised it publicly—is, amongst other things, whether there should be a legislated positive duty of care, if you like, which is how she expressed it, or a positive duty imposed upon the police to legislatively require them to investigate any and all complaints that are made. That's one of the things that she raised, amongst others, and we are looking into those concerns. It was a good meeting, and I thank her for coming forward. She has been very brave. She has had some very positive meetings as well with the police at a very senior level. The meeting that she attended—that she called for and that we facilitated—in Parliament was also attended by the Minister for police and the Minister for Women, Ms Harrison, along with some of our senior staff, and we are looking at those issues very quickly.

The Hon. SUSAN CARTER: And you were persuaded by that or it's still under consideration?

Mr MICHAEL DALEY: It's still under consideration.

The Hon. SUSAN CARTER: Thank you. I've got no more questions.

Mr MICHAEL DALEY: But I do have to say I was very heartened to get a briefing from the police about that, and they have really engaged with Ms Iles at a senior level. I'm not sure that they will end up agreeing wholeheartedly with each other, but there have been some very concerted efforts and good-natured efforts made to understand her position and to facilitate them where possible.

The CHAIR: Attorney, I think we have come to the end of our questioning at the moment. You said you had some items that you want to put on the table.

Mr MICHAEL DALEY: Yes, I might hand over to the secretary, Mr Chair.

MICHAEL TIDBALL: Yes, if I may. In response to the question about court-appointed questioners and the number of JPs who have been trained, I can indicate that some 51 JPs have been trained and are available to do the work, and over the next month training for another 13 JPs is anticipated will have been completed.

The CHAIR: Okay. Any more?

Mr MICHAEL DALEY: All right. On pre-court diversion, I think the question was, Mr Chair: Was New South Wales police consulted or did it provide any advice on impact on road fatalities? New South Wales is not decriminalising drugs. It remains an offence to possess and use illicit drugs. New South Wales is not changing drug driving offences. It is also still against the law in New South Wales to drive with the presence of any illegal drug in your system or to drive under the influence of illegal or prescription drugs. The pre-court drug diversion scheme simply replaces, where appropriate, court appearances with penalty notices for people detected with small quantities of drugs for personal use and possession. Currently, most people who commit low-level drug offences receive low-level penalties from courts, such as fines. The scheme was developed jointly by the NSW Police Force, Health and the Department of Communities and Justice. Careful consideration has been given to the parameters for the scheme, and the police support the rollout of the scheme.

The second question was: Is there going to be a public education campaign for the scheme, particularly, for example, for people living close to the ACT border so that they understand the differences? The answer is: A communications strategy is currently under development in preparation for the rollout of the new scheme, including information to be provided to both the general public—for example, on websites—and to penalty recipients. It will include addressing communications requirements for any specific audiences, including by location. This would include messaging around the ACT arrangements as distinct from the new scheme in New South Wales. It is anticipated that the communications strategy will be developed before the end of the year.

Question three was: What are the other implementation details of the reforms? The answer is: A cross-agency working group is overseeing implementation planning for the new Drug Court diversion scheme to commence from early 2024. The group includes the NSW Police Force, Ministry of Health, Revenue NSW, Department of Communities and Justice, The Cabinet Office and others as required. It meets fortnightly and is well established.

Implementation activities overseen by the working group and being undertaken by agencies to prepare for the commencement of the new scheme include but are not limited to developing a communications strategy for the rollout of the new scheme, including information to be provided to both the general public—for example, on websites—and to penalty recipients; statewide police education and training, noting that the scheme is an extension of the existing scheme that the NSW Police Force use at music festivals; changes to the IT systems across relevant agencies, including police and Revenue NSW; engagement of the health intervention service provider and service specifications; legislative and regulatory changes—noting, of course, in October 2023 the Justice Legislation Amendment (Miscellaneous) Act 2023 inserted section 23B into the Fines Act 1996, which facilitates the scheme by allowing completion of certain prescribed activities to be treated as payment of a penalty notice; development of the form of the criminal infringement notice and information provided to the penalty notice recipient about the health intervention; and engagement with stakeholders, such as Legal Aid NSW, to support vulnerable penalty notice recipients. There's a handwritten note that says, I think, that the working group will also monitor and review the rollout of the scheme.

On raising the age questions and meetings: What meetings are occurring on raising the age? A meeting to discuss raising the age is confirmed for this Wednesday 15 November 2023 with the following attendees: Minister Jihad Dib; Minister Rose Jackson; Minister David Harris; James Clifford, Aboriginal Legal Service (NSW/ACT) Limited; Lucy Tierney, Aboriginal Legal Service (NSW/ACT) Limited; Jonathon Hunyor from the Public Interest Advocacy Centre; Henry Rajendra, NSW Teachers Federation; Ben McAlpine from NCOSS; Geoffrey Winters from Just Reinvest NSW; John Leha from AbSec, the NSW Child, Family and Community Peak Aboriginal Corporation; Sarah Marland from Community Legal Centres NSW; Damiya Hayden, Change the Record; and Emily Mayo, Raise the Age NSW.

On pre-court diversion, what is the expected success rate of the reform? This will be taken on notice. What is the review mechanism of the reform? The NSW Bureau of Crime Statistics and Research will evaluate the scheme. Due to the time needed to monitor the impact of the implementation of the scheme, the complete outcome of this evaluation will take 3½ years; however, data monitoring can commence quarterly and the initial effects of the scheme on the issuing of CANs, CINs and cannabis cautions will be evident after about one year. What is the cost of rehabilitation beds as part of the pre-court diversion scheme? This is a matter for Health and will be taken on notice. What is the timing for implementation, including the exact date for commencement? The scheme is expected to commence in early 2024. An exact date will be confirmed in due course.

Question: If an offender in regional New South Wales receives tailored health intervention under the scheme and that intervention requires rehab treatment but a rehab bed is not available, what will happen? Answer: Fine recipients across New South Wales will be provided details for how to access the health intervention, including a contact number so they can call for the service. Where appropriate, referrals to health services may be made. Completion of the intervention will result in the fine being considered paid. Take-up of referrals is not mandatory. Take-up of services is a health matter for individuals and availability of health services is a matter for Health.

In relation to drug supply prohibition orders, how many magistrates are authorised under the DSPO scheme? How many DSPOs have and have not been approved to date? There are eight authorised magistrates under the drug supply prohibition order pilot scheme. Since the pilot scheme commenced on 16 May 2022, 16 drug supply prohibition orders have been granted and one application has been refused. What is the AG doing to promote the scheme? Answer: The Chief Magistrate is responsible for informing the magistrates about the drug supply prohibition order pilot scheme.

In relation to OPCAT, when will OPCAT next be considered by SCAG? Answer: It is anticipated that discussions will continue through SCAG in 2024. Question: Is law reform needed to support implementation of OPCAT? Answer: Yes. Existing New South Wales agencies with appropriate inspection functions may be designated as national preventive mechanism agencies, and amendments to legislation will be required to support them to ensure that the United Nations subcommittee on the prevention of torture can visit all primary places of detention in New South Wales in accordance with OPCAT.

A conversion question was asked in relation to data on the alleged increase in gender dysphoria. We will take that question on notice. In relation to domestic violence, a question was asked in relation to how much is allocated to DV electronic monitoring in the budget and how many bracelets would this cover, and also how much is allocated in the budget to support domestic and family violence victims to access first home buyer support and interest-free rental bonds. We will take that on notice.

In relation to voluntary assisted dying, the question was asked: Has training been provided to those handling with voluntary assisted dying so they can identify coercive control? That is a matter for Health and will be taken on notice. Two to go. In relation to NSW Trustee and Guardian fees and a question in relation to protections to stop price gouging by NSW Trustee and Guardian and address any risks inherent in the mechanism which allows extra costs to be imposed on New South Wales citizens, the answer is pending, which probably means it's taken on notice. Finally, in relation to justices of the peace, a question was asked in relation to JPs registered as court-appointed questioners. Answer: 51 JPs are court-appointed questioners as at 20 October 2023. That's it from me, Mr Chair.

MICHAEL TIDBALL: And the lift.

Mr MICHAEL DALEY: And the lift at Burwood Local Court.

MICHAEL TIDBALL: I can advise that the lift was initially repaired on 9 September, but it broke down again. The control panel was the reason for the second breakdown. The parts have been sourced for the control panel and it will be repaired next week. Can I just say, having not interrogated this matter closely, it sounds like the lift is old. If it's having running issues, we will see whether there's an issue around replacement, which obviously would need to be factored into minor capital works.

ANNE CAMPBELL: I've got two more quick ones. The shared equity scheme budget—I think, Ms Maclaren-Jones, you asked about that—is \$13 million for 2023-24. The other question was around the Justice Advocacy Service diversion program, which is delivered by the Intellectual Disability Rights Service. That's currently operational in six New South Wales local courts—Downing Centre, Parramatta, Blacktown, Penrith, Gosford and Lismore—and it was also identified in the disability royal commission as a very good service. That will be considered by New South Wales in developing its response to the 222 recommendations.

The CHAIR: There being no Government questions—I don't see them chafing at the bit—thank you very much, Attorney, for coming today.

Mr MICHAEL DALEY: I thank everyone on the Committee for your courtesy and consideration and piercing analysis.

The CHAIR: We will now break until 2.00 p.m.

(The Minister withdrew.)

(Luncheon adjournment)

The Hon. NATASHA MACLAREN-JONES: Could I ask if the Attorney General or the Attorney General's office has ever requested specific public servants to fill DLO positions in your office?

MICHAEL TIDBALL: No.

The Hon. NATASHA MACLAREN-JONES: I'll move on. Just clearing, as we said before—admin question. Can I ask when the last review of the MERIT program was done?

MICHAEL TIDBALL: That's a question, I think, for Ms Campbell.

ANNE CAMPBELL: It is indeed. I'll just look up my note to see, hopefully, if it's in there. It doesn't say but I'll come back to you.

The Hon. NATASHA MACLAREN-JONES: Are you taking that on notice?

ANNE CAMPBELL: No, I'll come back to you during the session.

The Hon. NATASHA MACLAREN-JONES: I'll have a couple of others just in relation to whether or not another program has been reviewed and some of that information as well.

ANNE CAMPBELL: Okay.

The Hon. NATASHA MACLAREN-JONES: How many days a week is the Drug Court in Dubbo sitting?

MICHAEL TIDBALL: It sits two days a week, with capacity to support 80 participants a year.

The Hon. NATASHA MACLAREN-JONES: Do you have any information on the success of the Drug Court in Dubbo?

MICHAEL TIDBALL: Mr Thomas?

BRENDAN THOMAS: No, it's only just started.

MICHAEL TIDBALL: Yes, it is very recent.

PAUL McKNIGHT: There are repeated evaluations from BOCSAR on the Drug Court overall. It's a successful program.

The Hon. NATASHA MACLAREN-JONES: Do you have any information on the Dubbo one?

PAUL McKNIGHT: In terms of its effect on reducing reoffending or the like?

The Hon. NATASHA MACLAREN-JONES: Yes.

PAUL McKNIGHT: No, it's too early to tell with that court, but there's no reason why it wouldn't perform in the same way that the Drug Court performs in other places.

The Hon. NATASHA MACLAREN-JONES: What's the percentage of reducing reoffending overall that BOCSAR has put out?

PAUL McKNIGHT: You're testing my memory and I'm afraid I'm failing.

The Hon. NATASHA MACLAREN-JONES: That's okay.

MICHAEL TIDBALL: Just on the point of evaluation, it commenced operation on 23 February. Typically, to undertake an evaluation, I don't know what the threshold would be but that is still shy of 12 months. So I imagine we'd want a couple of years of experience to typically undertake an evaluation.

PAUL McKNIGHT: To your earlier question, Mr Thomas helps me out. The 2020 evaluation of the Drug Court found a 17 per cent lower reoffending rate from those that were not on the program.

The Hon. SUSAN CARTER: I'm really struggling. Could you put the microphone a bit closer?

PAUL McKNIGHT: Yes, sorry, a 17 per cent reduction in re-offending.

The Hon. NATASHA MACLAREN-JONES: In relation to the Dubbo Drug Court—and I'm happy for you to take this on notice—since February how many people have been through the program?

MICHAEL TIDBALL: We're happy to come back with that. If we can just draw a date. So if we run it to the end of—

The Hon. NATASHA MACLAREN-JONES: Till 1 November. That's fine.

MICHAEL TIDBALL: Right.

The Hon. NATASHA MACLAREN-JONES: Or whatever the information that you have available.

PAUL McKNIGHT: I have a figure around that. As of 11 September, there have been 47 referrals to the Drug Court at Dubbo, of which 39 have been accepted, and 23 of those accepted have commenced the program. Given the time frames, it's unlikely that those 23 will have finished the program.

The Hon. NATASHA MACLAREN-JONES: Could I ask on what grounds is someone not accepted?

PAUL McKNIGHT: I think we'd have to take that one on notice.

The Hon. NATASHA MACLAREN-JONES: In *Budget Paper No. 03* at page 4.8 it lists that a little over \$14 million has been allocated to the expansion of the Drug Court. What locations does that expansion include?

MICHAEL TIDBALL: Yes, we have that. The initial was Parramatta. So at the very beginning, Parramatta, 1999; Hunter, 2011; Sydney commenced 2013, and I'll come back to that; Dubbo, 2023. Then there is the Sydney expansion. If I can just have a moment, I hope we have a note on it. Sorry about this. Can I just take a moment?

ANNE CAMPBELL: While you're doing that, I could go back to the question about MERIT. It was last evaluated in 2009, and it's currently under review and it's due back in June 2024, and that will include qualitative, quantitative and cost-benefit analysis elements.

The Hon. NATASHA MACLAREN-JONES: Can you confirm, the local courts—is it just up north that it's run? Where is the program offered?

ANNE CAMPBELL: MERIT?

The Hon. NATASHA MACLAREN-JONES: Yes.

ANNE CAMPBELL: Until January 2023, 55 courts offering drug treatment, seven courts offering alcohol and drug treatment. Since January 2023, the service has been expanded and it will be expanded between now and 2025-26, which will result in alcohol and drug services being available at 30 additional New South Wales local courts and 10 existing drug treatment sites being enhanced to accept alcohol treatment referrals. By the end of this expansion, MERIT will be available at 92 New South Wales local courts, so that's 45 drug MERIT and 47 alcohol and drug MERIT sites reaching 93 per cent of eligible clients across the State. I can certainly provide those locations on notice.

The Hon. NATASHA MACLAREN-JONES: That's fine.

MICHAEL TIDBALL: In relation to the expanded Drug Court, in terms of the expansion, expanded within Sydney to the LGAs of Bayside, Canterbury Bankstown, City of Blacktown, City of Campbelltown, City—I can read all this; it's a long list. Do you want me to keep going or provide it on notice?

The Hon. NATASHA MACLAREN-JONES: Are you able to take it on notice?

MICHAEL TIDBALL: I can read them now but it's going to take five minutes.

The Hon. NATASHA MACLAREN-JONES: No, that's fine. Do you have any information about the wait times for the CBD and the Parramatta drug courts?

MICHAEL TIDBALL: I could attempt to answer that. I would prefer for the sake of accuracy, if I may, to come back with a proper response.

The Hon. NATASHA MACLAREN-JONES: And also the number of people who can be assisted at these two, both CBD and Parramatta.

MICHAEL TIDBALL: I may have that. Just give me a moment. With the expansion, it will be 160 participants per year in Sydney.

The Hon. NATASHA MACLAREN-JONES: Do you have the figure currently before expansion?

MICHAEL TIDBALL: No. I'd prefer, if I may, to take that on notice.

The Hon. NATASHA MACLAREN-JONES: And then also the number that can be assisted through Toronto and Dubbo. For Dubbo you said the capacity was 80.

PAUL McKNIGHT: That's the capacity at Dubbo, yes.

The Hon. NATASHA MACLAREN-JONES: Toronto?

MICHAEL TIDBALL: I don't think we have Toronto.

The Hon. NATASHA MACLAREN-JONES: The other question is if there's a difference—if you've got the information—between wait times in regional locations versus the city locations.

MICHAEL TIDBALL: I think it would be wise for me to take that on notice, if I may.

PAUL McKNIGHT: I have, if this helps, got the capacity numbers for the other courts. Parramatta sits five days a week and has capacity to support up to 160 participants per year. Hunter sits two days a week and has the capacity to support up to 80 participants a year. And Sydney and Dubbo we've covered.

The Hon. NATASHA MACLAREN-JONES: Just back to the MERIT program, what is the wait time for the MERIT program?

ANNE CAMPBELL: I think I'd need to take that one on notice.

The Hon. NATASHA MACLAREN-JONES: That's fine. How many people can the program assist at any one time?

ANNE CAMPBELL: I can give you the MERIT numbers for 2022, which is the calendar year. The total defendants referred were 2,747. Total participants accepted was 1,856, which is a 67 per cent acceptance rate. And total participants who successfully completed, 1,265, so that's a 68 per cent completion rate.

The Hon. NATASHA MACLAREN-JONES: Also, similarly to the other one, do you have the reason why they're not accepted?

ANNE CAMPBELL: I'd need to take that on notice. There are probably various reasons.

The Hon. SUSAN CARTER: Mr McKnight, if we could pick up the conversation we were having a little bit earlier in relation to the stakeholder consultation in relation to the conversion bill—

PAUL McKNIGHT: Yes, indeed.

The Hon. SUSAN CARTER: I found that very interesting. You were saying that this wasn't a public consultation; it was a targeted consultation where you identified the stakeholders. What were the factors that led you—how many stakeholders were consulted?

PAUL McKNIGHT: The total consultation, I think, as the AG indicated, was about 150.

The Hon. SUSAN CARTER: Were they groups or individuals or—

PAUL McKNIGHT: They would have been groups, like peak bodies and groups of that nature. Can I say that the stakeholders were identified by the joint working group. That was a working group established by the Government consisting of DCJ and Health advisers. That group—

The Hon. SUSAN CARTER: What was their process to identify the stakeholders?

PAUL McKNIGHT: As I said, they thought about the key sectors involved and they accessed the stakeholders that they knew existed. Other stakeholders, though, were nominated by that initial cohort. There was a kind of rolling process of identification, so the stakeholders that were first talked to identified others who had relevant expertise and interest in the reforms and they were also consulted in the consultation process. There was a process by which we sought written feedback from those stakeholders as well as a process of face-to-face consultations.

The Hon. SUSAN CARTER: And you're happy that all the relevant stakeholders were captured in that process?

PAUL McKNIGHT: I'm satisfied that that is a large number of stakeholders that capture the interests that are at stake in this area, yes.

The Hon. SUSAN CARTER: It would have included academics working in the space?

PAUL McKNIGHT: Absolutely, academics working in the space.

The Hon. SUSAN CARTER: From universities, from think tanks—where would they have come from?

PAUL McKNIGHT: From everywhere. I think—

The Hon. SUSAN CARTER: From what sorts of disciplines were the academics? Were they medical academics? Were they psychological? Were they sociological?

PAUL McKNIGHT: They would have been academics working in related fields that have an interest in conversion practice. I don't have the disciplines.

The Hon. SUSAN CARTER: Could you tell me what the related fields are?

PAUL McKNIGHT: They could have been any of those fields. Can I take on notice the disciplines?

The Hon. SUSAN CARTER: Yes, that would be great. I'd appreciate if you could take on notice—

PAUL McKNIGHT: Very happy to provide that information.

The Hon. SUSAN CARTER: Thank you very much. There would have been social welfare groups?

PAUL McKNIGHT: What I have in terms of the sectors and groups consulted—as we said, academics and researchers, and I'll get you some more detail about the disciplines. CALD community organisations, education sector, including those representing religious educational institutions—

The Hon. SUSAN CARTER: For public education, who would that have included? Would it have been the unions or the department or principals?

PAUL McKNIGHT: Again, I'll need to take the detail on notice.

The Hon. SUSAN CARTER: Thank you, that'd be great.

PAUL McKNIGHT: It would've involved the department undoubtedly. Faith community organisations, including all the major denominations—

The Hon. SUSAN CARTER: With respect to faith communities, did it also include specialist ministries who work with people who are LGBTIQ?

PAUL McKNIGHT: Undoubtedly.

The Hon. SUSAN CARTER: Why would they not have been included?

PAUL McKNIGHT: Sorry, I didn't—yes. I imagine they were included, yes.

The Hon. SUSAN CARTER: So Courage was included?

PAUL McKNIGHT: I don't know the answer to that question.

The Hon. SUSAN CARTER: Could you take that on notice and, if they weren't, could you perhaps indicate why they were not?

PAUL McKNIGHT: I'll take that on notice.

The Hon. SUSAN CARTER: That would be great, thank you. Sorry, were there other groups that you were—

PAUL McKNIGHT: Health sector, legal sector, LGBT—

The Hon. SUSAN CARTER: So legal sector—Law Society, Bar Association?

PAUL McKNIGHT: Yes.

The Hon. SUSAN CARTER: And health sector—department of health or private doctors groups, nurses groups?

PAUL McKNIGHT: Health providers, yes, doctors with an interest in this area who work in the field.

The Hon. SUSAN CARTER: How were the doctors with an interest identified?

PAUL McKNIGHT: As I said, through the process of the working group coming to a view. So that involved health people plus the stakeholders indicating who else.

The Hon. SUSAN CARTER: I suppose I'm generally curious, given that there's this sort of fairly circuitous process of trying to identify people with an interest, why there just simply wasn't a public call for, "If you're interested, we'd love to hear from you," which is I think a more typical process in government.

PAUL McKNIGHT: Some of those questions are obviously questions for Government, not for officials. I would say though that—

The Hon. SUSAN CARTER: What advice would you have given to the Government about the way in which the consultation should be structured?

PAUL McKNIGHT: Again, questions for Government, not for officials. What I would say—

The Hon. SUSAN CARTER: Sorry, the question I have is what advice would you have given to the Government about the way in which you think the consultation should have been structured?

PAUL McKNIGHT: We would have given Government a range of options as to how to consult with community on this.

The Hon. SUSAN CARTER: What factors would have weighed more heavily for you in terms of an open public consultation or a limited targeted consultation?

PAUL McKNIGHT: What I would say about this consultation in particular—

The Hon. SUSAN CARTER: I'm sorry. Is this an answer to the question I just asked?

PAUL McKNIGHT: Yes.

The Hon. SUSAN CARTER: Great, thank you.

PAUL McKNIGHT: This consultation obviously concerns a matter of great sensitivity and personal sensitivity. So the confidentiality of the process I think was in part sought to facilitate really frank discussions and contributions from the stakeholders.

The Hon. SUSAN CARTER: Do I understand that as you telling me in answer to my question that the advice that you gave to Government was that it should be a confidential process to protect people who might wish to provide evidence?

PAUL McKNIGHT: I'm not going to canvass what policy advice we provided—

The Hon. SUSAN CARTER: The question I asked is what were the factors that led to the advice.

PAUL McKNIGHT: I'm not going to canvass the policy advice we provide to Ministers.

The Hon. SUSAN CARTER: So you're saying that it was to do with the sensitive nature of the legislation that's being contemplated that it should be a confidential consultation?

PAUL McKNIGHT: As I said, I'm not canvassing the advice we provide to Ministers.

The Hon. SUSAN CARTER: No, I'm just paraphrasing your question to check—

The Hon. CAMERON MURPHY: Point of order—

The Hon. SUSAN CARTER: —that I've understood the answer that you gave.

The CHAIR: What is the point of order?

The Hon. CAMERON MURPHY: Chair, I've been listening intently to this.

The Hon. NATASHA MACLAREN-JONES: You took a while!

The Hon. CAMERON MURPHY: I think it's absolutely clear that the honourable member, through a series of questions and flattery, is trying to inveigle this member from the department into providing commentary on Government policy, which is clearly out of order.

The CHAIR: Commentary on Government policy is out of order, but I'm sure Mr McKnight is experienced enough to know that his comments don't fall into that category. Good luck, Ms Carter.

The Hon. SUSAN CARTER: Thank you. I believe my time has expired anyway.

The CHAIR: I'm not taking any questions and there is nobody else here, so go for your life.

The Hon. SUSAN CARTER: Alright then. I might keep going, Mr McKnight. Thank you very much.

The CHAIR: I'll sacrifice my time and we'll finish early.

The Hon. SUSAN CARTER: In terms of the groups, you said LGBTIQ groups. Did that include the LGB Alliance?

PAUL McKNIGHT: I don't have a list of the stakeholders—

The Hon. SUSAN CARTER: Could you take that on notice?

PAUL McKNIGHT: —in front of me. Absolutely happy to take on notice what we can provide to the Committee.

The Hon. SUSAN CARTER: I would appreciate that very much. When can we expect an exposure draft?

PAUL McKNIGHT: I think the AG covered this issue this morning. I think I'd refer back to his answers.

The Hon. SUSAN CARTER: Perhaps you could remind me? I don't immediately recall those answers.

PAUL McKNIGHT: I think that's as much as I can help you with on this question. I'd refer back to what the AG said this morning.

The Hon. SUSAN CARTER: Can anybody else help me with when there will be an exposure draft of this legislation?

MICHAEL TIDBALL: I don't know, sorry.

The Hon. SUSAN CARTER: Would you normally expect, with something as significant as this, that there would be time for—there has been a small, targeted, private consultation—an opportunity for broader public consultation about this legislation?

PAUL McKNIGHT: I think I'll refer back to the Attorney's answers this morning.

The Hon. SUSAN CARTER: Did the Attorney address that question?

The Hon. CAMERON MURPHY: Point of order: The issue here is one where the Attorney General earlier today, I think, gave a time frame for when this will be introduced, but also said it's subject to a Cabinet decision. I think these questions are really trying to elicit information about the Cabinet process and therefore the question is out of order.

The CHAIR: I uphold the point of order.

The Hon. SUSAN CARTER: I will move on to something else. If the Government is introducing its own legislation instead of supporting the Greenwich legislation, it would suggest that the results of your stakeholder consultation have confirmed that there are issues that stakeholders raise such that they would seek legislation that has a different form to that proposed by Mr Greenwich. Is that a fair summary of the stakeholder consultation?

PAUL McKNIGHT: You are drawing me into policy issues here that I cannot go into.

The Hon. SUSAN CARTER: Will there be made public any summary, survey, overview or results of the stakeholder consultation?

PAUL McKNIGHT: Again, that's a question better put to the Attorney General.

The Hon. SUSAN CARTER: If the point of the stakeholder consultation was to gather views to inform good legislation, but those views are never made public, how do any of the stakeholders even know if their views were reflected in the final legislative product?

The Hon. STEPHEN LAWRENCE: Point of order: I think, in substance, that is seeking an opinion on a Government policy which, it would seem, is to not necessarily make these things confidential. It's obviously not a matter for the official.

The CHAIR: I uphold the point of order.

The Hon. SUSAN CARTER: I have a number of questions about this because I'm fascinated by the whole process. But perhaps I can just ask some questions and you can tell me whether you're able to answer them or not?

PAUL McKNIGHT: I'm more than happy to do that.

The Hon. SUSAN CARTER: Thank you very much. As I understand it, for example, stakeholders such as the LGB Alliance have raised concerns about the fact that the currently exposed version of the conversion practices bill extends to transsexuals as well as to gay conversion practices. Were these stakeholders likely to be heard in the Government's draft?

PAUL McKNIGHT: I'm not sure what you're asking me.

The Hon. SUSAN CARTER: Well, I think it's very clear a number of groups—for example, probably the leading group advancing this position is the LGB Alliance—are concerned that the Greenwich conversion bill covers both gay conversion practices and transsexual conversion practices, and they believe it should deal with gay conversion, not transsexual. They're an important stakeholder. I'm wondering if those stakeholder views are

one of the reasons that the Government draft is different to the Greenwich draft. Have they been heard in the Government draft?

PAUL McKNIGHT: You really are—

The Hon. CAMERON MURPHY: Point of order—

The Hon. STEPHEN LAWRENCE: Point of order: I think that's going into Cabinet processes, in substance.

The CHAIR: I uphold the point of order. Perhaps you might want to submit those questions in writing and get "no comment", "no comment", "no comment" on all of them. Save us the time.

The Hon. SUSAN CARTER: I'm very familiar with getting that! Perhaps I will stop asking these questions because it seems that I will not be getting answers. But I'm fascinated by this process.

The CHAIR: I'm fascinated by the process, too, but you're not getting any answers.

The Hon. SUSAN CARTER: No, that's right.

The Hon. NATASHA MACLAREN-JONES: I might go back to the MERIT Program and the Drug Court. Just in relation to the drug courts, do you have a breakdown of the number of Aboriginal people who have gone through into the courts?

MICHAEL TIDBALL: We can do that. I would prefer to take that on notice.

The Hon. NATASHA MACLAREN-JONES: That's fine. I have the same question in relation to the MERIT Program: How many Aboriginal people have gone through that program?

ANNE CAMPBELL: Yes, I'll take that on notice.

The Hon. NATASHA MACLAREN-JONES: I think you said the MERIT Program was operating in 92 local courts, if I wrote that down right.

ANNE CAMPBELL: Let me just double-check.

MONIQUE HITTER: It will be.

ANNE CAMPBELL: It will be.

The Hon. NATASHA MACLAREN-JONES: What was the determining factor of where the program would be rolled out to?

ANNE CAMPBELL: I think, looking at the sort of data and analytics that we get through BOCSAR and where the need was across the State. I'm happy to take that on notice in terms of the methodology, but I'm pretty sure that was the approach.

The Hon. NATASHA MACLAREN-JONES: Was funding a factor at all?

ANNE CAMPBELL: It means we could only roll it out to 93 per cent of the State, so obviously that was a factor, and then looking at the areas with the most demand.

The Hon. NATASHA MACLAREN-JONES: When you do the evaluation, will that be across all of the courts—

ANNE CAMPBELL: Yes.

The Hon. NATASHA MACLAREN-JONES: —or limited?

ANNE CAMPBELL: Except for the ones—as I said, there's a number two rollout, so the ones that are currently operational.

The Hon. NATASHA MACLAREN-JONES: The analysis of the MERIT Program by the NSW Bureau of Crime Statistics and Research notes that the relatively short program compared to other diversion programs—and I understand the MERIT Program is only a few weeks or a couple of months, is that right?

ANNE CAMPBELL: It's a 12-week rehabilitation program.

The Hon. NATASHA MACLAREN-JONES: The new drug policy and the health interventions—do you know how long, on average, those health interventions would be?

ANNE CAMPBELL: I'm not sure if that might be a matter for NSW Health, but I'm happy to take that on notice.

The Hon. NATASHA MACLAREN-JONES: Also, if there was any evidence provided when the decision was being made or the advice being provided about the effectiveness of a shorter period of time for the program. Basically, looking at the MERIT Program, which was on a short two-month, three-month program, versus longer health interventions—whether or not any evidence was provided?

ANNE CAMPBELL: I'm happy to take that on notice. It was, as I said earlier, evaluated in 2009. They obviously looked at what worked, what didn't work and then tailored it for the extended version. But I'm happy to take that one on notice.

The Hon. NATASHA MACLAREN-JONES: That's fine. The press release of 10 October that announced the drug diversion and health intervention policy notes:

NSW Police will retain their discretion in all cases to charge a person and proceed to court ...

Are there any guidelines being developed to indicate situations in which the DPP will proceed with prosecution?

PAUL McKNIGHT: Under that program, it isn't the DPP that would ever prosecute those matters, the minor possession matters that would be for the police to prosecute in the Local Court. The police will operate under their own internal guidelines for that program, and they will be in their standard operating procedures in the normal way.

The Hon. NATASHA MACLAREN-JONES: The press release also notes that the drug diversion policy is evidence-based. What was the evidence that was provided?

PAUL McKNIGHT: There's a range of issues that evidence goes to in formulating this program. Some of it is to do with the kinds of outcomes that people who are being charged with possession are getting in court. A large number of them were getting convictions with no further penalties, so nothing, in fact, was happening in relation to that person's drug use. Under this program, what happens is that they are referred to a health helpline, and that counselling has a health evidence base, going to its effectiveness in changing behaviour.

The Hon. SUSAN CARTER: Could I ask a quick follow-up? The health helpline that the offender rings—the intervention takes place on that helpline?

PAUL McKNIGHT: Principally, yes, in relation to that person, but there's also an assessment of that person's need. If in conversation with the person it is discovered that they have higher needs, they may be referred to further community interventions and further services in the health system.

The Hon. SUSAN CARTER: So everything initially is telephone-based?

PAUL McKNIGHT: Yes.

The Hon. SUSAN CARTER: Are you familiar with the phenomenon of impression management?

PAUL McKNIGHT: I'm not, no.

The Hon. SUSAN CARTER: Impression management is a major factor, especially in psychiatric health areas. It's particularly pronounced with telehealth and telephone health, where the person, because they're not in the physical presence of a health practitioner, can manage the impression that they provide. Has there been any work done to compensate and accommodate for drug offenders who might be managing the impression that they are providing to the person on the other end of the phone?

PAUL McKNIGHT: I think those questions need to be referred to Health.

The Hon. SUSAN CARTER: And Justice has no concerns that there might be perhaps inappropriate, tailored interventions being offered as part of a CIN because of impression management?

PAUL McKNIGHT: I think you're leading me to an answer.

The Hon. SUSAN CARTER: I'm asking you a question.

PAUL McKNIGHT: As a general matter, in Justice we are concerned to ensure that diversion services are adequate and address the needs of the person in question. We work with our Health colleagues to ensure that those diversion services are properly framed.

The Hon. SUSAN CARTER: Have you had any conversations with your Health colleagues about how they are compensating for the well-known phenomenon of impression management?

PAUL McKNIGHT: I haven't, no.

The Hon. SUSAN CARTER: Is that something that Justice is planning to do? Or could you perhaps take that on notice so that we could get information about that?

PAUL McKNIGHT: I am more than happy to take that on notice.

The Hon. SUSAN CARTER: That would be lovely.

The Hon. NATASHA MACLAREN-JONES: I wanted to move on to a couple of questions in relation to coercive control. Coercive control includes seeking to control the choices of others. The New South Wales government's website—and I've said this before—indicates that coercive control includes exploiting a person's medical condition to make decisions about their care to disempower or control them. Voluntary assisted dying laws commence in New South Wales on the twenty-eighth of this month. Has the implementation and evaluation task force for coercive control considered the legal ramifications of two pieces of legislation interacting?

MICHAEL TIDBALL: No, we have not.

The Hon. SUSAN CARTER: Do you have plans to do that?

PAUL McKNIGHT: The voluntary assisted dying laws were obviously developed in the Health portfolio and are a matter for Health to comment on, but there are very significant safeguards in those laws to ensure that what is happening is happening in a way that is voluntary. They are significant.

The Hon. SUSAN CARTER: I think the question still remains: Have you thought about the interaction of these two laws? And are there plans to consider it?

MICHAEL TIDBALL: What I'm looking at, if I may say this, are the purposes of the task force, effectively the terms of reference, set out in section 541, subsection 3 of the Crimes Act. I think my test of what the implementation task force would consider would be about any matter raised falling within the envelope of that statute, as it's drafted. It would need to satisfy that test. I'm happy to see whether the task force, within the parameters of the drafting, could at least look at that issue. There is a Health representative on the task force. I can take that and consider it, and I'm happy to provide advice back to the Committee.

The Hon. NATASHA MACLAREN-JONES: In relation to the office of the DPP and coercive control, and the implementation of it, at what stage of the training is the office of the DPP?

MICHAEL TIDBALL: Yes, I can answer that question. The DPP will—and I will answer your question; I just need to do a bit of a deep dive into a note here—deliver coercive control training for all legal staff and to Witness Assistance Service staff across 10 offices, including regional locations. That training will be a combination of face-to-face seminars and online skills training. The training will feature sessions delivered at the key office of the DPP annual in-person training events for solicitors and Crown prosecutors, including the end-of-year solicitors conference in December 2023 and the Crown prosecutors conference in the first half of 2024. There will separately be an ongoing online delivery of that.

The Hon. NATASHA MACLAREN-JONES: So by mid-next year, everybody would have been provided training?

MICHAEL TIDBALL: Yes. I believe my colleague from Legal Aid can supplement—or correct—my response.

MONIQUE HITTER: I will supplement, Mr Secretary. Legal Aid has received some funding from the New South Wales Government to deliver coercive control training across the sector. We're consulting with the ODPP and the police to make sure that our training modules are aligned and consistent with one another so that our training will be rolling out also at the same time.

The Hon. NATASHA MACLAREN-JONES: Good. Also, what stage is the training for New South Wales police at?

MICHAEL TIDBALL: Can I, in relation to the Justice component—just at a high level—indicate that there are plans in place for police, the Judicial Commission, as has been indicated the Office of the Director of Public Prosecutions and Legal Aid. The police training is a three-phase training package, the first phase of which has been implemented online to 22,000 police staff. The second phase commenced in June of this year, comprising face-to-face training of specialist police officers and identified select operational police, including domestic violence officers, detectives and investigators, and police prosecutors.² That training has been developed in collaboration with domestic and family violence specialists and focused on recording and responding to coercive control, collecting and recording evidence, prosecuting coercive control offences, and the complexity and nuance

² In [correspondence](#) to the committee received 29 November 2023, Mr Michael Tidball, Secretary, Department of Communities and Justice, clarified the evidence given.

within different communities, with a focus on First Nations communities and culturally and linguistically diverse communities. There will be a third phase to form a training package, to be delivered in the constable development program. That will commence in June 2024 and run for two years through to June 2026.

ANNE CAMPBELL: I can add to that, Mr Tidball. In terms of phase two of the police training, police report that about 1,200 police have already undertaken the face-to-face training in phase two.

The Hon. NATASHA MACLAREN-JONES: I understand the definition of coercive control will be inserted into the Act in February next year. Is that correct—come into effect?

MICHAEL TIDBALL: Yes.

The Hon. NATASHA MACLAREN-JONES: What percentage of DPP and also Police Force will be trained by February or end of February next year?

MICHAEL TIDBALL: To respond to that I would need to do some maths. I've got police numbers here; I don't know what the percentages are. DPP similarly, I would want to give you an accurate answer to that. If I can take that on notice, I would be happy to do so.

The Hon. NATASHA MACLAREN-JONES: Yes, that's fine.

ANNE CAMPBELL: If I can add, it's to be introduced by the end of June, not February.

The Hon. NATASHA MACLAREN-JONES: Okay. Thank you.

The Hon. SUSAN CARTER: Page 8-8 of the 2022-23 Outcomes Statement, *Budget Paper No. 02*, notes:

The long-term increase in the number and complexity of criminal lodgements is the primary challenge facing this Outcome.

Is this still the primary challenge for the Department of Communities and Justice?

MICHAEL TIDBALL: Sorry, I was very rudely questioning my colleague here.

The Hon. SUSAN CARTER: The 2022-23 budget papers indicated that the long-term increase in the number and complexity of criminal lodgements is the primary challenge facing the outcome. Is this still the primary challenge for the Department of Communities and Justice?

MICHAEL TIDBALL: The primary outcome of the Department?

The Hon. SUSAN CARTER: The challenge facing the department is the long-term increase in the number and complexity of criminal lodgements.

MICHAEL TIDBALL: It's one challenge. I would say one challenge.

The Hon. SUSAN CARTER: One challenge among many, by the look of what you're saying

MICHAEL TIDBALL: The DCJ is a hydra-headed, complex, multi-functional department, as I think you know.

The Hon. TANIA MIHAILUK: Earlier the Attorney General was asked about whether there was any work being undertaken with respect to the treaty within the department. I just want to confirm if that's the case. Is there any kind of preliminary work around a potential New South Wales treaty?

MICHAEL TIDBALL: Not of which I'm aware. No.

The Hon. TANIA MIHAILUK: No work whatsoever undertaken by the Attorney General?

MICHAEL TIDBALL: No.

The Hon. TANIA MIHAILUK: That's one good response. There's a couple of things I want to clarify, just so I can put it on record and not to have to submit some supplementaries. I want to double-check, with the anti-discrimination review being undertaken by Tom Bathurst, what the final costings are on that. You may not have the final costings, but there may be a rough cost that the department has already earmarked with respect to what this review will cost in commissioning both Mr Bathurst but also any ancillary staff or additional staff. Is that the case?

MICHAEL TIDBALL: That would equate, effectively, to the funding—

The Hon. TANIA MIHAILUK: Sorry, I'm having trouble hearing you.

MICHAEL TIDBALL: I apologise. The Law Reform Commission of New South Wales is funded. That is probably their most substantial piece of work at the moment; it is the main reference. We can take that on notice and come back—

The Hon. TANIA MIHAILUK: Are any staff from the Attorney General's department supporting the Law Reform Commission or Mr Bathurst throughout this process?

MICHAEL TIDBALL: Yes, absolutely.

The Hon. TANIA MIHAILUK: That's what I want to confirm, and what cost that's coming to.

PAUL McKNIGHT: So the Law Reform Commission has longstanding staffing component—

The Hon. TANIA MIHAILUK: Separate, yes.

PAUL McKNIGHT: No—

The Hon. TANIA MIHAILUK: It's the same?

PAUL McKNIGHT: It is within that staffing component that the Law Reform Commission is completing its work.

The Hon. TANIA MIHAILUK: Have there been any additional staff or any additional resourcing put on as a result of undertaking what seems a pretty substantial review?

PAUL McKNIGHT: Not to my knowledge, but I'll take on notice whether we have, within the policy area of my area, shifted people around to accommodate that priority.

The Hon. TANIA MIHAILUK: Yes, if you could do that on notice, that would be most helpful.

MICHAEL TIDBALL: The Attorney General indicated this morning, Ms Mihailuk, that Kate Eastman, SC, has been appointed—

The Hon. TANIA MIHAILUK: Yes, I heard that.

PAUL McKNIGHT: She has been appointed as a part-time commissioner. There are three commissioners—

The Hon. TANIA MIHAILUK: What was her previous role?

MICHAEL TIDBALL: She's a barrister.

PAUL McKNIGHT: There are three commissioners currently on the Law Reform Commission. Mr Bathurst—

The Hon. TANIA MIHAILUK: But she's been put on specifically just for this review, as I understood. Is that right?

PAUL McKNIGHT: She's participating in all the work of the Law Reform Commission. There are only three commissioners. The three commissioners together undertake the work of the commission. Mr Bathurst is the chairperson, and the other two commissioners also work on the two reference—

The Hon. TANIA MIHAILUK: But this will be the bulk of their work right now, you would have thought. I would imagine.

PAUL McKNIGHT: It's the significant project they have at the moment, yes.

The Hon. TANIA MIHAILUK: It may not be available, and I'm not asking for the date that it might return to Parliament, but I am asking is there a rough date or time frame that they might indicate the Law Reform Commission could indicate when they think their work will be complete.

PAUL McKNIGHT: The terms of reference for the Law Reform Commission do not provide it with a due date.

The Hon. TANIA MIHAILUK: No, it didn't specify a time frame.

PAUL McKNIGHT: I understand the Attorney has indicated that he wants to move this review on swiftly, and I think he talked about a time frame this morning. The Law Reform Commission itself hasn't advised on a time frame, and it is obviously a matter for the commission to determine its process and when it reports to government.

The Hon. TANIA MIHAILUK: Can I ask about the Conversion Practices Prohibition Bill, if that's what this bill is going to be referred to or called. I would like to know the amount of resourcing, specifically staff

resourcing. Potentially, if you can break that down into the costs associated with the work required to support this bill being prepared for Parliament by the AG's office? Is it possible to get a breakdown?

MICHAEL TIDBALL: The AG's office or department?

The Hon. TANIA MIHAILUK: Well, the department. I would like the Attorney General's office too but you may not be able to provide that for me. You might be able to provide how much support, resource-wise, has come from the department.

PAUL McKNIGHT: I would say the policy area in my division is supporting this work. It supports—

The Hon. TANIA MIHAILUK: How many staff does that involve? How many full-time staff does that involve?

PAUL McKNIGHT: On this project?

The Hon. TANIA MIHAILUK: And when did they start? Is it since April, May—no, it would have been about June. When did they first indicate the work?

PAUL McKNIGHT: The policy area in my division is a reasonably large area. It's 80-odd people. It supports the work of the Attorney and other Ministers that DCJ supports in their policy and legislative programs. We move people around projects and support the range of work that government needs in a—

The Hon. TANIA MIHAILUK: Okay, with that, maybe you could give me a rough ballpark figure, or take it on notice, on how many maybe were allocated to that particular legislation.

PAUL McKNIGHT: I would need to take that on notice.

The Hon. TANIA MIHAILUK: Yes.

PAUL McKNIGHT: But I would say we do not break down policy projects in that way.

The Hon. TANIA MIHAILUK: Were any new staff put on as a result of this legislation—specifically to work on this legislation?

PAUL McKNIGHT: No.

Ms SUE HIGGINSON: Could I ask about the Stewards' Foundation of Christian Brethren Act? It is an Act that the Attorney General has responsibility.

The Hon. TANIA MIHAILUK: Can I ask about that too? I've never heard of it—very good research!

Ms SUE HIGGINSON: Yes, how is it going!

PAUL McKNIGHT: I'm quite excited about this question.

MICHAEL TIDBALL: My 118 notes do not cover that statute.

Ms SUE HIGGINSON: It's fine, but it is one of the Attorney General's Acts. I wrote to the AG recently and my question was is there any departmental expertise around the administration of that Act and some of the problems that are experienced in the community around the Christian Brethren?

MICHAEL TIDBALL: You've written; we will pursue that response.

Ms SUE HIGGINSON: Thank you. I just like to put on the record that, on the face of it, there's some serious impacts that are happening on members of the community—quite vulnerable members. It seems that this legislation is actually empowering the—I'm not very good on these kinds of organisations, but the actual Brethren churches. Because of the power they have under this legislation, people are being impacted in ways that I don't think this Parliament would ever have contemplated when that legislation was enacted. But, yes, it is in the letter. I just wondered whether there was any expertise within the department around the Stewards' Foundation of Christian Brethren Act. Thank you.

The CHAIR: What year is the Act?

Ms SUE HIGGINSON: It's 1989.

The Hon. TANIA MIHAILUK: You tried to trick her. She's on top of it.

Ms SUE HIGGINSON: No, it was genuine. I was just wondering. It's one of those Acts in the long list of Acts.

MICHAEL TIDBALL: It was not a question we anticipated today. Our system has failed badly.

Ms SUE HIGGINSON: No, that's right.

The Hon. GREG DONNELLY: Sunday's coming up. You can go and check it out.

The CHAIR: I thought it might have been 1889.

Ms SUE HIGGINSON: This is right. But no—serious impacts of people losing their assets and their capacity to control their own lives because they, at some point, found themselves involved in this thing. Can I ask about community legal centres? My understanding is Legal Aid administers the funding for the CLCs from various sources. What is the proportion of New South Wales funding for the community legal sector?

MONIQUE HITTER: For 2023-24 the State component is approximately \$15 million, the Commonwealth component is rounding up to \$22 million and approximately \$2.5 million comes from the NSW Public Purpose Fund.

Ms SUE HIGGINSON: What is the term of funding for CLCs? Are we still in those short periods or have we got—what kind of contracts do we have with them?

MONIQUE HITTER: We have a service agreement with each CLC. Funding has generally been allocated up until 30 June 2025, which is when the National Legal Assistance Partnership agreement that we are currently governed under comes to an end.

Ms SUE HIGGINSON: How long was that national partnership agreement?

MONIQUE HITTER: It's a five-year agreement.

Ms SUE HIGGINSON: And it's coming up in 2025?

MONIQUE HITTER: That's right, and it's currently being reviewed at the moment by the Commonwealth and the State attorneys-general.

Ms SUE HIGGINSON: Does Legal Aid put forward, on behalf of CLCs, a submission about the health of the sector or the needs of the sector?

MONIQUE HITTER: Community Legal Centres NSW and Community Legal Centres Australia puts forward submissions to both the Commonwealth and, indeed, has done so to the NLAP review on behalf of its membership. Legal Aid NSW has also put a submission in to the review and also put submissions in to the Commonwealth Government about the needs of Legal Aid commissions and, essentially, the legal needs that exist within our individual States and Territories and the Commonwealth more broadly, so that we speak to the unmet legal need that is in New South Wales but also, more broadly, around Australia. There are parts of our submissions that are very much aligned with the submissions that are made by CLCs as well, in terms of a shared view of what that unmet legal need is.

Ms SUE HIGGINSON: At the moment, what is the snapshot in terms of the health of the sector and unmet legal need?

MONIQUE HITTER: I think that's a question that is really quite difficult to answer, in the sense that there is obviously a lot more legal need that is not being met that could be met. But the extent to which we are able to meet the legal need is a question of priorities for government. Clearly, the NLAP review is going to provide us with a lot of great information about how our funding should be allocated and prioritised and targeted. But I could say, on behalf of Legal Aid NSW, what we do is pay very close attention to where we see the unmet legal need is and we target our resources accordingly.

Ms SUE HIGGINSON: At the moment, where are you seeing the area of most unmet need?

MONIQUE HITTER: Again, that's a very big question. I think it's best answered by the NLAP review because I think that review process is bringing together a lot of data—more data than I would have access to or that individual organisations have access to. I would defer that answer to the NLAP review because it is going to provide us with a very good snapshot of where that unmet legal need is.

Ms SUE HIGGINSON: And when will that review be completed?

MONIQUE HITTER: My understanding is that the reports are going to the attorneys-general around the end of the year—around December or January next year.

Ms SUE HIGGINSON: Next year?

MONIQUE HITTER: Yes.

The Hon. TANIA MIHAILUK: I just thought I'd jump in because I do want to ask about community legal centres. I was on another committee the other day when I had an opportunity to ask about the Children's Court. I know it may not be able to be answered right now, but guardianship orders—there was an Act that amended guardianship orders around the issue of parental consent I think at the end of 2018 and it came into effect in 2019. I asked questions in relation to the FACS Minister yesterday about whether there had been any particular review around the changes from that particular legislation, which was proposed at the time by Pru Goward, because Community Legal Centres at the time wrote in as part of that review of that bill—they wrote in their particular concerns around alternative dispute resolution processes and the fact that parents might consent to these guardianship orders without having access to full legal advice. I wanted to know whether there had been any work done since the start of that legislation.

I asked specifically what the numbers of guardianship orders—if we know the costs, over the last four years, as a result of that change. But, too, I wanted to know if there had been any reviews undertaken by Community Legal Centres or, indeed, by anywhere across these departments about the impact of the change of that Act in relation to opportunities for parents to be able to access legal assistance as those very dire decisions are being made about their children and guardianship orders. Sorry, I can take all of that on notice, but I know that 78 organisations at the time raised concerns about parts of that legislation. Most of the matters were around FACS, but one specific area was around that lack of access to legal support—parents who might not be fully cognisant of what was actually being proposed before them in losing their children with these guardianship orders. So I wanted to know if there has been any review undertaken in the four years since that legislation took effect.

MONIQUE HITTER: I'm not aware of any review. I can say—

The Hon. TANIA MIHAILUK: Have Community Legal Centres raised it since then? They did raise concerns at the time. I'm not sure if there has been any follow-up.

MONIQUE HITTER: I'm not sure either, I'm sorry. I can tell you, though, that—

The Hon. TANIA MIHAILUK: Sorry, because I don't think the person who normally—who has the Children's Court? Who manages that? They're not here. I understand that, yes.

MICHAEL TIDBALL: Yes, for personal reasons—Karen Wallace, yes.

The Hon. TANIA MIHAILUK: I understand that. That's why I thought, if I put that on notice, perhaps they might be more aware of whether any concerns have been raised around those guardianship orders and the way that they are now being administered.

MICHAEL TIDBALL: By the CLCs?

The Hon. TANIA MIHAILUK: CLCs and generally—any of the individual organisations that normally play a role throughout the hearing in providing assistance. It may not just be the community legal centres. Legal Aid might be involved and it might be other organisations in the FACS area—and NGOs that are involved as well.

MICHAEL TIDBALL: We did, I think, out of yesterday's estimates agree to take something on notice, from memory.

The Hon. TANIA MIHAILUK: Yes, I asked a similar question there, so I just wanted to flag it here as well.

MICHAEL TIDBALL: I will make sure we bridge these—I will ensure that we do some inquiry around that.

Ms SUE HIGGINSON: I'm just wondering about what AGs has done, if anything, to assist the ALS. I know the ALS was calling out for a massive shortfall in its service funding and, yes, I understand it's mainly a Commonwealth relationship, but has New South Wales done anything to help, and what do we do to help the ALS in terms of direct funding for the services?

MONIQUE HITTER: I'm happy to provide the funding that Legal Aid NSW provides the ALS, if that would be helpful?

Ms SUE HIGGINSON: That would be very helpful, thank you.

MONIQUE HITTER: We provide \$1.8 million a year in relation to work they do for the Early Appropriate Guilty Plea scheme, the EAGP reforms.

Ms SUE HIGGINSON: Yes.

MONIQUE HITTER: We also provide \$350,000 a year to employ solicitors in care and protection roles, and we have been providing \$60,418 to continue to coordinate two regional cooperative legal service delivery model areas or regions.

Ms SUE HIGGINSON: Do you know what percentage of what you give is of their overall funding?

MONIQUE HITTER: I don't know that, I'm sorry.

Ms SUE HIGGINSON: Is there any view that the New South Wales Government could be providing ALS more support? Is that something that has been canvassed within the department at any point in time in the last 12 months?

MICHAEL TIDBALL: I think there is, if I can say it, a caution around any cost shift from the Commonwealth. Through the remaining time, I may wish to supplement my response now. I just want to check the funding. I would make the general statement that the work of ALS is obviously very important and highly valued. I do speak with Karly Warner frequently and acknowledge the vital role of CAPO. If I can just perhaps come back on the question of the financial relationship of the State of New South Wales, but we would be reluctant to separately see a shift of cost from the Commonwealth to the State.

Ms SUE HIGGINSON: Yes, I think I would be in fierce agreement with that proposition. But is it not that, therefore, ALS ends up really having to suffer because of the—I'm not remotely suggesting that the Commonwealth should be able to cost-shift. But if we are not looking at what we can do better and provide more, is there not some way and does it not happen in other things where—if the Commonwealth is providing funding, you enter some sort of agreement with the Commonwealth, "Well, we're going to provide this extra money," but not on the basis that you would lessen your funding. I think it's more about the ALS—are there other streams? Clearly there are programs that are funded.

MICHAEL TIDBALL: There are, if I may just say. In 2022-23 the New South Wales Government provided the ALS with over \$4.6 million for specific State projects, and I can list them: the Early Appropriate Guilty Plea service, participation in the Koori youth court, tenancy advice services, and care and protection services. Additionally, in 2022-23 the New South Wales Government committed around \$28 million over four years for the ALS to deliver community-led initiatives to support the Closing the Gap agreement.

Ms SUE HIGGINSON: Great. I think, really, what I was going to is if there is a plan or a review that those programs could be increased in their funding as time goes on. Is that something that you are constantly reviewing?

MONIQUE HITTER: I could perhaps help with that answer as well. Under the National Legal Assistance Partnership agreement, I can advise the Committee that the ALS will receive \$20.145 million in 2023-24, which is an increase from last year's allocation—it was \$19.73 million. So it's a slight increase from last year. That again is part of the review of the National Legal Assistance Partnership agreement, the allocation to Aboriginal legal services across the country.

The Hon. NATASHA MACLAREN-JONES: I might begin with a question to Mr Thomas. Could you update us on the Closing the Gap priorities and how things are tracking? I notice you haven't said much.

BRENDAN THOMAS: Sure. Specifically in relation to the—

The Hon. NATASHA MACLAREN-JONES: AG's portfolio—

BRENDAN THOMAS: The AG's priority, which is the target related to imprisonment. Unfortunately, the number of Aboriginal people in jail has increased this year. That increase is 100 per cent remanded. So the entire increase is the number of people being remanded. The likelihood of Aboriginal people being sentenced to prison—so people being sentenced following a conviction—has actually declined over the last two years. So the sentence numbers are declining; however, the remand numbers are increasing. The department and its partners have been working on a very comprehensive program of work that focuses on five areas to try to reduce this particular target.

One is greater levels of diversion, and that's being pursued by the expansion of the MERIT program, the expansion of Justice Health mental health nurses, to divert more people and seeing specific performance targets in those for Aboriginal people. The MERIT program, for instance, now deals with Aboriginal people at the same rate at which they appear in court. So there has been a significant increase in the number of people getting into that program, as well as doubling of the number of Aboriginal people in the Drug Court in the last year and a half. Those mental health nurses, which are being expanded across New South Wales, are diverting Aboriginal people in the courts, where they exist, three times the rate at which they would be diverted in courts without those. So that front-end diversion activity is bearing some results.

The second part of the strategy is to try to make sure people appropriately get bail and maintain bail when they do get that. I mentioned that there has been an increase in the number of people on remand, both adults and juveniles, and that's a significant challenge in terms of meeting this particular target. We do have a number of activities trying to increase and support bail. The secretary mentioned the funds that have gone to the ALS to establish bail support services from legal service. We've got a number of trials with the police around community-based bail supports, some trials at Wagga and other places around bail supports for people. The third part of the program is to try to encourage people to complete and serve sentences in the community. As I mentioned, there has been a decrease in the number of Aboriginal people being sentenced to prison and an increase in those community-based sentences.

The fourth is to try to reduce the rate at which people are breaching sentencing orders—so intensive correction orders and parole orders. We work very closely with NSW Community Corrections on a range of activities to try to increase the rate at which people successfully complete those orders. The final one is to try to reduce the rate at which people are returning to prison. As we spoke in the Corrections hearing, recently there's a major piece of work that Corrections is doing called Home Stretch, which will commence in the first part of next year, which is about better release planning for people and greater ongoing support for people once they do get out of prison to try to reduce that return to prison activity. There's a range of activities, many of which are bearing fruit, but the challenge of those remand rates is pushing that target in the wrong direction.

The Hon. NATASHA MACLAREN-JONES: Thank you. I might cross over to Youth Justice. I'm interested to know the number of young people each year who reoffend within 12 months of participating in the Youth Justice Conference or completing a custodial order or a sentence. That's for 2022-23.

MICHAEL TIDBALL: I may well have it. It's going to be an ambition to find it. Would it be possible if I took that on notice?

The Hon. NATASHA MACLAREN-JONES: Yes, that's fine.

MICHAEL TIDBALL: Thanks.

The Hon. NATASHA MACLAREN-JONES: Now, in relation to the operating costs in *Budget Paper No. 01*, which is page A5-11, there appears to be a reduction in the operating costs across the Department of Communities and Justice. I was interested to know what the total reduction was.

MICHAEL TIDBALL: Department-wide, the recurrent expenses for 2022-23 is 2.038 billion; and in 2023-24, 2.189 billion. In 2022-23 the capital component above that is 125 million; and in 2023-24, 81 million. In relation to the—

The Hon. NATASHA MACLAREN-JONES: That was for capital.

MICHAEL TIDBALL: The total legal functions—the subject of this committee today—for courts and tribunals—and I can itemise these; DPP, Legal Aid and other things—is \$880.6 million.

The Hon. NATASHA MACLAREN-JONES: How did you achieve a capital reduction from the \$125 million to, I think it was, \$81 million?

The Hon. SUSAN CARTER: Yes, \$81 million.

MICHAEL TIDBALL: I think there was work undertaken last year. I just want to check. We will try and come back very quickly now on what that work was and if there was a reason. But it has reduced in 2023-24.

The Hon. SUSAN CARTER: That courts tribunal figure that you gave us—is that this year's figure?

MICHAEL TIDBALL: It is—2023-24.

The Hon. SUSAN CARTER: Is that an increase or a decrease from last year?

MICHAEL TIDBALL: It's an increase. In terms of that figure for 2022-23, I would need to take that on notice. But I can certainly obtain it.

The Hon. NATASHA MACLAREN-JONES: Just to confirm, there have been no programs that have or had their funding reduced?

MICHAEL TIDBALL: There have been no programs or frontline services that have had their funding reduced. Sorry, that's not accurate. I have overlooked one thing, which were the community legal centres.

ANNE CAMPBELL: And the graffiti and crime prevention fund.

MICHAEL TIDBALL: I named the wrong thing. They are the community justice centres. Can I say, the manner in which—

The Hon. SUSAN CARTER: Was there another program that was mentioned, Ms Campbell?

MICHAEL TIDBALL: Yes, the graffiti program. The community justice centres, over the years, have moved to effectively be—and I look to my colleagues here, if they can help me; or maybe they can't. My understanding is that a lot of that service is now provided online.

Ms SUE HIGGINSON: Do they still have the mediation function that they used to have?

The Hon. NATASHA MACLAREN-JONES: Legal Aid?

Ms SUE HIGGINSON: No, the community justice centres. That was the place particularly for those kind of neighbourhood disputes and all of those.

MICHAEL TIDBALL: Can I come back on that? I may try and do it this afternoon.

The Hon. NATASHA MACLAREN-JONES: The other was the graffiti program.

ANNE CAMPBELL: Yes, that finished in June—

The Hon. NATASHA MACLAREN-JONES: Last year or this year?

ANNE CAMPBELL: June this year.

The Hon. SUSAN CARTER: I note in *Budget Paper No. 03* at page 4-8, there is an allocation of \$871,000 to improve Local Court capacity. Which local courts are being improved under this allocation?

MICHAEL TIDBALL: I would need to take that on notice.

The Hon. SUSAN CARTER: What's the expected impact on Local Court operations of the drug diversion policy?

MICHAEL TIDBALL: I would need to take that on notice.

The Hon. SUSAN CARTER: I draw your attention to one of the reasons the Attorney General advanced for it was to reduce pressures on the Local Court system and free up its resources to deal with other issues.

MICHAEL TIDBALL: Yes.

The Hon. SUSAN CARTER: So it would be very interesting to have that. Will any savings in Local Court costs, which arise as a result of the drug diversion policy, be directed towards further resourcing drug diversions or will it just be diverted into other areas in the department?

MICHAEL TIDBALL: I'm unaware of it being diverted into—

PAUL McKNIGHT: Can I assist with this one? We expect a few—I think it's in the realm of a few thousand—matters of possession matters.

The Hon. SUSAN CARTER: Sorry, could you talk up a bit?

PAUL McKNIGHT: We expect something in the realm of a few thousand matters to be taken out of the Local Court in drug possession proceedings.

The Hon. SUSAN CARTER: Could you give me an indication of size? A few thousand out of how many?

PAUL McKNIGHT: I will take the precise figure on notice, if that's okay.

The Hon. SUSAN CARTER: Yes, I am just trying to get an idea of scale. That's all.

PAUL McKNIGHT: That will go to relieving pressure on the Local Court, which, as you know, is the busiest court in Australia and has a number of challenges in ensuring that timely service is provided. That's how that will play out, in terms of resourcing. There is no money saving here. It's an efficiency, in terms of Local Court operation, and it should improve the standard of service to people using the Local Court.

The Hon. SUSAN CARTER: Will that form part of the review of the drug diversion program?

PAUL McKNIGHT: Yes.

The Hon. SUSAN CARTER: And that will be reported on?

PAUL McKNIGHT: There will be a BOCSAR evaluation, yes.

The Hon. SUSAN CARTER: So BOCSAR will do the review of the drug diversion program?

PAUL McKNIGHT: There is a BOCSAR review of that drug diversion program that I think the Minister outlined this morning.

The Hon. SUSAN CARTER: When is that scheduled for?

PAUL McKNIGHT: Sorry, I don't have that in front of me.

MICHAEL TIDBALL: Ms Higginson, if I may, in relation to the review and reduction in community justice centres, I am able to speak to that, if that would assist.

Ms SUE HIGGINSON: Yes, thank you.

MICHAEL TIDBALL: They have been a branch of the department established to settle disputes through mediation free of charge to users. All initial contact with the CJs is through a call centre. Mediators are contracted to conduct mediation conferences across New South Wales from government offices or private leased spaces. In 2021-22 the centres received 8,237 new inquiries, with only 797 proceeding to mediation—less than 10 per cent. Callers are often seeking legal advice, which is not within the remit of DCJ. Moreover, the information sought by callers can usually be obtained from other government agencies or websites. Hence, there is a flagged \$3 million saving beginning from the full year of 2026. It's a forward saving which, from financial year '26 to financial year '33, would be \$23.7 million.

Ms SUE HIGGINSON: I recall sitting in local courts regularly with magistrates referring people to the CJC and was curious about those numbers.

The Hon. NATASHA MACLAREN-JONES: I'll jump back in. I'm going to ask about the Prison Bed Capacity Program. I note in this year's budget papers that around \$30 million has been allocated. However, in 2022-23 the allocation was over \$77 million. What effect has the reduction, which is around \$47 million, had on the delivery of the program?

MICHAEL TIDBALL: Can I just say, I dealt with this issue the other day. The commissioner and I and the Minister dealt with it at the corrections estimates. I actually don't have that material with me, but it was dealt with during Minister Chanthivong's estimates.

The Hon. NATASHA MACLAREN-JONES: Then you have answered my next three questions.

The Hon. SUSAN CARTER: In February of this year, the Coalition Government announced a \$5.1 million upgrade of the Port Macquarie Court House beginning April this year. Is that upgrade going ahead?

MICHAEL TIDBALL: I have nothing in my briefing that would indicate that it's not, but I could take that on notice.

The Hon. SUSAN CARTER: Are there any planned upgrades for the Campbelltown Court House?

MICHAEL TIDBALL: Not in the current year.

The Hon. SUSAN CARTER: Does that indicate that you are looking at it in future years?

MICHAEL TIDBALL: The matter of courts' redevelopment capital is a matter for Government. There is nothing of which I have knowledge today of which I can advise this Committee.

The Hon. SUSAN CARTER: How much funding has been allocated for the Parramatta Justice Precinct?

MICHAEL TIDBALL: Do you mean for redevelopment?

The Hon. SUSAN CARTER: For the redevelopment, I apologise, yes

MICHAEL TIDBALL: I would need to take that on notice.

The Hon. SUSAN CARTER: Apart from audiovisual upgrades, what infrastructure is funded under phase two of the Sustaining Critical Infrastructure Program and does this include any physical upgrades to courthouses?

MICHAEL TIDBALL: I would need to take that on notice.

The Hon. SUSAN CARTER: I have a few questions for Ms Hitter in relation to Legal Aid. The budget includes \$9.5 million for Legal Aid NSW to implement a new platform to make applying for legal assistance quicker and easier. The claim is the money will allow the organisation to use the latest technology to better manage applications and support private practitioners to deliver services to disadvantaged clients. Can you explain a little bit about this system and how it will benefit the clients?

MONIQUE HITTER: Certainly. The allocation is \$12.5 million over the coming four years, with \$4.5 million for this financial year. The current system that we're operating under is called ATLAS and it is 17 years old. It is a very old legacy system and is really on its last legs, to be frank, so this funding allocation will allow us to rebuild a system by which we pay private practitioners to do Legal Aid work. Approximately 70 per cent of Legal Aid work is done by private practitioners and it is needing a system in order to pay those private practitioners and also administer grants of aid under our policies. This funding will develop a whole new system by which we do that to make it easier for private practitioners to do business with us but also ultimately easier for clients to apply for Legal Aid and for us to process those applications for Legal Aid in a very timely way. It also allows us to upgrade our protections around cybersecurity and privacy. It really will modernise this very old system.

The Hon. SUSAN CARTER: Is there a time line for completion?

MONIQUE HITTER: We hope to complete it between two and three years. The funding is for four years, and it will include implementation of course. Work has begun. It is a big change. It will be a big change process for us as an organisation as well as for the users of the system. The projections are that hopefully within two to three years we will have it up and running.

The Hon. SUSAN CARTER: Do you contemplate that it might involve software upgrades or hardware upgrades for some of the private solicitors or you think it should be fairly seamless?

MONIQUE HITTER: I'm hoping that it will be fairly seamless.

The Hon. SUSAN CARTER: In the way of IT projects never being seamless.

MONIQUE HITTER: Exactly, but I would be guided by the experts that we have managing this project on that.

The Hon. SUSAN CARTER: I note that Minister Daley has said that 61 per cent of Legal Aid clients live in regional New South Wales. This system will benefit those clients as well?

MONIQUE HITTER: It will benefit all our clients, but particularly those clients that may not be able to come into a Legal Aid office and apply for Legal Aid. The system that we are hoping to develop will really make it easier for clients to apply for Legal Aid, know where their applications are up to and have those applications processed in the most timely fashion.

The Hon. SUSAN CARTER: My last question is to do with allocation, which is always difficult. What are the criteria which would encourage Legal Aid to fund an appeal? Every time an appeal is funded, especially all the way to the High Court, what impact does that have on the number of first instance matters that Legal Aid is able to assist?

MONIQUE HITTER: If you're speaking about our criminal law policies, indeed all Legal Aid policies, they're approved by our board. We have a board of directors that is appointed by the Attorney General. The board sets those policies and eligibility criteria for people to access those policies. Those policies govern our grants of Legal Aid in all of our matters, including appeals. Most of our policies have a means and a merit test, and the policies govern the kinds of areas in which we would provide a Legal Aid grant.

The Hon. SUSAN CARTER: We have a number of other questions of which I'm very confident the answer will be "I will take it on notice", so I think it might be more efficient if we actually put them on notice.

The CHAIR: That's fine. Thanks very much.

The Hon. NATASHA MACLAREN-JONES: I've got one. In the past, outcome statements have been provided with the budget papers but weren't this year. Was there a reason?

MICHAEL TIDBALL: I think you would have to ask the Treasurer.

The Hon. NATASHA MACLAREN-JONES: That is okay.

Ms SUE HIGGINSON: I think it's something to do with Treasury. I think we're all done.

The Hon. NATASHA MACLAREN-JONES: Our Government liked to be transparent.

The CHAIR: I think we're finished. Before afternoon tea, even.

Ms SUE HIGGINSON: Are you happy to call it a day?

The Hon. NATASHA MACLAREN-JONES: No, we're going to put everything else on notice.

The Hon. SUSAN CARTER: We have got pages of stuff that can't be answered.

The Hon. NATASHA MACLAREN-JONES: Twenty-odd pages of questions, but we'll put them on notice.

The CHAIR: Put the questions on notice, thank you.

The Hon. NATASHA MACLAREN-JONES: It's a Friday.

The CHAIR: It's a Friday. I note that a number of questions were taken on notice. The secretariat will be in contact for your responses. Thank you very much for coming. That's it. Have a good weekend.

(The witnesses withdrew.)

The Committee proceeded to deliberate.