

**REPORT ON PROCEEDINGS BEFORE**

**SELECT COMMITTEE ON THE RELATIONSHIP BETWEEN  
THE DURAL CARAVAN INCIDENT AND THE PASSAGE OF  
RELEVANT BILLS THROUGH THE LEGISLATIVE  
COUNCIL**

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**At Preston Stanley Room, Parliament House, Sydney, on Friday 27 June 2025**

**The Committee met at 10:00.**

**PRESENT**

The Hon. Rod Roberts (Chair)

The Hon. Susan Carter (Deputy Chair)

The Hon. Greg Donnelly

The Hon. Wes Fang

Ms Sue Higginson

The Hon. Bob Nanva

The Hon. John Ruddick

The Hon. Emily Suvaal



**The CHAIR:** Welcome to the fourth hearing of the Committee's inquiry into the relationship between the Dural caravan incident and the passage of relevant bills through the Legislative Council. My name is Rod Roberts and I am the Chair of the Committee. I ask everybody in the room to please turn their mobile phones to silent. Before we begin, I would like to make a few comments. Today the Committee will hear from staff in the office of the Premier and the office of the Minister for Police and Counter-terrorism who may have been present at New South Wales police briefings regarding the Dural caravan incident.

I also note, following multiple attempts to invite the ministerial staff to attend a hearing, they were ordered by the Committee to give evidence under summons at a hearing last Friday 20 June. They failed to comply with the summons. The Committee was of the view that the witnesses did not have a just cause or reasonable excuse for not attending. Pursuant to sections 7 through 9 of the Parliamentary Evidence Act 1901, the Committee then wrote to the President of the Legislative Council to request that he certify to a judge of the Supreme Court the issue of warrants for the arrest of the witnesses for the purpose of bringing them before the Committee.

This decision was not taken lightly, but it was a decision entirely consistent with the Legislative Council's oversight role and its responsibilities to hold the Executive to account. As the President advised the House on Wednesday, he sought advice from Mr Bret Walker, SC, who confirmed unequivocally that, one, ministerial staffers are able to be called before Legislative Council committees; two, the Committee followed the appropriate processes in summoning the witnesses; and, three, there was no just cause or reasonable excuse for the witnesses not to attend. Based on this advice, the President intended to certify to a judge of the Supreme Court, under section 7 of the Parliamentary Evidence Act, that the witnesses had failed to appear before the Committee without just cause and reasonable excuse.

However, as the ministerial staff reconsidered their position and advised that they would appear before the Committee, the President told the House that he would take no further action. I welcome the decision of these staff. However, it is extremely disappointing that the Committee had to take the steps that it did to hear from witnesses who can shed light on the inquiry's terms of reference. I reiterate my disappointment in the Government's effort to avoid accountability and transparency over the course of the inquiry. This inquiry has clearly illustrated the reach of the Legislative Council's powers to call for persons and to compel the attendance of witnesses when necessary.

Finally, to the witnesses appearing today, I note parliamentary privilege applies to the evidence that you give today. However, it does not apply to what you say outside of the hearing, so I urge you to be careful about making comments to the media or to others after completing your evidence. In addition, the Legislative Council has adopted rules to provide procedural fairness for inquiry participants, and I encourage Committee members and witnesses to be mindful of those procedures.

**Mr JAMES CULLEN**, Chief of Staff, Office of the Hon. Chris Minns, MP, Premier of New South Wales, affirmed and examined

**Mr EDWARD OVADIA**, Deputy Chief of Staff, Office of the Hon. Chris Minns, MP, Premier of New South Wales, affirmed and examined

**Ms SARAH MICHAEL**, Deputy Chief of Staff and Director of Media and Communications, Office of the Hon. Chris Minns, MP, Premier of New South Wales, sworn and examined

**Mr ROSS NEILSON**, Chief of Staff, Office of the Hon. Yasmin Catley, MP, Minister for Police and Counter-terrorism, and Minister for the Hunter, affirmed and examined

**Dr TILLY SOUTH**, Deputy Chief of Staff, Office of the Hon. Yasmin Catley, MP, Minister for Police and Counter-terrorism, and Minister for the Hunter, affirmed and examined

**The CHAIR:** Welcome and thank you for appearing before the Committee today. You are scheduled to give your evidence from 10.00 a.m. to 1.00 p.m. In the event members have no further questions, I will conclude our session earlier. We have two distinct offices represented here: the Premier's office and the office of the police Minister. Would you, Mr Neilson, as the chief of staff, like to make an opening statement at all on behalf of yourself and Ms South?

**ROSS NEILSON:** No, thank you.

**The CHAIR:** You are under no obligation to do so. I just wanted to provide that opportunity, in fairness.

**ROSS NEILSON:** Thank you.

**The CHAIR:** Mr Cullen, on behalf of your team?

**JAMES CULLEN:** No, thank you, Chair.

**The CHAIR:** In that case, we will go straight into questioning.

**The Hon. SUSAN CARTER:** Thank you all for finally being here. Dr South, if I could start with you, did you already have a Signal group set up when the summons was served on you to attend on 20 June?

**TILLY SOUTH:** I don't actually recall. I'm sorry. We've been in Parliament for the last two weeks, so we've been talking in person.

**The Hon. SUSAN CARTER:** What was the first thing you did when the summons were served on you?

**TILLY SOUTH:** We met with each other to discuss.

**The Hon. SUSAN CARTER:** Who is "we"?

**TILLY SOUTH:** Myself and the other four witnesses here today.

**The Hon. SUSAN CARTER:** And who else?

**TILLY SOUTH:** That was all, at the time. We were—

**The Hon. SUSAN CARTER:** At the time? And then who did you discuss it with later?

**TILLY SOUTH:** As has been discussed before, we received advice on the matter, as well.

**The Hon. SUSAN CARTER:** Sorry, the process of receiving advice—the four of you met. How long after you got the summons did the four of you meet?

**TILLY SOUTH:** We met at the time of the summons, because we were issued the summons together.

**The Hon. SUSAN CARTER:** That was in person? And then how did subsequent communication about the summons take place?

**TILLY SOUTH:** In a variety of methods.

**The Hon. SUSAN CARTER:** Could you list those manners for me, please?

**TILLY SOUTH:** In the office, in person, over Teams—

**The Hon. SUSAN CARTER:** You had Teams meetings about it?

**TILLY SOUTH:** Correct.

**The Hon. SUSAN CARTER:** And?

**TILLY SOUTH:** Via the phone.

**The Hon. SUSAN CARTER:** And did you talk in person, or did you use Signal or WhatsApp?

**TILLY SOUTH:** We talked in person and we also sent messages to each other.

**The Hon. SUSAN CARTER:** Sending messages using what?

**TILLY SOUTH:** A variety of different messaging services.

**The Hon. SUSAN CARTER:** What are those messaging services that you used?

**TILLY SOUTH:** We used—I've text messaged before. I've also used other applications, as well.

**The Hon. SUSAN CARTER:** Which are those?

**TILLY SOUTH:** We've used a variety of messaging applications.

**The Hon. SUSAN CARTER:** Which are those?

**TILLY SOUTH:** I've used Signal. I've used WhatsApp before. I've used a variety.

**The Hon. SUSAN CARTER:** You've used Signal—I don't mean ever in your life, but in order to communicate with the people in relation to the summons?

**TILLY SOUTH:** I would say the majority of our communication has been in person.

**The Hon. SUSAN CARTER:** And the balance of the communication?

**TILLY SOUTH:** I couldn't tell you. I'm sorry.

**The Hon. SUSAN CARTER:** Is it common that you get served with a summons, Dr South?

**TILLY SOUTH:** No, I've never been served with a summons before.

**The Hon. SUSAN CARTER:** Why is it then that you can't remember how you communicated with people about receiving something that's a once-in-a-lifetime experience of a summons?

**TILLY SOUTH:** I can remember I did tell you that that communication happened in a variety of manners.

**The Hon. SUSAN CARTER:** I'm exploring all the variety of manners, and I'm surprised that you cannot recall. How long ago did you get the summons?

**TILLY SOUTH:** It was a few weeks ago. I'm so sorry. I actually don't know the date that we were served the summons, but I will take a look at the paperwork.

**The Hon. SUSAN CARTER:** You can't recall which methods of communication you used to discuss a once-in-a-lifetime event that happened a couple of weeks ago?

**TILLY SOUTH:** No, I can recall. I did tell you that we met in person and spoke over the phone. We met on Teams.

**The Hon. SUSAN CARTER:** Teams. Are you telling me that you didn't exchange any messages using applications in relation to this summons?

**TILLY SOUTH:** I said that we did. I just said I didn't recall the—

**The Hon. SUSAN CARTER:** Which applications did you use?

**TILLY SOUTH:** I said I didn't recall the balance of that. I also did answer your question before.

**The Hon. SUSAN CARTER:** Which applications did you use to discuss the summons?

**TILLY SOUTH:** I answered that question previously.

**The Hon. SUSAN CARTER:** Well, perhaps you could answer it again because your answer wasn't clear the first time.

**TILLY SOUTH:** I said that I used a variety of messaging applications.

**The Hon. SUSAN CARTER:** Which are?

**TILLY SOUTH:** I said that I've used Signal, I've used WhatsApp, I've used text messages.

**The Hon. SUSAN CARTER:** In relation to the summons.

**TILLY SOUTH:** Look, I would have to take that on notice.

**The Hon. SUSAN CARTER:** Thank you. That'd be great. If you could take that on notice, I'd appreciate that.

**TILLY SOUTH:** Just to correct myself, we received the summons on Tuesday 17 June but I think—and I'd have to defer to my colleagues—we maybe received it that day or the next day.

**The Hon. SUSAN CARTER:** After you received the summons, you discuss it with your colleagues. Then you said that you received advice. Who was part of the conversation in relation to getting advice?

**TILLY SOUTH:** I'd have to take that on notice because I'm not sure if that's covered by legal professional privilege.

**The Hon. SUSAN CARTER:** Sorry, why would a conversation about whether to get advice be covered by legal professional privilege?

**TILLY SOUTH:** I'm saying I'd have to take that on notice. I'm very sorry. I'm not sure if the advice and how we sought it is covered by legal professional privilege.

**The Hon. SUSAN CARTER:** When did you first speak to Mr Minns about this issue?

**TILLY SOUTH:** I don't recall speaking directly to the Premier about this issue. My job is as a deputy chief of staff to the Minister for Police and Counter-terrorism.

**The Hon. SUSAN CARTER:** When did you first speak to Minister Catley about this?

**TILLY SOUTH:** I spoke to Minister Catley on the evening that the caravan was found.

**The Hon. SUSAN CARTER:** No, about the summons.

**TILLY SOUTH:** About the summons—I'm so sorry. I thought we were talking about the incident now. About the summons, it would have been at the time we received it because we received it in the office.

**The Hon. SUSAN CARTER:** Are you in the same office as the other four people who are here as witnesses?

**TILLY SOUTH:** Do you mean do we physically work in the same office?

**The Hon. SUSAN CARTER:** Yes.

**TILLY SOUTH:** We work in the same office building.

**The Hon. SUSAN CARTER:** So what you've just told me is that immediately upon getting the summons, you spoke to the other four witnesses at the table. Then I'm hearing that you spoke to Minister Catley. Were you all physically present in the same place?

**TILLY SOUTH:** No.

**The Hon. SUSAN CARTER:** How did the conversation with Minister Catley occur?

**TILLY SOUTH:** I'm being truthful here. I honestly don't recall, but we would have just gone back to the office, our physical office, which is in the same building.

**The Hon. SUSAN CARTER:** Mr Minns is reported in *The Daily Telegraph* of 26 June, and on *Newswire* of 25 June saying, "I'm offering the staff support as an employer." Have you been offered support by Mr Minns?

**TILLY SOUTH:** We have been offered legal support as part of this process. Obviously, being issued with a summons is a serious matter.

**The Hon. SUSAN CARTER:** So the support being offered by Mr Minns, how did that come about? What was the line of communication so you knew that support was available?

**TILLY SOUTH:** That was through the Premier's chief of staff, who is at this table.

**The Hon. SUSAN CARTER:** So Mr Cullen spoke to you. Mr Cullen, how has the Premier been supporting you as an employer?

**JAMES CULLEN:** I think, in many forms. But I think it might serve the purpose of the Committee if you could actually, rather than just taking out a few words, can you read the full paragraph?

**The Hon. SUSAN CARTER:** Mr Cullen, I think I'm asking the questions here. How has the Premier offered you support as an employer?

**JAMES CULLEN:** I just think the context is actually really important here because there has been a lot said about this in the last few weeks.

**The Hon. SUSAN CARTER:** How has the Premier offered you support as an employer?

**JAMES CULLEN:** Look, I think—

**The Hon. SUSAN CARTER:** You can fight with the question or you can answer it. What would you like to do?

**JAMES CULLEN:** I think it would be fair to say that the Premier has been extremely supportive. His comments are clearly on the public record in the Parliament and—

**The Hon. SUSAN CARTER:** So you believe that he supports you by calling us a Star Chamber—

**JAMES CULLEN:** Chair—

**The Hon. BOB NANVA:** Point of order—

**The CHAIR:** Hang on. Before you say anything, Mr Cullen, I know what you are going to say. Please allow the witness to finish his answer before asking the next question.

**JAMES CULLEN:** Thank you. He's made strong comments on the record about his view about ministerial staff attending and being in this situation, so I've got to say I personally regard that as being extremely supportive. Our views about our attendance have been made clear. You've received submissions from us, which the Committee has obviously gone on to table, which we appreciate. That represents the view and the position of the five of us. He's been extremely supportive at every juncture.

**The Hon. SUSAN CARTER:** When you spoke to Dr South about legal support, what was the conversation you had had with the Premier prior to that?

**JAMES CULLEN:** I don't think there would have been—I think I'd be right in saying that I wouldn't have had a conversation with the Premier regarding legal advice.

**The Hon. SUSAN CARTER:** How were you—

**JAMES CULLEN:** Just to be really clear, the Committee has called us. We've gone through a process over a period of weeks. We have conferred, obviously, particularly in relation to advice, responding to the summons and then responding to other matters this week, but they are options and advice open to staff and things that we've explored ourselves.

**The Hon. SUSAN CARTER:** You were not offering Dr South support from the Premier in the form of legal advice; you were offering that to her as something available to all staff members?

**JAMES CULLEN:** Mr Chair, this is why I asked a question about the context of the comments that the Premier made. I think you're reading into his comments more than what he was talking about, but I see those as separate issues. He made a clear position about what he thought about ministerial staff appearing to this inquiry. We have got our own views and our own thoughts which we've carried out, including seeking advice over the course of the last few weeks.

**The Hon. SUSAN CARTER:** You sought that advice in your personal capacity?

**JAMES CULLEN:** I suppose in my capacity as the chief of staff to the Premier, as a member of ministerial staff and availing myself of options that we've got available to us, I suppose, under—what would you say?—relevant codes and relevant procedures that pertain to ministerial staff in this kind of situation.

**The Hon. SUSAN CARTER:** Who paid for the legal advice?

**JAMES CULLEN:** There's a scheme—I think there was some information provided to the upper House yesterday regarding that—and a legal assistance, ex gratia assistance program, which is administered by the Department of Communities and Justice, so ultimately my understanding is that the costs will be met via that.

**The Hon. SUSAN CARTER:** When did you first approach the Department of Communities and Justice seeking that ex gratia coverage?

**JAMES CULLEN:** Let me take it on notice for the actual date. It would have been—I think Ms Tilly was saying that we were summonsed on the Tuesday 17 June. It would have been in close proximity to that.

**The Hon. SUSAN CARTER:** And what is the hourly rate you were paying for that advice?

**JAMES CULLEN:** Let me take that on notice—and certainly happy to come back to the Committee on the question of legal costs as well, when we've got them, but at the moment I don't have the final costs.

**The Hon. SUSAN CARTER:** Can you confirm that you followed the Attorney General's rates for legal representation and achieved agreement with the person providing legal advice about rates before those instructions were given?

**JAMES CULLEN:** I believe so, but let me just take that on notice just to triple-check.

**The Hon. SUSAN CARTER:** Dr South, the letter of 19 June that has your signature—what input did you have into that letter?

**TILLY SOUTH:** Let me just take the letter out for my own reference. On the drafting of this letter, all five of us were engaged in the drafting and we were all asked to check the letter and make sure that it was an accurate reflection.

**The Hon. SUSAN CARTER:** You were asked by whom?

**TILLY SOUTH:** By both our legal counsel and the other four people sitting here at this table.

**The Hon. SUSAN CARTER:** Who was the legal counsel who drafted this?

**TILLY SOUTH:** I'm unsure if I can say the names of the—

**The Hon. SUSAN CARTER:** The name of legal counsel is not subject to privilege.

**TILLY SOUTH:** I understand that Mr Cullen is going to provide the costs anyway.

**The Hon. SUSAN CARTER:** Dr South, I'm asking you a question. Who was your legal adviser in this matter?

**TILLY SOUTH:** I was about to answer your question. As I understand it, Mr Cullen is going to provide the costs anyway. It was MinterEllison.

**The Hon. SUSAN CARTER:** Who at MinterEllison?

**TILLY SOUTH:** It was a partner at MinterEllison.

**The Hon. SUSAN CARTER:** The name of the partner?

**TILLY SOUTH:** It was Kate Plowman.

**The Hon. SUSAN CARTER:** How often did you meet with Ms Plowman?

**TILLY SOUTH:** I'd have to take that on notice, I'm sorry.

**The Hon. SUSAN CARTER:** If you could take that on notice. Mr Neilson, did you get legal advice from the same source?

**ROSS NEILSON:** Yes.

**The Hon. SUSAN CARTER:** Mr Cullen, did you get legal advice from the same source?

**JAMES CULLEN:** I did.

**The Hon. SUSAN CARTER:** Mr Ovadia?

**EDWARD OVADIA:** Yes.

**The Hon. SUSAN CARTER:** And Ms Michael?

**SARAH MICHAEL:** Yes.

**The Hon. SUSAN CARTER:** Which paragraph of the letter did you change, Dr South?

**TILLY SOUTH:** I don't think that I changed any paragraph of the letter. I think that I checked it for accuracy.

**The Hon. SUSAN CARTER:** Mr Neilson?

**ROSS NEILSON:** I made some notes on the draft, and we discussed those with the lawyers. All of our input was sought and folded into the final draft that went.



**The Hon. SUSAN CARTER:** On how many occasions did you meet with the lawyers at MinterEllison, Mr Neilson?

**ROSS NEILSON:** A number. I couldn't tell you off the top of my head, but several.

**The Hon. SUSAN CARTER:** Could you take that on notice and provide those details?

**ROSS NEILSON:** Yes. I'm sure they know.

**The Hon. SUSAN CARTER:** Mr Cullen, same questions for you.

**JAMES CULLEN:** I concur with that. It was a number of times over the last few weeks, and I'm happy to take that on notice and come back to you with an accurate number.

**The Hon. SUSAN CARTER:** Ms Michael, how did you decide to engage Kate Plowman at MinterEllison for legal services?

**SARAH MICHAEL:** As the others have said, through the assistance program that was offered to us, but it was mainly done through James. He represented our office. Obviously we met with the lawyers a few times. I have nothing more to add than what the others have said.

**The Hon. SUSAN CARTER:** Did you decide to engage?

**SARAH MICHAEL:** Of course. I understood exactly what was happening. I made an active decision in this process, yes.

**The Hon. SUSAN CARTER:** And you decided that Ms Plowman was the best person to represent your interests?

**SARAH MICHAEL:** Yes.

**The Hon. SUSAN CARTER:** How did you know about Ms Plowman?

**SARAH MICHAEL:** Again, through this program.

**The Hon. SUSAN CARTER:** So Ms Plowman is listed on a list of solicitors on an ex gratia payments program in DCJ?

**SARAH MICHAEL:** Perhaps this might be best directed through my chief of staff because he was the one that did the engagement.

**The Hon. SUSAN CARTER:** So you didn't make an independent decision. Mr Cullen was your agent in this matter?

**SARAH MICHAEL:** No, he wasn't, but as my boss he discussed our options, and I accepted that he act for me in those representations.

**The Hon. SUSAN CARTER:** Did you initially have a different view to your boss?

**SARAH MICHAEL:** No, not at all.

**The Hon. SUSAN CARTER:** So you've always had exactly the same view as your boss?

**SARAH MICHAEL:** In this case, yes.

**The Hon. SUSAN CARTER:** Did you feel free to come to a different decision than that of your boss?

**SARAH MICHAEL:** I absolutely did.

**The Hon. SUSAN CARTER:** But you didn't question it at all?

**SARAH MICHAEL:** Obviously I thought about my options. This is not something that we take lightly. We are staffers where our jobs are to support the politicians, not to be the face of things, and receiving something like this is nerve-racking and daunting. But ultimately I felt like this was the path that I thought was right and, yes, I agreed with it.

**The Hon. SUSAN CARTER:** So you thought it was right to disobey the law?

**SARAH MICHAEL:** No, it wasn't disobeying—

**The Hon. BOB NANVA:** Point of order—

**The CHAIR:** There has been a point of order taken. Mr Nanva?

**The Hon. BOB NANVA:** Chair, I suggest that is not a fair or courteous question to the witness under paragraph 19 of the procedural fairness resolution. It's an assertion that is being made—

**Ms SUE HIGGINSON:** To the point of order—

**The CHAIR:** Hang on. Continue on.

**The Hon. BOB NANVA:** It's an assertion that's being made, Chair, and I'd suggest that it's discourteous to the witness.

**Ms SUE HIGGINSON:** It may feel like it's not appropriate, but it's an entirely appropriate question. It's a matter of fact, and it's asking for the witness's state of mind in relation to a factual matter.

**The CHAIR:** I've heard enough. There is no—

**The Hon. BOB NANVA:** Further to the point of order: The witnesses have said they have received advice, and I would suggest that perhaps the advice is contrary to the position of the Legislative Council. To suggest they've broken the law, Chair, I think is unfair and discourteous.

**The Hon. SUSAN CARTER:** To the point of order—

**The CHAIR:** I've heard enough on all sides. I am going to rule. There is no point of order. Continue with the question.

**The Hon. SUSAN CARTER:** Could you answer the question, Ms Michael?

**SARAH MICHAEL:** Do you mind repeating it?

**The Hon. SUSAN CARTER:** You were untroubled by breaking the law?

**SARAH MICHAEL:** It wasn't that we were breaking the law here; it was that we just needed to get more advice about what our rights were.

**The Hon. SUSAN CARTER:** You had received a lawful direction. You had received a summons.

**SARAH MICHAEL:** Correct.

**The Hon. SUSAN CARTER:** And you thought that you could decide whether you had to follow that law or not?

**SARAH MICHAEL:** No, I think that's the reason why we got advice.

**The Hon. SUSAN CARTER:** Do you always get advice about whether a law is valid or not before you follow it?

**SARAH MICHAEL:** I like to think of myself as a law-abiding citizen, so in this instance, yes, I did receive advice. I thought that was the right course of action.

**The Hon. SUSAN CARTER:** Mr Neilson, are you in the habit of seeking advice about whether you need to follow laws or not?

**ROSS NEILSON:** As you would be aware, we wrote to the Committee and outlined in detail why we believed we had reasonable excuse or—what's the phrase?

**The CHAIR:** Just cause.

**ROSS NEILSON:** Just cause to not appear. That was a very detailed argument that we expounded. We didn't get any detailed response to any of those points. And so we felt that, and our advice was that, we had just cause not to come. Therefore, it wasn't illegal.

**The Hon. SUSAN CARTER:** Could you just restate your job title again, Mr Neilson?

**ROSS NEILSON:** I'm chief of staff to the police Minister.

**The Hon. SUSAN CARTER:** And you, in that capacity, give advice to the police Minister?

**ROSS NEILSON:** Yes, quite often.

**The Hon. SUSAN CARTER:** And do you advise her that it is appropriate for people to question whether they have to follow a particular law or not?

**ROSS NEILSON:** No, I never advise her that.

**The Hon. SUSAN CARTER:** But you think it's okay for you to question whether you have to follow a particular law or not?

**ROSS NEILSON:** We had advice that we had just cause or reasonable excuse not to attend and, therefore, we wouldn't be breaking the law.

**The Hon. SUSAN CARTER:** What was your thought process that, in the first place, you go, "Here is a law I have to follow. Oh, I'll get advice to see whether this one actually applies to me"?

**ROSS NEILSON:** That's not my thought process at all.

**The Hon. SUSAN CARTER:** Then why did you seek advice about whether you needed to obey a law?

**ROSS NEILSON:** Because we felt we had just cause or reasonable excuse not to attend.

**The Hon. SUSAN CARTER:** So, therefore, you thought this law didn't apply to you. Is that what you're telling me?

**ROSS NEILSON:** I thought we weren't in breach of the law by not attending.

**The Hon. SUSAN CARTER:** Why?

**ROSS NEILSON:** Because we had just cause or reasonable excuse.

**The Hon. SUSAN CARTER:** Because this law didn't apply to you?

**ROSS NEILSON:** This is the third time you've said that to me. We're not getting far.

**The Hon. SUSAN CARTER:** Thank you.

**Ms SUE HIGGINSON:** Thank you very much, everyone, for attending. Mr Cullen, can I just ask you—you received the summons on 17 June. Is that correct?

**JAMES CULLEN:** Look, I take Ms South's advice that that's the right date. The secretariat's probably better to advise about when. Here and now, I obviously don't have access to my emails, but I take the word that that's when the summons was received, yes.

**The CHAIR:** Just to assist you, Mr Cullen, I think earlier you may have said, "I'll take that on notice," and you're still entitled to do so.

**JAMES CULLEN:** Happy to, yes.

**Ms SUE HIGGINSON:** When you received the summons, whatever time or date that was, did you know that it would be a contempt to not follow a summons?

**JAMES CULLEN:** Look, I think you're inviting me to comment, with respect, on what is quite a vexed issue. There's a couple of layers to this. I'm happy to go into a fair bit of detail on this, Mr Chair, but I've got to say my sense is we've been called here to answer questions regarding the Dural caravan incident. We can spend an hour of Q and A on the summons and the arrest. That's fine. I'm just saying that I think we've got a bit of time to get through the issues. I think that's what would be in everyone's best interest.

But, to go to your question, there's a couple of layers to this. There's the circumstances of this inquiry. There's the way it was constituted. There were the amendments to the terms of reference. There was the Legislative Assembly, the establishment of a privileges committee. There was effectively a disagreement between the Houses. There were matters of privilege which the Premier raised, which was endorsed by the Speaker. There was a response from the LC, and then a decision was made to amend terms of reference. There were exclusive cognisance issues which pertain to this specific inquiry, so that's the first point in relation to ministerial staff appearing at this particular inquiry.

Then we move on to, I think more generally, some vexed issues around ministerial staff being called to attend. This is, you're probably aware, not the first inquiry that I've been to. I've been to another one late last year and, in doing so, I've outlined at various junctures my concerns with being called. In the case of the previous inquiry, I was compelled to attend and then attended. But I put on the record clearly then—and I think we have clearly again today—the concerns we've got about ministerial staff being called. And then, there is effectively a test, albeit limited, under the Parliamentary Evidence Act that we decided to avail ourselves of. Fast-forward and here we are, answering your questions.

**Ms SUE HIGGINSON:** Mr Cullen, when you received the summons, did you know it was a contempt to not comply with the summons?

**JAMES CULLEN:** I'm not sure I would agree. I just am not sure I would agree.

**Ms SUE HIGGINSON:** Mr Cullen, if I can assist you—

**JAMES CULLEN:** Again, I would bring you back to the Parliamentary Evidence Act. There's a provision in the Parliamentary Evidence Act that we certainly did argue would give us that terminology, "reasonable and just cause" not to attend. I think the idea that somehow ignoring—I think it is allowed for, albeit in some limited means, in the Parliamentary Evidence Act for us not to attend, so that would be my response on the contempt issue.

**Ms SUE HIGGINSON:** Did you discuss this, and this view, with the Premier?

**JAMES CULLEN:** It probably came up. I mean, I think it would be fair to characterise—the Premier's and certainly my engagement with the Premier on these issues were probably more confined to it being a matter of public controversy of some sort, particularly this week. Because, clearly, it was a question that was coming up and he was being asked about, so that was probably the conversation I was having.

**Ms SUE HIGGINSON:** Did he instruct you—

**JAMES CULLEN:** Just to finish, less so having a conversation with the Premier about what actions we were taking as members of staff in terms of receiving advice, responding to various invitations, then a summons, then a follow-up, and then into this week. I would call that quite separate. And that was actions that we took.

**Ms SUE HIGGINSON:** Did the Premier, as your employer, at any point in time instruct you to comply with the summons?

**JAMES CULLEN:** No, absolutely not.

**Ms SUE HIGGINSON:** Sorry—

**The CHAIR:** You might not have heard the question, Mr Cullen. Before you jump in—

**JAMES CULLEN:** Sorry. I'll let you finish that, sorry.

**Ms SUE HIGGINSON:** Did the Premier at any time ask or instruct you to comply with the summons that had been issued to you and the other staff?

**JAMES CULLEN:** I would just point you to what the Premier—the Premier's put on the view, very clearly—

**Ms SUE HIGGINSON:** Mr Cullen, thank you very much, but can I ask you to just answer this question? Did the Premier instruct you to comply with the summons at any time?

**JAMES CULLEN:** I don't think I had a conversation like that at all. I think I'd point you to what the Premier has said on the record about his view about our attendance here. We have—as we've been at pains—in writing, and again this morning, provided you with some information about what our view is about our attendance here. These are decisions that we've made and we endorse, and there was absolutely no formal or informal direction from the Premier. I must be really clear about that.

**Ms SUE HIGGINSON:** Thank you. So, for clarity—

**JAMES CULLEN:** Yes.

**Ms SUE HIGGINSON:** —the Premier at no time instructed you or suggested to you to comply with the summons?

**JAMES CULLEN:** These were not matters for the Premier. The matters of our attendance at this Committee were matters for us, as staff.

**Ms SUE HIGGINSON:** Sorry, but, Mr Cullen, you're suggesting that we should refer to the Premier's comments in the public and the media about this.

**JAMES CULLEN:** Sure.

**Ms SUE HIGGINSON:** But you're now suggesting that your attendance or non-attendance was not a matter for the Premier. Which one is it, Mr Cullen?

**JAMES CULLEN:** He's a public figure. These questions were getting raised publicly, and he's put his view on the record. But I've got to say, while that was happening, we were going through our own processes and

having our own conversations about what we were prepared to do and how we were prepared to respond to the invitations and then the summons from this Committee. And, again, here we are to answer your questions.

**Ms SUE HIGGINSON:** Thank you very much, Mr Cullen. What's your main form of communication between you and the Premier?

**JAMES CULLEN:** Probably the old-fashioned walk into each other's office or, if we're not within proximity, on the phone.

**Ms SUE HIGGINSON:** As in voice calls?

**JAMES CULLEN:** Yes.

**Ms SUE HIGGINSON:** And do you use any particular other form of communication, messaging apps and so forth?

**JAMES CULLEN:** Yes, I think, on occasion. Your question is sort of more specifically about engagement with the Premier. Yes, I think on occasion we would, probably—maybe the odd text message, possibly other apps as well, yes.

**Ms SUE HIGGINSON:** On a normal day, a non-parliamentary sitting day, how much communication do you have with the Premier, as his chief of staff?

**JAMES CULLEN:** Yes, look, it's significant. I think if it was a non-parliamentary day where, for example, we had a Cabinet meeting on—and then potentially other subcommittees of Cabinet and other meetings, stakeholder meetings—we would be talking a reasonable amount. And if, for whatever reason, the Premier was travelling, it wouldn't be unusual for us to be having five or six phone calls a day—quite regular, I would suggest, in this day and age.

**Ms SUE HIGGINSON:** When you're sharing documents or quick material with the Premier, what form do you—what's your quickest way, and most common way, of providing him something he needs to see urgently?

**JAMES CULLEN:** Yes, probably via app, but I've got to say that would be pretty infrequent.

**Ms SUE HIGGINSON:** Which app would that be?

**The Hon. BOB NANVA:** Point of order: I have been resisting, but I do fail to see how this line of questioning is relevant to the terms of reference of this inquiry. The logistical operations of the Premier's office, the relationship between the Premier and the chief of staff, and the manner of their communication is not relevant to the terms of reference with respect to the caravan incident and its related matters.

**Ms SUE HIGGINSON:** To the point of order: This is entirely relevant. I'm actually about to get to the questions around who knew what and how and at what particular times in relation to the Dural incident. It's clearly in order.

**The Hon. BOB NANVA:** Further to the point of order: Perhaps the member can just ask that question.

**Ms SUE HIGGINSON:** Further to the point of order: It's not for the Government to tell me how to ask my questions.

**The CHAIR:** Order! You're quite correct, Ms Higginson. It's not for you to make any rulings or directions, Mr Nanva. It's up to me.

**Ms SUE HIGGINSON:** If you could—

**The CHAIR:** I haven't finished my ruling.

**Ms SUE HIGGINSON:** Apologies.

**The CHAIR:** The line of questioning around the summoning issue and how we ended up here today is relevant to this inquiry. I do agree, though, that going deeply into the methods of communication between the chief of staff and the Premier on matters not related to this particular point may well be a bridge too far. Ms Higginson, if you can concentrate your questions—albeit on methods of communication—strictly to this matter that we're dealing with.

**Ms SUE HIGGINSON:** Thank you. What app is that, Mr Cullen?

**JAMES CULLEN:** Can you—what was the—

**Ms SUE HIGGINSON:** When you're sharing materials and when you have to provide—

**JAMES CULLEN:** I'll just go back to your ruling, Chair. Are we talking about how we communicate generally, or are we talking about the Dural caravan incident? What are we talking about?

**Ms SUE HIGGINSON:** If I can, I would like to make it clear that the two points of interest, naturally, are in relation to the summons and in relation to the Dural caravan incident, which I'm about to come to. If we could just, at this point, answer the question about—are you suggesting that there are various apps that you would use at various different times for various different purposes? If so, I'm happy to try and accommodate your answers for you in my questions.

**The Hon. EMILY SUVAAL:** Point of order: Chair, I'm just raising a point of order just in terms of your ruling, and the member now flouting your ruling, which was around the general nature of communications which are outside the terms of reference for the inquiry, which specifically relates to the Dural caravan incident and, as you have ruled, matters relating to the summons. The member is yet to mention either of those things in her question, in terms of how she's put it the first time and how she's rephrased it. I'd ask you to call her to order.

**Ms SUE HIGGINSON:** To the point of order—

**The CHAIR:** I don't need to hear any more. I'm going to rule. Ms Higginson is in order, and the question stands because she did talk about the Dural caravan incident in that line of questioning just then. Continue on, Ms Higginson.

**JAMES CULLEN:** Clearly, in terms of that particular subject matter, and as is the evidence already before this Committee, the potential, almost national—the national security, a live terrorism investigation, I mean, communication like that, to the best of my recollection, was, if not in person, over the telephone.

**Ms SUE HIGGINSON:** Over the telephone. Are you saying there were no messaging apps used for the purpose of discussing, between you and the Premier, the Dural caravan incident over the few weeks it was a live issue, publicly and privately?

**JAMES CULLEN:** That's my recollection. Yes.

**Ms SUE HIGGINSON:** None whatsoever?

**JAMES CULLEN:** No, sorry. What I'm saying is—I reiterate my answer that the communication, for that particular incident, was absolutely in-person conversations and over the phone. Not messaging, no.

**Ms SUE HIGGINSON:** No messages at all?

**JAMES CULLEN:** Given that subject matter, no.

**Ms SUE HIGGINSON:** None at all?

**JAMES CULLEN:** I'm happy to take it on notice to check just for the fullness of checking. But yes, my strong recollection is that that was—I was doing it over the phone or in person.

**Ms SUE HIGGINSON:** Thank you. Then, for the purpose of the summons and the issue of the summons, did you use any messages between yourself and the Premier and may have shared any documents, including the summons or anything like that?

**JAMES CULLEN:** No. It would have been, again, the context of daily conversation. The subject matter, as I've already alluded to, was coming up routinely, certainly earlier this week, publicly, so we would have had a conversation in that context in terms of his public commentary. But otherwise, no—no sharing of documents or advice or him having a role or input into any of those.

**Ms SUE HIGGINSON:** In relation to when it was becoming clear through communications of deputy police commissioner Hudson and through those briefings that he had formed a view that the Dural caravan incident related to an opportunistic criminal enterprise, more so than motivated by antisemitism and acts of hatred, at what point did you feel—if you did—some form of relief that it wasn't motivated by that hatred?

**JAMES CULLEN:** So you're asking me for my thoughts and feelings?

**Ms SUE HIGGINSON:** No, I'm asking when you became aware that it was not an act of terrorism or vile antisemitism. I know the Federal Police have used "criminal hoax"—or "con job", sorry—and I know that's a bit loaded. I don't want to use that term. But when you realised this was more of a criminal mind, criminal opportunity, when did that happen for you?

**JAMES CULLEN:** I would have to sort of point you to the chronology, and I think there's probably been a few chronologies before this Committee over the course of your earlier hearings, including the briefings that we

were receiving from police. I think, to be clear, early on—and it was flagged in the deputy commissioner's public comments at the press conference with the Premier on 29 January; it was covered, certainly, in print media the following day and reiterated again, if you like, by the deputy commissioner the next day on 2GB Fordham that there were alternative lines of inquiry. In terms of the police investigation, I've got to be really careful here because, look, level of comfortability—this is something which was led by the police and I'm not a police investigator.

According to the timeline—and, again, I think this information is all before the Committee as well—when effectively there was a finalised view from police was when, I think, the AFP source was discredited on 21 February. I recall that after—I think it would have been New South Wales police got legal advice confirming they at that point couldn't pursue terrorism charges, or charges for a terrorism offence. Not long after that, it might have been Mr Neilson letting me know that police had contacted the Minister or the Minister's office, that that had been the case and that was at an end. And I suppose then the next step was, which we all have seen, the press conference with the AFP and New South Wales police on 10 March outlining the results of their investigation at that point. There was a pretty clear, steady chronology, and I think that—yes.

**Ms SUE HIGGINSON:** As you've identified, Deputy Commissioner Hudson made it clear on 29 January that there could be multiple—or there could be other reasons for the motivation of the Dural caravan. Who provided the Premier with the media lines, "There's only one way of calling it out, and that is terrorism"? Do you recall?

**JAMES CULLEN:** Look, no, but the Premier is very much capable of coming up with his own lines, to use your word. I think I would point to you—I mean, I can understand the interest in the word "terrorism", particularly at the press conference on 29 January. I think it's the evidence before you, with respect, that the reason that language was being used in that press conference was because it was exactly the language and the briefing that police provided the Premier in the lead-up to the press conference on 29 January. That's where that came up. And I know, obviously, that you've interrogated—quite rightly—Mr Hudson about why the Premier would have used that term and in what context, and then he's provided you with evidence.

I won't go back over it, but he's given you extensive information on that. Obviously, the Premier took a view based on the advice he had from police at that time, hence the update that he gave on 29 January. I think everyone should just remember that wasn't the Government, the Premier and the police basically breaking news. There was a leaked story—fair enough, good journalism—in *The Daily Telegraph*, and I think the Premier took the view that that couldn't go without some sort of context, and so the press conference happened.

**Ms SUE HIGGINSON:** In relation to that, Mr Cullen, do you know who leaked the story to *The Daily Telegraph*?

**JAMES CULLEN:** I don't.

**Ms SUE HIGGINSON:** Do you have any suspicions that you would like to share with the Committee?

**JAMES CULLEN:** No, I don't.

**The Hon. BOB NANVA:** Point of order—

**The Hon. GREG DONNELLY:** Point of order—

**Ms SUE HIGGINSON:** What's your point of order?

**The CHAIR:** It's too late. The question has been put and answered now anyway.

**Ms SUE HIGGINSON:** He's fine, Mr Donnelly.

**The CHAIR:** And I'm sure I would have ruled that the question was in order. Ms Higginson was asking for an opinion from the witness. We are not in the Chamber. The rules of questions in question time don't apply in here. This is a very experienced and educated witness, and he will answer as he sees fit. The question has been put and answered anyway. Let's move on.

**Ms SUE HIGGINSON:** Can I just ask as well, Mr Cullen, just going back to the issuing of the summons, I think your answer is you thought it was a contempt possibly but you were questioning whether disobeying a summons was or not, but you were willing to test that. Is that a fair summary of your evidence?

**JAMES CULLEN:** No, it's not how I'd characterise it, and I wouldn't have thought of, and I wouldn't use—and I probably still wouldn't use—a word like "contempt". But I certainly thought of the invitation and later the summons in a way in terms of whether or not it was appropriate. As you can imagine in my position, having sort of closely followed the establishment of this particular inquiry, again, the debates in the upper House and the

lower House, views that have been put on the record, certainly correspondence entered into, the privilege issue from the Premier, the view of the Speaker—I think, with respect, there are other views in the community, including from much more experienced constitutional minds than mine or other people here, that there are potential arguments around the Parliamentary Evidence Act and its constitutional validity. But, again, I just bring you back to the operation of the Parliamentary Evidence Act and that it does envisage some circumstances where a witness may take, or a potential witness may take, the view that it's not appropriate that they attend. We were availing ourselves of that and basically providing you with information about why we thought we had a just and reasonable excuse not to attend.

**Ms SUE HIGGINSON:** Did you think at all, or were you advised at all, or was there a discussion at all, that the ordinary course, if you're going to disobey a law, is to challenge that law? Was there any consideration about seeking the normal thing that a person would do, and that is legally challenge rather than just not obey and write a letter saying you shouldn't obey a summons?

**JAMES CULLEN:** Sorry, do you mind just asking that again? There were a few concepts.

**Ms SUE HIGGINSON:** Was there any discussion or consideration about taking the ordinary course if you are going to challenge a summons, which would be to seek to have that summons set aside, rather than just say, "This law doesn't apply to us"? Was there any discussion about that or any advice received about that?

**JAMES CULLEN:** Having a summons set aside? No, the course that we set upon, to use your words, was responding to the Committee in the forms we did, outlining the arguments in the way we did, the strongly held view—it probably still is—and here we are.

**Ms SUE HIGGINSON:** Sorry, so you think the strongly held view is that you shouldn't be here or that you don't need to comply with that summons?

**JAMES CULLEN:** I have a strong view, but, again, the last few days, with respect to the upper House and with respect to the President, when it is put to me, members of my staff and members of the Minister for police's staff that not only could you be arrested but that you could be jailed and potentially held over, potentially, nights, given the fact that the Legislative Council in the context of this week was sitting and it may well have been difficult to have convened a meeting of this Committee, that was, to be frank, quite extraordinary. So that did concentrate the mind. And, again, here we are.

**Ms SUE HIGGINSON:** Sorry, are you saying now that you believe the law shouldn't apply to you in this way, and the other people here?

**JAMES CULLEN:** Look, I feel like we're going over old ground. There's a test in the Parliamentary Evidence Act. There's lots of views out there. You've seen the advice of Mr Walker. Ms Twomey has put some advice over a period of time on the record about this particular piece of legislation, which in some ways is actually a very old statute, but it hasn't really been tested much. We've got well-held views. We obviously changed our mind, and we're here.

**Ms SUE HIGGINSON:** So you're here—

**The CHAIR:** Ms Higginson, I'm going to come back to you. Mr Ruddick, do you have any at the moment?

**The Hon. JOHN RUDDICK:** I would like to start by thanking the five of you for turning up today. I suspect it has been a somewhat personally stressful episode. Our preference would have been that the Premier and the police Minister were here, but you are here and we're grateful for it. I don't care about the politics of the summons. We're almost a third of the way through this inquiry. We've got a limited amount of time. I do care about the guts of the matter, the heart of the matter. Mr Cullen, I'll address my question to you. On 19 January, the caravan was found. On 29 January, the caravan was made—

**JAMES CULLEN:** I'm not sure that's right.

**The Hon. JOHN RUDDICK:** On 19 January?

**ROSS NEILSON:** No, that's right.

**JAMES CULLEN:** Is that right?

**TILLY SOUTH:** That's correct.

**JAMES CULLEN:** Sorry, Mr Ruddick.

**The Hon. JOHN RUDDICK:** On 29 January, the caravan was made public, as you've just said. Now then, on 20 February, 21 days later, legislation was introduced to this Parliament. During that parliamentary debate,



the Hon. Anthony D'Adam, MLC, spoke. I'm guessing you've known him for many years, and you would accept that Anthony D'Adam is an intelligent guy. Do we agree with that?

**JAMES CULLEN:** Is that a question?

**The Hon. JOHN RUDDICK:** That is a question, yes.

**JAMES CULLEN:** Mr Anthony D'Adam is a member of the upper House and a member of the Government. He's entitled to his views. I'll let you continue.

**The Hon. JOHN RUDDICK:** Okay. Well, I would like to quote a paragraph from what he told the Parliament on the day that the bill was passed. Anthony D'Adam said:

I am also troubled by the factual basis for the legislation coming before the Parliament. There have been a number of instances of purported antisemitism. As far as I am aware, most of those instances may have given rise to charges, but none of them have gone through the court process. None of the facts have been established beyond reasonable doubt. While we might assert that those people have done those things on the basis of antisemitic sentiment, that is yet to be established. I cite the example of the explosives in the caravan. *The Sydney Morning Herald* has done a great service by not being taken along with the consensus rhetoric that seems to be flowing through the media but actually delving into the specifics of the case. It seems that it was a ploy by organised crime to try to negotiate a reduction in sentence.

This is a member of your Government quoting *The Sydney Morning Herald*, a very respected newspaper in this State, and they are both suggesting that there were already serious suggestions that this caravan incident was a ploy. Was there any discussion at that time that maybe we should pause this legislation—that we wouldn't want to bring in a suite of anti-free-speech laws if it was because of a ploy?

**JAMES CULLEN:** Mr Chair, there's a lot there.

**The CHAIR:** I agree. It's a lengthy question.

**JAMES CULLEN:** That's a long question. It's not a one-word answer.

**The CHAIR:** And you don't have to answer in one word, Mr Cullen. It's your answer; you give it as you see fit.

**JAMES CULLEN:** Mr Ruddick, thank you for the question. Look, I think there's a lot to it. I probably should have been taking some more notes as you went. The point about the three pieces of legislation, which I suppose, in some ways, is actually before this Committee, and the circumstances and the information presented upon which the Parliament considered to debate and to pass those—I think we've got to be really careful and really clear here about the timeline. You've received advice, including from the Cabinet Office. The Premier, specifically the Premier, but also the Government more broadly had flagged publicly, in the instance of each of the three pieces of legislation—the anti-protest laws relating to religious places of worship, effectively the criminalising of 93Z, and then the swastika; like, the enhanced penalties for those offences—they had been flagged by the Premier in one way or another prior to Mr Thurtell calling the Premier in relation to a terrorism investigation, a JCTT investigation, into the Dural caravan incident on 20 January. So I think that's really important.

Those three pieces of legislation were not, at any point that I'm aware of, put forward by the Premier as reasons to support—the Dural incident wasn't put forward as a reason to support those three pieces of legislation. In fact, those three pieces of legislation had been worked on for various periods of time, but certainly have followed through, effectively, the 12 or 18 months worth of life in Sydney, which included a rise in antisemitism. And, again, the evidence before you—Operation Shelter investigated at least 367 incidents of antisemitism, and I'm sure there's been many more unreported instances of antisemitism, as well.

So that's actually the context in which the legislation was flagged publicly, and then came through the Parliament. The other thing I'd make out really clearly is that the three pieces of legislation there—none of them relate to alleged terrorism offences. They are unrelated. I do accept that they are broadly in the umbrella of dealing, amongst other things, with community harmony and antisemitism. But I think the relationship that's been constructed by some between the Dural caravan event and the passage of those three pieces of legislation, I think is extremely unfortunate and unfair. I would be pointing you towards the second reading speeches of those three pieces of legislation. That's really about the intent and why the Government has moved forward on the three pieces of legislation.

To give you credit, Mr Ruddick, you do have concerns which I accept are well held, and you've actually tabled and introduced into the upper House a piece of legislation that repeals—my understanding is—all three pieces of legislation. So, I think for people who are—you know, if people think that they were duped, I would extremely disagree and think that's extremely unfair. But if there are people in the Parliament who think that that's the case, then they should be supporting your legislation.

**The Hon. JOHN RUDDICK:** Thank you. Now, we did hear at our first hearing from Deputy Commissioner Hudson—they've accepted that the caravan incident was a criminal con job. We all know that over the summer there was an alarming rise in—we'd turn on the six o'clock news every night, and every two or three days there's a synagogue being burned, there's a car bomb going off, lots of graffiti. But I asked the deputy commissioner how many of these incidences were related to the same criminal con job and, without a blink, he said 14.

**JAMES CULLEN:** Yes, 14.

**The Hon. JOHN RUDDICK:** Given your last answer, it sounds like you're saying, "Well, the caravan incident wasn't primarily responsible for this legislation." But do you think it would be fair to say that whole range of incidents, which we now accept was a criminal con job, was part of it? Because, since this all blew up, since the caravan has been exposed, there hasn't been any of these incidences, which is good news, but it does prove that it was a criminal con job and not an outbreak of antisemitism in this State.

**JAMES CULLEN:** Mr Ruddick, there's a bit there to comment on, too. I think in response I would say that I'm not going to agree with you on uses of some of that language, like "hoax", "criminal". I don't think you said "hoax", but you said "criminal con job".

**The Hon. JOHN RUDDICK:** Well, that's what the Federal police said.

**JAMES CULLEN:** Well, I think, to be fair to Mr Hudson—and he was at pains to say, and he has done a lot of outreach with the Jewish community in the last 12 to 18 months—that some of that language is extremely unfortunate, because I think the impact and the terror and fear caused, particularly in the last 12 to 18 months in the Jewish community, has been real. It has been palpable. We can spend our time talking about the motivation of certain actions, but you can't tell me that a firebomb or graffiti of a synagogue isn't antisemitic. These are antisemitic acts, and we can talk about—and motivation is important for the purpose of what someone is being charged with. But those things did instil fear into the community more broadly, and into the Jewish community. I think that's the first point, which is really important.

Sorry, Mr Ruddick, you were talking about the relationship between the Dural incident and the 14 events. That's right, and some of those events were violent, were firebombing. I mean, we could have had someone seriously maimed or killed, and I'm not sure they would have cared about the motivation. I mean, that would have been a terrible thing. It's clearly an antisemitic event. But, let's be clear, we're talking about 14 events out of at least 367, which the Police Force's Operation Shelter were investigating. I think the broader context is really important: that there was an unfortunate continuum in the life of this city over that period of time, and there were a series of responses—including prior to early this year as well—from the Government on that.

**The Hon. JOHN RUDDICK:** Approximately when did the Department of Premier and Cabinet or the Premier's office first start discussing whether this was a good idea to move these three bills? Was it December last year? Was it a year ago? When did this first begin?

**JAMES CULLEN:** I think work on some of it began in December last year, but there's certainly been a broader public debate and government thinking that came out of earlier reviews. The Government didn't necessarily agree with everything in the earlier reviews as well. That sort of sponsored a bit of a public debate and discussion and conversation. So, yes, look, over a long period of time, to be fair. The Chair has made some comments over the period of time on race hate laws. There were other important, significant stakeholders making contributions too—so, over a long period of time. And again, just to be really clear, the Premier had flagged action in all of these three areas before the phone call came from Mr Thurtell regarding the Dural incident.

**The Hon. JOHN RUDDICK:** Would you agree that the caravan incident and what was happening over the summer certainly accelerated the discussion and it felt like there was a sense of urgency that these laws should come through?

**JAMES CULLEN:** Yes. Again I just say, look, one is very clearly an alleged terrorism incident that was being—an investigation was being conducted by the JCTT. I think that's different. I accept that there's elements of, absolutely, antisemitism in terms of the events that occurred. I think that's really clear. It's on the public record. It's the target. We should talk about motivation, but the idea that there's broad relief—I mean, these events were extraordinarily terrible for Sydney. They were a blight on us. The idea that somehow it was really about what was happening necessarily just in January—there was a longer period of heightened tension, particularly; and rising antisemitism, unfortunately. So the Government was thinking over a longer period of time about how to deal with that and how to respond. You look at legislation like the anti-protest laws to do with religious places. There were other incidents quite outside of the Dural caravan incident and those 14 events which focused the Government's mind on having to tighten the law there, for example.

**The Hon. JOHN RUDDICK:** So we do agree that since the Federal Police came out, since the caravan incident became public, there has been—it has stopped. Antisemitic events that make the news, that are high profile enough to make the news, have stopped, which is great. Do you think that's because you brought in these laws, or because what the Federal Police called "a criminal con job" got exposed? What do you think is causing the stop of this?

**JAMES CULLEN:** I think it is a couple of things. There's not too many weeks go by where there isn't some unfortunate antisemitic event pop-up in my news feed, brought to my attention from the general police briefings we receive. My understanding was we had an incident this week of Marrickville Police Station being graffitied with a swastika. I don't think legislation is always the be-all and end-all, but I would argue that it would have had a chilling effect. People who were involved in some of that criminal conspiracy, for want of a better term, particularly doing some of the things encapsulated in those 14 events—they've got a new set of laws and enhanced laws and enhanced powers to consider. I hope it has had an impact in terms of focusing people's minds about, "This is completely unacceptable. This is not who we are as a modern, cosmopolitan, multicultural society."

**The Hon. JOHN RUDDICK:** I have one last question at this stage, Chair. I think it's fanciful to think that those laws are responsible for that. When legislation is being drafted—legislation in general—I'm guessing that there's discussion in the Department of Premier and Cabinet, in the Premier's office and in the relevant Minister's office, and I'm guessing it's standard practice that there would be third parties from outside the Government that would lobby you to seek to influence the legislation, either for or against. Was that the case when this legislation was being drafted and, if that is the case, who were those third parties that were lobbying it?

**JAMES CULLEN:** To give you a fulsome answer, let me take that on notice because often, Mr Ruddick, as you would understand, there are different parts of the process in terms of the policy-making and development, first, the Cabinet process—and obviously we need to be careful about commenting on that—but then the legislative and the drafting process, draft legislation and often engagement with stakeholders is part of that. So I genuinely wouldn't be aware of all of that when it comes to engagement with stakeholders. But in relation to all three pieces of legislation, I've got no doubt that we had stakeholder engagement and views and feedback and varying levels of agreement and disagreement across all three—probably less so the swastika reforms legislation, perhaps unsurprisingly. But in relation to the criminalisation under 93Z and the anti-protest laws changes, yes, there were sets of stakeholders who had different views that I'm certainly aware of, that's right.

**The Hon. JOHN RUDDICK:** You'll take that on notice and get back to us?

**JAMES CULLEN:** Yes, I will.

**The Hon. JOHN RUDDICK:** Terrific, thank you.

**The Hon. WES FANG:** Mr Cullen, you are aware of the MOPS Act. Correct?

**JAMES CULLEN:** Yes.

**The Hon. WES FANG:** Do you agree, as the Premier's chief of staff, you are responsive to the requirements contained within the MOPS Act?

**JAMES CULLEN:** I'm sure that's right.

**The Hon. WES FANG:** Can you please confirm that you understand the Premier, for whom you are the chief of staff, falls under the definition of a political office holder as defined by section 3 of that Act?

**JAMES CULLEN:** That's probably right, but—

**The Hon. WES FANG:** I can assist you. I have copies—I made 15, so there is one for everyone—of the parliamentary staff Act. I've highlighted, helpfully, that I understand that the Premier is a political office holder as defined in the Act. That will be circulated to you so that we can confirm that. But, while it is being circulated, I will ask: What functions, if any, has the Premier delegated to you under part 2, sections 11 and 12, of the MOPS Act?

**The Hon. EMILY SUVAAL:** Point of order: I take a point of order in terms of procedural fairness to the witness and to us, as members of this place. Mr Fang has referred to a document that is being tabled as we speak. I just ask that questions relating to that document be held off until we have all got a copy.

**The Hon. WES FANG:** Ultimately, the member has already said generally he agrees with the assertion that I've made. I'm just providing him the evidence to assert that I'm correct.

**The Hon. GREG DONNELLY:** To the point of order: This is a matter of asking a question which had some real specificity over an element of a piece of legislation without the witness having it. That is unreasonable.

The witness does have it now, but we have covered before the ability of witnesses to respond accurately to questions and, if they are being referred to a piece of legislation, for example, it is appropriate that they be provided with the opportunity to read it first, understand it and then respond.

**The Hon. EMILY SUVAAL:** Can I say further to that—

**The CHAIR:** No need. I uphold the point of order. Mr Cullen now has it. I'm sure he'll read it and answer the question as he sees fit.

**The Hon. EMILY SUVAAL:** Point of order: On a separate point of order that I might raise if it's okay, in terms of asking witnesses questions around legal opinions, I know that the rules of the House don't strictly apply, but I encourage members to be mindful that that is—

**The CHAIR:** I don't think there was a question about legal opinion, so there is no point of order. Does the witness need the question to be asked again? It was some time ago now.

**JAMES CULLEN:** Mr Chair, can I just flag where this is going to go, because I was listening while waiting for this piece of paper to be handed around and I'm sure the honourable member was already quoting sections which actually aren't here, so just to be clear—

**The Hon. WES FANG:** No, no. Let me be clear—

**The CHAIR:** Mr Cullen is answering the question. Let him finish first.

**JAMES CULLEN:** I think Mr Fang has helpfully highlighted aspects of this document. There's one on the bottom right that I draw your attention to. It says page 4 of 18. Is there any chance we could get pages 1 to 3 and 5 to 18 because it sounds like you're starting to quote from other sections of it?

**The Hon. WES FANG:** Yes, I am going to, but I am going to do it slowly because I want to elicit certain answers from you, and I don't want to be flooding you with information because then I will be accused of providing you with too much information.

**The Hon. GREG DONNELLY:** Point of order—

**The CHAIR:** I am just about to rule. It is only fair to the witnesses to ask questions of them when the document is in front of them. We're talking about, to Mr Cullen's defence, extensive pieces of legislation. In fact, it's stuff that we deal with every day. You ask me to quote some section out of something, it is grossly unfair. I will allow those questions. The questions themselves are not out of order. But in procedural fairness to the witnesses, they need to have that document in front of them to answer, because all we want is a truthful answer, which would be very difficult for the witness to provide if they didn't have the document in front of them.

**The Hon. WES FANG:** In that case, prior to asking the next question, I will provide the next document. If I could table that please. In relation to this document that I'm passing to you now—

**The Hon. BOB NANVA:** Point of order: Can we allow the documents to be—

**The CHAIR:** Yes. We're just going to wait until we all get it as well, Mr Fang.

**The Hon. GREG DONNELLY:** Chair, I appreciate the documents being circulated, but what in effect we have now is a second page of the Act. We now have pages 4 and 7.

**The Hon. WES FANG:** Yes. I'm happy table the whole Act, if they would like.

**The CHAIR:** Hang on. I've been very fair in what I've done, and I will continue to do so. It may well be that the member is only going to ask questions relevant to this particular section that is circulated. If he strays outside of that, Mr Donnelly, you are quite within your rights to take a point of order, which I will rule on. You will notice that I ruled very favourably on your last one. But you were pre-emptive in saying that he's going to ask something on some other page. That may not be the case.

**The Hon. GREG DONNELLY:** Mr Chair, I would never cavil with your ruling.

**The CHAIR:** Nor should you.

**The Hon. GREG DONNELLY:** No, but the member in his previous engagement with the witness said, and I'm paraphrasing, "I wish to go through a series", or words to that effect, of—I don't think he necessarily used the word "questions", but points. I'm not telling him in any way how to ask questions, but if they are questions around a piece of legislation, one page at a time does make it very hard for the witness to grasp the matter. My submission is, and it is a matter for you to rule of course, that the member has already foreshadowed his intention

of going through a series of questions with respect to the Act. He has said that. My submission to you is that puts the witness in a difficult position of trying to understand in a piecemeal basis what is going on here.

**The CHAIR:** I have heard enough. I'm going to rule. He is in order. It is up to this member to determine how he is going to ask his questions or what questions he is going to ask. As long as the witness has in front of him documents that he's referring to, I'm comfortable. If he gives him a deluge of documents and then starts firing questions, I'd suggest you'd say, "That's grossly unfair because look at all the information you've provided him." If he chooses one page at a time and asks questions from one page at a time, that's fair. That's my ruling. Let's continue on.

**The Hon. WES FANG:** Mr Cullen, in relation to the page you've just received, what functions, if any, has the Premier delegated to you under part 2, sections 11 and 12 of the MOPS Act?

**JAMES CULLEN:** Part 2, section 11?

**The Hon. WES FANG:** Yes, highlighted. It says "delegation by Premier" and then "delegation by political office holder".

**JAMES CULLEN:** I will take on notice for the sake of thoroughness. Partly to help you out, Mr Fang, in terms of the actual technical title, it's basically a delegation in terms of—it's like a ministerial staff employment delegation. That's the only one that I'm aware of.

**The Hon. WES FANG:** Okay. Now, I'll table the next document.

**The CHAIR:** Table it before you ask the question and wait until the witness gets the document.

**The Hon. WES FANG:** Yes.

**Ms SUE HIGGINSON:** Ask him if it's a written instrument of delegation.

**The Hon. WES FANG:** That's a good point. My colleague has suggested that whilst it's being circulated—do you have a written delegation from the Premier in relation to what's been delegated to you as part of your role?

**JAMES CULLEN:** This goes back to your last question about what the delegation is. Sorry, do I have a written—

**Ms SUE HIGGINSON:** Instrument. Is there a written instrument of delegation?

**JAMES CULLEN:** Yes, there is.

**Ms SUE HIGGINSON:** Is that something that you can make available to the Committee?

**JAMES CULLEN:** I will absolutely take it on notice and come back to the Committee on that.

**Ms SUE HIGGINSON:** Thank you.

**The Hon. WES FANG:** To be pre-emptive, what I'll do also—to assist timings, I will table the next document so that it can be circulated whilst I'm asking questions about the one you've just received.

**Ms SUE HIGGINSON:** You should just table a bundle at the beginning.

**The Hon. WES FANG:** I know, but then—like I said, I was pre-empting other points of order.

**The Hon. EMILY SUVAAL:** He's wasting your time.

**The CHAIR:** Listen, he's wasting our time, not your time. You'll get your time. I have concerns about the waste of time as well.

**The Hon. WES FANG:** Mr Cullen, I now want to turn to the State Records Act 1998. Do you agree with my contention that both you and the Premier are responsive to the State Records Act?

**JAMES CULLEN:** The Premier is responsible.

**The Hon. WES FANG:** "Responsive" is the word that I used.

**JAMES CULLEN:** Is that a question about whether or not that legislation falls under the administrative orders that apply to the Premier or that we have responsibilities under the State Records Act?

**The Hon. WES FANG:** Are you responsive to it?

**JAMES CULLEN:** I mean, we've all got responsibilities under the State Records Act, of course.

**The Hon. WES FANG:** You do. Okay, thank you. Do you agree with the definition of the State Records Act that the term "public office" includes the Premier's office as it includes a political office holder as defined by the MOPS Act, which was the first piece of paper I tabled to you?

**The Hon. BOB NANVA:** Point of order: Chair, I seek your counsel on this matter. I'm sure Mr Cullen is more than capable of answering the question, but I do seek your guidance, again, with respect to the relevance of this line of questioning to the terms of reference of this inquiry as it relates to the caravan incident.

**The CHAIR:** Listen, can I bell the cat here, in terms of making my ruling? There have been questions put to previous witnesses at other hearings of this inquiry in relation to record keeping. I'm assuming that's where he's going. Do you recall those conversations with those witnesses? I do believe there's a nexus between what he's asking and the relevance of this inquiry, so I'm going to allow it to stand at the moment.

**The Hon. WES FANG:** Do you agree with the definition of the State Records Act that the term "public office" refers, effectively, to the Premier's office?

**JAMES CULLEN:** Yes.

**The Hon. WES FANG:** Thank you. Has the Premier delegated the effective chief executive functions of his office to you? Are you or the Premier considered the effective chief executive of the office in relation to ensuring compliance with that Act?

**JAMES CULLEN:** Look, I don't pretend to the Committee to be a star witness with respect to the State Records Act, so I think I should take that on notice and come back to you.

**The Hon. WES FANG:** In that respect, can I ask: Are you unaware of your requirements as the chief of staff to the Premier in relation to the records Act?

**JAMES CULLEN:** In a general sense, yes, I am aware of my obligations.

**The Hon. WES FANG:** You are aware?

**JAMES CULLEN:** Yes.

**The Hon. WES FANG:** Okay, thank you.

**JAMES CULLEN:** Mr Fang, is your question, "Did we take notes in briefings from police?" I mean, can we just—

**The Hon. WES FANG:** No, no. Mr Cullen—

**JAMES CULLEN:** We could have got that 20 minutes ago, with respect.

**The CHAIR:** Whoa, whoa, whoa! With all due respect, Mr Cullen, I'd like to think I've been extremely fair to you and all witnesses.

**JAMES CULLEN:** To be fair to you, you have.

**The CHAIR:** Thank you. It's not for you to tell the member what questions to ask. As it's the same, it's not for the member to tell you what answers to give. It's a two-way street.

**The Hon. WES FANG:** We're circulating another page now from the State Records Act, and I'll wait until Mr Cullen has it so that I can put some questions to him about that. So, Mr Cullen, you've received now page 12 of 50 from the State Records Act. Can you please read aloud the text that's highlighted at the top of the page?

**JAMES CULLEN:** Section 12, Record management obligations, subsection (1):

Each public office must make and keep full and accurate records of activities of the office.

Do you want me to keep reading?

**The Hon. WES FANG:** No, no, that's fine.

**JAMES CULLEN:** We're not going to selectively quote the State Records Act, are we?

**The Hon. WES FANG:** You can read the other ones if you'd like, but I would suggest that first one is the one that's most applicable to the circumstances we're talking about. Can you please confirm for me that you are familiar with the *Ministers' Office Handbook*?

**JAMES CULLEN:** Sorry, say that again?

**The Hon. WES FANG:** Can you please confirm for me that you are familiar with the *Ministers' Office Handbook*?

**JAMES CULLEN:** Yes.

**The Hon. WES FANG:** You are?

**JAMES CULLEN:** I don't have a copy with me. But you do?

**The Hon. WES FANG:** Luckily, yes, Mr Cullen, I do have a copy. And I'm about to table that now, so I'll please table this document. Mr Cullen, you've received pages 32 and 33 of the *Ministers' Office Handbook*?

**JAMES CULLEN:** Yes. Did you say 32 and 33?

**The Hon. WES FANG:** Yes.

**JAMES CULLEN:** There's probably some missing pages in this document, but, you know. Proceed.

**The Hon. WES FANG:** Are you familiar with these pages from the *Ministers' Office Handbook*?

**JAMES CULLEN:** Do you have a full copy of the ministerial handbook that you can just hand over? I mean—

**The Hon. WES FANG:** I do, actually. As it turns out, I do. It's right here. It's quite thick.

**JAMES CULLEN:** That's probably a better way for me to say "Yes, that's from the ministerial—"

**The Hon. WES FANG:** I'm trying to be a good environmentalist and save the paper. I could print all of it. However, I'm just taking out the relevant pages that are relevant to the questions that I'm asking. So we can do this either way, but I'm asking questions that are relevant to these two pages.

**JAMES CULLEN:** Look, you're asking me like an expert witness if this has come from it—I mean, I can take your word for it. If you want to give me that copy, I'm happy to look at it and confirm that's the case.

**The Hon. WES FANG:** I'm asking if you're familiar with them.

**JAMES CULLEN:** I don't memorise it. I'm not surprised to see that something like this would be in the ministerial office handbook.

**The Hon. WES FANG:** Can you confirm that these highlighted pages clearly explain the records and information required of a Minister's office?

**JAMES CULLEN:** Yes.

**The Hon. WES FANG:** Can I please confirm you attended the police briefing on 23 January 2025?

**JAMES CULLEN:** I'm just going to go to that police chronology, Mr Fang, if that's okay.

**The Hon. WES FANG:** Sure.

**JAMES CULLEN:** Just in terms of their meetings. Was I present on the briefing of the 23 January? Yes, I was.

**The Hon. WES FANG:** You were?

**JAMES CULLEN:** Yes.

**The Hon. WES FANG:** Do you agree with the assertion from earlier evidence that this was a pens-down meeting?

**JAMES CULLEN:** I think you're referring to comments from an official in the Premier's Department.

**The Hon. WES FANG:** Correct.

**JAMES CULLEN:** I think everyone's got their way of characterising how they handle themselves in a meeting with this sort of important information with potential national security ramifications and an alleged terrorism offence, a JCTT joint investigation with other agencies. I think everyone's got a view about how they would characterise the recording of notes in a meeting like that, yes.

**The Hon. WES FANG:** Okay.

**JAMES CULLEN:** But I'm certainly aware of that comment.

**The Hon. WES FANG:** Do you agree with the assertion it was a pens-down meeting?

**JAMES CULLEN:** I would provide a different characterisation, but if the question ultimately is "Did I take notes in these briefings?" the answer is no, I did not.

**The Hon. WES FANG:** How does a pens-down meeting satisfy the requirements of section 12 of the State Records Act?

**JAMES CULLEN:** I would, again, I haven't—

**The Hon. BOB NANVA:** Point of order—

**The CHAIR:** Yes. Mr Nanva on a point of order.

**The Hon. BOB NANVA:** Chair, the member is asking the witness a legal opinion, which he may or may not be capable of answering here and now.

**The Hon. WES FANG:** To the point of order: Mr Cullen has confirmed that he's responsive to the State Records Act. He's confirmed that he is the Chief of Staff to the Premier. He's confirmed that he has responsibilities under the State Records Act. What I'm asking is: How is a pens-down meeting—where the Premier is being briefed on a potential terrorism episode and no notes were kept by the Premier's office in relation to what was being provided in that briefing—responsive to the State Records Act?

**The Hon. BOB NANVA:** Further to the point of order: I'm sure the provisions might have lots of precedent, lots of legal definition. I'm certainly not equipped to interrogate it. No provision like this can be viewed in isolation and viewed with what is just written on the page. I'm sure there are lots of definitional questions. I think to put that on the witness right now, with no warning, with no capacity to look at any of that, is grossly unfair.

**The Hon. SUSAN CARTER:** To the point of order—

**The CHAIR:** No. We're on the clock. I don't need to hear any more.

**JAMES CULLEN:** Mr Fang, your question again. I'm sorry, Mr Chair.

**The CHAIR:** I haven't ruled yet. I'm going to allow the question. Mr Cullen can answer it as he sees fit. If he wishes to take it on notice, to do further research before he answers it, he's entitled to do so. I do think the phrasing and the wording of the question was quite fair. I don't think it asks for a legal opinion. It just asks for his understanding of perhaps why there were no notes kept, and how does that live and marry up with the State Records Act? I'm sure Mr Cullen will provide us with an answer.

**JAMES CULLEN:** I'm responding to that, Mr Chair?

**The CHAIR:** Yes.

**JAMES CULLEN:** Mr Fang, if I could draw your attention to a document you circulated out of the ministerial office handbook, pages 32 and 33. You didn't highlight all the text that you should have highlighted, perhaps. Page 33, under 9.2.1 "Creation of records" under the section you've highlighted I then read the following section:

Make a record of activities if:

- an action was approved
- the Minister or a member of their office committed to an arrangement or business / financial deal
- you provided formal advice
- specific action will need to be taken in response to an event
- other employees may need access to the information, now or in the future.

I would argue the evidence that's been put to you, certainly by officials of the Premier's Department, these were not decision-making meetings at all. They were information updates from the New South Wales police about a live investigation by the JCTT into extremely serious content with potential ramifications. They were basically opportunities for the Premier and the police Minister to hear firsthand from New South Wales police and have them update the Government on the latest on their investigation, which was extremely important given the potential for, down the track, there may be a need—particularly for the Minister—to consider invoking certain powers under terrorism legislation.

**The Hon. SUSAN CARTER:** Mr Cullen, can I take you to the last dot point that you've just spoken about:



- other employees may need access to the information, now or in the future.

Is it your contention that a briefing about a matter as important as a suspected terrorist event, that information was not going to need to be accessed now or in the future by other people, for example, to prepare the very legislation that you have discussed?

**JAMES CULLEN:** To take your last point first. Again, I've been at pains to take you through why the three pieces of legislation that have passed earlier this year actually don't relate to an alleged terrorism event or terrorism powers so they are actually very separate.

**The Hon. SUSAN CARTER:** Fine, then I'm happy to take that and leave it to one side.

**JAMES CULLEN:** Please let me finish. That's the first point. I don't think that's right. My view, again, you'd be surprised to hear, aligns very much with the answer that's been provided to you by the Premier's Department in answer to a question on notice that, given the seriousness and the expertise of the New South Wales police, it was entirely appropriate that that was the agency who was in every one of these briefings providing these updates to the Government that, if appropriate, they were keeping notes as we go. But these were not decision-making meetings.

**The Hon. SUSAN CARTER:** Does that mean each briefing was de novo and had to start again?

**JAMES CULLEN:** Sorry, each briefing was?

**The Hon. SUSAN CARTER:** Was de novo—had to start at the beginning, because there were no notes that anybody could refer to to refresh their memory from the previous time.

**JAMES CULLEN:** In relation to the principles, at least, I think I'd be right in saying that Mr Hudson would have been in every one of those conversations and then the Premier and the Minister would have been in most of them, if not all. It was an ongoing investigation. No-one was experiencing dementia. We clearly knew that there was a live investigation unfolding, so it didn't need a refresher at the start of every conversation. We knew the basic subject matter and the main moving parts, and the issues the investigation was confronting as we went.

**The Hon. WES FANG:** Chair, could I just finish a few of the points? I've almost finished this line of questioning.

**The CHAIR:** I hope you are.

**The Hon. WES FANG:** Mr Cullen, just in relation to the point that you raised, whilst you're talking about the issues out of the handbook, you'll note on the page 12 of 50 that I circulated earlier, which has dot point 12, records management obligations, which is actually part of the State Records Act as opposed to the handbook, each public office must make and keep full and accurate records of the activities of the office. I ask you: Who instructed that the meeting be a pens-down meeting?

**JAMES CULLEN:** I refer you to the same page, subsection (3), which again wasn't highlighted:

The authority may permit such departures from the requirements of the standards and codes as it considers necessary or desirable to accommodate the particular needs of a public office or class of public offices.

**The Hon. WES FANG:** How did you satisfy that?

**JAMES CULLEN:** Mr Fang, to answer your question, I don't recall a conversation between any of the parties to the briefing that we wouldn't take notes. I've got to say, in my case—and I can only speak for myself in these briefings—I just had, I think, an instinctual awareness about the significance of this particular subject matter, the seriousness of a terrorism investigation. The idea that I would do something in terms of taking detailed notes about where an investigation was up to—I would be worried about the potential for that to go missing or to be misplaced. And, again, I had full confidence that New South Wales police—and Mr Hudson—was the right party to take us through in terms of these updates to the investigation.

**The Hon. WES FANG:** I'm going to press the question that I asked, Chair, which was who instructed the meeting be a pens-down meeting?

**JAMES CULLEN:** Mr Chair, with respect, I think I've addressed that in my answer and I certainly haven't accepted that characterisation. I basically said there was no conversation. People form their own judgements about their obligations and, in my case, I didn't take any notes.

**The Hon. WES FANG:** The evidence from Kate Meagher on 22 May 2025 was that this was a pens-down meeting. I will ask again: Who instructed this meeting be a pens-down meeting?

**JAMES CULLEN:** Mr Chair, there was absolutely—

**The Hon. WES FANG:** There was no—

**JAMES CULLEN:** There was no instruction from the Premier's Department.

**The Hon. WES FANG:** There was no instruction that it be a pens-down meeting?

**JAMES CULLEN:** Not at all.

**The Hon. WES FANG:** Mr Cullen, it's my contention the Premier's office has failed to satisfy the requirements under the State Records Act. I further contend either you or the Premier is responsible for this failure. Am I incorrect?

**JAMES CULLEN:** Yes.

**The Hon. WES FANG:** How?

**JAMES CULLEN:** For the reasons I've outlined, and we've gone through the last half an hour, page by page, including parts of the handbook, the State Records Act and things that you haven't highlighted or have missed out and conveniently skipped over. So, no. I, in the strongest possible terms, disagree with your conclusion.

**The Hon. WES FANG:** So you believe that you've satisfied all the requirements under the State Records Act?

**JAMES CULLEN:** I'm aware of our obligations under the State Records Act and I believe we've complied and we're fully within the context of that framework.

**The Hon. WES FANG:** I'm happy to hand over now, Chair.

**The CHAIR:** I am just going to ask one question about the summons process. I want to quote from an interview between Premier Minns and Ben Fordham on Radio 2GB at 7.15 a.m. on 17 June. I can repeat—no trick, Mr Cullen. Did you hear it?

**JAMES CULLEN:** No, no, I got it.

**The CHAIR:** At 7.15 on 17 June 2025, and we're five minutes and four seconds into the interview. I have the transcript here, which states:

Will your staffers be happy to appear before this inquiry?

Premier Minns:

I don't want them to. I mean we've had extensive discussions with them about it.

Can you please inform me what extensive discussions the Premier had with you or any of the witnesses in relation to this particular matter?

**JAMES CULLEN:** Of being summonsed? I just point you back to the start, Mr Chair, in terms of some questions I got regarding the summons process. Basically, my conversations certainly with the Premier in relation to that subject matter, including probably before that Fordham interview last Tuesday—I'd have to go back and check, but I think I'm right in saying there would have been news reporting that would have led to that line of questions.

**The CHAIR:** I think that's a fair proposition, Mr Cullen.

**JAMES CULLEN:** It wasn't a breaking news, "I've got the summons" type thing. There was some public commentary on it. My conversations with the Premier about the subject matter in terms of every step of the way with the inquiry were really about how he was responding to getting questions on it and not about the process that we as staff were going through in responding to your invitation and then to your summons.

**The CHAIR:** Mr Ovadia, I'll put it to you, then. In response to "Will your staffers appear at the inquiry?" the Premier says:

I don't want them to. I mean, we've had extensive discussions with them about it.

Not discussions, not in passing—extensive discussions. Those are the Premier's own words. What conversations and discussions did you engage with the Premier on in relation to this?

**EDWARD OVADIA:** No further discussions outside of what James has mentioned.

**The CHAIR:** Ms Michael? Same?

**SARAH MICHAEL:** About the same, yes.

**The CHAIR:** Mr Neilson, I understand that you don't work in the Premier's office, but did the Premier have extensive discussions with you about this matter?

**ROSS NEILSON:** No.

**The CHAIR:** Ms South, anything? No direct discussions with the Premier in relation to this?

**TILLY SOUTH:** No.

**The CHAIR:** Let's go back to January. I'll direct this to you, Mr Cullen, to start with. In evidence given by the Commissioner of Police and the members of her executive team, a table of scheduled briefings with times, dates, locations and invited attendees were provided to this Committee as a result of questions taken on notice, so they're on the public website. They're out everywhere, so no tricks here. Evidence states that on 20 January 2025 staff from the Premier's office were invited to attend a phone briefing with senior members of New South Wales police. Were you present in that one?

**JAMES CULLEN:** I don't believe so, no.

**The CHAIR:** Were you, Mr Ovadia?

**EDWARD OVADIA:** No.

**The CHAIR:** Were you, Ms Michael?

**SARAH MICHAEL:** No.

**The CHAIR:** So when the police say there were members from the Premier's office present, who would they be referring to, then?

**JAMES CULLEN:** Mr Chair, I'd have to go back and check. With respect, there may be the odd inaccuracy in terms of comparing records with some of this in terms of that.

**The CHAIR:** Can I just stop you there, Mr Cullen. To your point, so I can clear this up, are you suggesting the police are wrong here, bearing in mind they've given their evidence on oath, as has everybody here today?

**JAMES CULLEN:** I think you can make a mistake. I don't know if that means you're wrong. We're all open to making mistakes.

**The CHAIR:** You're either right or you're wrong.

**JAMES CULLEN:** Can I just make a general comment to assist you, Chair, to understand clearly about who was attending these briefings?

**The CHAIR:** Sure.

**JAMES CULLEN:** I think I was recovering from a bout of sickness and I wasn't at work on 20 January. You can direct your questions elsewhere, but my understanding is that the main conversation in the morning certainly was between the Premier and Mr Thurtell. I don't recall being in that follow-up one because I was not at work. I got a phone call from the Premier basically saying, obviously, "There's a significant investigation underway that you should be aware of." I then returned to work the next day. The first briefing that I attended was on 21 January, in the morning, at 9.30. And then, basically from that point on, for the purpose of this chronology, wherever it says, "staff from the Premier's office", it would be a pretty sure bet that that's myself and no-one else from the office.

**The CHAIR:** Yourself, and no-one else?

**JAMES CULLEN:** Yes, from the Premier's office.

**The CHAIR:** Again, this is not a trick question. I've received information that Teams briefing invites were sent out from the Premier's office.

**JAMES CULLEN:** Yes, that might've—

**The CHAIR:** Among the invitees were Mr Ovadia and Ms Michael. I want to put that on the record as to why they are here today. There have been suggestions that this inquiry is an exercise in roping in people for no apparent reason. We have reasonable cause, because of those Teams briefings, to suspect that they were there. We have been provided information by the police that staff were present. Correct me if I'm wrong, because I don't want to put words in your mouth. You can't tell me who was there. Is that correct?

**JAMES CULLEN:** That's right. But I will, again, for fullness and trying to assist the Committee—let me take that on notice and come back to you.

**The CHAIR:** Please do.

**JAMES CULLEN:** But as a rule, for all these briefings, it was me in the room, basically, on behalf of the Premier's office.

**The CHAIR:** This is a hypothetical—

**JAMES CULLEN:** And can I just—sorry, just to help you, too, in terms of the internal processes with those calendar invitations, which I think you were talking about, it would be reasonably common for senior members of the staff to get the calendar invitation for the purpose of having it in their diary, so they're aware of what the Premier is doing at that time, and the significance of it. That doesn't necessarily always necessitate them attending.

**The CHAIR:** Certainly. On the other hand, do you accept that it would be reasonable for a committee inquiring into those things, who saw those Teams invitations, to expect that perhaps those people may have attended?

**JAMES CULLEN:** Yes. But can I make a comment there?

**The CHAIR:** You can.

**JAMES CULLEN:** A respectful one. I would submit that there might have been an opportunity for the Committee to perhaps provide correspondence or ask written questions direct, along with an invitation, to ask that question, if that was the purpose, rather than calling them. It's a significant step to call ministerial staff, I would argue, to a committee.

**The CHAIR:** It certainly is.

**JAMES CULLEN:** So I think perhaps some consideration should be given for next time about an intervening step, which would have provided clarity about the level of involvement of particular staff.

**The CHAIR:** Mr Cullen, to your point, this is my Committee, and I will direct it the way I will.

**JAMES CULLEN:** I understand.

**The CHAIR:** I don't tell you how to run your office.

**JAMES CULLEN:** Understood.

**The Hon. WES FANG:** Although, you might want to make some notes.

**The CHAIR:** Let's go to the briefing that you were present for. The first one was the 21st, I think you said.

**JAMES CULLEN:** That's right.

**The CHAIR:** What was said in that particular meeting? It might have been helpful to keep notes.

**The Hon. SUSAN CARTER:** It might've been.

**The Hon. WES FANG:** Yes, some notes might have helped.

**JAMES CULLEN:** Certainly, the first briefing that I attended, which would have been in the PEO, which is in the police—

**The CHAIR:** Executive office?

**JAMES CULLEN:** The chronology—that's right. We basically got a high-level update from Mr Hudson about where this was up to, obviously noting that it was early stages. Again, I think there's a fair bit of evidence on the record to that effect as well. I think that's probably a fair way to surmise.

**The CHAIR:** You're just relying on your memory for this because, as we understand it, there are no notes.

**JAMES CULLEN:** That's correct.

**The CHAIR:** I will put a proposition to you, Mr Cullen. I have been around for a long time. I look around this room and probably the Hon. Greg Donnelly and perhaps Mr Ross Neilson are the only ones who might remember this. The Hilton Hotel bombing in 1978 was a significant national security issue. I'd suggest, since 1978 until now, there hasn't been another potential threat to national security in New South Wales to this extent.

**JAMES CULLEN:** The Lindt Cafe siege was significant.

**The CHAIR:** You've got me. I agree, but I do know—

**JAMES CULLEN:** But I wasn't alive in 1978, just to confirm.

**The CHAIR:** I did not suggest you were. I am setting the scene for something. But I can tell you that, for the cafe siege, there were extensive notes kept and contemporaneous records of all of that operation from the get-go. What I am suggesting here is, using the Premier's own words, a mass casualty event—

**JAMES CULLEN:** A potential mass casualty event.

**The CHAIR:** A potential mass casualty event, and "no way of calling this out other than as terrorism". If we are to accept that that is what the Premier's views were at the time, I find it extraordinary that not a single note has been kept of the most significant national security event. We learned a lot from the Lindt Cafe siege coronial inquests and a number of other inquiries. I am sure one of them would have been the need for keeping extensive notes so that, at such a time that these matters are reviewed, there would be a record. Would you, as an experienced chief of staff concerned, think—I'm going to use my language here—"We need to cover our arse because, if this thing goes bad, we need to know what the police told us and when they told us"? Wasn't there that level of concern inside your office at all?

**JAMES CULLEN:** I think there was a high level of trust, as you'd expect, between the Premier, the Government and New South Wales police. You made a few comments there about record keeping. I would point you to the evidence of police, and I think the appropriateness—given it was their investigation—that they were the ones to do it. You've talked about terrorism and a potential mass casualty event, and I think that is an absolutely legitimate line of inquiry. To be fair, Mr Chair, I do need to refer you to the transcript of the police and Mr Hudson appearing before this Committee on Monday 7 April, page 32. I apologise, I don't have copies.

**The CHAIR:** That's fine. I've got my own here somewhere.

**JAMES CULLEN:** If I can just quote from it. I'm happy, obviously, to be told that I'm wrong, but—

**The CHAIR:** No, we are going to accept what you're going to tell us, Mr Cullen.

**JAMES CULLEN:** Thank you.

**The CHAIR:** We don't believe you would deliberately mislead us. What page was it again?

**JAMES CULLEN:** It's the bottom of page 32. I'm just trying to go to the right select committee. Monday the seventh. "The Committee met at 9.30" is the front page—report on proceedings. The Chair, which is obviously yourself, said:

While we're on that then, bearing in mind that there are only you three that briefed the Premier—  
you're obviously engaging with Mr Hudson—

how did the Premier come to the conclusion it was terrorism then? Because that's what he said at the press conference.

**DAVID HUDSON:** We were treating the investigation at its highest, and he knew that, which was a terrorism incident.

**The CHAIR:** But you've just said, and I can't remember your exact words, along the lines that you didn't say "terrorism", because of concerns that you had. Yet here's the Premier in front of all the media saying it's a terrorism attack. Where would he have possibly got that information from if he didn't get it from you?

**DAVID HUDSON:** He got the information from us.

The comments the Premier made in response to the leak on 29 January—in the references to terrorism, as a terrorism investigation, the language "potential mass casualty" event was not a line dreamt up by the Premier. It was in briefings from New South Wales police, provided to the Government and provided to the Premier. That's why those terms were used, and the evidence before you—don't take my word for it; take the word of New South Wales police.

**The CHAIR:** But then didn't Mr Hudson, in his evidence that you have a copy of before you, say that, at the first available opportunity—or words similar to this—"we told the Premier that there were alternatives to terrorism"?

**JAMES CULLEN:** Yes. Obviously, I've had a look at that transcript, and there have been searching questions about when exactly that particular proposal was put. I think I would just say, Mr Chair, this was a matter that New South Wales police investigated at its highest—to use their language—all the way up until 21 February when that AFP source was discredited. And that's obviously Mr Hudson's testimony to you. I'd also point you to the press conference that the Premier and Mr Hudson gave on 29 January, the significant media coverage of that

press conference, and then a follow-up interview on 2GB with Mr Fordham that Mr Hudson had the day after, where the avenue that you're talking about—the alternative angles and investigations that police might be contemplating—was on the public record very clearly at that point in time.

**The CHAIR:** Put there by Mr Hudson, not the Premier. Let's go back to the 29th press conference. Would you be surprised if I tell you that during that entire interview—not the bits that were aired on the media, but from start to finish of about 15 minutes—at no stage did Dave Hudson use the word "terrorism"? At no stage did he use the word "terrorism". If you look in the transcripts there you'll see he agrees, but he says, "Oh, well, I don't think it was a conscious decision." But the police never, at that press conference on the 29th or the 30th, used the word "terrorism". The only person that described it as terrorism—"the only way I can call this out is as terrorism"—was the Premier.

**JAMES CULLEN:** That press conference on 29 January—which, again, was in response to a leaked report—confirmed that there was a JCTT investigation. That alleged terrorism incident was being investigated by New South Wales police. That was very clear. On that same page of that transcript which I've quoted from, as you allude to, Mr Chair, you put this proposition to him. Mr Hudson said in response—because you were saying, "Why didn't you use that term?" Mr Hudson replied:

I didn't know that I hadn't, sir.

Then the Chair said:

Well, you hadn't, at all. I've watched the tape from beginning to end. You never mention the word "terrorism". And there's no reason for that?

Mr Hudson responds:

It wasn't a conscious decision to exclude that word.

**The CHAIR:** That's what I said. In fairness to Hudson, I said he said it wasn't a conscious decision. But, notwithstanding that fact, Hudson never used the word "terrorism" at all. The next day, in which Webb appeared beside Hudson and beside the Premier, Webb doesn't use the word "terrorism" at all. The only person who has used "terrorism" to describe this discovery was the Premier, notwithstanding the fact, from the very get-go, Hudson tells us in that evidence before you, "I told the Premier there were alternatives to terrorism." Continuing on, so we have a full view, "However, Mr Premier, until otherwise, we will treat it at the highest level. But we want to tell you from the get-go." Dave Hudson, the most experienced detective in New South Wales, the leader of the joint taskforce into counterterrorism, tells the Premier, "Listen, we found this, but we don't think it's quite what it looks to be." I'll leave that as a position. Ms Michael, you're his press—

**JAMES CULLEN:** Mr Chair, can I just respond to that, with respect?

**The CHAIR:** Sure.

**JAMES CULLEN:** I just think there's a very convenient rewriting of history here, and squashing of time and of concepts. I wasn't party to the original conversation of Mr Thurtell alerting the Premier to this. But I hazard a guess that the conversation was "Premier, we've got a hoax, but there's an outside chance it's a terrorism event. We just thought we'd bring it to your attention." These are the potential of police needing to activate terrorism events—

**The CHAIR:** This is all supposition, isn't it, because you weren't part of the conversation, were you, Mr Cullen?

**JAMES CULLEN:** I've been in all the briefings from the dates I suggest—

**The CHAIR:** Mr Cullen, were you party to that conversation?

**JAMES CULLEN:** I told you that I wasn't.

**The CHAIR:** Then please don't give us suppositions, because if one of my members starts putting suppositions to you, the first people to take a point of order would be these Government members over here. If you weren't party to the conversation, it's unhelpful for this Committee, or anybody else, for you to say, "Look, I reckon this is what would have been said." Let's stick to the conversations that you were involved in. Ms Michael, you're the Premier's press secretary, I think you said, or press adviser. Did he have a conversation with you before these two media conferences on the 29th and 30th?

**SARAH MICHAEL:** He didn't have a conversation with me in particular. But we did, I believe, at the time—we have a pre-presser huddle, and we had Mr Hudson and the Premier in the room.

**The CHAIR:** Was it ever discussed with the Premier, "Listen, you'd better be very careful about the words you use when you go in front of this camera"?

**SARAH MICHAEL:** No.

**The CHAIR:** You didn't prompt him and say, "Listen, boss, be careful here"?

**SARAH MICHAEL:** No. I mean, it was a situation where he had more information than I did, at this point, about the situation.

**The CHAIR:** Fair enough. I take no adverse position in relation to you. He is your boss. He's decided this is what he's going to do. Did he discuss with you, Mr Cullen, "Listen, I'm going to go out there and call this terrorism," despite the police telling him, "Hey, hang on, it's potential for terrorism. There's also plenty of potential here for something else"?

**JAMES CULLEN:** I've got to respectfully disagree. That would not be my recollection of the characterisation at the time of the seriousness of which this was being dealt with. "Potential mass casualty event" was not a term thrown around lightly, at all. That was a very serious thing that was introduced by police in those briefings. I think that there has been a bit of a squashing here, after the fact. The potential for that caravan, with that explosives, and so ignited, could have been devastating, as we know, and that had to be treated seriously. Again, I just bring you back to the reason why the Premier and Mr Hudson are at the press conference is because there was a leaked report. There needed to be some clarity provided and, to be frank, some calm, given that police were on it, there was a live investigation and that the experts were doing their thing.

**The CHAIR:** Well, there's a couple of points to take away from there. "Mass casualty event", you said, was introduced by the police?

**JAMES CULLEN:** Yes.

**The CHAIR:** I don't think Hudson used those words at all.

**JAMES CULLEN:** I'd point you, Mr Chair, to the transcript with the Premier's Department and the recollection of Ms Meagher. She used that term, "potential mass casualty event". She attended the briefing of 23 January, which was prior to the press conference on the 29 January. And that was her testimony, unprompted, with respect to those words.

**The Hon. SUSAN CARTER:** Mr Cullen, did Ms Meagher have notes of that conference?

**JAMES CULLEN:** With respect, you're asking me about evidence that other people have already given. She's already answered your questions on that. You've had an opportunity to question it.

**The Hon. SUSAN CARTER:** Well, we can draw our own conclusions.

**The CHAIR:** Let's come back to this. You said, "We needed to add clarity." That's the reason for the press conference.

**JAMES CULLEN:** Yes.

**The CHAIR:** Define for me what you believe "clarity" to be. Clear, concise, precise information? Clarity?

**JAMES CULLEN:** The seriousness of what was a JCTT investigation—you know the list of agencies that involves, and the significance of it, and the fact that New South Wales police were treating and taking it at its highest, and that needed to be allowed to do its thing.

**The CHAIR:** Yes.

**JAMES CULLEN:** Can I also posit, Mr Roberts, just quickly—if we had our way, if the Premier had his way, I hazard a guess that the first the public would have been aware of these matters would have been at the conclusion of an investigation, which is how you generally do it. Because I think a corresponding point is—which the Committee has explored at various points—what happened after the 29 January, the press conference. We were getting strong advice from New South Wales police that the status of the investigation needed to be kept confidential because of that high level, and because of the nature of the covert and overt operations that were underway. You've received evidence directly from police to that effect. That, obviously, ultimately culminated in the press conference on 10 March, where both police forces announced a number of arrests. So it was very clear to us on the way through, providing regular rolling updates could have jeopardised that outcome and those police investigations, and we were not going to do that.

**The Hon. WES FANG:** Chair, could I ask a clarifying question?

**The CHAIR:** Yes, go on.

**The Hon. WES FANG:** Mr Cullen, you've said the police provided advice to you quite clearly about the matter. Before the 29 January press conference, when was the last piece of advice that the Premier received from police?

**JAMES CULLEN:** I think I probably should take that on notice, to be fair.

**The Hon. WES FANG:** Well, I can help you, because we had the evidence given to us.

**The CHAIR:** Hold on, no, no—the witness has already said he's going to take it on notice.

**The Hon. WES FANG:** Okay.

**The CHAIR:** You're not going to help him out. He said he's going to take it on notice. Now, let's go back to this. We're talking about whether it's terrorism or it's not terrorism. You said it was all highly confidential and stuff like that. What were the Premier's thoughts then, after he said it was terrorism and no other way to call it out, when David Hudson went on the public record, not worried about confidentiality at all, being the lead investigator in this matter, and says to the public—despite what the Premier said a moment ago—that there are alternatives to terrorism here? What was the conversation inside the Premier's office when Hudson came out and said that?

**JAMES CULLEN:** You asked me about the Premier's thoughts. I'm not sure that's an appropriate question for me to answer.

**The CHAIR:** Okay, I withdraw that then. What was the conversation inside the office, the Premier's office, after Hudson had come out publicly very early on, extremely early on, at the same time as the Premier is announcing it.

**JAMES CULLEN:** At the same press conference.

**The CHAIR:** Yes. What were the thoughts back in the office? What happened to our confidentiality now then that we're hiding behind?

**JAMES CULLEN:** There's a lot of contentions there, Mr Roberts. I think I would just say that—

**The CHAIR:** There's no contention. I asked you a question.

**JAMES CULLEN:** No, you're saying what happened about confidentiality. There was a leaked report with significantly concerning content, and there was an obligation on the Premier and the Government and the police to provide some context—that there was an investigation and that that was how that was being handled. Of course the preference would have been that police would continue to brief the Government confidentially to the conclusion of the investigation. That's our preference.

**The CHAIR:** But that was never going to happen because of the leak.

**JAMES CULLEN:** Exactly right. Obviously, the Premier made the decision to go out and provide some additional clarity in relation to that—and, absolutely, the right thing to do.

**The CHAIR:** So the lead investigator says that there's alternatives to terrorism, in the press conference. The Premier says there is no other way of calling this out other than terrorism.

**JAMES CULLEN:** Are you reading from a transcript?

**The CHAIR:** I'm not, but I can.

**JAMES CULLEN:** I'm happy for you to do that.

**The CHAIR:** Alright. Well it's on—

**JAMES CULLEN:** I absolutely—

**The CHAIR:** No, hang on.

**JAMES CULLEN:** No, I totally accept, Mr Roberts—

**The CHAIR:** The Premier wrote to me and said that he did.

**JAMES CULLEN:** I accept, Mr Roberts—this is right. A lot of this is already on the record. I think we're going back over what's clearly on the public record.

**The CHAIR:** No, we are asking—



**JAMES CULLEN:** The Premier referred to this as terrorism. The Premier referred to this as a potential mass casualty event. That is just a matter of public record, and we've covered that extensively.

**The CHAIR:** We have covered that, but we want to know why the Premier didn't tell the public that there were alternatives to terrorism then. Your words were—I haven't finished my question yet, Mr Cullen. Your words were this was to provide clarity and calm. They were your words—"calm". I can't see how the Premier standing in front of a press conference saying there is no other alternative to terrorism provided any calm to anybody. I watched that news and I believed what the Premier told me. I believed it, right? He says there's no alternative to terrorism. At that stage, I had no reason to doubt him. I thought there was. But he is in possession of other information that he hasn't bothered to share with the public. The police end up sharing it, but the Premier didn't. How does that provide calm? I'd in fact think it would inflame fears that the community would have if the Premier stood up there and said this is a potential mass casualty event and no other way of calling it other than terrorism.

**JAMES CULLEN:** Look, I would just come back to, Mr Chair, that the Premier's comments on 29 January were based on the latest advice from police.

**The CHAIR:** Which was what, Mr Cullen?

**JAMES CULLEN:** That's it.

**The CHAIR:** What was that latest advice?

**JAMES CULLEN:** That there was a JCTT investigation looking at a potential mass casualty event, and there was lines of inquiry in relation to that.

**The CHAIR:** Well, how did Hudson explain to the Premier—bearing in mind you've kept no notes—well, listen, boss, there are some alternatives to terrorism here? What did he say?

**JAMES CULLEN:** Mr Roberts, I think that Mr Hudson has actually provided a fair bit of evidence to the Committee already regarding—

**The CHAIR:** I'm asking you. You were at the briefings.

**JAMES CULLEN:** I think he's provided and put on the record—

**The CHAIR:** I'm not asking him. I'm asking you, Mr Cullen.

**JAMES CULLEN:** —exactly how he updated it.

**The CHAIR:** I'm asking you. What did he say? There's no notes for us to be able to look at, so we're relying on you, sir, and your integrity, to tell us what Hudson said to the Premier.

**JAMES CULLEN:** I think I do need to be careful in terms of the progress of these particular briefings over a period of time. They do involve a delicate investigation regarding other agencies and sources, so I've got to be extremely careful and respect that. I understand that you've had Mr Hudson in front of you—

**The CHAIR:** Who told us he said it. He's not worried about those things that you are.

**JAMES CULLEN:** I just come back—

**The Hon. BOB NANVA:** Point of order: I'm sorry to interrupt this line of questioning.

**JAMES CULLEN:** With respect, Mr Chair. You have had a number of goes at the police on this as well, and he's perhaps—

**The CHAIR:** "Goes"? I just asked some questions. There were no "goes". I supported the police in their actions, so I don't think "go" is a fair summation.

**The Hon. BOB NANVA:** Can I take a point of order? It is not related to the questioning. We welcome people in the public gallery—of course we do at all times—but the standing orders are very clear about public gesturing during proceedings. I have refrained from taking a point of order for a significant amount of time in these proceedings, but I ask that reminders be sent to people in the public gallery around conduct and the requirements of the standing orders in this Parliament.

**The CHAIR:** Certainly. That is something we must enforce. I must admit I haven't seen anything. For those in the public gallery who would have listened to what Mr Nanva said, there is a level of decorum and respect that is expected and required, and those who don't comply with it will be asked to leave.

**JAMES CULLEN:** To go back, this is about Mr Hudson briefing—

**The CHAIR:** Yes, what did Hudson say to Premier Minns?

**JAMES CULLEN:** That the New South Wales police were investing in the—the JCTT isn't set up for a trifle; it was serious subject matter.

**The CHAIR:** No, it has to be set up. We know it has to be because of the finding of it.

**JAMES CULLEN:** Correct, and in terms of the trigger, in terms of questions for government and the potential other terrorism powers that might be available should it reach a certain threshold, that was the way in which the police came to the Premier in the first instance. I would just draw your attention to a line when it comes to the use of the term "terrorism" by the Premier in the press conference. He said:

This would strike terror into the community, particularly the Jewish community, and it must be met with the full resources of the Government. I want to assure the people of New South Wales that's exactly what's happening.

Again, that goes to the point and the purpose of that particular press conference. But—

**The CHAIR:** Yes. Okay, go on?

**JAMES CULLEN:** No, no.

**The CHAIR:** I don't want to interrupt. I'd be breaching my own standards that I've tried to uphold.

**JAMES CULLEN:** No, that's fine, Mr Chair.

**The CHAIR:** You can't tell us at all—and I assume you can't, Mr Ovadia, and I don't want to put words in your mouth, because I don't think you were at any of these—

**EDWARD OVADIA:** No.

**The CHAIR:** —but I've just got to ask. And you weren't at any of them either, Ms Michael?

**SARAH MICHAEL:** No.

**The CHAIR:** So you can't tell us exactly what Hudson said the alternatives to terrorism were. I don't know how many briefings you've had from the police on terrorism but I'm assuming this is probably the only one and I hope this is the only one. Serious terrorism stuff—I'd imagine this stuff would be sticking in my mind because of the serious nature of it. No notes are kept. You can't tell us what Hudson said, what emphasis he placed on whether it's terrorism or whether it's the alternatives, because Hudson tells us straightaway his gut instinct is this is not terrorism. "Did you tell the Premier that?" "Yes, I did." "When?" "At the first available opportunity." And then did he tell the public that? Yes, he did, at the press conference, standing right beside the Premier, who says, "No other way of calling this out other than terrorism."

**JAMES CULLEN:** Is there a question there?

**The CHAIR:** Yes, there is.

**JAMES CULLEN:** Sorry, what was the question?

**The CHAIR:** What was the discussion inside the Premier's office in relation to that?

**JAMES CULLEN:** Again, I just think this was an investigation that was taken at its highest by New South Wales police from the start, and that was very clear. You asked, I think, on the way through there, Mr Chair, about Mr Hudson and alternative lines of inquiry.

**The CHAIR:** Yes.

**JAMES CULLEN:** That obviously became apparent as we got further briefings that there were particular other lines of inquiry.

**The CHAIR:** Okay, I'll stop you there. What were they?

**JAMES CULLEN:** This is where I do need to be a bit careful given the subject matter and given that some of these matters are probably before the court as well, but there was clearly—

**The CHAIR:** Other alternatives are not before the court, Mr Cullen.

**JAMES CULLEN:** Sure.

**The CHAIR:** Don't hide behind that.

**JAMES CULLEN:** Well, look, put it this way—

**The CHAIR:** The court is not going to be persuaded by what you and I say here.

**JAMES CULLEN:** I am just trying to be a bit delicate given the complexities here and the nature of this investigation. But put it this way: There were alternative lines of investigation that were clearly being explored early on and really didn't get, for want of a better term, shaken out until 21 February.

**The CHAIR:** That is your interpretation of it?

**JAMES CULLEN:** Yes.

**The CHAIR:** Contrary to Hudson saying in evidence on oath that, from the very get-go, "We thought there were other alternatives. We were obliged to treat it at its highest." I congratulated the police on doing that.

**JAMES CULLEN:** Until 21 February.

**The CHAIR:** I said, "If you hadn't and it had gone tits up, we'd have been in big trouble."

**JAMES CULLEN:** Yes.

**The CHAIR:** So I congratulated the police on their investigation. I think they did a magnificent job. That is on the record in front of you. But Hudson tells us, "We are obliged to do something. We're going to do this on the off-chance that it is, but we're telling you, Premier, from the get-go, we don't think it is."

**JAMES CULLEN:** Bringing it back to the evidence you've got, it was considered at its highest by New South Wales police until 21 February. It was very clear that other lines of inquiry that police were exploring couldn't be confirmed until that point, and that's just the fact of the matter.

**The CHAIR:** If we take it back to the evidence we have got, we have got the evidence of Dave Hudson then telling the Premier that there are alternatives to terrorism. That is the evidence we have got—

**JAMES CULLEN:** Mr Chair, I just—

**The CHAIR:** —and we have nothing contrary to that.

**JAMES CULLEN:** This is the point about the Government and, certainly, police providing running commentaries during a live investigation. As the live investigation continued through to 21 February—

**The Hon. WES FANG:** He called the press conference.

**JAMES CULLEN:** —legal advice provided to police that they couldn't pursue terrorist charges, advising to the Government that that's the case and the press conference on 10 March. All through that, it was very clear, in terms of those alternative lines of inquiry, that, until those various points, police couldn't be sure, in relation to that. That was the advice. But on the running commentary point, the consistent advice from the police, after 29 January as well, was—this wouldn't have been how they put it, but they had a strong preference against providing public updates as to the nature of the investigation and the people who were involved. As we know, there were, allegedly, many.

The related incidents as well, and there was a series of covert and overt strategies being deployed in relation to those. So in terms of being able to provide the running commentaries, as you can imagine, and someone making public comments about that particular thing, you'd probably have a response from those involved. That was the strong advice from the police throughout, and that obviously governs the approach that the Premier took about not providing running updates.

**The CHAIR:** Let's go to that then—running commentary.

**JAMES CULLEN:** Yes.

**The CHAIR:** The Premier didn't want to provide a running commentary, and the strong preference of the police was not to do so. Who called the press conference on 29 January?

**JAMES CULLEN:** It would have been the Premier's office.

**The CHAIR:** To provide a running commentary—

**JAMES CULLEN:** We would have put out a—

**The CHAIR:** —against the strong preference of the police.

**JAMES CULLEN:** Mr Roberts, there was a leak. It was a significant report in *The Daily Telegraph* online, and it, unsurprisingly, got picked up very quickly, given the subject matter. If the theory is that the Government should have said nothing until 10 March about something as significant as a caravan being found

with that amount of explosives and the potential to do that damage, that would have been preposterous. Of course it was contingent upon the Government, and the Premier decided that he needed to provide clarity around it and, obviously, police providing an update that there was an investigation commenced and underway and they were taking it at the highest possible level. It's entirely appropriate.

**The CHAIR:** We go back to that word "clarity" again. Clarity as to what? As to the Premier's version or as to the police's version?

**JAMES CULLEN:** I would just point you to the transcript, to the reporting and to Mr Hudson the next day as well. I think you've got take the whole body of evidence being put out by the Government.

**The CHAIR:** I'll take Mr Hudson as being the most reliable witness, who had a better memory than—I'll just finish my position.

**Ms SUE HIGGINSON:** I've just got one question on this point.

**The CHAIR:** And then we will go to the Government to give them an opportunity to ask questions if they wish.

**Ms SUE HIGGINSON:** Mr Cullen, when did you first become aware of the leak to *The Daily Telegraph*? Surely you were made aware of that before it had been—were you contacted for comment? And I am opening that question up to all the members of the panel, at this point.

**JAMES CULLEN:** Yes, it might have been the case that *The Daily Telegraph* might have called Sarah that afternoon. I don't remember the exact time. It was probably very close to the publishing of that report. It wouldn't have been a long passage of time between those. That would have been the first awareness that *The Daily Telegraph* was going to produce that. I understand that Mr Hudson has provided much more detailed evidence regarding the leak, how that came about, and the conversations he might have had with the police media unit and publications ahead of that going out as well.

**Ms SUE HIGGINSON:** Thank you, but the question is about the Premier's office and your decision to respond the way you did. Ms Michael, perhaps you could assist the Committee by telling us when you became aware, and what advice was provided to the Premier, and the Premier's response to that?

**SARAH MICHAEL:** Yes, absolutely. I got a call from James O'Doherty at *The Daily Telegraph* that afternoon. I think the press conference was at 5.45. I can't recall with certainty, but it was probably around three o'clock or something like that—it was later in the afternoon. He was wanting, basically, a statement from the Government in relation to that. I didn't really give anything at the time, in that conversation. I just said, "I'll come back to you." I had a conversation with the Premier that, "This situation is obviously in the public domain now", and we made the decision that, because it's in the public domain, it's such a serious thing, the best course of action would be to stand up with police and address the fact that it was now in the public domain. And that's, basically, how it happened.

**Ms SUE HIGGINSON:** Did Mr O'Doherty tell you where the information had come from?

**SARAH MICHAEL:** No, he never does.

**Ms SUE HIGGINSON:** Did you ask him?

**SARAH MICHAEL:** No.

**Ms SUE HIGGINSON:** You didn't ask him where this information had come from?

**SARAH MICHAEL:** I'm not going to ask a journalist for their source. It's not going to happen.

**Ms SUE HIGGINSON:** Was anybody else here today aware of or contacted about the decision of the Premier's office to make a public comment and declare it a terrorism event?

**ROSS NEILSON:** Are you asking—

**Ms SUE HIGGINSON:** Dr South?

**TILLY SOUTH:** Not me personally. I don't handle media matters in the office. But you might want to ask Mr Neilson.

**Ms SUE HIGGINSON:** Mr Neilson?

**ROSS NEILSON:** Yes, I was aware of it, because I spoke to the Premier's office and they told me what had happened and that they had planned to put the Premier up with the deputy commissioner.

**Ms SUE HIGGINSON:** Did you speak with the Premier at all?

**ROSS NEILSON:** No.

**Ms SUE HIGGINSON:** And notwithstanding the understanding that this would potentially undermine the police investigation, the decision was made then to do the stand up?

**ROSS NEILSON:** Well, it was out. Who are you asking, sorry?

**JAMES CULLEN:** I wouldn't agree with your characterisation. I think that something significant like that going unremarked upon is just—to be frank, it's not real world, the idea that you would not either proactively say something or you wouldn't be commenting quickly, even the next day. I mean, it did provide clarity. The whole purpose of that press conference was, absolutely, providing clarity and reassurance, including Mr Hudson actually—a public appeal for information, which again is very appropriate and very textbook when it comes to police talking about the fact that they're launching a significant investigation.

**Ms SUE HIGGINSON:** Afterwards, did either yourself, Ms Michael, or you, Mr Cullen, debrief with the Premier about his decision to stand up and declare "It can only be characterised as a terrorism event"?

**JAMES CULLEN:** I can't recall a particular conversation about that after the press conference. I'm sure we did have a conversation about it, but I don't recall the specifics.

**Ms SUE HIGGINSON:** Are you aware of the situation reports that the Premier's Department issues?

**JAMES CULLEN:** I am.

**Ms SUE HIGGINSON:** Are you aware of the situation report titled "Whole of government response to antisemitism" dated 7 February 2025?

**JAMES CULLEN:** Not specifically, but I am happy for you to table it or provide it to me, or ask questions.

**Ms SUE HIGGINSON:** I'll do that.

**(Short adjournment)**

**The CHAIR:** The witnesses are all back and accounted for. We will continue.

**JAMES CULLEN:** Mr Chair, can I just come back to a point to save it having to be clarified on notice? I think there were earlier questions—from yourself, actually—on that police meeting chronology and that perhaps we had a difference of opinion on the briefing on 20 January. I'm just going to get Mr Ovadia to explain it—I think it's actually borne out a little bit in the police testimony as well—just so we can knock it on the head, if that's okay.

**The CHAIR:** Sure.

**EDWARD OVADIA:** It's the hearing you had on 7 April. On the bottom of page 6, Thurtell outlines a couple of conversations he had on the phone. Firstly, he briefs the Premier on the phone at 9.25 and then he also rings the police Minister at 9.37. Those are both phone calls. That looks to be—and it was referenced there. I would suggest that that first invited attendees—"invited" is probably not the right word there, but it would be correct for the 9.25, not 9.37. Potentially, that's just an error, it looks like, based on that testimony.

**The Hon. SUSAN CARTER:** Sorry, could you identify what the error is that you are saying?

**EDWARD OVADIA:** It doesn't look like there was a large meeting there.

**JAMES CULLEN:** There was certainly no briefing or conversation involving police and members of the Premier's office staff.

**The Hon. SUSAN CARTER:** Just to clarify, at the 9.37 phone meeting, was the Premier there?

**EDWARD OVADIA:** No.

**TILLY SOUTH:** No, that was a phone call between Thurtell and the Minister for police.

**The Hon. SUSAN CARTER:** Was the Minister for Police and Counter-terrorism there?

**TILLY SOUTH:** Yes.

**The Hon. SUSAN CARTER:** Was the commissioner there?

**TILLY SOUTH:** Acting Commissioner Thurtell.

**The Hon. SUSAN CARTER:** Was Deputy Commissioner Dave Hudson there?

**TILLY SOUTH:** My understanding is it was a phone call between the two.

**The Hon. SUSAN CARTER:** Between which two?

**TILLY SOUTH:** Acting Commissioner Thurtell and the Minister for Police and Counter-terrorism.

**The Hon. SUSAN CARTER:** And what is that understanding based on, Dr South? What records?

**TILLY SOUTH:** A conversation with the Minister.

**The Hon. SUSAN CARTER:** So that's the Minister's personal recollection. Are there no other notes of that?

**ROSS NEILSON:** No notes.

**TILLY SOUTH:** No, it was a phone call.

**JAMES CULLEN:** Sorry, Mr Chair.

**The CHAIR:** That's fine. We're all here for clarity, truth and honesty. That's what we're here to find.

**Ms SUE HIGGINSON:** If we could go to the document that you have been provided, which is the Situation Report: Whole of Government Response to Antisemitism, dated 7 February 2025. This is clearly the week following the Premier declaring that this can only be a terrorism event. I want to draw your attention there and note that dot point two there makes it very clear that—

**JAMES CULLEN:** Sorry, this is on what page?

**Ms SUE HIGGINSON:** Sorry, as I understand it—and you're welcome to suggest otherwise—these documents are prepared from time to time by the social and community team that produces these reports. They're circulated to advisers to the Premier and other Ministers, gathering together information from throughout government. Their purpose is to ensure that government has situational awareness around evolving issues and is updated about agency responses to those issues. On 7 February, shortly after the 29 January press conference, it is clear there that the advice from the Premier's Department, in dot point two on the front page, says:

Frequency of antisemitic incidents has slowed. However, NSW Police are continuing to prevent, investigate and respond to antisemitic incidents through Strike Force Pearl, and undertake community engagement efforts through Operation Shelter.

The document is quite comprehensive about which organisations from the community have voiced concerns to the Premier's office and others in government. Then, at the end of that document, there is what are headed "Talking points". Those talking points refer to:

- We are a strong, welcoming and connected society. One which respects the different views, faiths, backgrounds and cultures that make us stronger.
- But there are a small number of individuals who wish to cause harm, to divide us and threaten our safety.

There are a bunch of dot points there that talk about:

- Together, we seek to overcome all forms of hate and violence so that every person living in NSW feels safe.
- Our focus must now be on rebuilding our bonds and ties, rebuilding a strong and welcome community ...
- Each of us can play a part ...
- We need to support each other, particularly young people ...
- ...
- We seek to address these challenging issues, and this is a responsibility every one of us shares.

Then it has principles for communication, and there are consistent points there:

Avoid trigger words and use words such as freedoms and rights, right and left carefully and understand the springboards they provide for extreme and divisive commentary.

...

Keep the focus on victims and empathy ...

...

Keep a strong focus on togetherness ...

...

Highlight the common ideals that bring ...

Nowhere, Mr Cullen, can I see anywhere in this that would suggest going out and declaring incidences terrorism events. Nowhere in this can I see that there is anything that would suggest maintaining a belief in the community that terrorism events are on foot and live and being investigated is something that the Premier's Department's own advice suggests is the right thing to do. At what point did you or anyone advise the Premier it would be wise to make a public statement consistent with the advice of the Premier's Department?

**JAMES CULLEN:** Look, I would take you back to answers I provided the Chair about the Premier's commentary and the advice from police about basically not wanting to jeopardise the live investigation. To be frank, given the significance of that sort of investigation, that has to be a paramount concern. Look, this is actually a very good summary document which, as you say, the Premier's Department does put together when there are incidents. With respect, those talking points that you provided and principles for communication are very high level and general in the broader context—

**Ms SUE HIGGINSON:** Mr Cullen, can I just ask you, if it's okay—we are running out of time.

**The Hon. GREG DONNELLY:** Point of order—

**Ms SUE HIGGINSON:** We're running out of time—and it's okay, to the point of order.

**The CHAIR:** Hang on. I'm hearing Greg on the point of order first.

**The Hon. GREG DONNELLY:** With the greatest respect, Mr Cullen was providing a comprehensive answer to what was posed. The member went through a long-tailed lead-up, and I think the witness is entitled to provide his fulsome response. He's entitled to do that.

**JAMES CULLEN:** Yes, I mean—can I go?

**The CHAIR:** No, you can't. Have you finished, Mr Donnelly?

**The Hon. GREG DONNELLY:** I have, yes.

**The CHAIR:** Okay. I uphold the point of order. You can go.

**JAMES CULLEN:** Thank you. Look, I think I would sort of bring it back to walking and chewing gum. There was a lot going on here the 12 to 18 months before—the increasing and heightened tensions around antisemitism more broadly. This was not a document which was produced specifically as a response or update document in relation to, for example, the press conference on 29 January or that event. It's just not that specific. And the reality is that the Premier and the Government and police were dealing with the broader settings, other antisemitic events, responding more broadly, as well as—police were doing their thing when it comes to the investigation which is partly the subject matter of this inquiry.

**Ms SUE HIGGINSON:** Mr Cullen, you're saying that, in spite of advice here, "Frequency of antisemitic incidents has slowed," and the talking points that are in there, and the advice to the Premier, it's okay that he doesn't follow that advice, or this advice didn't apply to him?

**JAMES CULLEN:** Again, I just don't think that's a fair characterisation. I think there were clearly some broader things happening in the community, including, you might recall, related events to the Dural caravan—14. But there was a much larger number of incidents in the community, which police were investigating. And there was, in relation to that, a number of legislative responses which the Government had been working through as well. So I think you've just got to look at it and bring it back to the broader context. There were a lot of things going on for an extended period of time. I mean, these conversations didn't start on 19 January, 20 January or 29 January. There were things going on well before in this area. This is a very generalised, whole-of-government "around the grounds" with some suggestions at the back regarding some language and how you deal with it. That's really not, to be frank, anything to do with the Dural caravan incident investigation.

**Ms SUE HIGGINSON:** So it doesn't apply to the Premier?

**The CHAIR:** Your time has expired, Ms Higginson.

**Ms SUE HIGGINSON:** Thank you, Chair.

**The CHAIR:** I've got a couple more to round up and then I'm going to the Government members, as promised, who have sat there very patiently, which I appreciate. Mr Cullen, let's go back to the briefings with Dave Hudson. What questions did the Premier ask of Hudson in relation to the potential alternatives to terrorism?

**JAMES CULLEN:** Look, I think we need to respect the fact that the Premier has chosen not to appear and can't be compelled.

**The CHAIR:** Sure.

**JAMES CULLEN:** I think that's important.

**The CHAIR:** That's why we need to ask firsthand questions of people that were present.

**JAMES CULLEN:** I understand. With respect, I would argue that we shouldn't be proxies for decisions—

**The CHAIR:** You're not proxies. Under a court case, you would be described as giving direct evidence. You were there, you saw, you heard, you smelt, you touched. It's direct evidence. It's not proxy.

**JAMES CULLEN:** Let me try and be as helpful as I can in answering your question. Generally, the format for these briefings would be—basically, the ball would be in the court of, almost always, Mr Hudson to provide an update about where the investigation and related matters are. Obviously, other agencies were involved. To be frank, that probably took up a fair chunk of these briefings at each occasion. And then, yes, there would have been general questions to cover off on progress of the investigation and next steps.

**The CHAIR:** You don't know what those questions were, though?

**JAMES CULLEN:** Well, look, I don't recall.

**The CHAIR:** Okay. In rounding this up now, as far as me, before we go to the Government, there was commentary from the Premier on Wednesday of this week—and I'll direct this to you, Ms Michael, bearing in mind that you're his media officer—in terms of attacking the legitimacy, integrity and perhaps motivation of this Committee and, in particular, myself, he made a statement to the press in relation to my calling for tougher legislation for 93Z from back in 2023 and told the media and the public that Roberts is kicking up this stink at this Committee and didn't even vote for the legislation. Were you party to that statement? Did the Premier discuss his intention with you prior to that? And did anybody check the *Hansard* record as to how Roberts voted?

**SARAH MICHAEL:** We would have. I mean, that may have been an error from the Premier.

**The CHAIR:** Oh, an error from the Premier again, where he gets in front of a camera and gives his version and not the true facts? Why would he have said that?

**SARAH MICHAEL:** Well, he was going through the comments that you made previously.

**The CHAIR:** Yes. Supporting 93Z?

**SARAH MICHAEL:** Yes. And changes.

**The CHAIR:** And changes. Making it tougher?

**SARAH MICHAEL:** Just making the point that the Committee is trying to—well, the Committee may be trying to ascertain that somehow Parliament was duped into passing these laws. And that's not the case.

**The CHAIR:** Okay. Can we just clarify this? We want this on the record. The Premier was wrong; he made a misleading—

**SARAH MICHAEL:** I'm not sure, to be honest.

**The Hon. EMILY SUVAAL:** Can I take a point of order, Chair?

**The CHAIR:** You can.

**The Hon. EMILY SUVAAL:** Perhaps if you're asking questions about the Premier to his staff, I think that these questions would be much better directed to the Premier—

**The Hon. WES FANG:** Agreed!

**The Hon. EMILY SUVAAL:** —who we know is appearing at budget estimates. It is procedurally unfair to be asking these witnesses, who are public officials, to express an opinion either way on what a Minister said, or policy, for that matter.

**The CHAIR:** There's no point of order, because the witness has answered the question. The witness is the media adviser to the Premier. We are talking about a media statement that the Premier made, to which the witness said—and I'm not going to say she said he lied or whatever it was—he was mistaken, he was wrong.

**SARAH MICHAEL:** He may have been. I'm not—he may have been. I'm not really—



**The Hon. EMILY SUVAAL:** They were not her words.

**The CHAIR:** He may have got it wrong?

**SARAH MICHAEL:** I mean, if you say that you voted for the legislation and he may have said that you didn't, then obviously that's an error—which happens sometimes.

**The Hon. BOB NANVA:** I might just turn firstly to your appearance at this inquiry today. There are obviously issues that have been raised with respect to comity, privileges of the Legislative Assembly, exclusive cognisance. Are any of you subject matter experts in any of those areas of law?

**JAMES CULLEN:** I don't think there's any constitutional lawyers sitting at the table, Mr Nanva.

**The Hon. BOB NANVA:** On that basis, you sought independent advice as to what your rights and obligations were with respect to being members of staff of Legislative Assembly members?

**JAMES CULLEN:** Sorry, we got independent advice—did we?

**The Hon. BOB NANVA:** On that basis, you sought advice, legal advice—

**JAMES CULLEN:** Absolutely.

**The Hon. BOB NANVA:** —with respect to your rights and obligations as members of staff?

**JAMES CULLEN:** Absolutely.

**ROSS NEILSON:** Correct.

**The Hon. BOB NANVA:** On that basis, you acted on advice that there was a reasonable excuse and just cause to not appear before this Committee on the basis of those issues, which are hotly contested, mind you. But you effectively acted on that legal advice?

**JAMES CULLEN:** That's right.

**TILLY SOUTH:** That's correct.

**The Hon. BOB NANVA:** Thank you. I'll turn to the guts of the inquiry, as Mr Ruddick has very well articulated. If I could come, in the first instance, to a more broad-based question: Where there are conditions that there are criminal incidents taking place, or where people are emboldened to do things in ways which we all agree are unacceptable, would it be fair to say that that becomes a focus of all of your offices with respect to how to deal with those issues, contend with those issues, and provide those affected communities with the comfort that they require?

**JAMES CULLEN:** Yes.

**The Hon. BOB NANVA:** It's been put on evidence, and it's been referred to a number of times today, that there was an obvious increase in incidents of behaviour with respect to antisemitism. That's correct?

**JAMES CULLEN:** I think the numbers have been clearly articulated by police, specifically in relation to Operation Shelter and how that grew over a period of time.

**The Hon. BOB NANVA:** On that basis, there was a significant amount of discussion, presumably, over a significant period of time, in light of the escalated incidents of antisemitism, to give police and the community additional powers with respect to deal with those issues?

**JAMES CULLEN:** Yes, absolutely. As I said earlier on, Mr Nanva, the three pieces of legislation which are in part the subject of this inquiry, and the process that led to their passage through the Parliament, not only were there public comments from the Premier outlining the Government's position to push forward on all three of those before 19 January, there was also work underway within the Government more broadly, and then relevant departments and agencies, to provide advice and do the policy making and do the legislative drafting on all three of those too.

**The Hon. BOB NANVA:** All of those conversations, and consideration of those matters, occurred well in advance of the discovery of a caravan in early 2025?

**JAMES CULLEN:** Yes. This was a long run, unfortunate episode in terms of increased incidence of antisemitism. It was very unfortunate, but the Government did over a period of time—including prior to the passage of these three pieces of legislation—continue to work at the most effective ways, along with law enforcement, along with Multicultural NSW and other agencies, to address the broader challenges around community harmony and making sure that we weren't having an important community so victimised.

**The Hon. BOB NANVA:** So regardless of whether these incidents were orchestrated—as we've now found out through the course of the investigation—there were special circumstances that led to the Government feeling compelled to act with respect to that specific case of antisemitism?

**JAMES CULLEN:** Sorry, regarding the Dural caravan incident?

**The Hon. BOB NANVA:** No, just more broadly. The Government felt compelled to act because of a series of cases of antisemitism?

**JAMES CULLEN:** It's just a matter that's on the record. There were significant public debates around all three pieces of that legislation and other events outside of the 14 that were attached to the Dural caravan incident in terms of antisemitism events that Operation Shelter was investigating that the Government took into consideration in developing those legislative responses.

**The Hon. BOB NANVA:** Were there other incidents beyond Operation Shelter, perhaps through the Community Security Group, that your office or the police Minister's office was aware of?

**JAMES CULLEN:** Yes. I did mention in passing, I don't have the numbers to hand but I have no doubt that there would have been reports to that particular group, and I have no doubt that there would have been many, many undocumented concerns in terms of incidents of antisemitism.

**ROSS NEILSON:** I can help you there, Mr Nanva. They told me they had several hundred additional to what the police are dealing with.

**The Hon. BOB NANVA:** Several hundred.

**ROSS NEILSON:** Yes.

**The Hon. BOB NANVA:** Okay. Thank you. I will come to the briefings that your respective offices received, going to the briefings of the 20th and 21st. At both of those briefings there was no doubt—it was unequivocal—that the Premier and the Minister were both advised that this was a joint counter-terrorism team investigation. That's correct?

**JAMES CULLEN:** Very clear.

**The Hon. BOB NANVA:** On that basis then it would be fair to assume that the event had to be taken seriously as a form of potential violent extremism or terrorism?

**JAMES CULLEN:** Yes. This was, in the testimony of New South Wales police, an investigation that was conducted at its highest levels all the way through. We don't have to go back over the timeline, but yes.

**The Hon. BOB NANVA:** It has been put to this Committee that it would be not just a fair assessment, but it would be irresponsible not to treat it that way—that it could have been a potential terrorism event or risk of violent extremism by virtue of the fact that the JCTT was responsible for the investigation.

**JAMES CULLEN:** Absolutely. To be fair to the Chair, I don't want to put words in his mouth, but I think that's the view he's got. I mean it would be irresponsible for police to have done anything other than that.

**The Hon. BOB NANVA:** If I can come to the doubts that may have been expressed in the course of those meetings by Deputy Commissioner Hudson or even the commissioner herself, there are a number of references in the transcript, which I'll quote, but feel free to take these on notice or, if you can, confirm with the Committee whether they are consistent with your recollection of those briefings. Deputy Commissioner Hudson has said in relation to the doubts that he expressed in the briefing:

The possibility of other options, rather than it being a terrorist attack, were provided to the Minister and Premier quite early but, whilst the reporting was continuing, we could not discount that and had to investigate that at its highest.

Is that consistent with your recollection?

**JAMES CULLEN:** It's absolutely consistent and I hope it's consistent with the evidence that I have given today.

**The Hon. BOB NANVA:** Is it consistent with your recollection, and I quote:

... I expressed my suspicion over the motivation ... But the reporting received through the Australian Federal Police, which could not be ignored at the level it was being provided, kept it at a level that needed to be investigated by the Joint Counter Terrorism Team.

**JAMES CULLEN:** That's right.

**The Hon. BOB NANVA:** That's consistent with your recollection?

**JAMES CULLEN:** With the briefings we were getting from police, that's correct.

**The Hon. BOB NANVA:** On the basis that we have heard, it's not only fair, but it would be irresponsible, given that it was a Joint Counter Terrorism Team investigation, to not treat it as a potential mass casualty event?

**JAMES CULLEN:** Correct.

**The Hon. BOB NANVA:** With respect to the commissioner, she has provided the Committee evidence, which again I will quote:

...it didn't seem quite right that there was a caravan that just happened to be discovered with explosives and with notes and not too carefully hidden or secreted ... But ultimately the issue was about we were relying on the information from the AFP. Without being able to test that information, we had to take it at its highest.

Perhaps I'll direct this to you, Mr Neilson. Was that consistent with the manner in which New South Wales police continued to investigate this matter through the Joint Counter Terrorism Team?

**ROSS NEILSON:** That's what they briefed us, yes. They were in a position where the AFP had a source that was being referred to frequently. They didn't know who that was, and they wouldn't tell them, and until they knew that and the whole thing was resolved, they had to keep investigating this as though it could be a potential mass casualty event. When you've got all those amounts of explosives in a 40-metre blast zone—all phrases that had been used by police—that's exactly right.

**The Hon. BOB NANVA:** At what point did those doubts form into an unequivocal conclusion that it was a criminal hoax?

**ROSS NEILSON:** Mr Hudson briefed the Minister on 7 March that, on 5 March, the New South Wales police, or actually the JCTT, had finally received a legal advising from the Federal police, which they'd asked for I think perhaps a week earlier, as to whether it was still possible to prefer terrorism charges based on the information that they had. The advice arrived on 5 March that the answer was no, terrorism charges can't be stood up on this. Mr Hudson briefed my Minister on the 7th and at the same time he advised her that they were, "Moving to resolution" on Monday the 10th. That morning, from daylight, a large number of warrants were executed all over Sydney and a large number of people were arrested, and that was kind of the end of the matter.

**The Hon. BOB NANVA:** Notwithstanding doubts expressed on the 20th and 21st, terrorism was unequivocally ruled out with the Premier and the police Minister on 7 March.

**ROSS NEILSON:** On 7 March.

**The Hon. BOB NANVA:** If I can be very clear about the timeline of events—

**ROSS NEILSON:** That was the time we were told they had completely concluded that it wasn't a possibility.

**The Hon. BOB NANVA:** On the 20th and 21st we were advised that there was a Joint Counter Terrorism Team operation. While there might have been other motivations, it would be irresponsible to not treat it as a potential terrorism event, and that was ruled out unequivocally on 7 March when you were advised that the AFP informant was discredited?

**JAMES CULLEN:** That was 21 February.

**ROSS NEILSON:** They were told by the AFP, that the informant was discredited, on 21 February. But the legal advice as to whether potential terrorism charges could still be levelled against the people that they were investigating didn't come until 5 March. And then the conclusion that that wasn't going to happen was transmitted to the Minister on the seventh.

**The Hon. WES FANG:** Chair, can I foreshadow something that might assist the Government. I have another line of inquiry I need to get through, and I know that other members do as well. It may be the case that we have to invite these witnesses back to provide further evidence if we are not able to get these lines of inquiry out in the next 10 minutes.

**The Hon. BOB NANVA:** I'm sorry, with all due respect—

**The CHAIR:** No, let me comment. I am not going to entertain that, Mr Fang. The Government members are entitled to ask questions. They have been very patient. We are going to be extremely fair here. If we have to call the witnesses back, we'll call them back, because Mr Walker has provided the Committee and the Legislative Council with advice and the opinion that we are entitled to do so.

**The Hon. WES FANG:** That's why I was just foreshadowing it.

**The CHAIR:** The Government members are entitled to ask their questions. Continue, Mr Nanva.

**The Hon. BOB NANVA:** Thank you, Chair. I don't propose to take up all the time. There has been a suggestion that the Parliament was misled because it wasn't informed of the full circumstances surrounding the discovery of explosives in the caravan. It is now a matter of public record that doubts were expressed in the press conference on 29 January, and the following day, on the thirtieth. Was any other information not made public that could have expressed any doubts with respect to the status of the investigation of the caravan at Dural? Was there anything not disclosed that could have shed more light on the issue?

**ROSS NEILSON:** I've often observed about this whole episode that anyone in the Parliament who feels they were misled when the legislation passed on the 21st wasn't paying attention very closely for the previous three or four weeks, because on 29 January, in the press conference, and the next morning on 2GB, Mr Hudson could not have been more explicit. He said, "There are many lines of inquiry", and he made direct allusions—I can read them for you if you want; we've all got them—to the potential that it was some kind of criminal enterprise or what have you.

**The Hon. BOB NANVA:** But there was nothing further that you or your officers were aware of that could have shed any more light, other than what was publicly disclosed?

**ROSS NEILSON:** No, we only knew that—he had told us the same things that he told Ben Fordham.

**The Hon. BOB NANVA:** The final question from me is in relation to the three pieces of legislation that did go through the Parliament. The AFP has stated, in a press release of 10 March:

Regardless of the motivation of those responsible for this fake plot, this has had a chilling effect on the Jewish community. This twisted, self-serving criminality has terrorised Jewish Australians.

Is that consistent with your view?

**ROSS NEILSON:** Indeed.

**JAMES CULLEN:** It's also consistent with some of the comments that the Premier was making on 29 January.

**The Hon. BOB NANVA:** So the motivations for and the merits of the legislation still stand, in the eyes of the Government?

**JAMES CULLEN:** No question. But I do accept, as I said to Mr Ruddick earlier, that he does have legislation in the Parliament. I suppose, if you follow through the conclusion that there are a number of members of the upper House who think that they've been duped in relation to the passage of these pieces of legislation, it's open to this Committee to produce a report which recommends repeal. Mr Ruddick's bill is there. That's perhaps a matter for members of this Committee and for the members of the upper House.

**The Hon. BOB NANVA:** Thank you, Chair. We do have further questions, but I'm happy to allow Mr Fang to ask his.

**The CHAIR:** Are you conceding then?

**The Hon. BOB NANVA:** Well, in the interest of not having a further debate, but we do have further questions.

**The CHAIR:** Sure. Let's go.

**The Hon. WES FANG:** Mr Cullen, did the Premier ever suggest to you that you shouldn't attend this hearing?

**JAMES CULLEN:** I think the Premier's view is public on this. He's provided a view. I think it's been recounted by the Chair in an interview with Ben Fordham as well. He's got a strong view about ministerial staff being called. We've all done the rounds on that.

**The Hon. WES FANG:** That's not an answer to the question. Did the Premier ever suggest to you that you should not attend this hearing?

**JAMES CULLEN:** He put a public position on it. I think it was for everybody, including myself, to hear that he has a view.

**The Hon. WES FANG:** I will draw that inference, given the information on Ben Fordham, that he did.

**JAMES CULLEN:** No. I think your question is "Was there a formal or informal direction from the Premier?" I've already provided evidence to tell you that there wasn't.

**The Hon. WES FANG:** There wasn't. Okay. The reverse of that then—did the Premier ever suggest to you that you should attend this hearing?

**JAMES CULLEN:** I think the Premier's view is on the public record in relation to should ministerial staff, as a matter of course, be called for and summonsed, and be arrested and potentially jailed and held overnight, for appearing before—

**The Hon. WES FANG:** Why are you being so evasive, Mr Cullen? It's a simple question.

**The Hon. EMILY SUVAAL:** Come on, Wes.

**The Hon. BOB NANVA:** Point of order—

**The Hon. GREG DONNELLY:** Point of order—

**The CHAIR:** I uphold the point of order. You do not need to explain it.

**The Hon. SUSAN CARTER:** Mr Cullen, did you have any conversations with the Premier about whether you should or should not attend these hearings?

**JAMES CULLEN:** I think I've given lots of evidence on this today, Mr Chair, with respect. The conversations I was having with the Premier on this subject matter, particularly in relation to our appearance or non-appearance at this Committee, were confined to briefing him in the course of the last few weeks, as this has become, effectively, a matter of public controversy, and so he's had to comment on that. So I've had conversations around that, yes.

**The Hon. SUSAN CARTER:** Mr Neilson, did you have conversations with Minister Catley about whether you should or should not attend these hearings?

**ROSS NEILSON:** Yes, she agreed with me that we shouldn't.

**The Hon. SUSAN CARTER:** Did you lead that conversation or did she lead that conversation?

**ROSS NEILSON:** We talk every day—many times, every day.

**The Hon. WES FANG:** In relation to that, Mr Neilson and Mr Cullen, then I contend that both the Premier and the police Minister have breached the ministerial code of conduct by providing you an instruction to not attend this hearing.

**The Hon. BOB NANVA:** Point of order—

**The Hon. GREG DONNELLY:** Point of order—

**ROSS NEILSON:** No, that's not true.

**The Hon. EMILY SUVAAL:** That's not what was said.

**The CHAIR:** A point of order has been taken.

**The Hon. BOB NANVA:** That was not the evidence provided by the witness, that the Premier or the Minister provided an "instruction".

**The Hon. WES FANG:** I am going to table these documents. I have made the allegation.

**ROSS NEILSON:** Can I respond, Chair?

**The CHAIR:** Hang on. I haven't ruled on the point of order yet. I'm going to be honest and say I wasn't listening. Put your question again and then I will rule on Mr Nanva's point of order, if it still stands.

**The Hon. WES FANG:** It is my contention that the police Minister and the Premier have breached the ministerial code of conduct by suggesting that you not attend this hearing.

**ROSS NEILSON:** Can I respond?

**The Hon. WES FANG:** Mr Neilson, you gave evidence that the Minister agreed with you that you should not attend.

**The Hon. EMILY SUVAAL:** Is that a question?

**ROSS NEILSON:** She agreed with me that staffers shouldn't be called to these hearings. She agreed with me strongly about that.

**JAMES CULLEN:** And as I've said before, Mr Fang, many times, the Premier did not give a formal or informal direction. You're suggesting that he's breached the ministerial code by giving an unlawful direction; that's just simply not the case.

**The Hon. WES FANG:** The Premier made it clear in the interview with Ben Fordham that he had multiple discussions with you about this matter, and that he was clear that he did not want you to attend. That is an informal or indirect instruction that breaches the ministerial code of conduct.

**TILLY SOUTH:** I'm sorry, some of us didn't get a copy of the document that's been tabled.

**The Hon. EMILY SUVAAL:** Chair, to assist with the time, I suggest that if Mr Fang has a question that he put it, as opposed to just making repeated statements to the witnesses about his interpretation of the ministerial code and events that have happened.

**The Hon. WES FANG:** I have made it clear. I believe the Premier and the police Minister have breached the ministerial code of conduct—

**The Hon. EMILY SUVAAL:** You've engaged in gratuitous commentary, rephrasing evidence from the witnesses.

**JAMES CULLEN:** Lawful directions to the public service, subsection (1): "A Minister must not knowingly issue any direction—". He didn't issue any direction. I don't know how many times I have to tell you.

**The Hon. WES FANG:** Read the rest of it.

**JAMES CULLEN:** That's my evidence.

**The Hon. WES FANG:** Read the rest of it.

**The CHAIR:** Do you have another question?

**The Hon. WES FANG:** No, I'm happy to hand over.

**Ms SUE HIGGINSON:** I have one last question. To all of you, who came up with the reference to "Star Chamber"? Ms Michael, you are the media adviser, could you tell me where that came from? Was it from the Premier himself? Was it from you guys?

**SARAH MICHAEL:** I can't tell you where it came from, no.

**Ms SUE HIGGINSON:** You can't tell me or you don't know?

**SARAH MICHAEL:** No, I don't know.

**JAMES CULLEN:** The Premier is a very, very creative person, as you've all worked out, and can be colourful with his language. He's more than capable of coming up with his own turns of phrase. And I think, to be fair to the Premier, it would not be the first time that particular terminology has been used in relation to committee inquiries.

**Ms SUE HIGGINSON:** So is it your evidence that the Premier himself came up with that characterisation of the New South Wales Legislative Council?

**JAMES CULLEN:** It might have been in relation to the Committee rather than the Legislative Council. I have to take that bit on notice. But my understanding is, yes, he came up with that.

**The Hon. JOHN RUDDICK:** Chair, we didn't have a five-minute break on the agenda. Is it possible to have a five-minute extension?

**The CHAIR:** It is, because we were set down for three hours. I acceded to the request of the witnesses, which is only fair to do, and I propose to go for an extra five minutes to give us three hours.

**The Hon. EMILY SUVAAL:** We do have questions.

**The Hon. GREG DONNELLY:** There was a presumption, and it may be incorrect, that we were finishing on time. I appreciate that we have extended by five minutes—I don't cavil with your decision—but we have questions.

**Ms SUE HIGGINSON:** Mr Ruddick has one as well.

**The CHAIR:** I am going to go to Mr Ruddick and then go back to the Government. It is the only way I can do it.

**The Hon. JOHN RUDDICK:** I have a question for Mr Cullen. You have given us the impression today that these laws have a gestation period. Is the Government at the moment considering any future suite of anti-free-speech laws?

**JAMES CULLEN:** I think that's a very unfortunate characterisation, Mr Ruddick. I don't agree with you, but you're talking about—

**The Hon. JOHN RUDDICK:** You can call them anti-hate-speech laws, but it is suppressing free speech via law. That's what we are talking about. But let's move on from the characterisation. The key question is, is this the end of it or have we got more plans in the future to suppress free speech?

**JAMES CULLEN:** I'm not aware of anything in particular in terms of further alterations to that law, noting that there's probably a Law Reform Commission report or a review or inquiry process underway that hasn't been concluded. Maybe that's anti-discrimination legislation, and that hasn't been concluded. That's probably not in the same space, so not to my knowledge, Mr Ruddick.

**The Hon. GREG DONNELLY:** Thank you, to all the witnesses, for your frank evidence this morning, and your responsiveness to those questions. The issue of a hoax has featured a great deal in discourse, both inside and outside the Parliament, and I want to focus on that for a moment—perhaps to you, Mr Cullen, but others may comment at this time. It has been mentioned extensively in this hearing and in the public domain that this incident and related events were a hoax.

**JAMES CULLEN:** Yes.

**The Hon. GREG DONNELLY:** I think there's a general or common understanding of the meaning of "hoax". How do you respond to that?

**JAMES CULLEN:** I might have referred to it previously. I think some of the language that's been thrown up is not helpful because I do think you need to separate, a bit, motivation with actions and the impact those actions have had. But, particularly, we're talking about the Dural inquiry and those 14 incidents—we're talking, as I understand, alleged firebombings and alleged graffitiing of synagogues. Those are events that—their very action does inspire fear and concern in the broader community and particularly in the Jewish community.

I don't have it in front of me, but I think the best summation of the concern with that kind of language was actually the member for Vacluse, I think, appearing before the antisemitism inquiry, where she actually responded directly to the concept of hoax and, I thought, spoke quite eloquently on behalf of her community, including the Jewish community, which has a significant presence in her electorate, rejecting the concept of a hoax and just focusing on the fact of how much, in the last 12 to 18 months, the level of antisemitism has been on the rise. But this particular series of events which, let's be frank, could have resulted in the death or maiming of people in the community—she expressed the highest level of concern, and I would share that.

**The Hon. EMILY SUVAAL:** Through you, Chair, I want to start by acknowledging each and every one of you and thanking you for being here today. But I also want to make a brief comment on how grateful we are for the hard work that you do each and every day for our Ministers and for our Government. It is a hard job being a ministerial staffer working in a ministerial office. You do it all very professionally, with grace, and I, for one, know how dedicated and professional each and every one of you is every day in the work that you do. I just wanted to start my remarks with that, given that everyone else has engaged in gratuitous commentary<sup>1</sup> on the record. It has been suggested that there have not been any antisemitic incidents since 10 March. Have you got any reflections on that?

**JAMES CULLEN:** Sorry, since 10 March? No, there's more that continue to certainly crop up in public debate. I was saying, in relation to an earlier answer to Mr Ruddick, I think there was an instance just this week—I think I'm right in saying—of a swastika being graffitiing on Marrickville Police Station. It's unfortunate. You can argue about the curve, but I think the reality is there are, unfortunately, still significant events and incidents which are being brought not just to the police's attention but other events which continue to go unreported. I think it is a significant concern. I think, in terms of the way the Government has responded, though, that those pieces of legislation do play a small and significant part in terms of, on behalf of the community, saying, "We're not going to accept those forms of poor conduct, and we are going to do something about it. We're going to reiterate the sort of strong, robust, multicultural, beautiful and harmonious community that we all aspire to live in all the time."

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<sup>1</sup> Ms Suvaal voluntarily withdrew her comment.

**The CHAIR:** I note that the time is 1.05 p.m. The witnesses were to be here for three hours, and the three hours has expired. I know witnesses have taken some questions on notice. The secretariat will be in contact with you in relation to that.

**The Hon. SUSAN CARTER:** May I ask if the witness would answer one more question?

**The CHAIR:** No, the time is the time. Thank you for your evidence. The secretariat will be in contact with you with any questions you have taken on notice.

**(The witnesses withdrew.)**

**The Committee adjourned at 13:05.**