

PORTFOLIO COMMITTEE NO. 5 - JUSTICE AND COMMUNITIES

Thursday 28 August 2025

Examination of proposed expenditure for the portfolio area

ATTORNEY GENERAL

CORRECTED

The Committee met at 9:15.

MEMBERS

Ms Sue Higginson (Acting Chair)

Ms Abigail Boyd

The Hon. Mark Buttigieg

The Hon. Susan Carter

Dr Amanda Cohn

The Hon. Greg Donnelly

The Hon. Natasha Maclaren-Jones

The Hon. Emily Suvaal

PRESENT

The Hon. Michael Daley, *Attorney General*

CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS

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

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

CORRECTED

The ACTING CHAIR: Welcome to the third hearing of Portfolio Committee No. 5 - Justice and Communities for the inquiry into budget estimates 2025-2026. I acknowledge the Gadigal people of the Eora nation, the traditional custodians of the lands on which we are meeting today. I pay my respects to Elders, past and present, and celebrate the diversity of Aboriginal peoples and their ongoing cultures and connections to the lands and waters of New South Wales. I also acknowledge and pay my respects to any Aboriginal and Torres Strait Islander people joining us here today. My name is Sue Higginson and today I am Acting Chair of this Committee.

I welcome Attorney General Daley and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolio of the Attorney General. I ask everyone in the room to please turn their mobile phones to silent. Parliamentary privilege applies to witnesses in relation to the evidence they give today. However, it does not apply to what witnesses say outside of the hearing. I urge witnesses to be careful about making comments to the media or to others after completing their evidence. In addition, the Legislative Council has adopted rules to provide procedural fairness for inquiry participants. I encourage Committee members and witnesses to be mindful of these procedures.

Welcome and thank you for making the time to give evidence today. All witnesses will be sworn prior to giving evidence. Attorney General, I remind you that you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament. I also remind Mr Tidball and Ms Campbell that they have already been sworn before this Committee during this inquiry and therefore do not need to be sworn again.

CORRECTED

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

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

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

Mr CHRIS D'AETH, Deputy Secretary, Courts, Tribunals and Service Delivery, Department of Communities and Justice, affirmed and examined

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

Mr CRAIG HYLAND, Solicitor for Public Prosecutions, Office of the Director of Public Prosecutions, sworn and examined

Dr JAMES COCKAYNE, NSW Anti-slavery Commissioner, Office of the NSW Anti-slavery Commissioner, affirmed and examined

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

Attorney, I would like to inquire with you about the ex gratia payment that was paid to Kathleen Folbigg. It's been described as a slap in the face, a \$2 million offer for an ex gratia payment. It's been described as being out of touch with previous and similar cases, including Lindy Chamberlain in the Northern Territory who was provided \$1.7 million for three years of wrongful imprisonment and David Eastman in the ACT, \$7 million for 19 years. It has been described as inadequate for the loss of income, superannuation and employability, as well as the emotional trauma and the incarceration. Attorney, do you think the \$2 million ex gratia made to Kathleen is fair?

Mr MICHAEL DALEY: Madam Chair, I might take some time, if you don't mind, to go through the processes that I went through and the conclusions that I reached based on the advice that I received. I don't mean to be disrespectful in any way, but if there is an upper House inquiry into this matter I won't be attending, so this is really the one opportunity for people who are interested in this matter to hear from me about how I went about it. I do want to acknowledge that this was, thankfully, a very rare and unprecedented event in the history of New South Wales legal proceedings. I do acknowledge there are very strong feelings across a spectrum in relation to the whole Folbigg matter, but also in relation to the amount that I have offered her by way of an ex gratia payment. I do acknowledge it took some time to come to the conclusion that I did because there were voluminous materials to consider both from Ms Folbigg's representatives and also in respect of the advice that I sought and received.

I did take this matter incredibly seriously, as you would expect me to do, and I arrived at the figure having considered objective material only based on established and proven facts—not assertions or allegations—and I did adhere to the process that I was advised to, insofar as there is a process for ex gratia payments. The first issue I had to turn my mind to was should there be the offer of an ex gratia payment made to Ms Folbigg at all. I had regard to the power that was available to me—and to all Ministers, I should say—to grant one. Firstly, a power exists at common law to give an ex gratia payment, which is a unique payment that has its own very wide boundaries, if I can put it that way. The second head of power is section 5.7 of the Government Sector Finance Act 2018, which sort of mirrors the common law and creates a discretionary statutory power for the making of an act of grace payment in special circumstances by the relevant Minister where there is no legal obligation to do so.

I didn't have to choose between either of those powers and I didn't have to identify, when I made the ex gratia offer, which of those powers I in fact relied on; I just have the inherent powers under the common law and that statute. There is also a Treasury Circular 22-01 that provides guidance in relation to the circumstances in which a Minister may be warranted in finding that special circumstances exist. That was really the first consideration I had to turn my mind to: Did special circumstances exist? Some of the guidance in that Treasury circular and in common-law advice that I got—and I should say I don't want anyone to draw any conclusions today about me quoting from legal advice or departmental advice. It's not my intention today to waive any of the advice that I've received. What I am—

CORRECTED

The ACTING CHAIR: Sorry—and thank you, I really appreciate this, it is very important and I'll let you get back to it in a minute. You received legal advice?

Mr MICHAEL DALEY: Yes.

The ACTING CHAIR: Can you confirm who that legal advice came from?

Mr MICHAEL DALEY: I'll have to take that on notice. I'm not sure whether it's appropriate for me to do so. I'll take that on notice.

The ACTING CHAIR: Can you just confirm whether it was internal provision or whether you outsourced that to an external—

Mr MICHAEL DALEY: It was both.

The ACTING CHAIR: So you received more than one body of legal advice?

Mr MICHAEL DALEY: Yes.

The ACTING CHAIR: Can you confirm how many bodies of legal advice?

Mr MICHAEL DALEY: No, I'll have to take that on notice. As I was saying, I don't intend to waive privilege and what I'm offering to the Committee now are the conclusions that I reached based on the advice that I received. In determining whether special circumstances exist, some of the factors that I may have turned my mind to were whether a person suffered a financial or other detriment as a result of the workings of government and where the State had no present legal obligation to compensate the person for that detriment. Nonetheless, it was morally justifiable for the State to make a payment in the circumstances.

Considering whether special circumstances existed, the Minister should have consideration to the following common-law principles: There must be a clear and verifiable loss which can be evidenced through the deprivation of liberty; the detriment cannot be remedied alone by legal proceedings; consideration should be had on the wider ramifications for the whole of government; there were to be no interests created beyond the right of the individual receiving or being offered the ex gratia payment.

The ACTING CHAIR: Can I interrupt. This is very helpful, thank you. In relation to that head of consideration—

Mr MICHAEL DALEY: How about you let me get through it and then we will come back, okay?

The ACTING CHAIR: Certainly.

Mr MICHAEL DALEY: That acquittal is not innocence; and that the amount of time in custody is considerable. They were some of the guidelines. I came to the conclusion pretty readily that special circumstances did exist. Then the second consideration I had to make then was what should the amount be. There are no specific legal principles in relation to calculating an appropriate amount for a payment, but I did identify a list of possible considerations in determining an appropriate figure for payment. These included, but weren't limited to, determining a figure by way of comparison to other similar cases, both within New South Wales or nationally, with that in mind, and consideration of an amount similar to that of a civil claim by assessing the heads of damages in line with both intentional tort and negligence claims.

When calculating a figure, it was appropriate that I might have regard to additional factors, such as, where the payment proposes to be large, it may create benchmarks and potential expectations for ex gratia applications that relate to wrongful conviction or imprisonment where currently none exist; whether the granting of a payment may create rights beyond an individual case; the reputation of the Government and the public perception, noting the public interest; the use of public funds and any budgetary impact when granting a significant amount; and the transparency associated with the expenditure of such funds.

Ultimately, the determination of an appropriate figure is at the discretion of the Minister by balancing policy, budgetary and legal considerations. There were a few factors that were relevant. One of them was that, when I considered the material provided by Ms Folbigg's legal team, they repeated on a number of occasions that their claims were proceeding on the basis of the culpability of the State—that the culpability of the State, they said, was the guiding principle. I think one of the phrases that her legal team used was that "errors and faults of the Government is the paramount concern for payment".

I then went looking for comparable matters as well. I had a look at a range of almost comparable matters, if you like, across the country, and I noted several factors as well: that Ms Folbigg was convicted by a jury; that she exercised her rights through the appropriate appeals channels; she was imprisoned on a prima facie valid warrant and the legal proceedings that led to her imprisonment were not impugned by any subsequent proceedings

CORRECTED

in any way; that, at the time Ms Folbigg was convicted, the medical evidence relied upon to quash the convictions was not in existence—that was a huge factor; and that the reports of the two inquiries that were held, the Blanch and Bathurst inquiries, do not suggest there was intent or malice behind the actions of employees of the State of New South Wales when prosecuting Ms Folbigg's case, nor did they conclude that there was any shortcoming with prior proceedings.

What set this matter apart was that there was no proven malfeasance on behalf of the State. There was the brand-new evidence—so new, in fact, it was being literally walked fresh onto the floor of the Bathurst inquiry—that founded Mr Bathurst's conclusions that reasonable doubt existed. I sought to find a precedent to guide me, if you like—a benchmark. I found that there were no comparable matters that my department or legal advisers could furnish me with—no comparable matters in the sense that all of the prior matters that had given rise to either ex gratia payments or civil claims for damages were founded by some malfeasance on behalf of the State: malicious prosecution, some fault of the policing in the investigation, evidence that shouldn't have been provided that was, and the like. As I said, I couldn't find—

The ACTING CHAIR: Thank you, Attorney. I'm really grateful for the explanation.

Mr MICHAEL DALEY: In this instance, it was not malfeasance of the State; it was the fresh evidence. So the most recent—

The ACTING CHAIR: Attorney, you are very welcome to table anything you want.

Mr MICHAEL DALEY: I'm nearly done. The most recent case in point was the case of Roseanne Beckett—or Catt—who in 2015, having spent I think eight years in prison, was granted \$2.3 million for malicious prosecution, where the court found that the detective had acted without reasonable cause and had fabricated evidence. That's where I arrived at the \$2 million figure.

The ACTING CHAIR: As part of the consideration and the material you had before you, was there a forensic accountant involved?

Mr MICHAEL DALEY: I don't believe so, but I can take that on notice. A forensic accountant with a view to what?

The ACTING CHAIR: To assessing somebody's loss of income, their capacity and so on—all sorts of various factors. Was there a forensic accountant involved in how a woman who has been deprived 20 years of her life is now supposed to sustain herself in a world where she has had no opportunity whatsoever to obtain any further education, any employment capacity, any superannuation—was there any forensic accountant involved in what that would look like for her?

Mr MICHAEL DALEY: Not on behalf of the Government.

The ACTING CHAIR: Kathleen had to make weekly payments from prison to help cover the \$250,000 given to Craig Folbigg in victim's compensation. Now that she has been acquitted, Attorney, should she be repaid for some of that compensation?

Mr MICHAEL DALEY: My advice was that that did not occur.

The ACTING CHAIR: Your advice from whom was that that—

Mr MICHAEL DALEY: We'll take that—

The ACTING CHAIR: Did you speak to Kathleen about that? Did you ask her?

Mr MICHAEL DALEY: No, I didn't. You know I didn't meet with her.

The ACTING CHAIR: Why did you not speak to Kathleen Folbigg?

Mr MICHAEL DALEY: I've served in a number of portfolios in government over a few years, firstly in Roads; Police; Finance, which is not analogous; but now as Attorney General. I've had many requests for ex gratia payments in those portfolios. What I have tried to do is just rely on simple, objective facts and be dispassionate.

The ACTING CHAIR: Can I interrupt you, Attorney, please?

Mr MICHAEL DALEY: No, you've asked me a question, okay?

The ACTING CHAIR: Attorney, you have had 12 minutes of time uninterrupted, where the job here is for me to ask you questions, so if you wouldn't mind—

Mr MICHAEL DALEY: And I'm trying to answer.

CORRECTED

The ACTING CHAIR: —can I please ask you some more fairly direct questions. You have just spent 12 minutes explaining how this is the most unique circumstances, you've never had to consider anything quite like this, nothing has been done like this before.

The Hon. MARK BUTTIGIEG: Point of order—

The ACTING CHAIR: I will hear your point of order.

The Hon. MARK BUTTIGIEG: The Minister had directly attempted to answer your question and now you're making a very aggressive political point as Chair, which I think is totally inappropriate. I ask that you ask the question and allow the Minister to respond.

The ACTING CHAIR: I will take on your point of order. The Attorney can respond.

The Hon. GREG DONNELLY: Point of order: I've got the same point of order. It's the tone, as the Chair, I have to say. It is very important that the Chair oversee the right tone. This is not a combative exercise. This is budget estimates, where questions are put and questions are asked. On this issue of the 12 minutes, the Attorney patiently went through—

The ACTING CHAIR: Thanks. I've heard the point of order.

The Hon. GREG DONNELLY: No. I haven't—

The ACTING CHAIR: There's no point of order.

The Hon. GREG DONNELLY: Okay, I'll take a further point of order.

The ACTING CHAIR: Yes?

The Hon. GREG DONNELLY: We can do this in a respectful fashion, or we can do this in a combative fashion. I always err on the side—

The ACTING CHAIR: There are no standing orders that go to combative or non-combative. There are no orders. There is a procedural fairness—

The Hon. GREG DONNELLY: Okay. I haven't finished.

The ACTING CHAIR: I'm making a ruling right now on your point of order.

The Hon. GREG DONNELLY: No.

The ACTING CHAIR: I'm making a ruling on your point of order.

The Hon. GREG DONNELLY: No, I've got a further point of order.

The ACTING CHAIR: I'm making a ruling on your point of order. There are rules of procedural fairness. I accept those, and I will act in accordance with the rules of procedural fairness. That's my ruling and now I will carry on. Thank you.

The Hon. GREG DONNELLY: No. Point of order—

The ACTING CHAIR: Now I will carry on.

The Hon. GREG DONNELLY: No, you can't. I'll take another point of order. It's the issue of procedural fairness.

The ACTING CHAIR: Yes, I've ruled on procedural fairness.

The Hon. GREG DONNELLY: It's on application—

The ACTING CHAIR: I've ruled on procedural fairness.

The Hon. GREG DONNELLY: —and you will follow No. 19, treatment of witnesses. Witnesses will be treated with courtesy at all times. That's what you're going to do.

The Hon. NATASHA MACLAREN-JONES: To the point of order: Chair, this is deliberately a tactic to wind down time. The Attorney General has had a very good opportunity to outline the background and it's your opportunity to ask questions in any way that you feel fit. I think you should make a ruling and move on.

The ACTING CHAIR: Thank you. I've made a ruling. I'm moving on. You've wasted a lot of time. We accept the rules of procedural fairness, and I will now continue. Attorney, just back to the question, why did you not actually meet with Kathleen Folbigg?

CORRECTED

Mr MICHAEL DALEY: I was just explaining it. I found the best way to deal with ex gratia payments is to look at the objective facts. It wouldn't have assisted me to distil those objective facts by meeting with her. On occasion, I've found that when you decide to meet with someone who's seeking something from you in the nature of an ex gratia payment or the like, that raises expectations. It was just not helpful. It wasn't to be disrespectful. It just would have not assisted me in any way in my inquiries. She had very detailed submissions and everything she needed to say I thought was in those submissions—or should have been.

The ACTING CHAIR: The Premier made a statement that Ms Folbigg was pardoned when she was actually acquitted.

Mr MICHAEL DALEY: She was both.

The ACTING CHAIR: Are you aware of that?

Mr MICHAEL DALEY: She was both.

The ACTING CHAIR: Yes, but the Premier made a statement suggesting that Kathleen was only pardoned. Do you accept that that's not correct—that she was acquitted?

Mr MICHAEL DALEY: I'm not going to pass judgement on what the Premier said.

The ACTING CHAIR: No, I'm asking you about the facts. You accept that's not correct?

Mr MICHAEL DALEY: She was pardoned first and was sent from the Bathurst inquiry to the Court of Criminal Appeal, where her conviction was quashed.

The ACTING CHAIR: Therefore, she was acquitted?

Mr MICHAEL DALEY: Correct.

The ACTING CHAIR: Do you understand what the term of acquittal means in legal terms, in real terms?

Mr MICHAEL DALEY: Yes.

The ACTING CHAIR: Yet you say that the acquittal means—in your statement, you said that your consideration was the acquittal means that she's not innocent.

Mr MICHAEL DALEY: Acquittal doesn't necessarily mean that you're innocent in our—

The ACTING CHAIR: Do you think Kathleen is innocent or do you think she murdered her children?

Mr MICHAEL DALEY: It doesn't matter to me.

The ACTING CHAIR: I'm asking you a question. I didn't ask whether it matters to you. I'm asking you a question. You are sworn here. Do you think that Kathleen Folbigg is innocent or she murdered her children?

Mr MICHAEL DALEY: It's irrelevant. I look at the legal process.

The ACTING CHAIR: Irrelevant?

Mr MICHAEL DALEY: Completely irrelevant to my determination. There was a process, and I adhered to the process.

The ACTING CHAIR: In today's terms, do you accept that what Lindy Chamberlain received, based on mistaken evidence that was her conviction, would be around \$20 million in today's terms?

Mr MICHAEL DALEY: I don't know, and the cases aren't comparable.

The ACTING CHAIR: I thought that you said that you had done a forensic look at—

Mr MICHAEL DALEY: No, I didn't use the word "forensic".

The ACTING CHAIR: Did you look at the Lindy Chamberlain case?

Mr MICHAEL DALEY: I had a number of cases presented to me where compensation and/or ex gratia payments were made.

The ACTING CHAIR: Was there any analysis done of the Lindy Chamberlain compensation that was paid to her in comparison to Kathleen Folbigg's current circumstances?

Mr MICHAEL DALEY: In what sense?

The ACTING CHAIR: The quantum.

CORRECTED

Mr MICHAEL DALEY: I don't understand the nature of the question.

The ACTING CHAIR: The fact that Lindy Chamberlain received the amount she received—1.7 for three years, decades ago—was there any consideration about what that would look like today and compared to Kathleen Folbigg's circumstances, remembering the fact that Lindy Chamberlain also had scientific evidence that was wrong at the time of her conviction.

Mr MICHAEL DALEY: No, because the cases are entirely distinguishable.

The ACTING CHAIR: Thank you.

Mr MICHAEL DALEY: Good morning, Ms Carter. How are you?

The Hon. SUSAN CARTER: Good morning. Nice to see you again. I wonder if we could start with housekeeping things. Get a few things out of the way quickly. On 24 November last year you announced that the New South Wales Local Court magistrates are to be known as judges under amendments to the Local Court Act.

Mr MICHAEL DALEY: Yes.

The Hon. SUSAN CARTER: When can we expect to see that legislation?

Mr MICHAEL DALEY: In the next session of Parliament.

The Hon. SUSAN CARTER: Great. Thank you.

Mr MICHAEL DALEY: Which I hope you'll support. It's a very good initiative.

The Hon. SUSAN CARTER: Thank you. Minister, you received the Sentencing Council's report on firearms, knives and other weapons offences in May last year and, at estimates in February this year, you indicated you would be responding to that report in due course. Have you responded to that report yet?

Mr MICHAEL DALEY: I will take that on notice. We haven't responded to that yet, no. Government is still considering it.

The Hon. SUSAN CARTER: You're still considering it. Any timeline on when that consideration may finish?

Mr MICHAEL DALEY: No.

The Hon. SUSAN CARTER: No timeline at all. Okay, thank you. You'd recall your second reading speech on 20 June 2023 introducing sections 93IB and 93IC into the Crimes Act, where you indicated that these reforms will be complemented by any recommendations or findings arising out of the Sentencing Council's review. Now that you have received that report, are you preparing legislation about weapons other than knives?

Mr MICHAEL DALEY: The premise of your question is, off the back of the Sentencing Council's report, am I preparing legislation?

The Hon. SUSAN CARTER: The premise of the question is that you indicated in your second reading speech when you introduced new provisions in relation to penalties for custody of knives in public places or schools, and using or carrying knives in public places or schools—that's 93IC and 93IB of the Crimes Act—that these reforms will be complemented by any recommendations or findings arising out of the Sentencing Council's review. I'm just following up on that commitment.

Mr MICHAEL DALEY: I just said we're considering that review.

The Hon. SUSAN CARTER: Is part of that consideration legislation that will flow from that?

Mr MICHAEL DALEY: I don't know. That's a matter for Cabinet.

The Hon. SUSAN CARTER: You're not at the moment considering any legislation or you're still waiting to think about the review?

Mr MICHAEL DALEY: I just said we're considering the review.

The Hon. SUSAN CARTER: Great. On 12 March 2024, when introducing section 22C of the Bail Act—a new test for certain young offenders—you committed to evaluation of that provision after 12 months. What was the result of that evaluation?

Mr MICHAEL DALEY: The statute's been extended for 18 months.

The Hon. SUSAN CARTER: What was the evaluation that extension was based on?

CORRECTED

Mr MICHAEL DALEY: The evaluation was carried out to be done at the end of that extension.

The Hon. SUSAN CARTER: You committed to an evaluation after 12 months. Then there was an extension without that evaluation, and the evaluation's been pushed out to the end of the extension. Is that what I should understand, Mr Attorney?

Mr MICHAEL DALEY: That was addressed in the second reading debate. I don't know that we did put a 12-month time limit on it, but I can go back and check.

The Hon. SUSAN CARTER: Minister, I can remind you. If you care to go to your second reading speech on 12 March, you committed to an evaluation in that second reading speech.

Mr MICHAEL DALEY: The second reading speech explained the reasons for the extension.

The Hon. SUSAN CARTER: Is it true that in the second reading speech for the extension the reason given was, basically, it's not working yet so we should do it some more?

Mr MICHAEL DALEY: No, it was that we wanted to—what I said was that the extension of the bill would allow more comprehensive data to be obtained and for other work that's relevant to the issue of youth crime, such as the things that the Premier announced in Moree, to be considered. That is the reason behind it.

The Hon. SUSAN CARTER: What was insufficient about the data from the first 12 months that you couldn't do an evaluation at that point?

Mr MICHAEL DALEY: The longer you have to evaluate data, the more robust and sound the findings are.

The Hon. SUSAN CARTER: Should we push it out to next century? We'd get great data by then. Is that your intention?

Mr MICHAEL DALEY: No. It's not my intention, no.

The Hon. SUSAN CARTER: You were the one who committed to 12 months. Why not follow through with what you commit to, Attorney General?

Mr MICHAEL DALEY: Because we decided to extend it and to continue the evaluation so we could get better data.

The Hon. SUSAN CARTER: You commit one thing to Parliament and then you unilaterally decide to change it because you think you don't have sufficient data. Have you shared the data that you have received with anybody?

Mr MICHAEL DALEY: We didn't unilaterally; your party voted for the extension.

The Hon. SUSAN CARTER: Have you shared the data that you have received to date with anybody?

Mr MICHAEL DALEY: In what sense?

The Hon. SUSAN CARTER: In the sense of anybody who could do an evaluation. Has BOCSAR looked at it? Have you had someone in your department look at?

Mr MICHAEL DALEY: BOCSAR will be looking at it and the department will be evaluating it as well.

The Hon. SUSAN CARTER: Have they already looked at it? Have you shared the data that you have with them?

Mr MICHAEL DALEY: I don't know. There's no-one from BOCSAR here. I can ask them and get back to you, if you like.

The Hon. SUSAN CARTER: That would be great. I think the public has a great interest to know what evaluation has been done and the reason for the extension. Minister, you've repeatedly informed this Committee that responding to the High Court decision in *BA v The King* is a complex issue and that you had hoped to introduce a draft bill into this Parliament in early 2025. When can we expect to see this legislation produced?

Mr MICHAEL DALEY: It is a complex issue. The department has done extensive consultation on both that particular provision and the whole division of the Crimes Act, which is "Sacrilege and housebreaking", and there were quite some divergent views about it. We are continuing to consult on that and to consider amendments. So I can't give you a time frame. But there were some divergent views in relation to stakeholders, particularly about misidentification of women and the safety of women and the domestic violence context, returning to their former home to retrieve possessions, and things like that.

CORRECTED

The Hon. SUSAN CARTER: Has the consultation established that there's been similar problems in all of the other Australian jurisdictions which have managed to make this change to protect women?

Mr MICHAEL DALEY: What was the question?

The Hon. SUSAN CARTER: Did your consultation disclose that there have been problems—the problems that you have just raised—in any of the other Australian jurisdictions which have amended their law so that the problem in *BA v The King* does not arise? New South Wales is sui generis in this regard, isn't it, Mr Attorney General.

Mr MICHAEL DALEY: I'd have to just go back and check that and take that on notice.

The Hon. SUSAN CARTER: If you could, thank you. I agree that it is complex, but South Australia, Queensland, Victoria, Western Australia, everyone else has managed to address this issue. Minister, the Community Justice Centres Act of 1983 established community justice centres, a free mediation and conflict management service. You, of course, announced the closure of this service from 30 June. However, no legislation dealing with this issue has yet been introduced into Parliament. When can we expect to see this legislation?

Mr MICHAEL DALEY: I can't give you a timeline on that.

The Hon. SUSAN CARTER: You can close the centres, but you can't give us a timeline for when the legislation supporting that closure will come into Parliament?

Mr MICHAEL DALEY: Correct.

The Hon. SUSAN CARTER: Why?

Mr MICHAEL DALEY: They're not funded anymore. So they're effectively closed anyway, as far as the Government is concerned. We will introduce legislation in due course.

The Hon. SUSAN CARTER: You're telling this Committee that you are making this change by Executive action and not bringing the matter to Parliament? Is that what we understand?

Mr MICHAEL DALEY: We're not funding CJs anymore. We've been through this on two or three occasions now.

The Hon. SUSAN CARTER: It is a process question, Attorney General. Are you doing this by Executive action and declining to bring the matter to the Parliament?

Mr MICHAEL DALEY: No. The legislation will be coming.

The Hon. SUSAN CARTER: When?

Mr MICHAEL DALEY: I can't give that time frame. It's a matter for Cabinet.

The Hon. SUSAN CARTER: Did you take the closure of the CJs to Cabinet?

Mr MICHAEL DALEY: What happens in Cabinet stays in Cabinet.

The Hon. SUSAN CARTER: I am not asking you the outcome. In fact, we know the outcome. What I'm asking you is why is the closure, the Executive action, uncoupled from the legislative action of bringing the legislation to Parliament. That's my question.

Mr MICHAEL DALEY: Because it can be. We decided we were no longer funding CJs, and the funding ceased at 30 June.

The Hon. SUSAN CARTER: You don't believe you are accountable to Parliament in this respect?

Mr MICHAEL DALEY: I just told you there would be legislation being brought to Parliament. And I'm the—

The Hon. SUSAN CARTER: Are you scared to introduce this legislation to Parliament, Attorney General?

Mr MICHAEL DALEY: I've sat here and answered questions about CJC, so to pretend that I'm not accountable is a bit silly. I'm being accountable now.

The Hon. SUSAN CARTER: Where is the legislation? When are you putting it before Parliament?

Mr MICHAEL DALEY: I just told you: when it arrives.

CORRECTED

The Hon. SUSAN CARTER: When it suits you. Are you too scared to introduce this legislation to Parliament?

Mr MICHAEL DALEY: That's a silly question.

The Hon. SUSAN CARTER: I don't think it is. I think it is almost a necessary inference. Minister, we have just gone through a range of things about which there have been announcements. We see lots of announcements and lots of activity, which is commendable, but why are we not always seeing legislative follow-through for all these announcements?

Mr MICHAEL DALEY: If we go through them one by one, as we just have—I have given you reasons for that. I don't think you can say I've been light on legislation.

The Hon. SUSAN CARTER: That was not the comment. The comment was—lots of announcements, but we are waiting to see follow-through on some things, for example, the evaluation of 22C of the Bail Act. Anyway, if we can move on to something else—in fact, following on from 22C of the Bail Act. As you indicated in your previous answer, you rightly indicated that these bail changes were part of an approach that colloquially may be known as the Moree response. I think you said:

... these legislative measures are just the first part of the Government's significant and multifaceted response to regional crime.

And part of that response was to deliver an action plan within six months to optimise service delivery for youth. What actions did this action plan require?

Mr MICHAEL DALEY: That's being driven by the Cabinet Office, so it should probably have been directed to the Premier.

The Hon. SUSAN CARTER: I'm not asking you the process; I'm asking you the fruits of it. What did the action plan that you announced as part of the Moree response require?

Mr MICHAEL DALEY: I'll just grab a note. There has been an evaluation by Moree Plains Shire Council on some of the programs that have been directed from various sources to Aboriginal communities and troubled youth in the area. There's place-based and targeted responses in Moree, which are paying for additional judicial resources and legal resources. There's a new \$8.75 million bail accommodation and support service that's been—

The Hon. SUSAN CARTER: Thank you. That's the details of the Moree response. But one of the items was the action plan, and I'm wondering what the action plan that was to be delivered in six months—what the actions flowing from that plan were to be in Moree.

Mr MICHAEL DALEY: That will be for the Premier to announce, because it's not mine.

The Hon. SUSAN CARTER: You don't have the action plan?

Mr MICHAEL DALEY: It doesn't live within my portfolio. It's being driven by the Cabinet Office.

The Hon. SUSAN CARTER: Who is responsible for the implementation of measures to address youth crime in Moree?

Mr MICHAEL DALEY: The Premier's Department is responsible for the action plan. But your question was who is responsible for the various responses. It depends what the responses are—the council, for example, opening the pool late at night; the police doing more SAY and YAMs meetings. It depends on what the action was. They're attributed to various—

The Hon. SUSAN CARTER: We will come to some of those things. Thank you. Are you able to tell us what impact the action plan has had on youth crime rates?

Mr MICHAEL DALEY: Where? Generally, or in Moree?

The Hon. SUSAN CARTER: In Moree. It was an action plan for Moree, I thought, Minister. Or was it—

Mr MICHAEL DALEY: No. It had some statewide aspects in it, as well, from memory.

The Hon. SUSAN CARTER: And the impact on youth crime has been?

Mr MICHAEL DALEY: I would have to have a look at the BOCSAR statistics and compare the last six months to two-year tranche. But, generally speaking, I think that it is a mixed bag.

The Hon. SUSAN CARTER: I think that is probably fairly accurate. As you indicated, part of not the action plan but the overall Moree response was to deliver out-of-hours activities in partnership with Aboriginal

CORRECTED

community controlled organisations and the Moree Plains Shire Council. How much of the total \$13.4 million investment was directed to those activities?

Mr MICHAEL DALEY: I'd have to take that on notice unless Mr Tidball's got that at his fingertips.

The Hon. SUSAN CARTER: Thank you. Can you tell us how the programs were selected and how they tailored in with the Youth Justice prevention aim?

Mr MICHAEL DALEY: No. You'll have to ask the Premier that, maybe on notice, because, as I said, this is being coordinated from the Cabinet Office, not by DCJ.

The Hon. SUSAN CARTER: What, exactly, is your role in the Moree response?

Mr MICHAEL DALEY: I am the keeper, if you like, of the laws that overarch the justice responses out there—the Bail Act, for example.

The Hon. SUSAN CARTER: When you decided to extend 22C of the Bail Act, what evaluation of these programs was done that fed into that decision to extend 22C of the Bail Act?

Mr MICHAEL DALEY: Can you say that again for me, please?

The Hon. SUSAN CARTER: When you decided to extend 22C of the Bail Act, what evaluation of these programs on the ground in Moree was fed into your decision to extend the reach of 22C of the Bail Act?

Mr MICHAEL DALEY: Which programs are you referring to?

The Hon. SUSAN CARTER: The ones that we've just been talking about, that you pointed to, done in conjunction with the Moree Plains Shire Council and Aboriginal community controlled organisations, details of which I don't have because, unfortunately, you're not able to give them to us.

Mr MICHAEL DALEY: Someone should have asked the Premier for them. You're asking the wrong Minister. They were announced as a package. The bail laws were announced along with the other measures. You're asking me what analysis of those measures informed 22C changes. They couldn't have. They were announced at the same time.

The Hon. SUSAN CARTER: Minister, you announced a total package when 22C was introduced, on 12 March.

Mr MICHAEL DALEY: The Premier announced a total package.

The Hon. SUSAN CARTER: Then later you announced a decision, and you put through legislation to extend the time of 22C. I'm asking you what evaluation was undertaken of the programs that, as you just indicated, were part of that total package. What evaluation of those programs was done that informed your decision to extend the time of 22C?

Mr MICHAEL DALEY: I referred to all this in my second reading speech when I extended 22C.

The Hon. SUSAN CARTER: Then you will be able to tell us quite easily now what that evaluation was.

Mr MICHAEL DALEY: I don't have a copy of that in front of me, but the strongest measure that I relied upon and the Government relied upon, and therefore the Premier, was the fact that the police were telling us that whilst their operations were successful and they were getting on top of youth crime out there—if I could put it that way—there was still a disturbing presence of young people committing the offences that 22C was directed to.

The Hon. SUSAN CARTER: So it was advice from the police—

Mr MICHAEL DALEY: One of, yes.

The Hon. SUSAN CARTER: —that the programs hadn't yet worked to achieve a downturn in crime. Is that what I'm understanding?

Mr MICHAEL DALEY: It's probably fair enough to put it that way, yes.

The Hon. SUSAN CARTER: In terms of, for example, a program the police would know, PCYC, and the programs they're running in Moree, do you know how many children in the various programs, as part of the Moree pilot, have previously committed crimes?

Mr MICHAEL DALEY: How many have previously committed crimes that are in those programs?

The Hon. SUSAN CARTER: Yes.

CORRECTED

Mr MICHAEL DALEY: I don't know if the Government would even keep those statistics but, in any event, it would be a question for the police.

The Hon. SUSAN CARTER: But wouldn't that be a relevant statistic to evaluate if this is targeting prevention of crime and also youth crime recidivism, which has been a major feature of the whole debate about regional safety?

Mr MICHAEL DALEY: That would be a question for the police, really.

The Hon. SUSAN CARTER: Do you have handy the total number of crimes committed by those under the age of 14 in the New England Police District in 2024?

Mr MICHAEL DALEY: I don't, but somebody else might.

The Hon. SUSAN CARTER: I can help you with that. It was 362.

Mr MICHAEL DALEY: Why did you ask me the question, then?

The Hon. SUSAN CARTER: To compare it to the figure in 2023, which was 227, and to make the point that in the period of the Moree youth response that was directed at youth crime, we have seen youth crime go up in the New England district. It's a 63 per cent increase in one year, so I'm just asking you what evaluation is being done of that pilot program, what are we learning and how are we addressing this problem?

Mr MICHAEL DALEY: That was the first question you asked me and I already answered it.

The Hon. SUSAN CARTER: Perhaps you could repeat the answer because I haven't heard how we are addressing the problem.

Mr MICHAEL DALEY: No, I'm not repeating the answer. I've just told you that there's an evaluation going on. I'm not repeating the answer.

The Hon. SUSAN CARTER: Am I correct in saying that there has been no evaluation but you hope to do an evaluation, what, in 2028, when 22C finishes?

Mr MICHAEL DALEY: The evaluation is continuing.

The Hon. SUSAN CARTER: And that is to be done in 2028, in the next period of government, is that right, when the extended 22C finishes?

Mr MICHAEL DALEY: It's ongoing now.

The Hon. SUSAN CARTER: When will the ongoing evaluation provide a report?

Mr MICHAEL DALEY: I'll try to find out an exact date for you on notice.

The Hon. SUSAN CARTER: That would be very helpful. Are you familiar with a program such as BackTrack that has been running very successfully in Armidale, in the same district as Moree?

Mr MICHAEL DALEY: I am, yes.

The Hon. SUSAN CARTER: The Government is not continuing funding of BackTrack, even though it has been evaluated and proven to be successful. Given the issue that we have with youth, and we're looking for really positive youth diversion programs, why isn't BackTrack continuing to be funded?

Mr MICHAEL DALEY: I think that would be appropriately directed to Minister Dib.

The ACTING CHAIR: The bell has rung with one minute to go. You have time for one more question.

The Hon. SUSAN CARTER: Minister, part of the announcement you made on 12—

Mr MICHAEL DALEY: Sorry, what does that bell mean?

The ACTING CHAIR: That there was one minute to go, but we've changed it now to ring at the end.

Mr MICHAEL DALEY: It's like a boxing match with 10 seconds before the bell.

The Hon. SUSAN CARTER: I didn't realise it was a warning bell; I thought it was time. Part of the Moree pilot program was, as you indicated, the expansion of YAMs to nine additional police districts. Do you know what the impact of these meetings has been on youth crime?

Mr MICHAEL DALEY: No, but I'm certain Minister Catley would be able to help you out there. They are conducted by the police; they're hers.

CORRECTED

The ACTING CHAIR: Minister, if I can just go back to one last question on Kathleen Folbigg. Would you sit down and meet with her now?

Mr MICHAEL DALEY: No, I don't think so. The matter has concluded. I can't see any point in doing that. I don't want to hold any hope out to her that she can come in and ask for that figure to be varied because I think the Premier has indicated quite clearly on a number of occasions that it won't be.

The ACTING CHAIR: Have you taken any notice of her in the media just literally saying that there has been no offer of an apology, no conversation and no humanity has been shown to her, in that strain? Would that change your mind if she appealed to you to just sit down?

Mr MICHAEL DALEY: No. I told you that I have to consider this as a matter of process. It's not that I'm lacking in humanity. You've got to recall the circumstances of her release. I got a call from Tom Bathurst, who said he'd reached a preliminary review and would I like to see that or do I want to wait a few months for him to conclude his report. I said, "No, send it up, if your view is firm. Let's not muck around." I received the final advice on a Friday and I had Ms Folbigg out of jail less than one business day later. I don't think you can accuse me of being unsympathetic. She was released at 8 o'clock in the morning before I held a press conference, so that she could be spirited away without any media cloud. That was all done in less than one business day. Please, you can accuse me of many things, but don't accuse me of lacking humanity in this respect.

The ACTING CHAIR: Do you know why Chief Justice Tom Bathurst called you?

Mr MICHAEL DALEY: Yes, to give me the opportunity to consider whether I would like to recommend—I assume—to the Governor that she be pardoned, given that he had reached a conclusion but hadn't finished the textual body of the report. He was giving me the opportunity, should I have decided to take it up, to release her early, and I readily did that.

The ACTING CHAIR: Were you aware that other people had urged you to read the submissions made, and that it was clear that there was only one conclusion that former Chief Justice Tom Bathurst could make based on the submissions?

Mr MICHAEL DALEY: You're asking me to pre-empt the findings by the former Chief Justice of New South Wales? No, you know I'm not going to do that. No AG would have, based on mere submissions alone. The whole point of the inquiry was for it to have reached a conclusion, and it hadn't until I received the piece of paper with the preliminary finding on it.

The ACTING CHAIR: Do you think, honestly, just on a personal note, that Ms Folbigg will now be able to engage in a life that is not one of significant financial stress given she has no home and no superannuation? She would barely be able to afford a home, based on what you provided, or offered to provide her, in the place that she was living when she was taken from her home, wrongly, over 20 years ago. Do you think she should be able to have a home?

Mr MICHAEL DALEY: Of course.

The ACTING CHAIR: Do you think what you've done will put her in a position of restitution where she can have one?

Mr MICHAEL DALEY: It was not intended to be an offer of restitution; it was intended to be an ex gratia payment.

The ACTING CHAIR: In that ex gratia payment, from what gathers and from what I can understand from your evidence today and that long bit you read out, you didn't consider what it would take for Kathleen Folbigg to live the rest of her life out of prison.

Mr MICHAEL DALEY: The two strongest factors I indicated to you were the culpability of the State, and that was the frame that was put to me by her legal team, and that has been the basis for her application; and, secondly, the comparison to comparable matters like this in the past. They were the two strongest factors. There were other factors, but they were the two strongest factors that influenced my decision.

The ACTING CHAIR: Do you accept that, if that is it and there is no consideration about what wrongful conviction does for somebody's life beyond the finding of wrongful conviction, this could legitimately place serious mistrust in our justice system to be able to rectify such egregious wrongs in New South Wales?

Mr MICHAEL DALEY: I'm not sure I understand the nature of the question.

The ACTING CHAIR: Do you see that it could be readily perceived by independent, objective minds that your determination can instil mistrust in the justice system—that it's incapable of righting a wrong, based on your decision and the quantum?

CORRECTED

Mr MICHAEL DALEY: No. I said on the day that I gave the press release, when Ms Folbigg was part of the justice system work:

The result today is confirmation that our judicial system is capable of delivering justice, and demonstrates that the rule of law is an important underpinning of our democratic system.

It was brand-new, hitherto unknown evidence that led to her being released.

The ACTING CHAIR: Justice Bathurst also found—and I know you know this—that the conclusions drawn wrongly, cruelly and in a misogynist way from Kathleen Folbigg's own diaries were also an error of sorts in the findings of her guilt. Yes, the medical evidence was significant, but there were other matters. Did you read those parts of the submissions and Justice Bathurst's findings?

Mr MICHAEL DALEY: I did. I didn't see any mention of misogyny, but I did.

The ACTING CHAIR: And you accept that it was also those cruel, inhumane and nasty conclusions drawn from her diaries?

Mr MICHAEL DALEY: I didn't see him characterise them as cruel and inhumane.

The ACTING CHAIR: They're my descriptions. That's what a person with humanity and care for somebody would draw in terms of conclusions of those findings.

Mr MICHAEL DALEY: Not necessarily, but you have your opinion.

The ACTING CHAIR: I am telling you that is my opinion. Did you read those parts, Attorney?

Mr MICHAEL DALEY: Yes.

The ACTING CHAIR: You understand that was there too?

Mr MICHAEL DALEY: Yes.

The ACTING CHAIR: Going back to the question, do you accept that a reasonable-minded person in this State that is looking at the integrity of our justice system and for the State to be able to right a wrong and put a woman in a position of some semblance of justice, you've now placed that in jeopardy?

Mr MICHAEL DALEY: Absolutely not. I do not accept that characterisation whatsoever.

The ACTING CHAIR: I want to follow on from some questions that Ms Carter asked. Under the Minns Labor Government's youth bail laws, there has been a 34 per cent increase in young people in detention from June 2023. We know that this is based on the stricter show cause test applied to offenders. Sixty per cent of these young people are First Nations young people, despite making up 8 per cent of the population, and 70 per cent of them are on remand. That's nearly three in four people in detention and presumed innocent currently. Do you take those figures as your bail laws currently succeeding in their intent?

Mr MICHAEL DALEY: Yes, I would. Without having regard to your preamble about First Nations people and things like that, yes, I do believe that they are having the effect that they were intended to, which is to keep the community safe so that children who are showing a strong disposition towards reoffending in certain ways are not able to do that. They were detained.

The ACTING CHAIR: How does that correlate with the fact that there has been no reduction in youth crime, if community safety and crime reduction—

Mr MICHAEL DALEY: I'd like to have a look at statistics closer. I don't accept your characterisation that there hasn't been. We have to look at the breakdown over different time periods of different crimes and things like that. I'm not sure I generally accept that characterisation. But you've always got to keep in mind that, regardless of what the statistics show, if those legislative measures hadn't been brought into place, the figures might've been higher. It's always dangerous to interpret statistics in a particular way. It might've been higher if we hadn't brought in—

The ACTING CHAIR: Statistics are statistics. We know that.

Mr MICHAEL DALEY: It's the conclusions that you reach.

The ACTING CHAIR: No, I'm asking you; I'm not reaching any conclusions. If the measure of considering that dramatic increase in remand figures of young people in New South Wales—it's a 34 per cent increase within 18 months of young people in remand. Just so you're aware, since the laws were introduced, break and enter offences are up in that youth category. Robbery offences are up. Property damage is up. Weapons offences are up. Where is the basis upon which you're saying that those incarceration and remand figures are a measure of success for your Government and for you?

CORRECTED

Mr MICHAEL DALEY: It's not the figures that are a measure of success. They just tell a story at a snapshot in time. We've been through this before. I've told you what the rationale for bringing 22C in was. Young people of certain ages who were engaging in repeat offending in a dangerous way were continuing to be released on bail and reoffending. That was dangerous. I had fears that someone in the community would be hurt or killed or that one of the young people speeding down the highway, posting and boasting, would be hurt and killed. That, in fact, came to fruition. That's why we had no choice but to bring these in. It was a decision of—

The ACTING CHAIR: What have children told you so far about their experiences in prison, whether sentenced or on remand?

Mr MICHAEL DALEY: It's very hard for the Attorney General of the day to go out and interview children who are in jail. I did go and visit, since last we met, Cobham Youth Justice Centre in Western Sydney.

The ACTING CHAIR: What did the children there tell you?

Mr MICHAEL DALEY: We didn't get into discussions about their individual offending. That wouldn't have been appropriate. What I was struck by were the programs that were available to them out there. What really surprised me about that visit, more than anything, was the really strong rapport between the prison officers and the children.

The ACTING CHAIR: Did you ask any of those children in prison what supports would've prevented them from being incarcerated?

Mr MICHAEL DALEY: No. Visits of that sort don't enable me to sit down with young people and have a one on one with them and ask them about their individual—

The ACTING CHAIR: They do. I've done that. I can't imagine why you wouldn't be able to do that.

Mr MICHAEL DALEY: I didn't think it was appropriate at the time. That wasn't the purpose of the visit.

The ACTING CHAIR: To ask a young person who is incarcerated right now as a result of your laws what supports would have prevented them from being incarcerated, you didn't think that would be a useful—

Mr MICHAEL DALEY: Not on that occasion, no. It's not that I didn't think it would be useful. That wasn't the purpose of the visit.

The ACTING CHAIR: In terms of that visit, are you suggesting to this inquiry now that, because those programs—

Mr MICHAEL DALEY: I'm not suggesting anything.

The ACTING CHAIR: —are offered within a jail setting, that's a good thing for keeping communities safe? I'm just trying to work out the logic and what your evaluation process is at the moment of the laws you introduced.

Mr MICHAEL DALEY: You've got me confused now. I don't know where you're going with that.

The ACTING CHAIR: On the evaluation process that is ongoing, which you referred to earlier, what criteria is being engaged in that evaluation process, that you're aware of?

Mr MICHAEL DALEY: I'd have to take that on notice, unless you want to talk to one of the officers about that now.

The ACTING CHAIR: I can talk to them later. In terms of your understanding, have you asked, instructed or received advice or a briefing so that you can have something in your mind's eye about the rationale for when you stood up and extended these laws—which you said would be evaluated after 12 months—that have resulted in a 34 per cent increase in young people on remand, recognising that 60 per cent of those young people are First Nations kids?

Mr MICHAEL DALEY: The Department of Communities and Justice is doing the evaluation. What they've done is convene a cross-agency group to monitor and report back on the impact of these laws. The monitoring group has met on three occasions since the test was introduced. The next meeting will be in a couple of weeks.

The ACTING CHAIR: On the inputs into that, are people sitting down with the young people currently behind bars on remand? Is that part of the evaluation? Is it at that level of analysis?

Mr MICHAEL DALEY: I don't know. You can ask one of the officers now or later, if you like.

CORRECTED

The ACTING CHAIR: Finally, on this point, have you received any information at all about whether there is any peer-reviewed study or any study at all that's going on at this point in time, other than that evaluation, that the Bail and Crimes Amendment Act has the effect of reducing crime? Is there any material yet in New South Wales that could point to that, that you're aware of?

Mr MICHAEL DALEY: Not that I'm aware of. The group might have within its files something pointing to that but, until they deliver their report, no, I won't know.

The ACTING CHAIR: Can you please take that on notice to find out? If there is, would you provide that to this Committee on notice?

Mr MICHAEL DALEY: It might not live with me. It could be within Minister Dib's portfolio.

The ACTING CHAIR: I'm just asking if your team—

Mr MICHAEL DALEY: So I know what I'm taking on notice, can you be specific about what you're asking me?

The ACTING CHAIR: One peer-reviewed study, one not peer-reviewed study or one preliminary study review that shows that the Bail and Crimes Amendment Act has the effect of reducing crime rates in New South Wales.

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

The ACTING CHAIR: You're aware that there were a lot of submissions to you and submissions to the broader public, including those 500 experts in the fields of law, criminology, social science and Indigenous studies, that told the Government that these laws will not make communities safer and, in fact, will exacerbate the social drivers of young people's contact with the justice system? Do you still have those submissions front of mind?

Mr MICHAEL DALEY: I know that they exist. I know what they say. Yes.

The ACTING CHAIR: Could I just ask you, Attorney General, if you heard that a magistrate in a regional court said in open court that the defendant is unlikely to receive any custodial sentence but then refused a person bail and that person spent five weeks on remand and incarcerated, does that sound like the bail laws and the system is working?

Mr MICHAEL DALEY: I have no idea what you're referring to.

The ACTING CHAIR: It's completely hypothetical. I'm trying to understand your understanding of how the bail system is meant to work in New South Wales under the current laws.

Mr MICHAEL DALEY: I'm not going to address a hypothetical that is premised on me doing a precis of an action or what was said by a magistrate in a court. Bail and sentence are two different considerations.

The ACTING CHAIR: What I'm asking for the Attorney General to advise this Committee is whether that would concern you if you heard that a magistrate said in open court, "The defendant is unlikely to receive a custodial sentence, but I'm going to refuse bail on this occasion and the person will be remanded." Do you think that's ordinary or do you think that would raise a little bit of concern?

Mr MICHAEL DALEY: That's hypothetical. Concern amongst whom? No, that's too wide a question. The Bail Act is prescriptive. It provides a process by which judicial officers have to go to determine whether a person is getting bail or not, and that's the law.

The ACTING CHAIR: Do you think that that consideration of a non-custodial sentence, where it's really clear in an open court—that you could still be subjected to custody or remand because of the bail laws and the way they apply right now?

Mr MICHAEL DALEY: I would have to go back and have a look at them. It's a hypothetical question, and I'm not into that.

The ACTING CHAIR: Would you take that on notice? In earnest, this is something that I think the State of New South Wales would really need the Attorney General of this State to have a view about.

Mr MICHAEL DALEY: Sure. I am more than happy to do that, yes.

The ACTING CHAIR: I would like to talk to you about "no body, no parole".

Mr MICHAEL DALEY: That doesn't live with me. It lives with Minister Chanthivong. That's easy.

CORRECTED

The ACTING CHAIR: It does, but I want to talk to you about the application of "no body, no parole" in terms of a circle of injustice and the concept of impossibility. This is the question: If you, as the Attorney General of New South Wales, became aware that the laws as they are being applied, not the laws as they are written, are creating a circumstance of impossibility to prove something and then somebody is being deprived of their liberty, would that concern you, as the Attorney General?

Mr MICHAEL DALEY: Firstly, it's hypothetical. Secondly, you've presupposed in that question that the law has been applied in a way other than it's written. I can't answer that question.

The Hon. SUSAN CARTER: I have a couple more questions about the Moree response, if I may. When was the additional temporary magistrate to the New England circuit appointed?

Mr MICHAEL DALEY: I can ask someone else or take it on notice.

The Hon. SUSAN CARTER: Yes, take it on notice. When did the appointment conclude and what was the impact of this appointment?

Mr MICHAEL DALEY: I'll take all of those on notice. Impact in what sense? What are you getting at there?

The Hon. SUSAN CARTER: Part of the response was, "We're appointing an additional magistrate for six months to the New England circuit." Why? How did it work? Was it effective? In your second reading speech when this package was introduced, it was really clear that the bail laws, the bail accommodation, the temporary magistrate and the programs in Moree were a total package. To be a pilot program, we were to learn from what was happening in Moree and roll it out in other places. I'm simply trying to find out what evaluation has been done of all the elements. What have we learnt? What are we doing better now because of this investment?

Mr MICHAEL DALEY: I'm keen to learn that too.

The Hon. SUSAN CARTER: That's why I'm asking you these questions.

Mr MICHAEL DALEY: My advice is that the funding for the additional magistrate for six months to hear additional sittings was meant to get on top of the workload. It is commencing on 26 August 2024, with funding ending on 7 March. After this period, the additional sittings in the New England area will conclude.

The Hon. SUSAN CARTER: What impact did that have on delivery of justice in the New England area?

Mr MICHAEL DALEY: I'm happy to take that on notice. I just needed to get an idea of what performance measures you were looking for.

The Hon. SUSAN CARTER: I'm interested in that too. Perhaps you could take on notice the performance measures that you're using to assess all of these component parts of the package.

Mr MICHAEL DALEY: Sure, but I'm taking on notice a question from you and I want to service the question. That's why I asked for the additional information.

The Hon. SUSAN CARTER: How many young offenders have been accommodated in the Moree bail accommodation?

Mr MICHAEL DALEY: That's a matter for the Premier. It is being driven by the Cabinet Office.

The Hon. SUSAN CARTER: So you have no connection to that at all? You administer the bail laws but not the bail accommodation?

Mr MICHAEL DALEY: Youth Justice are putting that together.

The Hon. SUSAN CARTER: Even though it's part of your package, you've got nothing to do with that.

Mr MICHAEL DALEY: It's not part of my package. It's part of the Premier's package. I didn't say I had nothing to do with it. It's in Minister Dib's portfolio.

The Hon. SUSAN CARTER: At every other estimates hearing, you and members of the department have been able to answer questions about the Moree bail accommodation. What has changed?

Mr MICHAEL DALEY: Nothing has changed. I'm just telling you who is responsible for it.

The Hon. SUSAN CARTER: Has anything changed with the status of the Moree bail accommodation, Minister?

CORRECTED

Mr MICHAEL DALEY: Mr Tidball can answer that question, or I can give you some information now. A consortium of three local Aboriginal organisations have been chosen to design and deliver Moree's bail accommodation program. The consortium consists of a Miyay Birray Youth Service, Pius X Aboriginal medical service and the SHAE Academy. Youth Justice is continuing to work with the consortium to acquire a suitable property for the program. While the program is expected to open in the second half of 2025, Youth Justice NSW are also boosting resources in Moree by appointing an additional temporary caseworker to supervise young people on bail.

The Hon. SUSAN CARTER: We're in the second half of 2025 now, aren't we?

Mr MICHAEL DALEY: Yes.

The Hon. SUSAN CARTER: When do we expect it will be open?

MICHAEL TIDBALL: If I can indicate, Ms Carter, the challenge with this has been to identify, in partnership with the community, appropriate accommodation. The truth is that that has been a very difficult process. There have been a number of options which have come very close to landing but, for various reasons, there has not been a suitable property identified. That matter, though, is at the moment moving forward. I think it falls within Minister Dib's portfolio, and his estimates is next Wednesday but there is good movement happening. The delivery and interface with young people, through two caseworkers, is in the process of commencing.

I think next Wednesday Minister Dib can indicate exactly where the process is up to, but the issue has been to, in partnership, find a suitable accommodation to make it then, once you have that accommodation, safe and appropriate, given the needs of those children. That is progressing well, and appropriate property is now in sight, and there are negotiations progressing.

Mr MICHAEL DALEY: What Mr Tidball can't say but I will is that it has been frustratingly slow. I've expressed that on a number of occasions. I didn't realise what the driver was behind the lack of speed, and it's this. When the department and those three groups have found a property available for lease or purchase, they've started negotiations with the owners of the land, and when the owners of the land have discovered what the acquisition is intended for, they've pulled it from sale or lease. Some of the locals up there don't want this bail service in their community or in their property, and I find that to be incredibly disappointing, but we are pushing on, nonetheless.

The Hon. SUSAN CARTER: Just to summarise, given that Moree was designed to be a pilot project to be rolled out in other areas, what have we learnt that we can replicate in other parts of the State?

MICHAEL TIDBALL: A day program has been developed, which is ready to commence, that will include a focus on education—

The Hon. SUSAN CARTER: Sorry, that is ready to commence or has been evaluated?

MICHAEL TIDBALL: Ready to commence.

The Hon. SUSAN CARTER: So we haven't learnt anything from it yet, because we haven't started it yet?

MICHAEL TIDBALL: That's because there is not a facility available in Moree, but the areas of focus are education, employment, skills development, cultural activities and health.

The Hon. SUSAN CARTER: Sorry, Mr Tidball. My question was—I think the announcement was 12 March 2024. We're now in August 2025. Originally, it was flagged as a 12-month emergency time frame for the bail laws while all these other supports could be put in place, to be evaluated, learnt from Moree and rolled out across the State. What have we evaluated? What have we learnt? What can we do in other parts of the State as a result of this investment in Moree?

Mr MICHAEL DALEY: It has taken longer than we wanted. There is no doubt about that. We are all frustrated about that, but we are still working towards that, and the evaluation is continuing.

The Hon. SUSAN CARTER: Continuing. Great. Thank you very much.

The Hon. NATASHA MACLAREN-JONES: Thank you, Attorney General and everyone else, for being here today. Do you agree, as Attorney General of New South Wales, that the laws of this State should be enforced when somebody breaks them?

Mr MICHAEL DALEY: That's axiomatic, but, yes.

The Hon. NATASHA MACLAREN-JONES: Do you see as part of your job as the AG that you should ensure, as far as possible, that the laws of this State are understood and enforced if they are breached?

CORRECTED

Mr MICHAEL DALEY: Sorry, can you give me a bit more information there?

The Hon. NATASHA MACLAREN-JONES: I'm saying whether or not do you agree—

Mr MICHAEL DALEY: Is it my job to see that laws are enforced when they are breached? It depends on the context.

The Hon. NATASHA MACLAREN-JONES: But do you agree that they should be enforced if they are breached?

Mr MICHAEL DALEY: That's not what you asked me, but, yes, I do.

The Hon. NATASHA MACLAREN-JONES: Are you familiar with division 7 of the Roads Act 1993, the heading of which is "Trespassing on Sydney Harbour Bridge and other major bridges, tunnels and roads"?

Mr MICHAEL DALEY: Is this the division where we have section 144G? I take it that's where we're going.

The Hon. NATASHA MACLAREN-JONES: Yes.

Mr MICHAEL DALEY: Yes.

The Hon. NATASHA MACLAREN-JONES: Do you recall voting in favour of the amendments made of this division by the crimes and roads amendment Act 2022?

Mr MICHAEL DALEY: Yes.

The Hon. NATASHA MACLAREN-JONES: You would recall that the legislation introduced new crimes with higher penalties for protesters that blocked major infrastructure, which included the Port of Newcastle and the Sydney Harbour Bridge, with penalties of up to two years imprisonment, a \$22,000 fine or both.

Mr MICHAEL DALEY: Yes, I'm familiar with that. Sorry, was the question that I voted for it? Yes.

The Hon. NATASHA MACLAREN-JONES: You would also be aware that there is an offence under section 545C of the Crimes Act of knowingly joining or continuing an unlawful assembly.

Mr MICHAEL DALEY: Yes.

The Hon. NATASHA MACLAREN-JONES: You'd also be aware that when section 24 of the Summary Offences Act was put in place, it was to deal with a situation where if a form 1 was provided under the Summary Offences Act to protesters, then a person would be guilty of an offence of an unlawful assembly under section 545C if the form 1 under the Summary Offences Act was complied with?

Mr MICHAEL DALEY: I'm not sure about it. I'd have to go back and have a look at the wording of section 545 again. I don't have it in front of me.

The Hon. NATASHA MACLAREN-JONES: That's fine. You'd also be aware—

Mr MICHAEL DALEY: The linkage of those two provisions is not ringing a bell for me, I'd have to say.

The Hon. NATASHA MACLAREN-JONES: That's fine. Are you also aware that section 24 was not changed by the crimes and roads amendment Act 2022 to expand any immunity from a form 1 to apply for the offences created under the crimes and roads amendment Act 2022?

Mr MICHAEL DALEY: No, I don't think so—no, I don't recall that being the case. I could be wrong, but I don't think so.

The Hon. NATASHA MACLAREN-JONES: There were no changes. Do you also agree that section 24 of the Summary Offences Act does not apply to the offences created by division 7 of the Roads Act?

Mr MICHAEL DALEY: Sorry, say that again?

The Hon. NATASHA MACLAREN-JONES: Do you agree that section 24 of the Summary Offences Act does not apply to offences created by division 7?

Mr MICHAEL DALEY: No, section 144G is a standalone provision.

The Hon. NATASHA MACLAREN-JONES: Recently Justice Rigg of the Supreme Court was asked by the Commissioner of Police to determine if a protest on the Sydney Harbour Bridge should be granted a form 1 in *Commissioner of Police v Lees* [2025] NSWSC 858. Is that correct?

CORRECTED

Mr MICHAEL DALEY: Sorry, say that again?

The Hon. NATASHA MACLAREN-JONES: Justice Rigg was asked by the Commissioner of Police to determine if a protest on the Sydney Harbour Bridge would be granted a form 1—

Mr MICHAEL DALEY: Yes, I'm familiar with Justice Rigg's judgement.

The Hon. NATASHA MACLAREN-JONES: And you also appointed her?

Mr MICHAEL DALEY: That's not relevant, but, yes. I did, yes.

The Hon. NATASHA MACLAREN-JONES: Did you seek to intervene in the case?

Mr MICHAEL DALEY: Sorry, why did you ask me that? Where's that going, that I appointed her? What sort of pointed question is that?

The Hon. NATASHA MACLAREN-JONES: I'm just asking. Did you then ask to—

Mr MICHAEL DALEY: No, that's completely irrelevant and bordering on offensive, frankly.

The Hon. NATASHA MACLAREN-JONES: No, I think you can—

Mr MICHAEL DALEY: Well, it is. It doesn't matter who appointed her. She takes her duties as a Supreme Court judge seriously, regardless of who appointed her.

The Hon. NATASHA MACLAREN-JONES: Attorney General, I think you can calm down.

Mr MICHAEL DALEY: I am calm. I'm very calm. That's offensive, that question, of her and of me.

The Hon. NATASHA MACLAREN-JONES: Attorney General, did you seek to intervene in that case?

Mr MICHAEL DALEY: No.

The Hon. NATASHA MACLAREN-JONES: Did it strike you strange that the judgement made no mention of the Roads Act?

Mr MICHAEL DALEY: No.

The Hon. NATASHA MACLAREN-JONES: Our view is that it's strange that those laws had previously found a person blocking the Sydney Harbour Bridge to be in breach of that law. Isn't it fair to say that there's no reason to grant somebody who is going to block the Sydney Harbour Bridge a form 1 because it can't be exempt from an offence under the Roads Act?

Mr MICHAEL DALEY: No, because the bridge wasn't closed by the protesters. It was closed by the authorities and therefore they didn't block it. So you're wrong in fact. I don't know what that does to the rest of your questions, but keep going.

The Hon. NATASHA MACLAREN-JONES: I was interested to see why that case wasn't put.

Mr MICHAEL DALEY: What case?

The Hon. NATASHA MACLAREN-JONES: That they would be blocking the Harbour Bridge.

Mr MICHAEL DALEY: Because it didn't arise. It was an application under the Summary Offences Act.

The Hon. NATASHA MACLAREN-JONES: Attorney General, up to 90,000 people broke the law set out under division 7 of the Roads Act and not one of them was charged.

Mr MICHAEL DALEY: How did they break the law?

The Hon. NATASHA MACLAREN-JONES: The same thing happened at the Port of Newcastle—

Mr MICHAEL DALEY: How did they break the law? I don't understand. How did they break the law? Is that a question or is it a statement?

The Hon. NATASHA MACLAREN-JONES: Attorney General, the same thing happened at the Port of Newcastle last year when the port was blocked by Rising Tide protesters in breach of the Roads Act. None of them were charged. Why not?

Mr MICHAEL DALEY: I don't know. Ask the police. It's not a job for me to work out what people are or are not charged with.

CORRECTED

The Hon. NATASHA MACLAREN-JONES: Attorney, does it concern you that a large number of people are breaching the law in this State, which you voted for, and there's nothing being done to charge them?

Mr MICHAEL DALEY: Your question is not based on truthful premises.

The Hon. NATASHA MACLAREN-JONES: Attorney General, Rising Tide intends to hold further protests later this year. Do you intend to take any action?

Mr MICHAEL DALEY: We'll see where they are and what the circumstances are. The Attorney General doesn't take action in respect of protest applications. I don't know who fed you these questions, but you're being sucker punched.

The Hon. NATASHA MACLAREN-JONES: Attorney, are you doing anything to actually enforce the law in this State?

Mr MICHAEL DALEY: In regard to what?

The Hon. NATASHA MACLAREN-JONES: Protest laws.

Mr MICHAEL DALEY: I don't understand your question. How does the Attorney General enforce the law? Can you answer? I'm not the sheriff.

The Hon. NATASHA MACLAREN-JONES: Attorney General, I might move on to electronic monitoring.

Mr MICHAEL DALEY: I think you should.

The Hon. NATASHA MACLAREN-JONES: There's no need to be rude. How much notice did you have of the collapse of the monitoring company BailSafe?

Mr MICHAEL DALEY: None.

The Hon. NATASHA MACLAREN-JONES: You did see the coverage in *The Sydney Morning Herald* on 21 July 2024?

Mr MICHAEL DALEY: I don't know if I did or not. I don't have the article in front of me.

The Hon. NATASHA MACLAREN-JONES: The article was published around the same time as the implementation of the taskforce that was looking at all aspects of electronic monitoring to determine the best model of use for those accused of domestic and family violence. Neither you nor members of the taskforce, or anyone in your office working on the issue of electronic monitoring, picked up that in July last year the principal of BailSafe had been arrested by the police.

Mr MICHAEL DALEY: Sorry, say that again.

The Hon. NATASHA MACLAREN-JONES: Last year there was a media article—and I'm asking whether it was brought to your attention—that the principal of BailSafe had been arrested.

Mr MICHAEL DALEY: No, I don't recall that.

The Hon. NATASHA MACLAREN-JONES: If BailSafe's failure constituted such an issue of public safety, why wasn't any action taken at the time?

Mr MICHAEL DALEY: Why wasn't any action taken about what?

The Hon. NATASHA MACLAREN-JONES: The fact that BailSafe had breached safety issues in relation to electronic monitoring.

Mr MICHAEL DALEY: Say that again.

The Hon. NATASHA MACLAREN-JONES: Last year in July there were media articles and also reports that the principal of BailSafe had been arrested, and it was around public safety. I'm asking why nothing was done at the time. You established a taskforce. Why wasn't any of it brought to your attention and why was no action taken at the time?

Mr MICHAEL DALEY: I don't know. I've asked the police why they didn't notify me. The police don't notify the Attorney General every time they arrest somebody.

The Hon. NATASHA MACLAREN-JONES: Attorney General, how many accused criminals were being monitored by BailSafe?

CORRECTED

Mr MICHAEL DALEY: I can get those exact figures for you. I think somebody will have them at their fingertips. It's in the realm of 30 or so—I think 34 or something like that. Somebody will correct me in a minute if I'm wrong, but I think it was about that.

The Hon. NATASHA MACLAREN-JONES: Attorney General, how many other monitoring companies provide this service in Australia or New South Wales?

Mr MICHAEL DALEY: I don't know about Australia. There's a handful in New South Wales. I don't exactly have the right numbers, but there aren't too many. There are four or five I think, or maybe three or four—not many.

The Hon. NATASHA MACLAREN-JONES: Isn't it true that courts have been ordering ankle monitoring as a parole condition for well over a decade without any incident?

Mr MICHAEL DALEY: No.

The Hon. NATASHA MACLAREN-JONES: Do you have a list of previous instances?

Mr MICHAEL DALEY: Yes. We raised them when Mr Speakman was the Attorney General, and this is where the whole concern about court-ordered electronic monitoring came up. I'll refer you to a celebrated case. I won't mention his name because I'm not sure if it's still before the court. He took his ankle monitor off, bolted north and he was picked up in the back of a truck in a container heading for Indonesia.

The Hon. NATASHA MACLAREN-JONES: So we have one. Attorney General, your two decisions to prohibit private monitoring companies and to decline to provide public monitoring for any alleged offender except for those certain DV charges deprives the courts of what has been a useful and effective monitoring tool for bail. Is that correct?

Mr MICHAEL DALEY: It's not useful and effective if the company goes broke, walks off the reservation and no-one is monitoring people.

The Hon. NATASHA MACLAREN-JONES: But as you said, there are a number of other companies as well.

Mr MICHAEL DALEY: That wasn't the premise of your question. You said I've deprived the court of a valuable tool. It's not valuable if no-one's monitoring them.

The Hon. NATASHA MACLAREN-JONES: That was one company, and there are several others, as you pointed out. What is the end date for ankle bracelet monitoring?

Mr MICHAEL DALEY: I think it's about mid-September.

The Hon. NATASHA MACLAREN-JONES: How many accused criminals are currently having their bail redetermined before abolishing the—

Mr MICHAEL DALEY: The transition period ends 12 September.

The Hon. NATASHA MACLAREN-JONES: And how many criminals are currently having their bail redetermined before the abolition of these?

Mr MICHAEL DALEY: I've tried to bring copious notes so I don't have to take things on notice, so just bear with us while I get it to you. As at 11 June, at the start of the transition period there are 137 defendants with bail conditions to be electronically monitored by a private provider. As of Tuesday, there were 32 who still have a private electronic monitoring condition. So 102 of them have had their bail redetermined, so that answers your question.

The Hon. NATASHA MACLAREN-JONES: You acknowledge that your decision means that judges now have the option of either remanding alleged offenders or holding them in jail until their court date?

Mr MICHAEL DALEY: There is a third option, which is to apply other strict bail conditions to effectively monitor them.

The Hon. NATASHA MACLAREN-JONES: Which the Premier described as "novel conditions". Does that include criminals taking selfies every hour?

Mr MICHAEL DALEY: It could do. It could be whatever the judicial officer decides is appropriate given the circumstances of the individual offending before him.

The Hon. NATASHA MACLAREN-JONES: So basically the State of New South Wales is now running public safety by selfie.

CORRECTED

Mr MICHAEL DALEY: No, that's not true.

The Hon. NATASHA MACLAREN-JONES: In the case of Ayman Manly, aren't the courts doing exactly what you invited them to do when you took away the options and ensured that he was basically taking selfies?

Mr MICHAEL DALEY: No, I didn't invite the court to do anything. I just removed one option from them.

The Hon. NATASHA MACLAREN-JONES: Why are you opposed to any private involvement in electronic monitoring? It was open to you to maintain this effective monitoring of criminals. Improved regulation was required, and yet you did not take that option.

Mr MICHAEL DALEY: We've been through all this. You can have a look at my second reading speech. I spelled it out in great detail.

The Hon. NATASHA MACLAREN-JONES: Attorney General, the only other option now left is to lock up alleged criminals—

Mr MICHAEL DALEY: No, that's not true.

The Hon. NATASHA MACLAREN-JONES: —which is a cost to taxpayers.

Mr MICHAEL DALEY: It's not true.

The Hon. NATASHA MACLAREN-JONES: Well it is.

Mr MICHAEL DALEY: No, it's not.

The Hon. NATASHA MACLAREN-JONES: You're giving very limited choice to either lock them up or they're let out to take selfies.

Mr MICHAEL DALEY: No, to impose other bail conditions that led them to be monitored like reporting to the police station or coming to the front door when they're required to to comply with a compliance check by the police or to walk into a police officer's station or to call the police—there's a range of other measures.

The Hon. NATASHA MACLAREN-JONES: Attorney General, there's an additional \$100 million that has been given to Corrections in the last budget. Is that to hold more prisoners on remand?

Mr MICHAEL DALEY: You can ask Minister Chanthivong that.

The Hon. NATASHA MACLAREN-JONES: Frankly, Attorney General, that could potentially build three new schools and, instead, it's going to be used for remand.

Mr MICHAEL DALEY: That's a lovely statement. Thank you.

The Hon. NATASHA MACLAREN-JONES: Attorney General, Corrective Services NSW oversees electronic monitoring of alleged serious domestic violence offenders. What are the obstacles to partnering with the department to monitor those accused on bail?

Mr MICHAEL DALEY: Do you mean what are the obstacles to us changing our decision?

The Hon. NATASHA MACLAREN-JONES: Working with other departments.

Mr MICHAEL DALEY: I don't understand what you mean.

The Hon. NATASHA MACLAREN-JONES: Corrective Services are overseeing electronic monitoring when it comes to those accused of domestic and family violence. I'm asking if there are any obstacles.

Mr MICHAEL DALEY: To what?

The Hon. NATASHA MACLAREN-JONES: Working with Corrections NSW in relation to their monitoring?

Mr MICHAEL DALEY: Sorry, who working with them though?

The Hon. NATASHA MACLAREN-JONES: Your department. You're the Attorney General and, working with Corrections NSW and another Minister, have you identified any obstacles?

Mr MICHAEL DALEY: To what—reversing our decision and having Corrective Services monitor everybody on bail who's subject to electronic monitoring?

CORRECTED

The Hon. NATASHA MACLAREN-JONES: We're talking about those accused of domestic and family violence. I'm asking if you've found any challenges with Corrections NSW monitoring those offenders?

Mr MICHAEL DALEY: I don't know. You'll have to ask the right Minister.

The Hon. NATASHA MACLAREN-JONES: Attorney General, wouldn't electronic monitoring be significantly cheaper for taxpayers than having people on remand?

Mr MICHAEL DALEY: Not if they're not being monitored. It's not a matter of expense; it's a matter of community safety.

The Hon. NATASHA MACLAREN-JONES: Back on community safety, which we now know is being done by iPhone—

Mr MICHAEL DALEY: It's actually not. It's actually not—but anyway.

The Hon. NATASHA MACLAREN-JONES: You're actually asking prisoners to buy an iPhone for an officer to monitor them whilst on bail. Isn't that exactly the same thing as using private electronic monitoring?

Mr MICHAEL DALEY: I'm not asking prisoners to buy an iPhone at all.

The Hon. NATASHA MACLAREN-JONES: But they've got to use an iPhone to monitor themselves and take selfies.

Mr MICHAEL DALEY: You just said, "You're asking prisoners to buy an iPhone." I haven't asked any prisoners to buy an iPhone.

The Hon. NATASHA MACLAREN-JONES: The Government is doing so.

Mr MICHAEL DALEY: No, they're not.

The Hon. NATASHA MACLAREN-JONES: It is a requirement of a prisoner to have their own iPhone to take selfies.

Mr MICHAEL DALEY: The Government didn't ask—

The Hon. NATASHA MACLAREN-JONES: Isn't that exactly the same thing as using private electronic monitoring?

Mr MICHAEL DALEY: Are you talking about it as a condition of bail? The Government doesn't ask them to do that.

The ACTING CHAIR: In the couple of minutes before we move into Government time, and I know that will be comprehensive and take a long time—

Mr MICHAEL DALEY: They're going to get into trouble if they ask me a question. Mick Veitch did once.

The ACTING CHAIR: Attorney, can I just ask you about the virtual bail court. Has that started up and have you had any feedback in the apparently one month—

Mr MICHAEL DALEY: Yes, it has started and I've had hugely positive feedback from the magistrates, particularly those in the regions.

The ACTING CHAIR: I'm interested in that, if you can provide some of that feedback?

Mr MICHAEL DALEY: I've got some quotes here, as luck would have it.

The ACTING CHAIR: I'm sure you have. It's something that we've all got really sharp focus on. There were going to be pros and cons no matter what. We'd love it if you can briefly share some of what you've been receiving.

Mr MICHAEL DALEY: One of the magistrates said—and these are comments that were sent to me, but whenever I go out of town I drop in and see stakeholders, including magistrates. One says, "Positive. Since the commencement of the bail division I've been able to complete the court's work closer to the ordinary sitting hours—that is, there have been significantly fewer late sittings in July on list days. On hearing days the ability to hear matters uninterrupted by release applications has been a welcome benefit." That is from a female magistrate that I won't name. Another said, "The bail division has had a very positive impact, especially with respect to hearing days where I found it much easier to get through the work. It's also eliminated the mental cluster associated with knowing there are fresh custodies on the way while you're in the midst of a hearing, but knowing nothing about what they involve." There are four more, if you want me to keep reading them.

CORRECTED

The ACTING CHAIR: These are the positive experiences on regional court lists.

Mr MICHAEL DALEY: Of magistrates all over the State.

The ACTING CHAIR: I'm curious to understand how the impacts are taking place and any feedback on actual bail hubs and the operation external to the court.

Mr MICHAEL DALEY: From other stakeholders, do you mean?

The ACTING CHAIR: Or from anybody who's actually running the bail hearings and the hub.

Mr MICHAEL DALEY: I meet with the Chief Magistrate, Michael Allen, regularly and he has allocated a really experienced magistrate Daniel Covington to run that. He's all over it. And I haven't had any negative feedback at all from any of the judiciary about it. In fact, they all say it's positive because it helps them get through a full sitting day. Also—and I know you'll be pleased to hear this—what has happened a lot, particularly in regional courts but not exclusively regional courts, there will be a hearing and they'll interrupt a hearing at 2 o'clock and hear fresh custodies. They're supposed to finish at four, so the staff can finish paperwork and get out by five. They're not finishing at five, 5.30, so staff are working unpaid for an hour or an hour and a half every single day. The new bail hub has put an end to that, so they're getting through their work and letting staff go and magistrates go at the time they're supposed to.

The ACTING CHAIR: We will come back to that. We're now in Government time.

The Hon. GREG DONNELLY: Thank you, Chair. No questions at this stage.

The ACTING CHAIR: We now take a recess and will come back at 11.15 a.m. Thank you.

(Short adjournment)

The ACTING CHAIR: I will now go to my colleague Dr Cohn.

Dr AMANDA COHN: I wanted to ask a question relating to the Surrogacy Act 2010. As you would know, there was a modest but important amendment that passed last year as part of the equality legislation amendment bill, which had your support, as well as The Greens'. It has been brought to my attention that some of the mandatory requirements that apply even to pre-commencement surrogacy arrangements are preventing parentage orders being issued to some New South Wales residents whose children were born many years prior to these reforms. I understand that this issue has also been brought to your attention.

Mr MICHAEL DALEY: Not in specific terms, but, yes.

Dr AMANDA COHN: I suppose, to summarise the problem, the Act isn't operating in the way that it was intended. When you look at second reading speeches during the equality legislation amendment bill debate, it was clearly the Government's intention that parentage orders could be issued for children who are currently being raised in families here in New South Wales born of surrogacy arrangements pre-commencement. Are you willing to make the changes to the Act that would be required for this change to actually operate as it was intended?

Mr MICHAEL DALEY: If what you say is correct—and I have no doubt that it is—a couple of things: firstly, the Surrogacy Act is being reviewed. It would be disappointing if the Act isn't working as it was meant to do. I'm in your hands about how you want to proceed with that. I think at last estimates you raised something and I invited you to come and see me. Perhaps that might be the best way to proceed because I'd be interested to hear details. When you led off saying it has been brought to my attention, it might be that, if you had written to me, I haven't sent a reply yet. That's all. So happy for you to come and visit me.

Dr AMANDA COHN: I'd be very happy to follow this up to ensure that the Act can actually operate the way that you intended.

Mr MICHAEL DALEY: Me too, because they were good amendments. My staff will be in touch.

The ACTING CHAIR: Attorney General, can I go back to the bail hub. Thank you for providing the material about how the virtual hub is assisting with the operation of court lists in the regions. Have you had any feedback about how the operation of the hub is going? Can I just ask you—without too long a preamble—there were some voices of concern before the operation started. There were some legal experts with concerns about the disadvantage that it may present—the idea of the lack of knowledge of geography, the fact that now members of the families of people making bail applications would not be able to be present, which, it is contested, can have a beneficial impact for accused people.

CORRECTED

And there is this argument that sometimes it can be very difficult to make genuine assessments of people's honesty and integrity via facial expressions over AVL, as opposed to being physically in court. This is obviously recognising many already happen, whether they're in custody and so on. But this is some of those systemic potential disadvantages that were identified before the hub came on. Have you had an opportunity to understand those concerns and, if so, whether there has been feedback, whether there are guardrails around that—any of that feedback?

Mr MICHAEL DALEY: The approach I've taken is to make sure that there is as much collaboration as possible about this. My style is that, if a stakeholder says to me that something is the way it is, rather than meeting with them and then the department and going—I get them all in a room, which is what I've done with the Chief Magistrate and some of the stakeholders. There were some concerns, I think, about the way things were going to work that have been allayed. There is a cross-agency working group now that is continuing to look at these things. The more they keep discussing things and working out the little glitches in the system, if I can call them that, the better things will be. But there are no great concerns that I have about this.

To be honest, I should say to you, however, the ALS are not able to service it because sometimes they've got a solicitor who might have to be in two courts. But Legal Aid have jumped in to fill that void for them so they are represented. You mentioned geography. One of the things that Michael Allen, the Chief Magistrate, has done—keeping in mind he's a bushie, who served in the bush as both a District Court judge and magistrate—is he has been alive to those concerns and is using acting magistrates who've all got regional experience and allocating them to certain regions, so that the northern region will all come to one magistrate who has got experience in regional New South Wales. So he's attuned to that. I haven't heard any feedback that there has been any unfairness to the regions.

You mentioned expressions over AVO and things like that. Yes, there's an argument that that could be something that would affect the quality of the adjudication, but we already do it in relation to child sex matters, in relation to DV, something like that. There's been BOCSAR studies that have shown there's no meaningful disadvantage to people who give evidence over an AVL. They're short hearings—the bail hearings. We're pretty mechanical, going through the Bail Act, as we mentioned this morning. We're keeping a watching brief on it to make sure that it works but I think—and I can't claim credit for it. As I said earlier, it's his idea, not the Government's, and it's working, I think—not "I think"; it is.

The ACTING CHAIR: In terms of keeping a watching brief, is there any particular evaluation that is taking place? Is it more a dip test, see how we go moving forward? Is it a permanent change?

Mr MICHAEL DALEY: It's a permanent change. There is a monitoring group that will—won't be going forever. It's a monitoring group for the evaluation. We'll keep it going for as long as we need to. BOCSAR are also having a look at it and the stakeholders, who are really relevant here—police, ALS, Legal Aid. I've got an open-door policy with them. They ring me up and they come in readily and we sit down and chat, and I bring people in and we just have a collaborative way of dealing through these issues.

The ACTING CHAIR: Is that the monitoring group—the police, ALS?

Mr MICHAEL DALEY: No, apart from the monitoring group—for example, Monique Hitter is the CEO of Legal Aid. If she has got an issue, she can ring me virtually on my mobile and I can have her in in a day or two. That's how my office works. There is a monitoring group but, if someone wants to elevate something directly to me—one of the key stakeholders like Monique—they come in the door.

The ACTING CHAIR: Who is in the monitoring group? Not the individuals but—

Mr MICHAEL DALEY: Police, Corrective Services. ALS? No? Legal Aid? I don't know. We can find out.

The ACTING CHAIR: If you wouldn't mind providing that to us—

Mr MICHAEL DALEY: It's in the note. Hold on a minute.

The ACTING CHAIR: The incredibly able human being behind you is providing you—

Mr MICHAEL DALEY: Too able sometimes.

The ACTING CHAIR: Probably one of the most incredible people in the building.

Mr MICHAEL DALEY: Don't pump their tyres up too much. "Cross-agency monitoring group led by court services also monitoring the operation of bail division"—but it doesn't tell me who is in it. See? They're not that good after all. I'll let you know.

CORRECTED

The ACTING CHAIR: Attorney, would you take on notice and provide it to the Committee—obviously we have a lot of stakeholders separate to yours. If we could find out who is in that monitoring group just so that, if there is feedback and input, that can be provided as well—

Mr MICHAEL DALEY: I reckon that would be something we could get before the end of the day.

The ACTING CHAIR: No doubt Legal Aid, obviously, is doing an incredible job and incredible work, but has there been consideration to providing more resources to the ALS? Have they asked for more resources to be able to do this work?

Mr MICHAEL DALEY: All stakeholders are in a continuous process of always asking for more resources in every portfolio. ALS are funded exclusively by the Commonwealth. I understand that—well, I don't understand—under the new NAJP, National Access to Justice Partnership, agreement there have been some more funds. I can't get you the figure. I think it's around \$3 million for ALS for them to come up to pay parity for their solicitors with other stakeholders.

The ACTING CHAIR: The ALS has particular circumstances in terms of servicing the community, particularly given the Minns Government's new laws and the impact that we know they are having—the bail laws and so on. Has there been any consideration to provide ALS with New South Wales State-based justice funding?

Mr MICHAEL DALEY: The New South Wales Government currently funds the ALS for certain specific project projects, if I can put it that way. But we are not going to take on the responsibility of assuming funding for ALS, which has been exclusively funded by the Commonwealth.

The ACTING CHAIR: I'm aware the ALS are receiving funding for the delivery of some projects—the Moree projects, the early intervention and some other projects—but do you not think there is a case, even if it is you writing to your Commonwealth counterpart, to suggest that the ALS in New South Wales—the case I'm drawing to your attention is the rapid rise in Aboriginal young people in incarceration and what that means to their fair representation, given 70 per cent of young people are on remand. Is there a case that the ALS really does need more resourcing now, because of the laws we passed in this building?

Mr MICHAEL DALEY: Karly Warner, the CEO, is one of the key stakeholders that I spoke about a minute ago. She is basically on speed-dial with me. If she rings me, she gets in the door within a week, if I can do it. I have the highest regard for her and for ALS. They are drinking from a fire hydrant, we know that. If there was funding galore to fund them, perhaps we could do that, but I don't want to take on—it would be a government decision, not mine. The Government would not be minded to start wandering into the funding of groups or projects that have been the exclusive preserve of the Commonwealth. I don't want to invite the Commonwealth to cost-shift more than they presently do. So the answer is no.

The ACTING CHAIR: Have you made any submissions to the Commonwealth counterpart?

Mr MICHAEL DALEY: I speak to the Commonwealth Attorneys-General. They know this. The resourcing of CLCs, ALS, Legal Aid is a huge consideration that's dealt with at the highest level in the Commonwealth public service in relation to these five-year partnership agreements for legal assistance, and the monitoring of them, and the data collection by the States—all these things. It is top of mind. They know this. I raise it with the Commonwealth Attorneys-General. These groups are under pressure in every State of Australia. They know it. It's just a matter of what resourcing is available, Madam Chair.

The ACTING CHAIR: You have made some form of submission to the Commonwealth Attorney-General about ALS specifically and the increase in incarceration of Aboriginal young people?

Mr MICHAEL DALEY: I don't want to give away confidences, but we did have a meeting with the former Attorney-General, Mark Dreyfus, in formulating the new ANAJP agreement. He asked—to put it in simple vernacular—a question that one might interpret as, "If I could give you one thing, what would it be?" My answer was, "More funding for ALS." They need it more than any other groups, as under pressure as they all are. I'm not taking credit for it, but there was extra funding given to ALS for pay parity for their solicitors, because that was one of the biggest challenges they had—trying to find people, particularly in regional and remote areas in New South Wales, to do the job. There are no solicitors out there to do it and we're finding, increasingly, that private solicitors won't accept work at ALS rates. We needed to fund them, because they're the only ones on the ground out there if ALS aren't, so they were given more funding. It's a never-ending battle.

The ACTING CHAIR: I've spoken to you briefly outside of this forum about the notion of bail appeals being heard in district courts in New South Wales and the notion that, right now, the Supreme Court's bail appeal list is incredibly long.

CORRECTED

Mr MICHAEL DALEY: They're not really appeals. There's no real appeals. There are detention applications that go to the Supreme Court.

The ACTING CHAIR: No, bail appeals.

Mr MICHAEL DALEY: There's no appeal from a bail decision.

The ACTING CHAIR: Well, a fresh application to the Supreme Court appealing a bail determination of a local court. Currently the Supreme Court lists are incredibly long, the wait list is long. The appeal process is particularly arduous for rural and regional New South Wales practitioners and defendants that are being held in custody. Why it is that defendants don't have a right to make a fresh application in a District Court, particularly in a District Court that is in the regions?

Mr MICHAEL DALEY: I can't answer that question. This has been an historical thing. I've never really paid any attention to that.

The ACTING CHAIR: Is it something you might consider in terms of—

Mr MICHAEL DALEY: I'm not sure you would get a quicker hearing in the District Court.

The ACTING CHAIR: There's been papers written. One very short paper in particular that has been written provides a really good case that the District Court—for example, there are district courts within local courts around the State, as you know. They're permanent district courts. District courts are often sitting with no work before them while juries are out, considerations are being made, or things are happening, and there is, arguably, quite a lot of capacity to then have a bail application in a District Court. For example, if you are in the Lismore Local Court and you have a refused bail, you could literally be appealing the next day if there has been a miscarriage of some form. Whereas, right now, that person would have to wait at least six weeks in custody. The cost that is imposing on the State of New South Wales right now is massive.

Mr MICHAEL DALEY: I'm not sure, with respect, what you say is correct. I don't know you'd get on the next day. No-one else has raised this with me. I'm not minded to change it.

The ACTING CHAIR: Would you be minded to look into it?

Mr MICHAEL DALEY: I can look into it. If there was an issue here, the heads of jurisdiction—who are not shrinking violets, by any means—would have raised this with me. I'd be reluctant to increase the workload of the District Court as well. I reckon 75 per cent of their work would be sexual assault, child sexual assault and DV. The waiting list for them being dealt with—I don't know that I'd want to impose an extra burden on them.

The ACTING CHAIR: How long is the average bail application?

Mr MICHAEL DALEY: I don't have that. I can find that and take that on notice. I don't have it before me.

The ACTING CHAIR: They're quite short. They're not very long periods.

Mr MICHAEL DALEY: Do you mean the hearing?

The ACTING CHAIR: Yes.

Mr MICHAEL DALEY: It depends. I do think—correct me if I'm wrong—that all of these bail applications that come before the Supreme Court are dealt with by AVL. I don't think they're done in person. Is that right?

The ACTING CHAIR: The Sydney ones—

Mr MICHAEL DALEY: The Sydney ones can be, yes. The others are AVL.

The ACTING CHAIR: It's really, really arduous. It's very onerous.

Mr MICHAEL DALEY: I'll tell you what I'll do, Madam Chair. I'll raise this with the Chief Judge of the dizzo and see what they say and get back to you.

The ACTING CHAIR: Can I provide you with a brief case outline?

Mr MICHAEL DALEY: Of course.

The ACTING CHAIR: You would present that?

Mr MICHAEL DALEY: Sure.

CORRECTED

The ACTING CHAIR: Can I just turn to the compensation payments in relation to bushfires. In response to emergency services budget estimates questions in April—there's a compensation scheme. I think it comes under your responsibility, and it focuses on the emergency services but there is a justice question in terms of the compensation payments. Are you aware of those? Is there any cross-over into your jurisdiction around those compensation payments?

Mr MICHAEL DALEY: Not really, except that I think they're heard before NCAT. Is that correct? I'm not sure.

The ACTING CHAIR: I think that is the administration.

Mr MICHAEL DALEY: It might be that I'm responsible as the notional lead Minister in the cluster. But as a part of the allocation of Acts, it hasn't crossed my desk.

The ACTING CHAIR: Once these payments are being settled out of court—they're the questions that I've been asked to put to you. It basically is around the payment of those compensation payments and the fact they are happening behind closed doors. The questions that are being asked for me to put to you—are there any processes around how they are being determined outside of court proceedings? How many claims have been made? Are they questions that you would be able to find answers to?

Mr MICHAEL DALEY: I wouldn't, but your best bet might be to talk to Mr Tidball this afternoon.

The Hon. SUSAN CARTER: Just a couple of quick follow-ups and then, I think, you have got some figures to update us with, Mr Attorney General.

Mr MICHAEL DALEY: Yes. Ms Campbell furnished me with some BOCSAR data, the most recorded crime statistics for Moree Plains for the two years to March 2025: domestic violence related assaults, stable; non-domestic violence related assaults, stable; sexual assaults, stable; sexual touching—

The Hon. SUSAN CARTER: Can I just stop you there. This is great, but I think we were focusing on youth crime.

Mr MICHAEL DALEY: The ones that you are interested in? Break and enter dwelling, 22C, down 15.5 per cent—

The Hon. SUSAN CARTER: This is youth rather than the whole population? I thought the Moree response was targeting youth.

Mr MICHAEL DALEY: This looks like it is general statistics for crime, and the youth crime would be subsumed into that.

The Hon. SUSAN CARTER: Those are useful, but I understood that the Moree response was targeting youth crime.

Mr MICHAEL DALEY: The other one, I would say, is stealing from motor vehicle, down 33 per cent. Youth would form part of that as well.

The Hon. SUSAN CARTER: Absolutely. Thank you. Further to questions that Ms Higginson was asking, I wonder if you are taking on notice the composition of the cross-agency group looking at the bail division. Could you also give us the terms of reference of that group? To whom do they report? How often do they meet? Who actually convenes the group? How long is the group intended to run for?

Mr MICHAEL DALEY: Sure. We will get all that for you on notice.

The Hon. SUSAN CARTER: That would be great. And just a couple of follow-ups to questions that were being asked by Dr Cohn earlier in relation to surrogacy. I understand that there's a DCJ review of the Surrogacy Act and the Status of Children Act, and the consultation involved select stakeholders. I believe it concluded on 2 August. There were some 59 submissions published on the DCJ website. The discussion paper released indicated:

Following the consultation period, the submissions will be considered by the NSW Government. Further targeted consultation may also occur.

Have any further targeted consultations occurred?

Mr MICHAEL DALEY: I don't think we are up to that. I think it said it would be considered by the Government and then further—I think that is code for, is it not, "Legislation might be developed, and we could consult on a draft bill." Is that what that means?

CORRECTED

PAUL McKNIGHT: Yes, generally speaking. There was a discussion paper in 2024 and publicly available submissions. But in the meantime there has, of course, been the equality Act, and there's been a range of submissions made to the Parliament in the equality Act context. There's also an Australian Law Reform Commission review underway, and there are submissions in relation to that. All of that material is being considered in the statutory review, and we would expect to advise Government shortly.

The Hon. SUSAN CARTER: I think the question was that you foreshadowed that there could be further consultation. Is there going to be further consultation?

Mr MICHAEL DALEY: I suppose that will depend on whether there are amendments that are going to be made to the Act—I assume there will be—and the nature of them. But I always err on the side of consultation where appropriate.

The Hon. SUSAN CARTER: That will be a public consultation? Or it will be select stakeholders?

Mr MICHAEL DALEY: I don't know that we will have made our mind up about that yet.

PAUL McKNIGHT: Normally, at this stage of the process, the consultation process would be targeted to those stakeholders who have particular interest in the matters.

The Hon. SUSAN CARTER: What's the criteria for developing that list of stakeholders?

PAUL McKNIGHT: Often it would be who has previously made submissions and who we think would have a particular interest in the matter.

The Hon. SUSAN CARTER: So, if other parties who weren't on the initial list had an interest, they could flag that interest? How would they flag that interest to be considered to be part of the further consultation process?

PAUL McKNIGHT: I think at this stage we'd be looking at what's happened in the past and who is already in the mix.

The Hon. SUSAN CARTER: How would other people become part of that consultation?

Mr MICHAEL DALEY: If it's a closed consultation period with certain targeted stakeholders, they wouldn't.

The Hon. SUSAN CARTER: Going back to bail laws, at estimates in February you very helpfully provided us with figures explaining how 22C was working and informed the Committee that 22C had resulted in a bail refusal rate that's up near 80 per cent. Can you update those figures for us?

Mr MICHAEL DALEY: The latest figures I've read is that it's settled down, more close to the early 70s. But, if that's wrong, I'll correct. But I think that's about right.

The Hon. SUSAN CARTER: Just to be clear, is that youth crime, or bail refusal generally?

Mr MICHAEL DALEY: I think that's youth crime. It's youth crime, yes.

The Hon. SUSAN CARTER: So the impact of 22C is that we're seeing 70 per cent more young offenders refused bail. Is that correct?

PAUL McKNIGHT: Can I clarify that? We have figures related to the number of young people who are covered by 22C who come to court and their bail refusal rates. What we can't say is whether 22C itself is causative of their being remanded in custody.

The Hon. SUSAN CARTER: Or correlative. Understood. Thank you.

PAUL McKNIGHT: That is because, even prior to 22C—

The Hon. SUSAN CARTER: That is very clear. Thank you, Mr McKnight. There was some confusion at the last estimates in relation to the funding for the establishment of the bail division—whether that was funded out of the domestic violence package or the Moree response. Can you tell us what the source of the funding for the bail division is?

Mr MICHAEL DALEY: For the new bail hub, you mean?

The Hon. SUSAN CARTER: Yes.

Mr MICHAEL DALEY: I think that's independent of Moree.

The Hon. SUSAN CARTER: So the six magistrates—

CORRECTED

Mr MICHAEL DALEY: Mr Tidball said he can clarify that this afternoon. But my—

The Hon. SUSAN CARTER: Thank you. And if it is new funding, as well? That would be very interesting. And the six magistrates—were they the six magistrates to be hired as part of the DV package, that \$34 million announced in June last year?

Mr MICHAEL DALEY: I would have to get Mr Tidball to clarify that as well.

The Hon. SUSAN CARTER: That would be very useful. While you are clarifying, the DV package was, of course, a four-year funding package. If the magistrates are funded out of that, is this ongoing funding? Or is this a four-year-limited exercise?

Mr MICHAEL DALEY: We can try and answer that. You know what Treasurers always say.

The Hon. SUSAN CARTER: I'm familiar with your Treasurer, yes. We flagged, at the last estimates hearing, progress of the bail division and, of course, the queuing issue. Has been that been resolved?

Mr MICHAEL DALEY: Mr Tidball can answer that in detail. But can I suggest—

The Hon. SUSAN CARTER: Perhaps we will come back to that this afternoon.

MICHAEL TIDBALL: I can certainly speak to that now or this afternoon.

The Hon. SUSAN CARTER: Very quickly now, or in more detail this afternoon. What is more convenient?

MICHAEL TIDBALL: Really super-quick response now. I've recently convened a meeting with the Corrective Services commissioner, the Chief Judge of the District Court and Judge Turnbull, with a view to dealing with some of those issues. There are also ongoing discussions about coordination taking place with the police. Really what it's going to be is a collaborative approach coordinated between the courts, Corrections and police. That is in play.

The Hon. SUSAN CARTER: So it's ongoing.

MICHAEL TIDBALL: It is ongoing, but we are working at it and, I think, making some progress.

The Hon. SUSAN CARTER: That would be within the purview of the cross-agency working group?

MICHAEL TIDBALL: No. I have directly been overseeing that, as I say, with some discussions with the police commissioner, with the Corrective Services commissioner and, where appropriate, the courts.

The Hon. SUSAN CARTER: Thank you. And, again, it was flagged at last estimates. There is an issue, isn't there, with the cut-off times for the bail division—12 noon on weekdays, 10.00 a.m. on weekends. That's requiring, in practice, police to retain offenders in custody overnight if they miss that cut-off time. Is this an issue that can be resolved, especially because of the impact that this has on police operations if police have to be in the station, supervising people awaiting a bail hearing?

Mr MICHAEL DALEY: Firstly, the police were on the working group that set this up and raised no objection to it during that working group. There's always been cut-off times. As I mentioned to you before, there's a fluid degree of collaboration about this, and there have always been cut-off times. My advice from the Chief Magistrate as late as last Thursday was that it's working well and that he hasn't been in receipt of any further significant objections from operational police or anybody else about that. But we'll continue to monitor that, and if it's an issue, we'll address it. But I don't think it does necessarily require police to hold people overnight, and there is a process to get people onto the list after the cut-off. Daniel Covington, the magistrate who's overseeing this, has basically—if the police want someone to urgently be dealt with after the cut-off time, they can get in contact with him directly and he'll find them a spot, subject to physics.

The Hon. SUSAN CARTER: Great, because it has been raised with me, Attorney General, that in towns like Boggabilla, where previously you'd see a magistrate that day, now if you present after 12 noon you're going to be locked up overnight, and that creates a burden not just for the police but for the applicant seeking bail. Can we do anything about that?

Mr MICHAEL DALEY: But even in Boggabilla, with a cut-off time of midday or earlier on a weekday—so that it can be dealt with—under the old system there'd still be a cut-off time. The magistrate on the day would see how many fresh custodies on the list there were and, if they could squeeze them in, they would. That's now happening but in a different way. They are really alive to that. There's no "talk to the hand".

The Hon. SUSAN CARTER: I acknowledge this may well be a teething problem, but I also think that unless it's front of mind, it doesn't get addressed.

CORRECTED

Mr MICHAEL DALEY: I understand, and I'm glad you've raised it because we need to receive this information to make the system as good as it can be.

The Hon. SUSAN CARTER: Common interest, Attorney General. Do we have any figures on the total number of people held overnight because of the move towards virtual bail hearings?

Mr MICHAEL DALEY: I don't know if that is even—

The Hon. SUSAN CARTER: Would it be possible to obtain those figures? Is that something the cross-agency working group could look at?

Mr MICHAEL DALEY: We'll take that on notice, but that's a matter for the police.

The Hon. SUSAN CARTER: In terms of reducing time in custody before a bail hearing, are you considering any changes to or even a replacement of JusticeLink? Do we need a digitised system for the bail courts to work properly virtually?

Mr MICHAEL DALEY: No-one has suggested that to me.

The Hon. SUSAN CARTER: To be honest, I've received that suggestion a lot. For example, I understand that courts require stakeholders to complete PDF forms because the data connectivity with other agencies isn't up to scratch, and that means other agencies are duplicating that court's day entries, which causes additional cost delays and potentially people being stuck in custody for longer than needed.

Mr MICHAEL DALEY: That will be something that the cross-agency group will look at, and I think that will be something that will be the subject of evolution by itself. At the moment, documents are emailed back and forth. I don't think JusticeLink really comes into it in terms of swapping files. I could be wrong; I'm not an expert on JusticeLink. Mr D'Aeth might be able to—but that's something where, by necessity, the whole system, being a remote one, relies on the ready transfer of documents. They would be alive to that every minute of the day.

The Hon. SUSAN CARTER: I think you've identified exactly the issue, Attorney General—that large documents are being emailed back and forth. There isn't a digital transfer of files.

Mr MICHAEL DALEY: But they have to be done that way. It's got to get from the police station to the courtroom somehow. Whether someone runs the file across or emails it, that's being done in a bigger geographical area.

The Hon. SUSAN CARTER: I understand that magistrates are still writing out court results on pieces of paper and that they then need to be entered into the system. Is there any work being done to look at a digitised system to expedite matters?

Mr MICHAEL DALEY: The short answer is there always has been and there always is, and it's subject to resourcing because, in my experience—and probably many others would share this experience—nothing costs more and goes off the rails more readily than writing new software. Unless Mr D'Aeth wants to—

The Hon. SUSAN CARTER: I share your pain on that experience.

MICHAEL TIDBALL: There is work being done—it's an initiative of the Supreme Court—on developing a digital case management system. We are working with the view to establishing the template and the framework within the Supreme Court. That work is ongoing and is progressing. It is challenging work, but the plan would then be to move through the other jurisdictions.

The Hon. SUSAN CARTER: Great, that's encouraging. Thank you, Mr Tidball. I think I want to pick up that point about the paper-based records system. We've seen the very unfortunate events from the recent flooding of the Downing Centre and John Maddison Tower, which could easily have resulted in an electrical fire. What would've happened to a paper-based records system had that been the case? Is the court's record keeping and JusticeLink resilient enough to cope with acts of God like that?

MICHAEL TIDBALL: My answer to that would be that JusticeLink is a very large, amorphous system. There are constantly refinements being made to that system. There are constantly tweaks being made. Really, from the registry through to all the other components of that, there is constant ongoing work in relation to JusticeLink. Specifically in relation to the Downing Centre, we had a—

Mr MICHAEL DALEY: Madam Chair, I'm just going to take a 30-second break, if that's okay.

MICHAEL TIDBALL: Specifically arising from the Downing Centre flood, there was a business continuity plan in place, which had been promulgated in March. Clearly we reviewed that after—or we'll review that as a result of the event in June. You're absolutely right that technology and dealing with those specific risks—

CORRECTED

bearing in mind that the issue of the Ausgrid substation and Downing Centre was unique and very difficult. External flood came in so much below street level.

The Hon. SUSAN CARTER: I understand it's outside your control. My question goes to resilience. On the same line—perhaps you can help me, Mr Tidball, in the Attorney's absence—you'd be familiar with the 2025 BOCSAR report into AVL. This identified user concerns with technology and gave the example of a user expressing concerns about Orange, where they have experience of storms knocking out video links. What are we doing to ensure the resilience, given that bail matters are now being held by AVL?

MICHAEL TIDBALL: There is ongoing work. In preparing for the removal of registrars from hearing DV matters, there was a lot of work that was done across the State before those provisions commenced. There will need to be, and there will be, ongoing work to refine and improve the quality of AVL. To that end, there is—

The Hon. SUSAN CARTER: Is there a timeline for that work to occur?

MICHAEL TIDBALL: Can I say there is ongoing work. There have been initial improvements. Seriously, given the network of courts across the State, there will be constant challenges with that. There will be ebbs and flows in terms of the volume of matters being listed. In particular locations, it is ongoing work undertaken with the judiciary, the magistrates and the police.

The Hon. SUSAN CARTER: To that, if an AVL drops out, let's say, for a day and a half because of technology, flood, storm or an extraneous circumstance that cannot be controlled, what happens to those applicants for bail who are awaiting their virtual hearings?

Mr MICHAEL DALEY: They'd be heard within the court itself.

The Hon. SUSAN CARTER: Will they?

Mr MICHAEL DALEY: Yes.

The Hon. SUSAN CARTER: So that's the backup plan, is it?

Mr MICHAEL DALEY: Yes, and if the video capability and the AVL isn't sufficient, the Act says they can be dealt with by audio, and it also gives flexibility to the magistrate in charge to deal with it in the most effective way if the whole AVL goes down.

The Hon. SUSAN CARTER: In terms of AVL coverage, we inquired about this at the last estimates and were reassured that work had been completed at the end of last year to ensure AVL facilities are available throughout the State. I note that on 8 August this year, my colleague the Hon. Kevin Anderson received a letter from your Parliamentary Secretary, Attorney General, on your behalf, noting, "Not all regional courts in New South Wales have AVL facilities." How many regional courts do not have access to AVL facilities?

CHRIS D'AETH: I don't have the answer in terms of regional courts, but I can tell you the total number of courtrooms and tribunal hearing rooms with AVL—

The Hon. SUSAN CARTER: It's the regional courts that I was specifically inquiring about.

CHRIS D'AETH: I understand. I don't have that specific number.

The Hon. SUSAN CARTER: Can you find that out on notice?

CHRIS D'AETH: I'll have to take that on notice.

The Hon. SUSAN CARTER: Quirindi is one of those courts. What happens to a bail applicant in Quirindi?

Mr MICHAEL DALEY: My understanding is that it will be done in Quirindi.

The Hon. SUSAN CARTER: It can't be, with no AVL. I understand that generally they go to Tamworth. What happens to the queuing situation in Tamworth?

Mr MICHAEL DALEY: It would be dealt with in person or it would be taken to another court. It depends on the individual circumstances of that matter at a particular point in time. The magistrate on the ground will work out with the bail hub the best way to proceed for that matter.

The Hon. SUSAN CARTER: But if the answer, as it appears to be in Quirindi, is, "We'll take you to Tamworth," what does that do to the queuing situation in Tamworth and the cut-off times?

MICHAEL TIDBALL: The places where we've made the investments—I concede that there are limited funds. What we have clearly done is analysed where the need is the greatest, and those areas have been prioritised.

CORRECTED

Mr MICHAEL DALEY: I do also think Quirindi, like a number of regional courts, is a circuit court. It doesn't sit every day. When it's not sitting, they'll be going to the nearest regional centre, anyway, which I think you said is Tamworth.

The Hon. SUSAN CARTER: But if you're a bail applicant in Quirindi—

Mr MICHAEL DALEY: If a magistrate was sitting on that day and there was no AVL, it'd be dealt with by the magistrate in the old-fashioned way.

The ACTING CHAIR: Attorney, I want to ask you briefly about the Walama List. I know that there has been an updated practice note this year. Is there still an evaluation on foot for that? Is there a plan to expand it? It's still currently limited only to matters referred from the metropolitan local courts. There's a desperate need for the expansion to regional courts, where big First Nations populations are. Do you have an update on that?

Mr MICHAEL DALEY: The evaluation is still underway.

The ACTING CHAIR: It has been going for a long time.

Mr MICHAEL DALEY: Yes, it has been. You're right.

The ACTING CHAIR: Is there any reason? Do we have a finish date?

Mr MICHAEL DALEY: No, I don't. We can take that on notice for you.

Ms ABIGAIL BOYD: I want to start by asking you about the Coroners Court. I understand the case load is pretty high and that two of the deputy State coroner contracts are ending by the end of the year. It doesn't appear that there's a plan to replace them. Victoria has a similar case load to New South Wales but has 14 coroners compared to our nine, which is presumably dropping down to seven. What is the reason for reducing the number of coroners in New South Wales? Does this concern you?

Mr MICHAEL DALEY: It's not our intention to reduce the number of coroners at all. Mr Tidball is chairing a review into the Coroners Court. We'll wait and see what that says. I gave evidence earlier that key stakeholders in my portfolio meet with me regularly. The State Coroner is one of those. We talk about these resourcing issues all the time. One of the things I did to assist her—I don't know if it was late last year or early this year—was give her two more non-judicial solicitors roles. They're solicitors in the background that go through those cases and move them through. I've given her two more of them. We are doing a review on the court now, which Mr Tidball is chairing. We'll wait and see what that says. I'm very much alive to the delays and the backlog. Part of the backlog doesn't relate to judicial officers at all. It also relates to the fact that there's a shortage of forensic pathologists that come from Health. There's a worldwide shortage of them. That holds up things as well.

Ms ABIGAIL BOYD: I think there's been some suggestion or some fears that these coroners will be replaced with non-magistrate coroners, which I understand is a possibility under the Act. Is that the intention of the Government?

Mr MICHAEL DALEY: No. As I say, there are judicial officers that sit as coroners—effectively magistrates. Behind the scenes, there are non-judicial coronial staff, or solicitors, who really go through the case load administratively. Teresa, the State Coroner, wanted a couple more of them to punch through the workload. We've given her those and they're having a beneficial effect.

Ms ABIGAIL BOYD: The statutory review of the Coroners Act recommended that the definition of a domestic violence death in section 101B of the Act be amended to include any death occurring in the context of domestic violence, including as determined by the DVDRT, and also that the DVDRT develop and publish guidelines for what constitutes a domestic violence death. Has there been any action to implement that?

Mr MICHAEL DALEY: Sorry, I didn't get the first part of your question. Who recommended that?

Ms ABIGAIL BOYD: The statutory review of the Coroners Act 2009 recommended that definition be expanded.

Mr MICHAEL DALEY: There's a dichotomy in relation to the recommendations of that review. Some of them cost money, like a standalone Coroners Court, and others can be implemented without additional resources. DCJ is in the middle of coming up with proposals that will lead to a legislative response. We'll deal with those recommendations. That may well be one of them.

Ms ABIGAIL BOYD: I think it has been reported that there will be or there was intended to be a bill put forward to amend the Coroners Act this year, with some of these recommendations—

Mr MICHAEL DALEY: I don't know if it's going to make the hit this year. We don't have that many sitting days left, and the legislative queue is already chockers. I could be wrong, but I don't think it's on the—

CORRECTED

Ms ABIGAIL BOYD: Will it be this parliamentary term?

Mr MICHAEL DALEY: I can't guarantee that. It's a matter for Government. I can't control that. I'll use my best endeavours to make it so, if I can put it that way.

Ms ABIGAIL BOYD: There was an announcement of \$2 million funding over four years to support the functions of the Domestic Violence Death Review Team, which is obviously welcomed.

Mr MICHAEL DALEY: They're fantastic. They do a great job.

Ms ABIGAIL BOYD: Can you provide an update on what that is going to look like in practice in terms of where the funding will be applied and what the connection is between that team and the way that they support the Coroner?

Mr MICHAEL DALEY: I think it was for more staff, because it's a very small team.

MICHAEL TIDBALL: We can probably respond this afternoon.

Mr MICHAEL DALEY: Mr Tidball can give you a more fulsome answer this afternoon, if that works for you.

Ms ABIGAIL BOYD: That would be very useful. On the guardianship reforms, which I understand are underway, when is it expected that we will see any legislative changes being brought to the guardianship—

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

Ms ABIGAIL BOYD: That wipes out two pages of my questions.

Mr MICHAEL DALEY: I'm sorry about that—sort of.

Ms ABIGAIL BOYD: Can I confirm, though, that you are looking at reforming the guardianship laws?

Mr MICHAEL DALEY: I took it on good faith that there was a review, since you put it to me that way. I'm not sure that there is a review of the whole guardianship—

PAUL McKNIGHT: There was a Law Reform Commission report in this space and a range of recommendations that came out of the royal commission into disability. We are looking at all of those recommendations.

Mr MICHAEL DALEY: That's really Minister Washington, though, isn't it?

PAUL McKNIGHT: Some of that is Minister Washington; some of that is yourself, AG. There are significant resource issues associated with the core of those recommendations, which go to the way in which supported decision-making is undertaken. Working through those issues has been an issue that we have needed to grapple with. The work is ongoing, but the resource issues remain in place.

Ms ABIGAIL BOYD: That Law Reform Commission review was finalised seven years ago. It has come to my attention because, in the media recently, there was a spokesperson for DCJ saying that the Government will consider the issue of supported decision-making in light of the recommendations from that review from seven years ago. There are a lot of people in the disability community who are asking for a bit more of a quicker response. I understand you are working on it and it's one of those issues that falls across different people's portfolios, but is it something that this Government is going to be tackling in this term?

Mr MICHAEL DALEY: I can't promise it in this term, but I can say that the work is ongoing. I think there are about 222 recommendations. Some of them have massive resource implications, including supported decision-making. I can't make any promises about that, but the work is ongoing.

Ms ABIGAIL BOYD: In relation to confidentiality laws, which currently restrict the rights of people with disability to speak out about abuse in the guardianship system, known as gag laws, the disability royal commission recommended that States and Territories look to repeal those provisions. These are provisions that prohibit publication of material identifying a party to the proceedings as being the default position. Given how profoundly that impacts on the rights and autonomy of individuals, is this something that the Government supports the removal of?

PAUL McKNIGHT: I'm not sure what you are referring to.

Mr MICHAEL DALEY: No-one has raised this with me. That's why I'm looking a bit perplexed, sorry.

Ms ABIGAIL BOYD: That's all right. I will go and find the actual piece of the disability royal commission and bring it back this afternoon.

CORRECTED

Mr MICHAEL DALEY: You are welcome to bring it straight to my office and we can have a chat about that, if you like.

Ms ABIGAIL BOYD: That would be useful. I might leave the rest of those questions, then, given that they are about what we hoped would be imminent reforms in that space. In relation to the coercive control laws, as you know, a bunch of issues were parked when that was brought in, including the definition of domestic and family violence and whether or not coercive control laws would be expanded to include situations of, say, parents being coercively controlled by children or people within a carer relationship. I know that there was supposed to be a review. Where have we got to in bringing forward legislation to amend those coercive control laws?

Mr MICHAEL DALEY: Unless Mr Tidball can assist me, we can take that on notice.

MICHAEL TIDBALL: As I think you are aware, the implementation and evaluation taskforce's work is ongoing. That question deserves a proper response. I am happy to take that on notice.

Ms ABIGAIL BOYD: Again, in light of the disability royal commission backing in the idea that we should be having a disability-inclusive definition of domestic and family violence, I was hoping that there might be some move bring that bit forward. But, from what you are saying, we are waiting to see what comes back out of the implementation taskforce first.

MICHAEL TIDBALL: And the evaluation phase.

Ms ABIGAIL BOYD: I think my colleague touched on the audiovisual link technology in courts. In relation to domestic and family violence training, what is the New South Wales Government doing to ensure all judicial officers in New South Wales have access and incentives to undertake specific domestic violence training?

Mr MICHAEL DALEY: That would sit within the realms of the Judicial Commission. Off the top of my head, I don't know what is in their curriculum.

ANNE CAMPBELL: There has been a range of training as part of the introduction of coercive control. I am happy to take that on notice and come back this afternoon.

Ms ABIGAIL BOYD: That would be good. Obviously it would be good to have an update on the specific training around the coercive control reforms, but there has been a lack of specific domestic violence training for judicial officers for some time. It has been a recurring request from the sector, so anything you can give me on that this afternoon would be great. There was the Women's Domestic Violence Court Advocacy Scheme hearing support pilot. Is the Government going to commit to recurrent funding for that project?

Mr MICHAEL DALEY: I can't answer that question. Generally, I can't answer any question about ongoing funding and subsequent budgets. We have already indicated that the Treasurer won't let us do that. In any event, I think that is Minister Harrison's portfolio area, not mine.

Ms ABIGAIL BOYD: My understanding is that it falls within your portfolio because it is something that is more court specific.

Mr MICHAEL DALEY: I am pretty sure she is the lead on WDVCS. It also involves coordination with the police as well. We can take that on notice. I don't want to leave you empty-handed here.

The ACTING CHAIR: Attorney General, are you in a position to consider reviewing or suggesting to Cabinet the review of the ex gratia payment system in light of what many consider is the system not working well for Kathleen Folbigg? Is that a different view to yours?

Mr MICHAEL DALEY: What was the initial part of your question?

The ACTING CHAIR: Are you looking at reviewing the ex gratia system and the way it works, given the experience you have just been through and how long it has taken, or making a recommendation to Cabinet and the other Ministers that it's relevant to, or suggesting to the Treasurer that he updates the circular? Do you think there should be any review to this process?

Mr MICHAEL DALEY: My feeling is no, as someone who is on the pointy end of it. I think the nature of ex gratia payments, as they are, has to be flexible. The guideline belongs with the Treasurer. As I worked through this process, I didn't feel in any way that there was any ambiguity or shortcoming in either the Government Sector Finance Act or the Treasurer's circular. My short answer is that I won't be recommending anything, but that doesn't mean that the Premier or the Treasurer or some other member of the Government doesn't ask for it to be looked at. You have asked me if I have a view, and my view is no, I won't be.

The ACTING CHAIR: Do you think that a conversation with a recipient could provide you good input as to how well the system works or doesn't work?

CORRECTED

Mr MICHAEL DALEY: I am open to receiving correspondence from the recipient, but I have already indicated that I won't be meeting face to face.

The ACTING CHAIR: Do you not think that's a bit harsh?

Mr MICHAEL DALEY: No, you've got to draw a line under processes at some stage and just say that they are done. But I never shut the door on people sending me correspondence and suggesting better ways.

The ACTING CHAIR: If she wrote you a letter saying, "Could we meet", is that something you would consider?

Mr MICHAEL DALEY: Nice try, but you are moulding two answers together there.

The ACTING CHAIR: I don't know if other people share my experience, but it seems so unreasonably closed door. You have presented yourself as an Attorney General that has an open door and that you are the person and you just pick up the phone and that seems to apply to everyone in this State who may have matters to raise with you, except for one woman who was wrongly accused of murdering her four children and spent 20 years in prisons in New South Wales and at least five years of those in solitary confinement with nobody else. She lost four children. She was imprisoned for that long. The system failed her. For some reason, she is the one person in this State that, in this hearing, you have suggested you have no interest in meeting. I am flabbergasted.

The Hon. MARK BUTTIGIEG: Point of order—

Mr MICHAEL DALEY: I am happy to answer the question, Mr Buttigieg.

The ACTING CHAIR: I'll hear the point of order.

The Hon. MARK BUTTIGIEG: Chair, is this a political statement or a question?

The ACTING CHAIR: It was a pretty clear question.

The Hon. MARK BUTTIGIEG: The Attorney General has answered it six times. You keep repeating, ad nauseam, political statements. I ask you to ask the question.

The ACTING CHAIR: And the point of order is?

The Hon. MARK BUTTIGIEG: I ask you to ask a straight question.

The ACTING CHAIR: Do you find it offensive too? Is that the point of order? What is the point of order, Mr Buttigieg?

The Hon. MARK BUTTIGIEG: The point of order is that this is supposed to be an interchange on factual questions and responses, not political statements.

The ACTING CHAIR: This is budget estimates. There's no point of order. Attorney, if—

The Hon. GREG DONNELLY: I want to respond to the point of order.

The Hon. NATASHA MACLAREN-JONES: He wants to answer it.

The ACTING CHAIR: He wants to answer the question.

Mr MICHAEL DALEY: I'm happy to answer it.

The ACTING CHAIR: Let's not have a repeat of this morning.

Mr MICHAEL DALEY: You characterise Ms Folbigg as the only person I won't meet. I get multiple requests—thousands a year—from people who want to meet with me, and multiple applications for ex gratia payments and to exercise the royal prerogative of mercy.

The ACTING CHAIR: Have any of those been incarcerated for 20 years, wrongly?

Mr MICHAEL DALEY: You don't characterise it as though there's only one person in New South Wales that I won't meet. I've answered the question. I don't want to appear to be hard on this, but it won't assist me in any way to meet with her, and I don't want to raise expectations. I'll just say, given all that has happened over the last 20 years, it's impossible not to feel sorry for Ms Folbigg, for Craig Folbigg and for the children. It has been a comprehensive loss all around here, but my job is to follow processes on behalf of the Government. That's what I did.

The ACTING CHAIR: She is the only person in New South Wales that has been wrongly incarcerated for 20 years, based on the false premise that she murdered her children. Has any other person that has asked to meet with you been in those circumstances since you've been the Attorney General of New South Wales?

CORRECTED

Mr MICHAEL DALEY: I think I addressed all of this at the very beginning of these proceedings. There's no other case I know of that's analogous to this. I can't put it any other way. I don't know what else you want me to say.

The ACTING CHAIR: Just yes to a meeting with her would be good.

Mr MICHAEL DALEY: No, I've said that I—

The ACTING CHAIR: It's the Opposition's turn.

The Hon. SUSAN CARTER: Minister, there have been two pieces of legislation in relation to victims of crime brought before Parliament recently. Does any of this deal with the problem, which was flagged at last estimates, where victims of sexual assault whose matters were discontinued following the ODPP's audit of sexual assaults cases have felt unheard and have not received a statement of facts explaining why their matter was discontinued?

Mr MICHAEL DALEY: Just narrow the question for me.

The Hon. SUSAN CARTER: Sorry. Are we addressing the question for victims of sexual assault whose matters were dropped following the ODPP's audit of sexual assault cases? They feel unheard, and they have not received a statement of facts explaining why the matter was discontinued.

Mr MICHAEL DALEY: You're asking me to go into circumstances of individuals. Based on the question you've posed to me in that way, I don't know how I can answer it.

The Hon. SUSAN CARTER: What I'm asking, I suppose, if I can frame it another way, is we have victims of sexual assault and they feel unheard. They understand that they should receive a statement of facts as to why their case was discontinued. They have not received that statement of facts. They just want to know that this State—this Government—is doing everything that can be done to bring the person who harmed them to justice. They want to be heard, and they want to understand all the reasons why decisions were made. Can anything be done for these victims so that they can understand the decisions that had been made about their lives, about their pain and about their suffering?

Mr MICHAEL DALEY: That's a pretty general question. I can't answer that question in relation to specific cases. Obviously you've got one or more in mind.

The Hon. SUSAN CARTER: I do.

Mr MICHAEL DALEY: I meet with the DPP on a regular basis. From time to time, there are people who come to my office or have made known to me that they are unhappy about the decisions that the DPP has made in relation to their prosecutions. The DPP is an independent statutory office holder. I can't tell the director what to do in relation to individual prosecutions. They do act in accordance with their prosecution guidelines. I have mediated, if you like, a number of matters in my time as Attorney General where purported victims of crime are unhappy with the communications they've had with the DPP, and I've done my best to ask the DPP, "If you wouldn't mind to talk to them and make things as clear as possible." I don't know that there's much more I can add to that.

The Hon. SUSAN CARTER: I wonder if I could ask you to take on notice—and I acknowledge the independent prosecutorial discretion of the DPP, but I think we all want to also acknowledge the pain that is felt by victims of sexual assault, and we don't want them revictimised by the system.

Mr MICHAEL DALEY: Sure.

The Hon. SUSAN CARTER: I wonder if I could ask you, if you could, to perhaps discuss with the DPP if she's able to check her records to ensure that there has been a statement of facts provided to each of the victims of sexual assault whose matters were discontinued so that they can understand more fully why decisions about their pain and their suffering have been taken by others.

Mr MICHAEL DALEY: I'm happy to do that, and I always do, where I'm asked to do that.

The Hon. SUSAN CARTER: Thank you, Attorney.

Mr MICHAEL DALEY: We do have a representative. Mr Hyland is here from the—you can talk to him later on this afternoon about that.

The Hon. SUSAN CARTER: I can come to Mr Hyland, if he has got something to add, in the afternoon, perhaps.

CORRECTED

The Hon. NATASHA MACLAREN-JONES: I just want to ask about the post and boast offences, and whether or not you feel that has been successful since the laws have been introduced.

Mr MICHAEL DALEY: It's a pretty broad question. I'd have to have a look at the crime statistics on that and how many people have been charged and all those sorts of things and make up my mind after I've had a look at some objective statistics.

The Hon. NATASHA MACLAREN-JONES: How often do you—

Mr MICHAEL DALEY: With the greatest of respect, Ms Maclaren-Jones, you keep referring to whether they are working or not. Sometimes it's very hard. There are two considerations. One is, is the law inherently justified and needed, as a matter of theory that it is addressing a problem in society. The second thing is, is it working? Sometimes there are—

The Hon. NATASHA MACLAREN-JONES: Attorney General, that was my—

Mr MICHAEL DALEY: Sometimes there are different ways of assessing whether a law is working or not.

The Hon. NATASHA MACLAREN-JONES: Attorney General, I probably should have been clearer. Instead of saying successful, are they working? Are crimes going down around—

Mr MICHAEL DALEY: Are they working? Section 154K is the post and boast offence. Since it has been initiated, the police have initiated 96 legal actions against 77 distinct people between April '24 and June of this year. Of these 77 people with a legal action, eight received a diversion under the Young Offenders Act. Of the 69 people with court legal action, six were adults and 63 were young people. Of the 96 legal actions for offences under section 154K, 74 of them were incidents in regional New South Wales. So the police are using it. That's one the tests for "Is it working?" On that test, yes, the police are using it. But I'd just bring you back to one of the answers that I gave earlier. Sometimes you can't know if it's working because the effect of bringing the law to fruition itself, particularly with young people who communicate readily across social media, is that they won't commit it anymore because the law is in place, and you can never know that.

The Hon. NATASHA MACLAREN-JONES: But what I would say is, based on those figures and information you've provided, you can say it's being successfully implemented.

Mr MICHAEL DALEY: Well, the police are using it. You can put it that way, yes.

The Hon. NATASHA MACLAREN-JONES: You mentioned a lot have been in regional towns. Do you have a list of those towns?

Mr MICHAEL DALEY: No, I don't, but we can take them on notice.

The Hon. NATASHA MACLAREN-JONES: That would be great. Attorney General, last time we spoke about these laws. At the time you said you weren't intending to extend it to sexual assaults. I just wanted to know whether or not you've reconsidered your position to extend that to violent assaults.

Mr MICHAEL DALEY: At this stage, I am not expanding the operation of those, no.

The Hon. NATASHA MACLAREN-JONES: Attorney General, you may be aware that in March this year a 12-year-old female in year 7 was assaulted at lunchtime at Riverstone High School. This was filmed and watched by a number of students. More recently we heard a terrible, horrific case of a young girl out in Western Sydney. Fortunately, the police were able to apprehend the perpetrators of this—again, she was a minor—and the camera and their phones were seized and the footage deleted. Again, I ask you whether or not you will consider extending these laws to assaults.

Mr MICHAEL DALEY: No. Based on the scenario that you've just outlined to me, there are a myriad of existing offences in the Crimes Act to have dealt with that behaviour. So there's no need for me to do that.

The Hon. NATASHA MACLAREN-JONES: You say that you feel it's adequate at the moment. Are there any measures that need to be introduced to make it tougher so that, like your post and boast when it comes to motor vehicles, we're also making it tougher to prevent and stop young people making horrific assaults on other young people?

Mr MICHAEL DALEY: There are already very serious penalties in the Crimes Act for doing those behaviours.

The Hon. NATASHA MACLAREN-JONES: And you think that's adequate that we're continuing to see these cases coming up?

CORRECTED

Mr MICHAEL DALEY: What sort of question is that?

The Hon. NATASHA MACLAREN-JONES: I'm asking if there are other measures that could be put in place.

Mr MICHAEL DALEY: Do I think it's adequate that people continue to behave that way? No, I don't consider that it's adequate for people to behave that way.

The Hon. NATASHA MACLAREN-JONES: Have you taken any actions? Has it been potentially raised at the Commonwealth AGs meeting? Have you written or spoken to the eSafety Commissioner? Are there other things that could be done to protect these young vulnerable people?

Mr MICHAEL DALEY: There are lots of ways, but you're asking me whether I think that the laws should be amended. I'm always open to amending the laws where it's appropriate but, as I've said, the police do a very good job in apprehending them and there are already serious penalties for behaving that way.

The Hon. SUSAN CARTER: Mr Attorney General, if I can take you back to your second reading speech on the Equality Legislation Amendment (LGBTIQA+) Bill, you said:

The amendments will also create a pathway for parentage orders to be made for children born of international commercial surrogacy arrangements when in the best interests of the child, with appropriate safeguards.

Where is the legislation introducing appropriate safeguards from slavery for overseas commercial surrogates?

Mr MICHAEL DALEY: You asked me this last time—

The Hon. SUSAN CARTER: I did.

Mr MICHAEL DALEY: —and I couldn't understand the overlap between modern slavery and the Surrogacy Act. Based on the way you've asked me that question, again, I don't understand it.

The Hon. SUSAN CARTER: Let me explain it to you, Mr Daley. I will advise that I will keep asking this question until this really critical issue is addressed by this Government and this Parliament. As Dr Cohn foreshadowed earlier, one of the measures in the equality Act was to smooth the pathway for New South Wales families to use overseas commercial surrogacy because it smoothed the pathway for the grant of parentage orders if an overseas commercial surrogate was used. This Parliament was put on notice at the time that legislation was passed that there is a major slavery risk in overseas commercial surrogacy clinics. We heard of one clinic in Greece where 97 women were trafficked into surrogacy slavery.

Mr MICHAEL DALEY: That's why in New South Wales commercial surrogacy is still against the law.

The Hon. SUSAN CARTER: Is it possible after the equality legislation to get a parentage order if a child has been born through overseas commercial surrogacy?

Mr MICHAEL DALEY: Two different considerations—

The Hon. SUSAN CARTER: I'm asking you that question. Is it possible—

Mr MICHAEL DALEY: You know it is.

The Hon. SUSAN CARTER: So what steps are you taking to make sure that those children in respect of whom we are facilitating parentage orders are not born of slaves?

Mr MICHAEL DALEY: Sometimes it's very difficult for us to know what happens in overseas jurisdictions. Perhaps Dr Cockayne—

The Hon. SUSAN CARTER: What questions are we asking in those overseas jurisdictions to check that those children are not born of slaves?

Mr MICHAEL DALEY: I think all that we need to know is what's in the Act as it was amended, and you're asking for me to have knowledge of what's going on in extra-jurisdictional areas that we can't have any knowledge of.

The Hon. SUSAN CARTER: We can't have knowledge if we don't ask.

Mr MICHAEL DALEY: What would you suggest?

The Hon. SUSAN CARTER: I would suggest that unless and until we have procedures in place that ensure that overseas commercial surrogates are not slaves, we do not facilitate the use of overseas commercial surrogates in Australia. That's what I would suggest, Attorney.

CORRECTED

Mr MICHAEL DALEY: Commercial surrogacy is still a crime, but the legislation recognises that there might be occasions where we have to apply different consideration to children born under those arrangements and that is whether a parentage order here is in their best interest. Don't conflate issues. They're separate issues.

The Hon. SUSAN CARTER: Minister, when was the last time that the prohibition against overseas commercial surrogacy was used?

Mr MICHAEL DALEY: I don't know. I'd have to take that on notice.

The Hon. SUSAN CARTER: If you could take that on notice.

Mr MICHAEL DALEY: Sure.

The Hon. SUSAN CARTER: What steps are taken and what questions are asked in the grant of a parentage order about the situation of the surrogate mother and whether or not she's a slave?

Mr MICHAEL DALEY: They have to be parentage orders entered into willingly and by consent.

The Hon. SUSAN CARTER: If the clinic is in Azerbaijan, what steps do we take to check the consent there? If the clinic is in Thailand, if the clinic is in India—what measures did we take to check the true consent of those 97 women that we know about who were in that Greek clinic that was used by families in New South Wales?

Mr MICHAEL DALEY: It's very difficult for a jurisdiction in New South Wales to know those things in the first place. All we can do at this end is to put in place the best safeguards that we can. Those safeguards that are in the Act are the ones that are currently judged to be suitable to the regime as it is before us, but if there are any improvements that people can suggest we make, I'm happy to hear them.

The Hon. SUSAN CARTER: Have you met with the slavery commissioner about amendments that could be made?

Mr MICHAEL DALEY: The slavery commissioner is one of those people who can make suggestions to me about anything he wants at any time.

The Hon. SUSAN CARTER: With respect, there was a letter from the slavery commissioner at the time of the debate of that legislation. Was that taken into account?

Mr MICHAEL DALEY: I'm sure it was, but that's where we stand at the moment and the Act is currently under review.

The Hon. SUSAN CARTER: The Act is under review?

Mr MICHAEL DALEY: The Surrogacy Act is currently under review.

The Hon. SUSAN CARTER: Are you proposing to bring new legislation or amendments to the Surrogacy Act this year?

Mr MICHAEL DALEY: I think I've already answered that today.

The Hon. SUSAN CARTER: I don't think I did get a timeline on that.

Mr MICHAEL DALEY: I'm not giving you a timeline. I can't give a timeline for that. It's a matter for government.

The Hon. SUSAN CARTER: If I could take you to another issue, Minister, your conversion practices ban legislation has now commenced. Anti-Discrimination NSW has begun educating the public about its effect and operation. Are you satisfied that the statements on the Anti-Discrimination NSW website are consistent with the legislation?

Mr MICHAEL DALEY: I haven't had regard to the wording on the website, but I can't imagine that they would post something that is contrary to the legislation. If anyone brings to my attention that it is contrary to the legislation, we'll have a look at it.

The Hon. SUSAN CARTER: Mr Daley, do you support the right to freedom of religion?

Mr MICHAEL DALEY: Of course.

The Hon. SUSAN CARTER: Does that include the freedom of people of faith to pray?

Mr MICHAEL DALEY: Yes.

The Hon. SUSAN CARTER: Anti-Discrimination NSW on its website advise the Act does not prohibit prayer but "praying with or over a particular person in an attempt to try to change or suppress that person's

CORRECTED

sexuality or gender is unlawful". That statement sounds like a prohibition on prayer. Prayer is lawful unless it is about a matter which has been declared to be unlawful.

Mr MICHAEL DALEY: No. Conduct is lawful unless it offends the statute. When it comes to conversion practices, there are very clear words in the statute that describe what a conversion practice is and describe what a conversion practice is not. It is either one or the other. You can pray with a person and do all those sorts of things, but if you pray in a way that it becomes a—I don't have the Act in front of me but if it becomes a sustained practice directed to a person with a view to changing their sexual orientation or gender, that's against the law. If you're sitting down and praying with someone to strengthen them and guide them and all those pastoral considerations, that's fine, but if you're sitting down to pray the gay away, that's not.

The Hon. SUSAN CARTER: With respect, isn't prayer commonly about change of all sorts of things?

Mr MICHAEL DALEY: It depends on the context, on the words that constitute the prayer, on the circumstances that underpin the conduct, and so I can't give you a definitive answer on what that may constitute.

The Hon. SUSAN CARTER: So just to summarise, you're saying it is entirely appropriate for the New South Wales Government to put limits on what lawful prayer can be.

Mr MICHAEL DALEY: If it's an unlawful prayer, then it's not a lawful prayer. If it's a prayer that's actually not a prayer, it's a conversion practice, then it's not lawful.

The Hon. SUSAN CARTER: So the Government has the right to say what prayer is lawful and what prayer is unlawful?

Mr MICHAEL DALEY: It doesn't matter whether it's a prayer or not a prayer. Prayer is subjective. If they are words that constitute a conversion practice, it's unlawful. We've been through this.

The Hon. SUSAN CARTER: Sorry, I'm just trying to understand your answer. Are you saying that the Government can judge whether something is a prayer or not or are you saying the Government can put limits on what lawfully can be done in the way of prayer?

Mr MICHAEL DALEY: The Government can put limits on the behaviour of its citizens, regardless of what that behaviour is, and it does that in a myriad of ways every single day, whether it's prayer or driving or dealing in drugs or assaulting other people. There's nothing special about words coming out of a person's mouth. If the words that come out of a person's mouth constitute a conversion practice, it's offensive to the Act. And if it's just—

The Hon. SUSAN CARTER: What if those words are internal prayer?

Mr MICHAEL DALEY: What does that mean? I'm not going to sit here—

The Hon. SUSAN CARTER: That means that I could be praying now.

Mr MICHAEL DALEY: You could be.

The Hon. SUSAN CARTER: Yes, and if I am praying now that somebody I know and love who has asked me to pray that they can, of their own volition, follow what they see as the rules of God, and that happens to involve abstinence from sex outside a sacramental marriage, is that a breach of the legislation?

Mr MICHAEL DALEY: That's a ridiculous question.

The Hon. SUSAN CARTER: Why? I think that's a common type of prayer many people would engage in daily.

Mr MICHAEL DALEY: And you should, as a legally qualified person, go and work out, by reading the Act, whether you think that is a conversion practice or not.

The Hon. SUSAN CARTER: I'm asking you, Attorney, because a number of people have raised this issue with me and they are concerned that what they see on the Anti-Discrimination NSW website appears to them to be the Government seeking to limit the freedom to pray. This has raised great concern in certain sections of the community. I note that before the election the Premier publicly committed in respect of conversion legislation that "an individual of their own consent seeking guidance through prayer will not be banned". Is consensual prayer—if somebody asks somebody to pray with them—banned?

Mr MICHAEL DALEY: I'll just have a look at what the AD NSW website says. It says:

The *Conversion Practices Ban Act 2024* does not prohibit prayer—
pretty clear—

CORRECTED

However, praying with or over a particular person in an attempt to try to change or suppress that person's sexuality or gender is unlawful—

that's a restatement of basically the Act—

It is not unlawful for a person to seek counsel or guidance from within their faith—

that is an express exclusion in the Act—

Counsel and guidance, including prayer, can still be given as long as it is not an attempt to change or suppress the person's sexuality or gender identity.

That is unremarkable language which restates what's in the Act. It is an Act that the Faith Affairs Council—I want to thank them for the good-faith work they did with my office, with DCJ and others to bring that conversion practices bill to fruition.

The Hon. SUSAN CARTER: Just to be clear, you've just told us that the Faith Affairs Council is happy with the conversion practices legislation and is happy with the way it's been interpreted by Anti-Discrimination NSW?

Mr MICHAEL DALEY: How would I know that? No, all I did—

The Hon. SUSAN CARTER: I was uncertain why you made a reference to the Faith Affairs Council then, Mr Attorney General.

Mr MICHAEL DALEY: Because I wanted to thank them for the good-faith work they did in helping us to land that bill.

The Hon. SUSAN CARTER: If they came to you now and they had reservations, you would listen to those reservations?

Mr MICHAEL DALEY: They've already written to me, so I'll have a look at the letter. You know that.

The Hon. SUSAN CARTER: You haven't looked at it yet, Attorney General?

Mr MICHAEL DALEY: I've seen the letter and it's been looked at by the department.

The Hon. SUSAN CARTER: Thank you. Can I quickly go back to the issue of overseas commercial surrogacy. Following our discussion at last estimates, I understand that you've proposed changes to clause 7 of the surrogacy regulations with respect to requirements for a qualified counsellor under the Act. Are you also proposing to undertake work to establish the equivalency of Australian and overseas qualifications?

Mr MICHAEL DALEY: We'll have a look at that as part of the review.

The Hon. SUSAN CARTER: That's not part of the regulation change; that's part of the Surrogacy Act review?

Mr MICHAEL DALEY: It could be.

The Hon. SUSAN CARTER: In which bucket is that work occurring?

Mr MICHAEL DALEY: I haven't limited the work that the DCJ might do on that.

The Hon. SUSAN CARTER: Have you had discussions with AHPRA?

Mr MICHAEL DALEY: I haven't, no.

The Hon. SUSAN CARTER: Has anybody in the department had it in terms of equivalency of qualifications?

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

The Hon. SUSAN CARTER: What about with the Royal Australian and New Zealand College of Psychiatrists?

Mr MICHAEL DALEY: I haven't, but that doesn't mean someone else—

The Hon. SUSAN CARTER: Anybody in the department?

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

The Hon. SUSAN CARTER: And the Australian Association of Social Workers similarly?

Mr MICHAEL DALEY: Same.

CORRECTED

The Hon. SUSAN CARTER: Just to clarify, this work in relation to qualifications of those people who can certify the situation of the overseas commercial surrogate is being done as part of the review of the Surrogacy Act, or that is being done separately with the change to the regulations?

Mr MICHAEL DALEY: With the regulations. But what I was getting at is if these concerns are raised as part of the review of the Act, naturally DCJ would look at them.

The Hon. SUSAN CARTER: And so they'd be looked at in both. Getting back to the stakeholders raising concerns, if these concerns haven't been raised but new stakeholders wanted to raise concerns, how would they have their voices heard in the ongoing consultations?

Mr MICHAEL DALEY: In the normal course of events of the review of the Act.

The Hon. SUSAN CARTER: Any further consultation will be public, will it?

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

The Hon. SUSAN CARTER: As part of the review of the regulations, are you looking perhaps at amending the regulations to ensure that part of what the social worker, psychiatrist, psychologist or other counsellor do is to look at the liberty of the surrogate mother and also ensure that any conversations with that surrogate mother are in the surrogate mother's native language and are conducted not in the presence or in the hearing of any person in the surrogacy clinic.

Mr MICHAEL DALEY: It seems to me like you want to make a submission, so why don't you write to me?

The Hon. SUSAN CARTER: Okay, thank you. I will take that up. What I want to do is make sure that the liberty of women having children for other families is respected and that they are not being—

Mr MICHAEL DALEY: And so do we.

The Hon. SUSAN CARTER: Excellent.

Mr MICHAEL DALEY: That is why commercial surrogacy is illegal in New South Wales. Can I just draw that to your attention once again?

The Hon. SUSAN CARTER: Yet we know that there are families in New South Wales with children born of slaves overseas.

Mr MICHAEL DALEY: That's illegal.

The Hon. SUSAN CARTER: I think my time has expired.

The ACTING CHAIR: Attorney, in light of the Folbigg situation and others and conversations we've had in previous budget estimates, do you think that New South Wales has a post-conviction review process that is remotely fit for purpose?

Mr MICHAEL DALEY: Yes, and the Folbigg matter demonstrates that.

The ACTING CHAIR: How do you know if you haven't asked her?

Mr MICHAEL DALEY: I don't need to ask her to have regard to the processes that led to her release and pardon and having her convictions quashed under the Crimes (Appeal and Review) Act. That Act is essentially performing that function. No other jurisdiction in Australia has one. The jurisdictions that I've had regard to internationally don't fill me with any great confidence that they work well. But the Crimes (Appeal and Review) Act, while it is not perfect, is at this time, until someone convinces me otherwise, pretty good.

The ACTING CHAIR: So you think sitting in prison for 20 years, 10 years, four years, five years, three years, two years—

Mr MICHAEL DALEY: That's a different question.

The ACTING CHAIR: You think that that system is a fair, just system that all people—particularly legal practitioners and victims of a dysfunctional, failing system—can have trust in?

Mr MICHAEL DALEY: That's your—

The ACTING CHAIR: No, I'm asking you.

Mr MICHAEL DALEY: Your characterisation that it's a dysfunctional, failing system is not correct. It's just not correct.

CORRECTED

The ACTING CHAIR: I'm repeating the words of the victims, legal practitioners and families that have been failed because there is no proper post-conviction review system operating right now in the justice system of New South Wales.

Mr MICHAEL DALEY: There is.

The ACTING CHAIR: The one Kathleen accessed after being—

Mr MICHAEL DALEY: It's called the Crimes (Appeal and Review) Act.

The ACTING CHAIR: Twenty years. Have you ever heard of the concept that justice delayed is justice denied?

Mr MICHAEL DALEY: How would you have released Ms Folbigg on evidence that was currently used to found reasonable doubt if it didn't exist?

The ACTING CHAIR: There were years within which it did exist and it took Kathleen, her legal practitioners and the medical experts years to get to where they got with Justice Bathurst. It took the discretion of former Attorneys General holding inquiries. It took overcoming decisions infected with bias in the system.

Mr MICHAEL DALEY: In your opinion. That was never found by any court.

The ACTING CHAIR: It's pretty clear in Justice Bathurst's findings.

Mr MICHAEL DALEY: No, it's not.

The ACTING CHAIR: It is.

Mr MICHAEL DALEY: No.

The ACTING CHAIR: You seem to consistently forget the diaries.

Mr MICHAEL DALEY: I'm not going to argue with you about this, okay?

The ACTING CHAIR: Do you remember the diaries?

Mr MICHAEL DALEY: Do you have a question for me?

The ACTING CHAIR: Yes. Do you remember the diaries?

Mr MICHAEL DALEY: In what sense do I remember them?

The ACTING CHAIR: In Justice Bathurst's reasons and decisions.

Mr MICHAEL DALEY: If it wasn't for the scientific evidence, the Bathurst inquiry would never have come to fruition.

The ACTING CHAIR: Do you remember the diaries component in Justice Bathurst's—

Mr MICHAEL DALEY: I'm sorry, I'm not going to sit here and argue with you over—

The ACTING CHAIR: It's just a question, Attorney. Do you remember those parts?

Mr MICHAEL DALEY: I'm not going to sit here and argue or engage in polemics about the right and wrong.

The ACTING CHAIR: It's just a question, Attorney.

Mr MICHAEL DALEY: No, it's not a question. It's more than that.

The ACTING CHAIR: Do you remember the part in Justice Bathurst's reasonings that referred to the diaries?

Mr MICHAEL DALEY: Yes.

The ACTING CHAIR: And yet you're comfortable to suggest that it was all based on medical evidence alone?

Mr MICHAEL DALEY: That's what led to the inquiry being established in the first place. If the evidence had not come to fruition, there wouldn't have been a Bathurst inquiry and Ms Folbigg would still possibly be incarcerated.

The ACTING CHAIR: Have you had any feedback on the system that is operating for mediation in the short period of time since you abolished the community justice centres?

CORRECTED

Mr MICHAEL DALEY: Have I had any—

The ACTING CHAIR: Feedback on the operation of mediation services across New South Wales since you abolished the community justice—

Mr MICHAEL DALEY: I'd have to take that on notice. Feedback encompasses correspondence. I'd have to go back and search for all that.

The ACTING CHAIR: Anything general that you're aware of? Have there been any complaints, concerns, any people contacting you that may have slipped through the system?

Mr MICHAEL DALEY: Answering that would hazard me—I'd have to hazard a guess.

The ACTING CHAIR: There's a note coming if you want to have a quick look.

Mr MICHAEL DALEY: I will take it on notice.

The ACTING CHAIR: Thank you very much. We are now in government time.

The Hon. GREG DONNELLY: We reserve our position—but not at the moment.

The ACTING CHAIR: Thank you, Attorney General. That concludes the first part and this session. Thank you for attending the hearing. We're finished with you for your questioning. The Committee will now break for lunch and we will return at 2.00 p.m. for further questioning.

Mr MICHAEL DALEY: Just before we go—

The ACTING CHAIR: Yes, Attorney?

Mr MICHAEL DALEY: I thank the Committee. Can I just close with my usual request of you and Committee members, Madam Chair, to make sure that the people who are going to appear as witnesses this afternoon without me in the room are treated with the utmost respect, please? Because in the past that hasn't always been that way with certain members of this Committee.

The ACTING CHAIR: Attorney, I guarantee that the rules of procedural fairness will apply in this Committee and we hear what you are saying. They always do.

Mr MICHAEL DALEY: Thank you. Because they are good and faithful servants to governments of the day.

The ACTING CHAIR: We know that more than anyone. Thank you very much, Attorney. We'll now have a break.

(The Attorney General withdrew.)

(Luncheon adjournment)

The ACTING CHAIR: Thank you and welcome back. Can I just start with getting some understanding from you, Secretary, and whoever you'd like to throw to. The Attorney General touched on it this morning, the evaluation that is happening in terms of—I think it's fair to say—the bail provisions and also the "Moree solution", as it's apparently called. The Attorney spoke about the evaluation process, and I think the Committee would like to understand what that actually is, if there's criteria that's available—how are we measuring what we're doing?

MICHAEL TIDBALL: Can I perhaps first just respond by indicating that there is a governance group which is jointly led by the Premier's Department and the Moree Local Aboriginal Land Council. It includes members from the community; Aboriginal community controlled organisations, ACCOs; the ALS, Aboriginal Legal Services; Youth Justice; New South Wales police; the Moree Plains Shire Council; and Just Reinvest NSW. That's the governance group. More specifically, on the question of evaluation, what I would like to do is, if I may, refer that to Ms Campbell.

The ACTING CHAIR: Of course.

ANNE CAMPBELL: I've got some advice that BOCSAR is looking at a general study that's in the pipeline regarding youth bail. They plan to look at the impact of instances of youth remand on any reduction in the offending prior to court, and whether remand appears to impact reoffending post-court. They're looking at doing that next year, 2026.

The ACTING CHAIR: Just to be clear, there is a governance group which is very different, it sounds like, to an actual evaluation that it sounds like BOCSAR is doing.

CORRECTED

ANNE CAMPBELL: Yes.

The ACTING CHAIR: So, what is the governance group doing?

MICHAEL TIDBALL: I think—Ms Campbell, please correct me if I'm wrong—but my understanding is that their task, in part, is to oversee and guide the implementation of the \$13.4 million which was invested for a targeted initiative in Moree aimed at addressing youth crime, supporting youth and enhancing community safety. This investment in Moree is a priority jointly, in that sense, upheld by both the Government and the community. Really, part of it is also about the accountability of the place-based work in the Moree local government area. The Moree LGA Youth Crime Governance Group is overseeing accountability for that expenditure.

The ACTING CHAIR: What does that governance group do? How does it function? Does it meet monthly, bi-monthly, or is it a group that—

MICHAEL TIDBALL: It does meet regularly, but I think in terms of frequency of meetings, what its focus is and the issues which it is considering and has considered, currently and up to this point, the Committee might be most assisted if I provide a written response to that on notice.

The ACTING CHAIR: Thank you. I think it would be good. I know the Parliament, as well as many members of the public—there was real concern about what we were doing and, unfortunately, the figures, in terms of youth incarceration, are not good. I'm sure other MPs get it too—we get emails and we get calls of concern. It's just very hard for us—well, I can guarantee it's impossible for me to say anything other than, "It's outrageous." I don't know what else to say—as in a 34 per cent increase in young people behind bars, 60 per cent of those are First Nations and 70 per cent of those have not been convicted of an offence.

If there's something that can be provided to us in this Committee so that we can do our work—it's great if we can tell people, "Hey, there's something actually happening here. We think we can convey to you that all this pain and this absolutely awful evidence that's coming back of increased incarceration"—given we know it's the most criminogenic thing we can do in any young person's life—"is all for a good reason." Because, at the moment, we just can't—not all for a good reason; I don't mean it like that. "This is the design. There are these factors that are happening."

Because I know—I think others have received answers too—we've been told it has to get worse before it gets better. I've heard that from Minister Harris when I've asked him about his responsibility for what's happening by this State to First Nations young people in his capacity as Aboriginal affairs Minister. The Premier has told us in budget estimates that this is all he can do. If we are to follow that lead in any way, shape or form, we need something. Knowing these groups and stakeholders are involved is very good, and, obviously, I communicate with some of these stakeholders. But understanding how they are being supported and what's happening, rather than them just being dragged along with a government policy that is resulting in these dreadful numbers of young people, is what we're looking for.

MICHAEL TIDBALL: All right.

The ACTING CHAIR: Thank you, Secretary. I was not trying to preach there. I was really trying to impart the rationale of what it is we're looking for and, in some ways, if we can understand, especially in the context now that these laws have been extended in their operation. With BOCSAR's evaluation, is the terms of reference for what they're doing available publicly?

ANNE CAMPBELL: No. I think they're still working through that, and it's a study as opposed to an evaluation.

The ACTING CHAIR: Have they been given a particular time frame that would be desirable for them to return some study material?

ANNE CAMPBELL: I need to take that on notice.

The ACTING CHAIR: Can I ask about your understanding in terms of the data on knife crime. Looking at the BOCSAR data, firstly there is the 10-years data—April 2005 to March 2025—which is the report into assault and robbery incidents involving a knife. We've seen there that there's a decrease. The crime is actually way down compared to 10 years ago, but the current Government has knife crime laws. I'm just wondering if you could provide me your interpretation as to whether the current laws have had any effect in decreasing amounts of crime involving a stabbing in New South Wales.

MICHAEL TIDBALL: I have the most recent data through to 30 June 2024 by category of knife offence and the aggregate for adults. Beyond that, I really would want the experts to extrapolate and provide narrative. I don't feel qualified to offer narrative, but in 2019, 3,252; in 2020, 3,633; in 2021, 3,557; in 2022, 3,552; in 2023, 3,541; and, finally, in 2024, 4,209. And I have the youth as well. You wanted those?

CORRECTED

The ACTING CHAIR: Yes.

MICHAEL TIDBALL: In 2019, 284; 2020, 288; 2021, 285; 2022, 344; 2023, 322; and 2024, 375.

The ACTING CHAIR: It's not just me, is it? Since we've introduced the laws, the rate of crime has increased—as in, the numbers have increased. Do we correlate that with "Now we've got better laws, we're capturing that"? Is that how we're reading those?

MICHAEL TIDBALL: I'm providing objective data.

The ACTING CHAIR: The numbers.

MICHAEL TIDBALL: I would not want to undertake the analysis on the run. I am happy to take it on notice. But I just think I'd be drawing on expert comment from BOCSAR rather than responding on the fly.

PAUL McKNIGHT: Can I just add those are the figures for knife possession crime. Those are, in fact, the criminal offences that have been put in place to address the question.

The ACTING CHAIR: That's what I mean.

PAUL McKNIGHT: Generally speaking, offences associated with assault that involve a knife are significantly down in the last 20 years.

The ACTING CHAIR: Have you noticed any correlation or change with the introduction of the new knife detection laws?

PAUL McKNIGHT: I think that's something we'd have to take on notice and get further information from BOCSAR, as the secretary says.

The ACTING CHAIR: The way I read the BOCSAR data is that the statistics just show that there's been zero positive effect from the new laws. If there's any way of interpreting the data otherwise, it would be really helpful. The analysis I have is there is actually a case just to repeal the laws at this point because of the negative impacts those laws are actually having on vulnerable groups in the community. So if there is some interpretation of the data that would suggest that the laws are having something other than zero positive effect, again, that would be really helpful. Is that something that you would seek from BOCSAR?

PAUL McKNIGHT: We can take that question on notice.

The ACTING CHAIR: Earlier today, when I spoke with the Attorney General, I spoke with him about bail appeals to the District Court, and he said he would have a look at that. By leave, I table a document because I didn't do it then, and I think it might be useful to do it now.

Document tabled.

The ACTING CHAIR: I've got lots of copies. This could be provided to the Attorney if that's all right, and also this could be considered. This is a brief paper that has been prepared by former magistrate David Heilpern with the assistance of Cameron Bell and another solicitor, who operate in the jurisdiction and have done for decades and decades, particularly the regional New South Wales criminal jurisdictions, and there's a case there for why bail appeals to the District Court could provide both a justice-positive as well as a cost-benefit-positive analysis. It's very brief. But, if that could be considered and taken on, then that would be very good.

PAUL McKNIGHT: Can I just clarify something in that regard?

The ACTING CHAIR: Yes.

PAUL McKNIGHT: I think the Attorney clarified it this morning. And I think you indicated—I think you know the legal framework.

The ACTING CHAIR: I keep using the word "appeal", don't I?

PAUL McKNIGHT: They're not appeals in that they're not a subsequent court looking at a decision and deciding that it was made in error. They are a court considering a new application. The circumstances by that stage may well have changed and a new application might be justified. So it's quite a separate proceeding.

The ACTING CHAIR: Yes. Mr McKnight, that was so much more articulate and better than what I did. Thank you. It really is. It's about a review, isn't it? Is it a review of an application or a fresh application?

PAUL McKNIGHT: It's a fresh application, so it's not trying to find error in the earlier decision.

The ACTING CHAIR: For example, somebody may not have had an address 15 minutes earlier. Then, all of a sudden, Grandma comes along, and we've got an address for somebody that could be bailed.

CORRECTED

PAUL McKNIGHT: That's right. Something like that can happen.

The ACTING CHAIR: And this happens a lot.

PAUL McKNIGHT: That's one circumstance.

The ACTING CHAIR: Also, there is just something else I wanted to raise—and I raised it with the Attorney earlier—about the centralised bail practice that's now in operation. Again, this is former magistrate David Heilpern. He has recently been very concerned about the operation of the centralised bail system. He's raised certain concerns around the practice note that has been issued, and he's written very recently to the Chief Magistrate. I was just wondering if you're aware. His letter that he wrote and he's published online focuses on the 12 noon cut-off. Are you aware of that in the practice note?

MICHAEL TIDBALL: I am, yes.

The ACTING CHAIR: Are you aware of this concern about the 12.00 p.m. cut-off?

MICHAEL TIDBALL: I'm generally aware of it, not specifically aware of that particular correspondent to whom you refer.

The ACTING CHAIR: What do you say about the concerns?

MICHAEL TIDBALL: I have discussed it with the Chief Magistrate. My understanding is that, in special circumstances, it's not—

The ACTING CHAIR: It's not a hard—

MICHAEL TIDBALL: No, it's not and not intended to be, so reasonable requests beyond that guideline or—

The ACTING CHAIR: Practice note.

MICHAEL TIDBALL: Yes. I believe there is redress for that where there is need, as determined.

The ACTING CHAIR: When practitioners read practice notes, what we do is read the practice note and we go, "Gosh, we missed the cut-off. We'll have to wait till tomorrow." Is there somewhere in the practice note that there would be consideration to amending that to then make clear that in reasonable circumstances or exceptional circumstances—as normally you do in a practice note, would that practice note be amended to reflect that?

MICHAEL TIDBALL: I appreciate where the question comes from. The most I can undertake to do is to raise the matter directly with the Chief Magistrate, as the head of jurisdiction, which I'm, of course, happy to do.

The ACTING CHAIR: Thank you. That would be very good because, as I say, normally we read those practice notes and they become, literally—and it's only then, after weeks and weeks of talking with other practitioners in your very busy practice that you learn, "No, I got an exemption. You can do that." Whilst it's a great profession and that's what's always happened, at the end of the day, people are missing out and people are going into custody. It's costing the State heaps, and it's costing individuals their freedom.

Can I just raise with possibly you, Mr Hyland, or maybe the secretary—I don't know. I raised that hypothetical with the Attorney General about the way bail is being determined. It's a hypothetical, and I understand there's a bunch of considerations when bail applications are being made. We all know this. But, if a magistrate actually said in a proceeding—or even a prosecutor made a submission—"This person, this defendant is unlikely to get a custodial sentence on all the charges and on final hearing, given all the circumstances before us now, but our submissions are to refuse bail"—would that be something concerning? Or is that something we take as normal practice or possible practice?

CRAIG HYLAND: If I could just ask you to clarify. This morning you said "the magistrate was of those two minds". It seems your question now is "the prosecution is of those two minds". What does your question specifically relate to?

The ACTING CHAIR: Either/or. I'm happy for you to answer both in the alternative or separately.

CRAIG HYLAND: The two statements are inconsistent, I will accept that. A custodial outcome is but one factor that is taken into account in looking at bail. At the time of the bail application, if it's a magistrate, one would expect that he or she has not had the benefit of hearing the matter or looking at the entire matter and being able to make a decision in relation to whether it would be custodial or not custodial. I think it's possibly a little bit

CORRECTED

more concerning if the prosecutor mentions it because the prosecutor should know what is in their brief of evidence. However, they may not know what the defence case is, which may determine the ultimate outcome.

The Hon. SUSAN CARTER: I wonder if I can just pick up on Ms Higginson's questions, just to clarify in my own mind the question of evaluation and what may or not be evaluated. Ms Campbell, I understand that BOCSAR may be doing a study in relation to 22C. Is that definite or is it still only under consideration?

ANNE CAMPBELL: I think they are looking at doing it.¹

The Hon. SUSAN CARTER: So they're looking at doing it or they will do it?

ANNE CAMPBELL: They will be doing it. I've just got some advice that it's likely to be by the end of next year.

The Hon. SUSAN CARTER: I understood the Attorney to flag this morning that there was ongoing evaluation of 22C. Perhaps Mr Tidball, or even Mr McKnight, this is a question for you: Is there anybody currently in DCJ evaluating the impact of 22C?

PAUL McKNIGHT: Under the legislation passed by the Parliament—

The Hon. SUSAN CARTER: I know who passed it.

PAUL McKNIGHT: —the department is undertaking a statutory review of section 22C. That review needs—

The Hon. SUSAN CARTER: What does that work involve?

PAUL McKNIGHT: A statutory review—

The Hon. SUSAN CARTER: No, this specific 22C work. How many people are engaged on that task?

PAUL McKNIGHT: Can I just finish my story about—

The Hon. SUSAN CARTER: I'd rather not have the general—it's a very specific question, Mr McKnight, and we have been very patiently trying to pursue this answer for many hours.

PAUL McKNIGHT: The review needs to start between June and December this year. It hasn't yet started.

The Hon. SUSAN CARTER: That's the statutory review. What about the review that the Attorney committed to that should have been done by March of this year?

PAUL McKNIGHT: I think this statutory review replaces that one.

The Hon. SUSAN CARTER: What was the mechanism by which that replaced the one that was promised in the second reading speech?

PAUL McKNIGHT: The Parliament passed legislation that requires us to undertake a statutory review in the coming 12 months.

The Hon. SUSAN CARTER: And that was drawn to the attention of Parliament at the time that this was the intention?

PAUL McKNIGHT: I can't speak to what Parliament—

The Hon. SUSAN CARTER: If I can summarise, there is, at this point in time, no evaluation of 22C that has been done or is in train. There will be a statutory review—

PAUL McKNIGHT: There will be a statutory review.

The Hon. SUSAN CARTER: —and there will be a BOCSAR study, but at the moment, nothing?

PAUL McKNIGHT: We're about the kick off the—

The Hon. SUSAN CARTER: At the moment, nothing?

¹ In [correspondence](#) to the committee dated 9 September 2025, Ms Zoe Dendle, Acting Deputy Secretary, Strategy, Policy and Commissioning, Department of Communities and Justice, clarified the evidence of Ms Anne Campbell, Deputy Secretary, Strategy, Policy and Commissioning, Department of Communities and Justice.

CORRECTED

PAUL McKNIGHT: The statutory review has a statutory timetable associated with it.

The Hon. SUSAN CARTER: Yes, and it will begin, but at this point in time, nothing?

PAUL McKNIGHT: I'm not sure. I wouldn't characterise it that way.

The Hon. SUSAN CARTER: What new work is being done today, Mr McKnight?

PAUL McKNIGHT: A statutory review needs to take place—

The Hon. SUSAN CARTER: No, what review work is being done today? I understand the statutory review timetable. What review of 22C and its operation is happening as we speak?

PAUL McKNIGHT: At the moment?

The Hon. SUSAN CARTER: Yes.

PAUL McKNIGHT: No work is being undertaken on the review. We are preparing for it.

The Hon. SUSAN CARTER: That's very clear. Mr Tidball, if I could go back to you. Thank you for the information you gave about what I think you called a coordinating group for the Moree response.

MICHAEL TIDBALL: Yes.

The Hon. SUSAN CARTER: Does any part of that coordinating group involve evaluations of any of the specific aspects of that program?

The ACTING CHAIR: Sorry, it's the governance group.

The Hon. SUSAN CARTER: Sorry, the governance group.

The ACTING CHAIR: Or is it the coordinating group? There are so many names. Is it a governance group or a coordinating group?

MICHAEL TIDBALL: It is a governance group.

The ACTING CHAIR: Sorry to interrupt.

The Hon. SUSAN CARTER: Does any part of the governance group involve evaluation of any aspects of what is being governed by that group?

MICHAEL TIDBALL: I apologise for this, but I don't think I received the question as clearly as I should have.

The Hon. SUSAN CARTER: I understand from what you told my colleague, Ms Higginson, that there was a governance group coordinating the implementation of the Moree response, if we can put it that way. Does one of the roles of that governance group involve evaluating that which is being governed by them?

MICHAEL TIDBALL: It depends on what the elements are.

The Hon. SUSAN CARTER: Any of the elements. Are we looking at the impact of any single thing that we are doing?

MICHAEL TIDBALL: Yes.

The Hon. SUSAN CARTER: Which one?

MICHAEL TIDBALL: Its work is to ensure accountability for that place-based work in Moree, which has received—

The Hon. SUSAN CARTER: Accountability to whom and for what?

MICHAEL TIDBALL: On the deliverables of that work.

The Hon. SUSAN CARTER: Where can we get a list of the deliverables?

MICHAEL TIDBALL: I would be very happy to provide, on notice, those elements that have been announced before. They're on the public record. I'm happy to provide a report on the progress in respect of each of those elements.

The Hon. SUSAN CARTER: There's accountability for the deliverables being delivered. Is anybody looking at the impact of those deliverables, whether it's positive, negative or neutral?

CORRECTED

MICHAEL TIDBALL: I would take it that that is a corollary of that work that that group is doing, with a view to—

The Hon. SUSAN CARTER: Could you take on notice to ascertain that that is actually happening and when we might see some sort of report about that?

MICHAEL TIDBALL: I'm happy to do so.

The Hon. SUSAN CARTER: That would be great. If I can stay with you, Mr Tidball, and ask you questions about a completely unrelated matter. I understand that you're the Minister's delegate to make decisions under the Premier's memorandum M2022-10, *Guidelines for the Provision of Ex-Gratia Legal Assistance*—

MICHAEL TIDBALL: Yes, that is the case.

The Hon. SUSAN CARTER: Yes, you know the one I'm talking about. In accordance with that delegation, you authorised the payment of legal fees in respect of ministerial staff called as witnesses to appear before a committee of this House inquiring into events surrounding the Dural caravan?

MICHAEL TIDBALL: Correct.

The Hon. SUSAN CARTER: What was the total amount paid in legal fees?

MICHAEL TIDBALL: The total amount is still subject to moderation.

The Hon. SUSAN CARTER: Sorry, what does that mean?

MICHAEL TIDBALL: Their compliance with the terms of the approval. That work is yet to be finalised but is very close.

The Hon. SUSAN CARTER: Sorry, what do you mean by "compliance with the terms of the approval"?

MICHAEL TIDBALL: There is a set of guidelines around approvals. The actual payment is made by the relevant agency. In this case, I think it's the Cabinet Office. There is a broad approval, and that then is subject to ensuring that the approval is exactly consistent with those guidelines.

The Hon. SUSAN CARTER: Those guidelines being the Premier's memorandum or those guidelines being separate guidelines? Is this in relation to the quantum of fees?

PAUL McKNIGHT: They're the Premier's guidelines.

MICHAEL TIDBALL: They're the Premier's guidelines.

The Hon. SUSAN CARTER: So it's the same memorandum we're talking about?

MICHAEL TIDBALL: Yes.

The Hon. SUSAN CARTER: I think there is a live question, isn't there, about whether there was compliance with that memorandum?

MICHAEL TIDBALL: Would it be helpful if I provide some context?

The Hon. SUSAN CARTER: Sure.

MICHAEL TIDBALL: M2022-10 provides a non-exhaustive list of circumstances in which an application for ex gratia legal assistance can be made, including where public officials are required to appear before certain investigatory bodies, including the ICAC, the Law Enforcement Conduct Commission, a royal commission—

The Hon. SUSAN CARTER: Can I stop you there? Why do you say it's a non-exhaustive list?

MICHAEL TIDBALL: Because I don't think it can contemplate every circumstance that may arise. There are things that may not be specifically contemplated which could arise, such as this circumstance.

The Hon. SUSAN CARTER: But the language of it is not expressed as if it's non-exhaustive, is it?

MICHAEL TIDBALL: I am of the view that the nature of a select committee inquiry into a decision-making process of the Cabinet raising significant issues relating to parliamentary function and leading to a Supreme Court consideration—I consider that the powers delegated to me did allow and contemplate the scope in which I exercised the function.

The Hon. SUSAN CARTER: Which paragraph in section 1 do you rely on for that?

MICHAEL TIDBALL: It contemplates proceedings. I think it is well—

CORRECTED

The Hon. SUSAN CARTER: You're relying on legal proceedings?

MICHAEL TIDBALL: Yes.

The Hon. SUSAN CARTER: How would you define "legal proceedings"?

MICHAEL TIDBALL: As I say, the matter was to be determined by a court, so contempt would be considered by—

The Hon. SUSAN CARTER: Sorry, what matter was to be determined by a court? If the witnesses appeared, was there anything to be determined by a court?

MICHAEL TIDBALL: The matter, as I understand it, of contempt.

The Hon. SUSAN CARTER: But that only arose if they failed to appear, and it only arose if they were in breach of a legal provision. Do we commonly get and pay for legal advice to say whether or not you're able to break the law?

MICHAEL TIDBALL: Ordinarily, on a position like this, the Crown Solicitor would be instructed. The Crown Solicitor representation, on this occasion, was not possible because the Crown deemed that there was a potential conflict of interest. On that basis, the only redress was memo 2022-10 and the avenue of representation by private practitioners at specified rates. The Crown Solicitor did not accept instructions. It was on that basis that I made the determination that I did.

The Hon. SUSAN CARTER: I don't think we have addressed the issue of whether there were actually legal proceedings.

MICHAEL TIDBALL: As I always do, I took advice. I accepted that to be the case. That was the basis upon which I gave the approval.

The Hon. SUSAN CARTER: You received advice from whom?

MICHAEL TIDBALL: From the department.

The Hon. SUSAN CARTER: The department gave you advice that legal proceedings were imminent in relation to these witnesses?

MICHAEL TIDBALL: No, that this fell within the legal proceedings contemplated by the memo.

The Hon. SUSAN CARTER: Where are the legal proceedings? What were the legal proceedings that had been either commenced against these witnesses or were known to be imminent?

MICHAEL TIDBALL: As I understand it, it was believed that legal proceedings were potentially imminent.

The Hon. SUSAN CARTER: What legal proceedings?

MICHAEL TIDBALL: I have answered as comprehensively as I am able, Ms Carter.

The Hon. SUSAN CARTER: You may be aware of evidence given to estimates on Wednesday 20 August by Ms Kate Boyd. She didn't press the point of legal proceedings. Indeed, she said that wouldn't be fatal because there was a general Executive power retained by the Attorney General. Do you agree with Ms Boyd or do you press the point that it falls within the memorandum?

MICHAEL TIDBALL: I was satisfied that it falls within the memorandum.

The Hon. SUSAN CARTER: Is it possible to provide us on notice with a copy of that advice that seeks to define what "legal proceedings" means? It is very novel definition, from my understanding.

MICHAEL TIDBALL: I will take that on notice.

The Hon. SUSAN CARTER: Perhaps I might turn to you, Mr D'Aeth, if I may. At the last estimates hearing, you took on notice a question about the release of information to a journalist about a matter in the Children's Court. Your answer indicated that it may be the subject of an ongoing investigation. Could you update us about the progress of this investigation?

CHRIS D'AETH: Sorry, could you repeat the question, please?

The Hon. SUSAN CARTER: You took on notice a question about the leak about matters in the Children's Court to a journalist. The answer on notice was that it may be the subject of an ongoing investigation. I would like you to update us on the progress of that investigation, please.

CORRECTED

CHRIS D'AETH: My memory is that Ms Dowling took that particular question, although I might be mistaken.

The Hon. SUSAN CARTER: I asked questions of you and Ms Dowling. The answer we got back from you on notice—and I would think this falls within your purview, doesn't it, in terms of the proper administration of the courts? What is the status of that investigation into the Children's Court leak?

CHRIS D'AETH: I'll take that question on notice. I don't have any information for you at this time.

The Hon. SUSAN CARTER: Are you able to get it for us today? Mr Hyland, are you able to answer that question?

CRAIG HYLAND: This is in the context of the police inquiry being complete and the matter being—

The Hon. SUSAN CARTER: So there was a police inquiry and that's now complete?

CRAIG HYLAND: That was completed.

The Hon. SUSAN CARTER: What date was that completed?

CRAIG HYLAND: I couldn't recall when that was completed.

The Hon. SUSAN CARTER: Can you take that on notice?

CRAIG HYLAND: Yes, I can.

The Hon. SUSAN CARTER: Did the police interview staff at the ODPP?

CRAIG HYLAND: They interviewed a number of people.

The Hon. SUSAN CARTER: Did all staff willingly cooperate with the police?

CRAIG HYLAND: A number of staff were interviewed.

The Hon. SUSAN CARTER: Did all staff that the police requested to interview cooperate with the police interview?

CRAIG HYLAND: I don't know who they asked to be interviewed. I can tell you that staff did participate in the process.

The Hon. SUSAN CARTER: Were there any staff who did not participate in the process when asked?

CRAIG HYLAND: I do not know, because I don't know how many staff were asked to participate.

The Hon. SUSAN CARTER: And what was the result of the police inquiry?

CRAIG HYLAND: The police found there were no criminal charges—well, nothing to support a criminal offence.

The Hon. SUSAN CARTER: What action has been taken subsequently by the ODPP?

CRAIG HYLAND: Under our code of conduct, we are obligated to look into issues of misconduct once the police have completed any criminal inquiry. The matter was dealt with under the misconduct provisions of the Government Sector Employment Act. Those proceedings have been completed.

The Hon. SUSAN CARTER: Sorry, could you amplify that? The police finished their inquiry.

CRAIG HYLAND: That's correct.

The Hon. SUSAN CARTER: They find that there is no criminal breach but there's still a significant matter to be determined by the ODPP. So you did what? An internal investigation or you relied entirely on the police's investigation?

CRAIG HYLAND: It's an internal matter, but an external firm of lawyers was engaged to conduct the inquiry.

The Hon. SUSAN CARTER: Why was that process chosen?

CRAIG HYLAND: To keep it independent from the DPP.

The Hon. SUSAN CARTER: So it wasn't a matter of just accepting the police findings; you reinvestigated the matter?

CORRECTED

CRAIG HYLAND: The police were looking at criminal offences. Misconduct offences are something different—a lesser standard. The legal firm investigated that. Again, I do not know who they interviewed, who they spoke to or what was in their report, but it was briefed out to an external firm.

The Hon. SUSAN CARTER: What was the outcome? The report found what?

CRAIG HYLAND: The report made certain recommendations, and then a delegate made the decision in relation to those recommendations.

The Hon. SUSAN CARTER: What were the recommendations?

CRAIG HYLAND: Again, I do not know what those recommendations were.

The Hon. SUSAN CARTER: Can you take that on notice and provide this Committee with those recommendations?

CRAIG HYLAND: Yes, I can.

The Hon. SUSAN CARTER: When you say that a delegate made the decision, who was the delegate who made the decision?

CRAIG HYLAND: The delegate was Justice Helen Wilson, who is a deputy director of public prosecutions.

The Hon. SUSAN CARTER: What was the decision that was made following that?

CRAIG HYLAND: Again, I do not know. Generally, the ODPP doesn't comment on internal misconduct matters. That's the position I would be taking.

The Hon. SUSAN CARTER: Are you able to provide on notice details of what the delegate's decision was?

CRAIG HYLAND: I wouldn't think that's appropriate, in the circumstances.

The Hon. SUSAN CARTER: Given the publicity surrounding that leak, isn't there enormous public interest? I would think, Mr D'Aeth, in the proper administration of the Children's Court in particular, that we would be anxious to know what the outcome of that inquiry was and what proactive steps are being taken to make sure that this never happens again. I think it is very significant to know what the result was internally within the DPP and what the ODPP and courts are proposing by way of action to ensure that this never happens again, and what was determined internally as how this was able to happen in the first place.

CRAIG HYLAND: One would expect, hypothetically, that the employee was counselled and they were dealt with in relation to if any breach was found. I do not know whether any breach was found.

The Hon. SUSAN CARTER: If you are a young Indigenous man—a boy—who appears before the Children's Court, do you think it's sufficient that somebody who published details of your matter over morning radio is counselled and that's the end of it and there is no further action taken to ensure the proper administration of justice?

CRAIG HYLAND: The DPP or the staff member did not publish anything on morning radio. The allegation was that certain material was provided to 2GB.

The Hon. SUSAN CARTER: What would be the purpose of providing material to 2GB, other than to have it published on morning radio?

CRAIG HYLAND: As I understand it, whatever was provided was not published.

Ms ABIGAIL BOYD: Good afternoon to all of you. I wanted to pick up on the questions I was asking earlier on the Domestic Violence Death Review Team. We talked about how the \$2 million funding announcement over four years was going to start. Was that correct?

MICHAEL TIDBALL: I can help with that. As you spoke of this morning, Ms Boyd, there is \$2 million over four years to the DVDRT. For the purpose of funding or what is being funded, two senior research roles have been funded over four years to support the DVDRT to deliver robust research around risk factors, trends, and impacts of service delivery and oversight, in partnership with the office of Dr Hannah Tonkin, the Women's Safety Commissioner. Both roles, I can advise, have been filled. The roles specifically will support the Coroners Court to investigate the causes of domestic violence deaths in New South Wales and facilitate improvements in the system and services.

CORRECTED

Ms ABIGAIL BOYD: I understand that the DVDRT tends to use a lot of the Coroner's reports and go through that data and use that for its own purposes. In the case of the Lilie James inquest, I understand that the head of the DVDRT actually provided really helpful evidence to the Coroners Court in relation to domestic and family violence and that that was a really useful contribution to the coronial process. That bit that you just said at the end regarding funding, is that to facilitate more of that sort of interaction between DVDRT and the Coroner's team?

ANNE CAMPBELL: I think it was more to do some further research. The advice I've got is a research proposal into suicide and intimate partner violence and domestic violence. The research is due for completion in 2027. And then there is also a University of New South Wales research into domestic and family violence homicides involving First Nations women in New South Wales. That is being done with the DVDRT and Dr Tonkin's office.

Ms ABIGAIL BOYD: Given that Anna Butler provided that evidence, is that something that is likely to continue? Do you have any insight or can you take it on notice?

MICHAEL TIDBALL: I think we need to take it on notice.

Ms ABIGAIL BOYD: I think it was viewed by many in the sector as a really helpful development in informing the Coroner. Let's move to some of the issues around the Coroners Court that I was discussing earlier. What is the current backlog of mandatory section 23 inquests and also section 24 inquests, if I can have those separately?

MICHAEL TIDBALL: I have an almighty wad of statistics here. I need to go searching. I will try and provide a response.

Ms ABIGAIL BOYD: You need a laptop.

MICHAEL TIDBALL: My visual field isn't very good with computers. I'll try and provide a response by the end of the hearing. I may not be able to. If that is the case, I will provide it on notice.

Ms ABIGAIL BOYD: I understand. I think that would be really good. I understand there is quite a backlog. I think it's in the hundreds. My next question was going to be what are we doing to address that backlog?

MICHAEL TIDBALL: The Attorney General this morning adverted to some work I'm doing at the moment with a group yet to have its first meeting. That is to look at not so much the policy questions of the court but to have a group of stakeholders come around the table and see what we can do, ultimately, about backlog and about—and I mean it in the most wholesome sense—the efficiency and streamlining of the court, obviously, being very mindful of proper process and the needs of the court. I'll chair that group and the court will be at the table, as will relevant people from the department and also Treasury.

Ms ABIGAIL BOYD: I understand that only the State Coroner and Deputy State Coroner are able to undertake the section 23 and section 24 inquests. I understand there are currently two non-magistrate coroners who have been appointed who won't be able to do that work. Is that correct? Is anyone able to tell me?

PAUL McKNIGHT: Those are the deaths in custody matters and the other—

Ms ABIGAIL BOYD: Yes, the deaths in custody and police operations and also children and disabled people inquests.

PAUL McKNIGHT: I think that's right, but we would need to take that on notice.

Ms ABIGAIL BOYD: If you could also take on notice the amount of resourcing that the Coroners Court has and the amount of funding and how that compares over the last five years, that would be useful to be able to track. One of the main purposes of coronial investigations is to contribute to preventing future deaths and injury. I understand that regional inquests rarely result in preventative recommendations. In contrast, 75 per cent of the inquests resulting in preventative recommendations in the last four years were conducted by specialist coroners in Sydney. There seems to be not as much preventative work being done regionally. Given that the case loads of regional magistrates is making it difficult for those more fulsome inquiries, are we going to see any change in the direction of resources to regional communities?

CHRIS D'AETH: If I may just add to that, I think you'll find that the complex cases in the regional areas are moved to Sydney. That would lead to why the recommendations are predominantly coming from the Sydney region. They may still be regional matters that are then dealt with in the centre, if I may put it that way.

Ms ABIGAIL BOYD: What piqued my interest is that obviously there are a lot of regional domestic homicides and so there was a concern that we weren't providing the same level of preventative work for those homicides as we were for the ones in Sydney. But what you're saying is that they come to Sydney—we have a

CORRECTED

process for when it's more serious. So it has to come into the Sydney court and, presumably, they are still getting the same evidence they would get on a regional basis.

CHRIS D'AETH: I understand that that is the case. That is correct.

Ms ABIGAIL BOYD: Okay. That's helpful. The select committee on the coronial jurisdiction and the more recent stat review of the Coroners Act recommended that the preventative capacity of the coronial jurisdiction be strengthened by introducing a specialist preventative death review unit. Is that something that the Government has investigated putting in place? Do you know? Is there any work being done by the department?

PAUL McKNIGHT: I think I need to take that on notice. I would say that the Coroners Act review is ongoing, as I said this morning, but it is constrained by resource—it's to be neutral as to resourcing. But that doesn't necessarily mean that small resourcing initiatives might not be accommodated within it.

Ms ABIGAIL BOYD: It would be good to list out how the overall number of inquests has been, year by year. You might tell me it's to do with the complexity, but however you want to provide that on notice, just to understand how many inquests are being done per year. I've already asked you for the funding. If you could maybe tell me the staffing numbers per year as well, just so we can begin to see that. I understand that the central people in Sydney are also very busy. I understand that that would be the difference with the preventative work, but I'm quite concerned that we are not resourcing the Coroners Court to the extent that would be useful. One last question from me. There has been a number of recommendations and findings as well around upgrading and modernising the coronial jurisdiction. Does the Coroners Court now have electronic service of documents?

CHRIS D'AETH: I might take that on notice and give a more detailed answer in relation to that. The secretary this morning spoke in relation to digital case file work that's happening across courts, predominantly in the civil jurisdiction of the Supreme Court at the moment, but with a view to expand that when we can, when resources allow and when timing allows. But I'll take that on notice in terms of the Coroners Court.

Ms ABIGAIL BOYD: That's great. Thank you.

The ACTING CHAIR: Dr Cockayne, I know you have to leave at 3.30 p.m., so I'm just going to grab you now, if I can, for a couple of questions. Are you satisfied at this point in time, to the extent your work allows you to be, in terms of the work you've done on the codes of practice and the systems set up with renewable energy and the anti-slavery components of that?

JAMES COCKAYNE: I think no, in short. We have more work to do. This is a very important issue that we've been working with the Clean Energy Council and other stakeholders on for some time now. The reality is that while I think the work of the office and other stakeholders is making great inroads in our anti-slavery work in a number of areas, particularly around procurement and also support to survivors through the 1800 FREEDOM hotline, there are still a number of regulatory and enforcement gaps. The resourcing arrangements for my office mean that we have to make difficult choices about how to allocate our limited staff time, and we have not been able to make the progress we would wish to on that particular file, as a result.

We are, as you know, in the course of submitting three reports to Parliament around government purchasing of electric vehicles. That obviously intersects with the renewable energy value chain in very significant ways. We anticipate a second report coming to Parliament, I would hope, in the next four to six weeks, which will look at Bus Panel 4, and a third report later this year that will look at the capabilities that need to be developed across government in order to effectively and proactively manage modern slavery risk in the electric vehicle supply chain. Again, I mention that because there's obviously very close proximity to the renewable supply chain more broadly. So we hope that that work, when it is submitted to Parliament later this year, will be informative, and there will be intersections with the ongoing work we're doing with the Clean Energy Council to try to prepare the code of practice you've kindly mentioned.

The ACTING CHAIR: In New South Wales, we are rightly trying to make rapid moves to make sure the deployment of renewable energy is on a large scale to replace the old coal-fired grid that we have. Is there something that we, as MPs, can be doing? Obviously I am an MP that is very supportive of the rollout of renewables and the need to do it rapidly because of our climate change obligations. Is there something that we can do as a committee to assist in terms of your work? If it's resourcing—it's so important that we get this right and we do it well. Are there particular tranches of the work in terms of the renewables and making the anti-slavery components more realised, particularly for what we're doing here in New South Wales and our Minister for Energy, who's working very hard to bring that online?

JAMES COCKAYNE: Chair, it strikes me that some people watching this may wonder why we're discussing this particular issue in the context of a discussion that has largely been about the work of the Department of Communities and Justice. I think that points to a very significant question for Parliament and

CORRECTED

government to consider, which is: What are the resourcing arrangements for this work, and should this work all be coming out of the budget of the Department of Communities and Justice, or should it be on a broader footing in the State budget papers? I've just come back from several days of conversation with business leaders in Melbourne at the inaugural United Nations Business and Human Rights Regional Forum, and I can tell you there is enormous appetite for clarification from government of what the expectations are for business to manage modern slavery risks, specifically in the energy transition.

There is huge appetite for the work we're doing here in New South Wales. I've heard from numerous ASX firms, while I was down in Melbourne, that they are specifically looking to the work we are doing here in New South Wales, the work we've been doing around guidance on public procurement. They're picking up and using those tools and those contracting clauses in their own private business-to-business relationships. The market wants clarity on how to manage these risks so that they're not forced to make a Hobson's choice between pursuing decarbonisation and protecting the social outcomes that we all seek to achieve here.

The ACTING CHAIR: Interesting. Perhaps there is an opening or an opportunity to be looking outside of resourcing coming directly from DCJ and looking elsewhere. Have you ever had any information or expertise applied to, if we are pursuing a human rights Act in New South Wales, whether that might change the nature of the resourcing of your work and your commission?

JAMES COCKAYNE: That's not a question I've looked at specifically, Chair. I think what I would say is we have ongoing conversations with government, both with the Attorney General and with other Ministers, about a lot of this work. As you'll be aware, the procurement Minister, who is also the Minister for Finance and many other hats at the moment—

The ACTING CHAIR: And Natural Resources.

JAMES COCKAYNE: And Natural Resources. She is considering at the moment how to pursue a range of—she's considering the results of the inquiry of the Standing Committee on Social Issues into public procurement. We have been very careful in my office to seek to work in coordination with the Minister, in order to ensure that we're not building two separate approaches here, or two silos, one to deal with anti-slavery and one to deal with broader social issues including the enforcement of labour standards. It's very important, both from an efficiency and an effective perspective, that we integrate those efforts. We have ongoing conversations with the Minister and her team about how we can do that.

I am in close, ongoing conversation also with the Procurement Board to understand how we can support the efforts that are emerging rapidly across government to try to grapple with these issues. We've seen very positive efforts by government to try to come to terms with the challenges that this poses to business as usual in the procurement and operational space. We do see positive signs there, as I hope to be able to report in my upcoming annual report.

The ACTING CHAIR: Great. Thank you. I'll look out for it. Ms Hitter, can I just ask you in the last couple of minutes—and that's not a reflection of the work; I'll come back to it—in terms of the commission and the budget allocation, have you received an increased budget for this financial year in just the previous budget for the work of the commission?

MONIQUE HITTER: If you are referring to the budget papers that were delivered, there was a misstatement in the budget papers that is being rectified by DCJ and by Treasury to the tune of about \$100 million. If it looked as though we received a large increase, that was not in fact the case.

The ACTING CHAIR: I was really hoping it was real is the truth. Is there an explanation? It was just an error? What happened?

MONIQUE HITTER: The explanation is that we're at a period in time where we're moving from the previous national partnership agreement, the NLAP, into the new national partnership agreement, which is the National Access to Justice Partnership agreement. What had happened is that some of the funding from the previous agreement, from NLAP, had still been accounted for in some of the forward estimates and not removed as a result of the new funding that is coming through the National Access to Justice Partnership agreement.

The ACTING CHAIR: I know it's a big question, but is there an increased need for Legal Aid services generally in the past financial year than there was, say, the last two financial years?

MONIQUE HITTER: Our operational reports show that the numbers of services that we've provided from the last financial year has increased, and that will be borne out in our annual report. That will be published to report on the last financial year. Certainly the numbers of services have increased. I think it's fair to say, Chair, that the demand for legal services within the legal assistance sector is always going to be greater than the ability

CORRECTED

to address that demand, and so, yes, there is unmet demand and I think that probably there always will be. The question for us is how we prioritise our resources to meet that unmet demand.

The Hon. SUSAN CARTER: Dr Cockayne, if I can start with you, conscious that you are having to leave us early. There seemed to be some confusion this morning about the impact of the equality LGBTIQ+ amendment on commercial surrogacy and families in New South Wales accessing overseas commercial surrogates. Can you perhaps explain to the Committee why you wrote to certain members of Parliament in relation to that legislation and what you saw as the slavery issues or the slavery risks in that legislation?

JAMES COCKAYNE: I'd be happy to try, Mrs Carter. Thank you for the opportunity. I want to begin by acknowledging that the legal arrangements we have in place in New South Wales do create some barriers for some people to realise their human right to a family life. The people we're talking about here that are the subject of this legislation are people struggling very hard in often difficult circumstances to have a family and to have that basic set of opportunities that so many of us take for granted. There's nothing inherently exploitative in commercial surrogacy—I want to be clear about that—and there are many Australians that appear to engage in commercial surrogacy despite the fact that it is currently illegal. According to the Department of Home Affairs, 375 children were born to Australian parents through international surrogacy arrangements in 2023.

The regulation of commercial surrogacy is, however, a complex and difficult matter, and the reason I wrote to the sponsor of the equality bill was to highlight certain risks that might arise. The first is that poorly regulated commercial surrogacy arrangements do expose both surrogates and children to risks of modern slavery. You mentioned this morning the case of the Mediterranean Fertility Institute in Greece, which was raided in 2023 in September and found at least 98 women who had been trafficked from Ukraine, Moldova, Romania, Albania and Georgia, many of whom became birth mothers at the clinic. Shockingly, half of the clientele for that clinic was Australian. Between 60 and 150 families in Australia are thought to have been impacted. Many lost tens of thousands of dollars, embryos and expectations of parenthood, and some were temporarily separated from babies at the clinic due to doubts over parentage and citizenship.

As the Attorney noted this morning, it is difficult for a State jurisdiction to effectively regulate those arrangements offshore. But the arrangements we have in place at the moment permitting unfettered participation in international commercial surrogacy arrangements while banning domestic commercial surrogacy risks pushing people towards that informal participation in offshore and less well regulated surrogacy arrangements, actually increasing the risk of exploitation, increasing the possibility that demand for these services in New South Wales is fuelling surrogacy in places that are less well regulated.

I also have a concern that I've raised with the sponsor—and the Attorney was copied at the time—and I've raised this in several subsequent submissions. I have a concern that this may risk exposing those Australians in some circumstances to criminal liability. The Australian Attorney-General's Department is on the record as saying that forced surrogacy could in certain circumstances constitute trafficking under the Commonwealth criminal code. We know that there have been efforts to enforce analogous provisions in Queensland. My concern is that the law as it is currently written is actually pushing people into a situation that increases the risk that modern slavery will occur and increases the risk that New South Wales residents, who are simply seeking to realise their human right to a family life, will end up on the wrong side of a criminal prosecution.

The Hon. SUSAN CARTER: Are you aware if there has been any progress in the development of a whitelist or other similar device to list overseas commercial surrogacy businesses with low or no risk of surrogacy slavery?

JAMES COCKAYNE: I'm not aware.

The Hon. SUSAN CARTER: Can you tell us about the documented experience of Indian women prior to the prohibition there of commercial surrogacy?

JAMES COCKAYNE: There have been a number of research pieces looking at the situation of vulnerable women in a number of contexts, including India, Brazil and Thailand, and the risks of what you might call structural coercion. This morning, Mrs Carter, you were asking questions about whether in certain circumstances we might interrogate the voluntariness of commercial arrangements offshore. I note that this is precisely what we now expect government departments to do when they're buying goods and services produced offshore. So it is not unknown to New South Wales law to expect actors in New South Wales to interrogate whether there is forced labour in offshore supply chains, and we are here essentially talking about an offshore supply chain.

There are actually expectations under international law that Australia has committed to, including through our ratification of the 2014 protocol to the International Labour Organization's forced labour treaty, that government will effectively regulate the decision-making of private actors, whether commercial or individuals, to

CORRECTED

ensure that they're not relying on forced labour in these offshore circumstances. I think there is a case to be made that we should be putting in place suitable arrangements to ensure that Australians who want to exercise their human right to a family life can do so without having to rely on circumstances like those in India that may amount to forced labour.

The Hon. SUSAN CARTER: Do you have any confidence that we are asking those questions about the overseas commercial surrogacy arrangements that are being entered into by people from New South Wales?

JAMES COCKAYNE: I can only speak for myself, and certainly they're questions that I'm asking. I think the challenge here of course is that anything involving relationships with foreign jurisdictions and markets will require engagement with Canberra. It does activate the foreign affairs power under the constitution. If there were conversations between New South Wales and other jurisdictions, whether Federal or other State and Territory jurisdictions, I wouldn't be privy to those.

The Hon. SUSAN CARTER: I believe in the submission you made to the review of the Surrogacy Act you raised the example of Baby 101, an operation in Thailand. Did that use trafficked slaves as surrogate mothers?

JAMES COCKAYNE: I'd have to take that on notice.

The Hon. SUSAN CARTER: Has there been any progress since the release of your first report on making compliance with your *Guidance on Reasonable Steps* mandatory by issuing a Procurement Board direction, or is this still on hold pending work on other social aspects of procurement?

JAMES COCKAYNE: I can't speak for the Procurement Board or for the Government or government agencies, so that's a question I think best put to them. Certainly we remain, as I said, in close coordination and communication with the Minister and her office, and indeed with the Procurement Board. Outside the context of the adoption of a formal Procurement Board direction, what I can say is that we see real seriousness from government agencies in their efforts to grapple with these problems—both in a procurement and an operational context—and I think it would be remiss if I didn't call attention to the excellent example set by the Department of Communities and Justice in recently mandating that more than 27,000 employees undertake modern slavery training. It's a really remarkable, important signal sent by the department to mandate that training and a really important floor for government action in this area.

The Hon. SUSAN CARTER: I couldn't agree with you more that it is important that government takes this issue seriously. It is a very serious issue for all of us, especially for those involved in modern slavery. It's why perhaps anybody who was in the House on 25 June might have been surprised by statements of the Minister for Transport commenting on calls by the Hon. Damien Tudehope to take a more vigorous approach to responding to reports from credible sources rating certain suppliers of electric buses as at high risk of slavery. The Minister for Transport characterised this position as extreme and argued that he was advocating to move beyond reasonable steps in the Act, and continued:

... and if there is any risk of cobalt or lithium, those products should not be purchased. But the trouble with the position advocated by the Leader of the Opposition is that cobalt is used in every mobile phone, laptop, tablet, bluetooth headphone and electric toothbrush.

He then continued:

... I say to his colleagues: Do not agree with this extreme campaign to rule out every toothbrush in the State. Anyone who wants to fire up their electric toothbrush should shake in fear ...

Can we do more to stop slavery in electric bus procurement without threatening our dental health?

JAMES COCKAYNE: I will leave the dental health question to the relevant committee and to someone empowered to speak on public health issues in New South Wales. But what I will say is that we will have a report submitted to the Parliament, I hope in the next four to six weeks, which looks at the steps that have been taken by government to address these issues in the electric vehicle context. We will also have a more forward-looking report later in the year. What I might say is that, of course, it's not only in the procurement area that we can respond to credible allegations of modern slavery.

If the Chair will permit, I'd like to table a document. I did bring multiple copies. This is a document that shows the steady increase in the number of presentations to our hotline, 1800 FREEDOM, over the course of operation of that hotline. We are now at a point where we are carrying around 25 cases incomplete at any one time. We have a very clear impact in the area. We're seeing essentially a doubling of presentations of forced labour and modern slavery matters as a result of this hotline. This is another area where I think engagement by the Parliament, by this Committee, by the Government in months ahead to ensure that this hotline is adequately resourced—it is a statutorily required hotline and has been to date funded purely out of the internal resources that the department has kindly made available to support my work. There has not been any specific allocation from

CORRECTED

the State budget papers to support this statutorily required helpline, but it is having a very credible impact now in this field and this is another area where I think, beyond procurement, government can make a considerable impact.

The Hon. SUSAN CARTER: I'm conscious of the Minister's observation this morning that every agency always wants more resources and conscious that one can always spend more resources. Is there a current need for your office to be better resourced to be able to fulfil statutory functions such as the hotline and other functions that we are asking of you?

JAMES COCKAYNE: Yes, there is a very clear one. For example, with this hotline, at the beginning of this year we had to take the difficult decision to move from a 24/7 reporting arrangement, which is very important for vulnerable workers who may be trapped on the factory floor or in the fields during working hours. We had to move back to a business hours reporting arrangement. A message can be left after hours. But the reason for that was simply that we have only three of us—myself included—who part-time work on the hotline. We didn't have the resources to pay for anyone, except myself, because I have executive pay arrangements and I don't receive overtime. We didn't have the resources to pay for other staff to take matters after hours, so I was taking all after-hours calls and it became unsustainable, frankly, from a matter of burnout.

We don't have enough personnel operating this hotline. We can't meet demand at the moment. We have not advertised the hotline particularly widely, and yet you see on the page in front of you a very steady increase in the number of cases presenting to us. If we were to properly advertise this hotline, the demand would likely go through the roof and we would not be able to adequately support the people coming forward for support and assistance. There's certainly a need for a deep dive there. It's a matter we've brought to the attention of Government on several occasions now, including through new project proposal applications for funding which have not met with favour.

The Hon. SUSAN CARTER: Thank you very much for the important work that you're doing. Ms Hitter, when we spoke last time, we were speaking about panel lawyer work and community legal centres. Can you update us on where that issue is at?

MONIQUE HITTER: It's still under consideration, Mrs Carter.

The Hon. SUSAN CARTER: Is there a date when consideration might be finalised?

MONIQUE HITTER: Yes. Hopefully, in the next couple of months we should be speaking in more detail with the sector about that.

The Hon. SUSAN CARTER: Great, thank you very much. We heard this morning and we've all seen the reports that ALS is unable to service their clients in the bail division matters and they're anticipating that they're turning away about 300 clients a week. That appears to have fallen to you and I'm just wondering what impact the new bail division is having on the Legal Aid workload.

MONIQUE HITTER: Thank you, Mrs Carter. We are carefully monitoring the impact on Legal Aid. As you suggest, we are picking up those matters and transferring them back to the ALS where appropriate, where the client would like to be transferred back to the Aboriginal Legal Service, so we are monitoring the cost impact of that and the cost impact of the bail division more generally.

The Hon. SUSAN CARTER: When you say "monitoring", does that feed into any budget process or do you just have a look at the figures and go, "Goodness me, how do we deal with this?"

MONIQUE HITTER: We're always discussing those impacts with the department and with the attorney, as necessary. But those matters are, of course, things that we look at throughout the course of the year. The bail division has only effectively just started—it only started in July—so it is pretty early days yet.

The Hon. SUSAN CARTER: The closure management plan for the community justice centres recognised that there was a high level of cross-referrals between the CJsCs and LawAccess. Perhaps again it's too early to judge, but what impact has the closure of the CJsCs had on the workload of LawAccess?

MONIQUE HITTER: I would need to take that on notice, Mrs Carter. Certainly I know that LawAccess NSW was prepared for the closure of the community justice centres and had done some work to make sure that people who needed assistance following the closure would get assistance from LawAccess NSW.

The Hon. SUSAN CARTER: If you could take it on notice and we might even come back to that next estimates as well because it would be interesting, I think, to watch—the knee bone is connected to the thigh bone—and see how it all works.

MONIQUE HITTER: Certainly.

CORRECTED

The Hon. NATASHA MACLAREN-JONES: Dr Cockayne, thank you very much for the graph. I just wanted to clarify, because there's an interesting spike in a couple of them. I think that was in January-February this year and again more recently. Are you doing any work around what has led to an increase in inquiries—any of the trends or anything?

JAMES COCKAYNE: We've done some work. The working hypothesis is, when I'm in the media or when I'm present in an area where we know that there's a cohort, word gets out. Sometimes there's a little bit of a lag. It's very much word-of-mouth driven, access to this particular service. We can furnish other data if that would be useful on notice that breaks down, for example, the types of offences we're seeing.

The Hon. NATASHA MACLAREN-JONES: That would be great.

JAMES COCKAYNE: For example, we see a lot more forced labour or debt bondage, deceptive recruiting matters than present to the police. That's not surprising. Many of those victims are likely, for one reason or another, to be reluctant to come forward to police, whereas we do not, in our service, see a lot of forced marriage cases. We haven't sought to encourage reporting to us of forced marriage cases because we don't have specialist child engagement capabilities and I'm simply not resourced to do that. It would be, frankly, dangerous for us to encourage too much reporting from that quarter. There are other specialist services, such as My Blue Sky and Anti-Slavery Australia, that already do a very good job in that space.

The Hon. NATASHA MACLAREN-JONES: Do you have a budget for an education awareness campaign?

JAMES COCKAYNE: Within the budget that we've been kindly granted by the Department of Communities and Justice, we do have some money earmarked for advertising, but that budget—we receive \$417,500 opex for my work across the office entirely every year, indexed for inflation. So that has to cover everything from our telephones through to travel through to any engagement work we want to do at all. To be frank, we get a lot of earned media, I would say.

The Hon. NATASHA MACLAREN-JONES: I suppose this is more to Mr Tidball. Is there any advertising campaign that's done from a government perspective in relation to the commissioner's work?

MICHAEL TIDBALL: Not to my knowledge.

The Hon. NATASHA MACLAREN-JONES: In relation to the JusticeLink breach, I wanted to understand the data that was accessed. I know it was ADVO, minors—any others?

MICHAEL TIDBALL: It was a large—I don't want to go off script here. Just bear with me as I find it. There were 8,700 restricted documents which were accessed. Can I specify that—and I will hand over to Mr D'Aeth—that was a very, very broad expanse and range of documents though. The sensitive number was way, way smaller. We have had a process working through, doing that in lockstep with the police, with Strike Force Amherst, which was established to undertake the investigation, bearing in mind that the underlying issue was rectified very quickly and bearing in mind that it was actually internal surveillance activity that detected the issue, the breach that had arisen. Mr D'Aeth, just on those matters to which—

The Hon. NATASHA MACLAREN-JONES: I understand it was ADVO and also minors. I'm interested to know—

CHRIS D'AETH: It was everything across the court. It was random in terms of what was accessed. The matters that were accessed were actually sequential in terms of how they were logged in the system, but that meant that they were just random across every court, every file. But the files themselves may only have had one item taken or one item accessed from that particular matter. It wasn't as if people were accessing the entirety of a single court file. The access was in relation to an item that may or may not be sensitive, as you've outlined. It may actually just be how to use the videoconference system or something like that.

There was a small number of them that were just innocuous like that, but there were a number of them that were obviously a little bit more serious than that. There was a risk assessment done of the in excess of 8,700 documents, but that was a manual, complex process that would have to be done, as you can imagine, by individuals assessing each of those and putting a risk rating in relation to those documents and then taking steps based on the level of risk identified in those documents.

The Hon. NATASHA MACLAREN-JONES: Of that, how many people were identified and what were the risk categories?

CHRIS D'AETH: There's a number of risk categories. In fact, there were six risk categories in total, 6 being the highest risk category, of which there were—I'll correct myself if I get this wrong—I think there were six people in the category 6 risk that were required immediate notification of the matters, noting that none of this

CORRECTED

material is in the public domain at all. But nonetheless, six people were notified in relation to their matters because, if the material was to be made public, we would not be able to speak to them in enough time if the matter had been made public. We need to notify them in case the matter has been made public, again stressing that none of this material has been made public and a person related to this is currently before the courts. I can't talk about that aspect of that.

The Hon. NATASHA MACLAREN-JONES: I'm happy that we can go back to it after the break.

The ACTING CHAIR: Are you aware, Secretary, of the legal proceedings that was brought by Joshua Lees on behalf of the Palestine Action Group in the Supreme Court challenging the validity of the laws that were provided—I'm just trying to remember the actual amending legislation that amended the police powers—the Crimes Amendment (Places of Worship) Bill 2025 that amended the Law Enforcement (Powers and Responsibilities) Act. Are you aware of those legal proceedings?

MICHAEL TIDBALL: I am. And I might add I believe Mr McKnight on my left is more aware than me.

The ACTING CHAIR: I see. Mr McKnight, did the AG's department brief external solicitors to represent the State of New South Wales in that matter? Do you recall?

PAUL McKNIGHT: I would have to take that on notice, but it would surprise me if that was briefed beyond the Crown Solicitor's Office.

The ACTING CHAIR: Yes. I'm fairly certain it was probably Crown Sol's. Just in relation to that, was that yourself who provided materials to Crown Sol's or do they just kind of operate themselves in defending that matter?

PAUL McKNIGHT: I'd have to take on notice the details, but typically they'd act on the Attorney General's instructions in a constitutional matter like that.

The ACTING CHAIR: Was that you that provided them the assistance in preparing their case?

PAUL McKNIGHT: The Crown Solicitor?

The ACTING CHAIR: Yes.

PAUL McKNIGHT: The Crown Solicitor would prepare the case themselves.

The ACTING CHAIR: Did you have any input into the preparation?

PAUL McKNIGHT: Me, personally? No.

The ACTING CHAIR: Did anyone else in AG's that you're aware of?

PAUL McKNIGHT: I'm not aware of whether our legal section had any input into that. I can take that on notice.

The ACTING CHAIR: Would you mind? Thank you. It's just a yes or no. It's just about how that case was prepared to be presented, that's all. I'm just curious, in the event that the applicant in those proceedings is successful and the Supreme Court holds that those laws are in fact unconstitutional because they impermissibly burden the implied freedom of political communication, like the proceedings that those—and I can't remember the name of the case; Kvelde, the Knitting Nannas case. Would it be normal for the AG's office to then advise the AG to actually amend those laws, rather than just a note in the—what would the normal procedure be?

PAUL McKNIGHT: That's a policy matter for government to consider, but—

The ACTING CHAIR: It is? That's how that's viewed? It's not a technical matter that a department would actually have a practice or a procedure or a view on?

PAUL McKNIGHT: No, that's a policy issue.

The ACTING CHAIR: In terms of the Attorney General's department, if a law is declared invalid by a court, that it's then a policy matter as to whether that law stays written on the legislation website—perhaps it's a court—like, the legislation website.

PAUL McKNIGHT: If I can speak in—sorry, you had a particular question there.

The ACTING CHAIR: I think it actually boils down to the legislation website.

PAUL McKNIGHT: Okay, I think I understand your question. The publication of legislation.nsw.gov.au is a matter for the Parliamentary Counsel's Office. That sits in the Premier's administration.

CORRECTED

I think sometimes Parliamentary Counsel would put a note on the legislative site but you'd have to ask them what their normal practice is. But they wouldn't, of their own motion, amend the law as Parliament has passed it.

The ACTING CHAIR: Would it be normal for—sorry, I realise it's the break now.

The Hon. EMILY SUVAAL: Chair, could I perhaps suggest that you hold these over until your next line of questioning, because we are in the break now.

The ACTING CHAIR: We are in the break. Let's have a break and we'll come back to it.

The Hon. EMILY SUVAAL: I'm sure you'll have more after the break.

The ACTING CHAIR: I just want to thank you, Dr Cockayne, for your evidence. I understand that you're now leaving. Thank you very much.

(James Cockayne withdrew.)

(Short adjournment)

The ACTING CHAIR: Thank you. Welcome back. This is our last session. Can I just pick up where we were discussing just before, and you kindly reminded me PCO is responsible for the legislation website. But therefore they are unable to actually change the words on the website beyond making a note, because the only thing that could do that, of course, is an amending Act of Parliament.

PAUL McKNIGHT: The Parliament is responsible for making the laws. Yes.

The ACTING CHAIR: Of course. Is there anything within AG's department that would consider it best practice, if the Supreme Court of New South Wales has declared a law on the New South Wales law books constitutionally invalid, that we should seek an amendment, via legislation, to that law? Is there any practice or anything within the department?

PAUL McKNIGHT: You might imagine in that situation, in a theoretical environment like that, Government would seek some advice about what it should do.

The ACTING CHAIR: So the department would only ever respond to a request for advice. It wouldn't proactively say, "Our advice would be, if you sought this advice." For me, it's about integrity. It's about the integrities of law. That's all. So I'm just curious about what enables or mobilises the department.

PAUL McKNIGHT: I feel like we had a conversation about these sorts of issues last time, Ms Higginson, in the context of youth crime and the relationship between Ministers and departments in providing policy advice. But it's probably best characterised as a conversation. In that situation, a clear topic for conversation would arise, and you would expect departmental officials and Ministers to talk about what should happen next. Is that clear enough?

The ACTING CHAIR: Yes, I think so.

PAUL McKNIGHT: I'm trying to grapple with the question.

The ACTING CHAIR: I understand that. I'm a terribly unrefined human being, but the nature of it, therefore, in terms of your evidence, is—and it's my lack of knowledge of how the brilliant bureaucracy works—you don't proactively provide advice, because it really is something about the request for advice. That is the proper function. Is that right?

PAUL McKNIGHT: As I say, I would come back to my analogy of a conversation. Sometimes topics for conversation arise that seem natural. And so departments and Ministers would talk to each other about these kinds of issues that are happening in the world.

The ACTING CHAIR: I see. I think I understand. So is it possible that a conversation might happen and then a clear indication would be given in that conversation that the department should not bother about something and carry on doing something else? Is that a fair characterisation? Say, for example, somebody works in the department at the high level, they're having a conversation with the Minister or the ministerial staff and they say, "Hey, this is something you could do" and they say, "No, I don't really want to do that." Then you would cease. You don't carry on, because that's not proper. You wouldn't then carry on.

PAUL McKNIGHT: That's right. Our policy resources are—

The ACTING CHAIR: Are limited.

PAUL McKNIGHT: Are deployed in the service of the government of the day.

CORRECTED

The ACTING CHAIR: I understand. Thank you. That is really helpful. Thank you. I do understand. Because I have not worked in the public service, I don't know. Thank you. On that, if the Supreme Court declares the current laws that are being challenged under the Crimes Amendment (Places of Worship) Act, the police powers, that one police power—if the Supreme Court declares that law invalid, there's a possibility that it would still sit on the law books and legislation.com. PCO would just have to put another note saying this law has been declared invalid. Is that a possible scenario, outcome?

PAUL McKNIGHT: Yes.

The Hon. EMILY SUVAAL: Chair, in terms of the line of questioning, there's a number of hypotheticals that are being put to the witnesses.

The ACTING CHAIR: There's lots. They're real—

The Hon. EMILY SUVAAL: I would encourage, in terms of ensuring particularly that these witnesses are asked questions that are in order, that they be not hypothetical in nature and factual in nature, given that they are public servants and are not in a position to express an opinion on the merits of Government policy. That's all I just wanted raise.

The ACTING CHAIR: I absolutely understand. I don't think the question's out of order, I really don't. But I hear what you're saying. So, in the event that those laws are declared invalid, it's possible that we'd be in the same situation and those laws wouldn't change unless somebody brings an Act of Parliament. But that would mean the PCO would be required to put a note on the website.

PAUL McKNIGHT: You'd need to clarify with PCO what their practice is in that regard. I'm working from the top of my head in relation to Kvelde.

The ACTING CHAIR: Thank you. Ms Hitter, if I could just go back to Legal Aid. I know my colleague was asking about the increase in demand, based on the bail laws. Were you suggesting that we need more time to understand that, or that there is a way of understanding the demand, that increase of demand, that may have happened?

MONIQUE HITTER: Madam Chair, I think what I said was that we're monitoring the impact of the bail division, whether or not it is going to result in an increase in the number of matters that we deal with. As I said, we're monitoring that. It is true, though, to say that we are picking up matters that the ALS might have picked up if the bail division had not been created. So that is likely to lead to more service delivery. But the offset of the bail division in other areas is hard to understand at this point, because it's only been going for a month or so.

The ACTING CHAIR: Do you anticipate that more expertise will be built in a more select group of Legal Aid lawyers as we're operating the bail system?

MONIQUE HITTER: I think our lawyers are well versed in working in the AVL system because we've been using AVL. Particularly through the pandemic, for example, AVL was much more prominent. So we are developing, and we will continue to always develop more expertise in working with an AVL system.

The ACTING CHAIR: My question was not so much the AVL but more now whether a more concentrated group of Legal Aid lawyers will be attending to bail-specific matters, as opposed to more spread through a court list, so to speak.

MONIQUE HITTER: My answer would be, not particularly. I think we will continue to service those virtual bail courts or those bail court hubs across our criminal law workforce that had done that work more generally. It's just that, instead of going up to court and doing it in person, we have a roster whereby our solicitors are doing it through a virtual environment, but it's not necessarily that we have created a particular team of lawyers that only do that work. In fact, I think our approach is it's better for our lawyers to have a mix of work wherever possible. There are some offices where our criminal lawyers are mainly doing summary duty work. And I think we think that it's better, where possible, for our lawyers to have a mix of work.

The ACTING CHAIR: Thank you. I would have thought so. For some reason, I just objectified there's just going to be this one intense branch of practice that will just keep doing the bail matters. But it makes perfect sense that it'll be spread through. And so, with that, has there been capacity inbuilt for ALS lawyers to be working more closely with Legal Aid lawyers? Obviously, their clients will be the ones being serviced for bail but not the substantive matters that are being dealt with. Is there something that is happening in terms of that capacity or is it just relying on the ordinary "Lawyers are great, and they work closely together"—which is very true?

MONIQUE HITTER: Absolutely true. And the relationship that we have with the ALS, particularly in our local offices, is pretty good, I think, on the whole. We had a transfer policy with the ALS pre the bail division.

CORRECTED

So that policy was updated to reflect the fact that the ALS are not servicing the bail division. I think that policy is in the form of an MOU or something of that nature, where both agencies agree that this is how we will transfer matters between us. That agreement has been updated to reflect the bail division, so we are working on a system where we are servicing clients that might've ordinarily been serviced by the ALS. We have a system in place to transfer them back to the ALS in certain circumstances.

The ACTING CHAIR: Firstly, are you satisfied, as CEO, that people—defendants, accused, inmates—are not falling through transfer cracks or anything like that? Are you fairly certain that the practice is robust so that that doesn't happen?

MONIQUE HITTER: I am confident that the discussions that have been had between us and the ALS have been very robust, and the system that's in place has been very well considered and thought through. Of course, it's being monitored really closely at the local level as well as at the more senior level to ensure that it is working as it is intended. Whether I can say that there are occasions that it is not working as it is intended, I'm not able to say that with any certainty, but I am confident that it was really well discussed and thought through. There is a policy in place, and we're keeping a very close eye on it to make sure that it is working as it is intended to.

The ACTING CHAIR: The circumstances of that would be that a First Nations person was refused bail and then Legal Aid handles that matter, but then the substantive matters would go back to the ALS?

MONIQUE HITTER: If that's what the client is asking for, yes. I'm assuming we would be saying to the client, "Would you like to go back to the ALS? Would you like to be serviced by the ALS?" If the client says yes, then we'll transfer the matter back.

The ACTING CHAIR: That's very helpful. I wasn't sure how the system was in fact working. We had some ALS lawyers a bit worried, but I haven't heard anything for a while, so maybe the transition is happening well.

MONIQUE HITTER: Certainly.

The Hon. NATASHA MACLAREN-JONES: I'll continue on with the JusticeLink breach. If you could outline the six categories and how many people were in each? We've got six in number six.

CHRIS D'AETH: As I say, there was a rising level of risk, with six being the highest category and one being the lowest. Items one, two and three were publicly available information, for example. I'll take on notice the exact breakdown in terms of each of the risk categories. I don't have that in front of me. That goes all the way up to number six. As I say, that number was six people who needed to be notified in that highest risk category.

The Hon. NATASHA MACLAREN-JONES: And also the number in the other categories?

CHRIS D'AETH: I'll take that on notice in terms of giving you the items, yes.

The Hon. NATASHA MACLAREN-JONES: How long was the data being able to be accessed before DCJ noticed?

MICHAEL TIDBALL: Our response was quick. It was days.

The Hon. NATASHA MACLAREN-JONES: But how long was the individual able to access the data before it was picked up?

CHRIS D'AETH: There was a vulnerability, if you like, in the system so this person was able to access the information. When we saw the information being accessed, then we were able to act promptly. As the secretary said, initially this was picked up by DCJ. It wasn't picked up externally. The vulnerability would have been in the system. I don't know for how long that vulnerability may have existed. We would have to go back and look at the various updates to JusticeLink to try to identify when that particular vulnerability may have occurred. I don't have that information to hand.

The Hon. NATASHA MACLAREN-JONES: If you're able to take that on notice, because what I'm trying to find out is, if that vulnerability was there for two months, you could have that vulnerability still in existence now, or a similar one, without DCJ knowing. That's what I'm trying to get to.

CHRIS D'AETH: We certainly don't have that vulnerability. We've closed that particular vulnerability. We've closed a number of vulnerabilities. The system has gone through comprehensive assessment, which it had done to that point already. It was already meeting, of course, all of the cybersecurity guidelines that we needed to meet. But in any complex system there are occasionally vulnerabilities. Once this one was identified, it was closed and a series of vulnerabilities with that.

CORRECTED

MICHAEL TIDBALL: If I may supplement Mr D'Aeth's response, we are constantly testing for vulnerabilities.

The Hon. NATASHA MACLAREN-JONES: That was my next question.

MICHAEL TIDBALL: JusticeLink is a very large system. We detected this. There was ongoing testing and there is ongoing testing for vulnerabilities, as there should be.

The Hon. NATASHA MACLAREN-JONES: I might move on to coercive control—and it was touched on briefly this morning—around the training that has been rolled out. I understand if you need to take it on notice, but I'm interested in any youth-focused training that's done with caseworkers and also with frontline staff.

ANNE CAMPBELL: I can take it on notice, but I do know that ACWA has run a series of webinars and courses over the last year and a half. I think that would include some child protection workers and it would include some early childhood people, but I'm happy to take that on notice.

The Hon. NATASHA MACLAREN-JONES: And also across other agencies, whether it's police, early childhood or the various agencies.

ANNE CAMPBELL: Yes, I can take that on notice.

The Hon. NATASHA MACLAREN-JONES: In relation to the July coercive control report that came out, I'm specifically interested in the targeted community education campaign that was targeting different cohorts but particularly children and young people.

ANNE CAMPBELL: I'd need to take that on notice. I know there have been tailored campaigns for First Nations people and people from CALD communities from 27 May and 4 June 2024. That was evaluated as well, and it's on the website. I'm just seeing if it's in my notes. Specifically for children?

The Hon. NATASHA MACLAREN-JONES: For children and also for people with disability—and, if not, if there are any planned.

ANNE CAMPBELL: I'll take that on notice.

The Hon. NATASHA MACLAREN-JONES: In the report it indicated that between July and December 2024, around 60 per cent of matters that were reported to police did not proceed to charges being processed in any way. Has any work been done around why that is, or is it just too early to do that sort of evaluation? I'm happy for you to take it on notice.

ANNE CAMPBELL: The data I have is that between July 2024 and 31 March this year, 224 incidents of coercive control were recorded by police. Of these, five had charges laid for coercive control and a further 91 had charges laid for DFV offences, not coercive control. Of the 224 incidents, 206 involved a female victim. I don't have the detail. Of the five charges, two were proven, two are currently being considered and one was proven.

The Hon. NATASHA MACLAREN-JONES: That's not a very high number.

ANNE CAMPBELL: I think it's within the realm of what we were expecting.

MICHAEL TIDBALL: Mr McKnight may wish to correct me if I'm wrong, but I think it was always considered important to have a law and to have a powerful public education and awareness campaign around it, rather than a large number of prosecutions. There is a very significant community education purpose behind this reform, and that is where our effort is, quite rightly, very much directed.

The Hon. NATASHA MACLAREN-JONES: What's the average length of time for a coercive control investigation?

MICHAEL TIDBALL: We would need to take that on notice. Actually, Ms Campbell is saving me again. That is a question for the police.

The Hon. NATASHA MACLAREN-JONES: That's fine. That's next week. Just around forced marriages, I'm interested in the number of reports over the last 12 months of underage and over 18, if you have that.

ANNE CAMPBELL: I don't know if I have that level of detail. I'm happy to take that on notice.

The Hon. NATASHA MACLAREN-JONES: I understand that there's a statutory review for coercive control legislation scheduled to commence mid next year. Is there a time frame for how long it will take or when it's likely to be concluded?

CORRECTED

PAUL McKNIGHT: I'd have to take that on notice. The coercive control legislation is constantly under review, and the Parliament gets six-monthly reports on its operation. That's how we're monitoring its operation in the world.

The Hon. NATASHA MACLAREN-JONES: If you could take it on notice about the statutory review—I thought I read somewhere that it was next year.

ANNE CAMPBELL: Ms Maclaren-Jones, I've actually got an answer to your question around training for people with disability. The campaign aims to raise awareness of coercive control among older people and people with disability. The campaign launched on 16 May this year and will run for two months. It's funded through the Department of Customer Service. It includes a first print media strategy and features advertisements in every regional newspaper across New South Wales. A dedicated campaign webpage was also developed to host tailored resources.

The Hon. NATASHA MACLAREN-JONES: I might move on to Working with Children Checks and the most recent announcement following the Standing Council of Attorneys-General meeting. I'm interested to know, of the loopholes that they identified across all jurisdictions, what have been identified as the loopholes here in New South Wales specifically?

PAUL McKNIGHT: The Working with Children Check legislation sits within the administration of Minister Washington, not the Attorney General. I'm not sure, though, that I would entirely characterise "loopholes" in terms of that legislation and the SCAG process. Perhaps you could elucidate a little more on what you mean.

The Hon. NATASHA MACLAREN-JONES: It's the communiqué that has come out following that meeting, and also some of the work that they're working on following that last meeting, which was in August.

PAUL McKNIGHT: That's right. The first thing that's being worked on at a national level is the national recognition of negative notices. That's those people who have had their Working with Children Check removed in other States. In New South Wales, we already risk assess those people on receipt of a negative notice. The Office of the Children's Guardian assesses those people and can remove their Working with Children Check. SCAG at a national level agreed that would be strengthened. That's the first thing that would happen.

The Hon. NATASHA MACLAREN-JONES: Is that being managed through the AG's or is it—

PAUL McKNIGHT: It's a matter for Minister Washington's administration.

The Hon. NATASHA MACLAREN-JONES: So that would also include the information sharing, even though it came up at the SCAG meeting?

PAUL McKNIGHT: That's exactly right. It's a matter for Minister Washington. The SCAG arrangement is because at the Commonwealth level, it's the Commonwealth AG who manages the matter. For most other jurisdictions, it's Ministers for communities and families that deal with it.

The Hon. NATASHA MACLAREN-JONES: My final question is in regard to—and this, again, came out of the 15 August meeting—the first action plan to end the abuse and mistreatment of older people and identifying the emerging jurisdictional priorities around this. I'm interested to know what we've highlighted.

PAUL McKNIGHT: I'd have to take that on notice.

The Hon. NATASHA MACLAREN-JONES: That's fine. Thank you.

The Hon. SUSAN CARTER: Mr D'Aeth, if I could go back to you and the matter in relation to the Children's Court, in further answers on notice, you indicated that the courts, tribunals and service delivery division in the Department of Communities and Justice did not cause the matter to be reported to the police. I found that a tantalisingly precise answer. I wonder if you do know who caused the matter to be reported to the police.

CHRIS D'AETH: I don't, no.

The Hon. SUSAN CARTER: What is the outcome of this investigation? There's disciplinary action or something for anybody who was involved. What's happening to make sure the damage that was done is repaired and that it doesn't happen again?

CHRIS D'AETH: I think I'll take that on notice, if I may, Ms Carter.

The Hon. SUSAN CARTER: Of course. I'm just a little surprised that there doesn't appear to be some really significant thinking done about how we protect the integrity of the justice system, of the independence of the judiciary and of the operation of the Children's Court. I look forward to getting your answer to that on notice. Mr Hyland, if I could come back to you, when we were talking about the issue in relation to the Children's Court

CORRECTED

before, I think we'd said that there had been a police investigation and that no criminal charges were recommended. You then had organised your own independent internal investigation and, on notice, you were going to provide us with the findings of that independent investigation. An independent delegate had made decisions in respect of those recommendations. Is that a fair summary of where we were at before?

CRAIG HYLAND: I'm not sure that I said "provide findings" as a question on notice, but the record will reflect that.

The Hon. SUSAN CARTER: I had that written down that you had done. Let's just clarify.

CRAIG HYLAND: We can check the record.

The Hon. SUSAN CARTER: Will you provide those findings on notice?

CRAIG HYLAND: To a limited extent, yes.

The Hon. SUSAN CARTER: Why to a limited extent?

CRAIG HYLAND: We're not going to name names. We can say what the outcome was and leave it at that.

The Hon. SUSAN CARTER: I have a range of questions in relation to the findings. Are you able to answer any of them?

CRAIG HYLAND: I am not aware of what the findings were.

The Hon. SUSAN CARTER: Would Ms Dowling have been able to answer any of them?

CRAIG HYLAND: She may have. The way our office is structured is that I am responsible for about 850 staff and more than half of the budget. I would deal with a misconduct matter that was within my area. This was not within my area. Therefore, I'm not party to the process that occurred.

The Hon. SUSAN CARTER: It puts us in a disappointing situation. I understand that Ms Dowling is on leave and is unavailable today. These are really important questions to get answered.

CRAIG HYLAND: I notice that, yes.

The Hon. SUSAN CARTER: There are a couple of lines of questions that we need to consider. The first is: At what level of staff does responsibility lie for this? Was it junior staff? Was it junior staff authorised by senior staff? How do we get answers to those questions, Mr Hyland?

CRAIG HYLAND: You would have to do that on notice. We would have to take it on notice.

The Hon. SUSAN CARTER: On notice, could you please provide details of any member of the staff of the ODPP who was found to have released information about a Children's Court proceeding to anyone in the media, the level of their employment and anybody they had conversations with who may have been seen to have encouraged or authorised the release of that information?

CRAIG HYLAND: As I've said, we will not be giving names of staff.

The Hon. SUSAN CARTER: No, but I've asked about levels.

CRAIG HYLAND: We can give you levels.

The Hon. SUSAN CARTER: I think that's entirely appropriate. What internal action has been taken in terms of reminding all staff members of their obligations under the prosecution guidelines?

CRAIG HYLAND: There is continual education in relation to the prosecution guidelines. The prosecution guidelines are covered at every induction session in the office.

The Hon. SUSAN CARTER: With respect, that coverage was spectacularly unsuccessful in this case. Part 16 of the prosecution guidelines is very clear about when and if information in relation to Children's Court proceedings should be released. The answer, I believe you'll find in that, is never. What additional steps are being taken to make sure that that education is successful?

CRAIG HYLAND: Mrs Carter, I've been solicitor for public prosecutions since 2015. This has occurred once in that time. It's an outlier. There are many outliers that occur in behaviour amongst an organisation. Not every particular piece of behaviour can be picked up. General principles can be reinforced through training. The code of conduct is regularly reinforced with staff through their PDP process. There are a number of internal training sessions that deal with the prosecution guidelines and our foundational documents. Nothing in particular was done in response to this single, one-off incident.

CORRECTED

The Hon. SUSAN CARTER: Sorry, can you repeat that? Nothing specifically was done in response to this particular incident. Is that correct?

CRAIG HYLAND: The entire organisation was not retrained on the prosecution guidelines.

The Hon. SUSAN CARTER: What about the people who are involved? Are they still employed by the ODPP?

CRAIG HYLAND: Again, I cannot tell you what the outcome of the disciplinary proceedings was because I don't know.

The Hon. SUSAN CARTER: Will you provide that on notice?

CRAIG HYLAND: Is the question are they still employed?

The Hon. SUSAN CARTER: Yes.

CRAIG HYLAND: Yes, we will provide that.

The Hon. SUSAN CARTER: Can you also provide any particular training they may have received if they are still employed by the ODPP?

CRAIG HYLAND: That is the outcome that you have previously asked for, I believe.

The Hon. SUSAN CARTER: An outcome would be, perhaps, what was recommended and then there is the further response that may occur. Why are you so convinced that this is an outlier and not a harbinger?

CRAIG HYLAND: Because, as I've said, to my knowledge, this particular occurrence has occurred once in 10 years in my role. That's why I'm saying it's an outlier.

The Hon. SUSAN CARTER: I admit to being a little shocked. I think this is a very serious matter. We are talking about an Indigenous child and we are also talking about information in a pejorative manner released in relation to a judge, and that has implications for independence of the judiciary. Nobody appears to be actually thinking about how we proactively ensure that this doesn't happen again.

CRAIG HYLAND: With respect, Mrs Carter, the police investigated this and found there was no criminal offence. They determined there was not enough evidence, I would expect, to ground an offence under 15A of the Children (Criminal Proceedings) Act.

The Hon. SUSAN CARTER: But that isn't the only issue here, is it, Mr Hyland? Is independence of the judiciary only impacted by criminal actions?

CRAIG HYLAND: Why is this independence of the judiciary?

The Hon. SUSAN CARTER: What was the fruit of the release of that information, Mr Hyland? What happened when that information was released?

CRAIG HYLAND: What do you mean by "the fruit"?

The Hon. SUSAN CARTER: The information is provided to a journalist and what happens then?

CRAIG HYLAND: In this case, there was reference to the case, unnamed, in a radio show.

The Hon. SUSAN CARTER: And who was named?

CRAIG HYLAND: The judge was named.

The Hon. SUSAN CARTER: And what was the impact for that judge?

CRAIG HYLAND: I do not know what the impact on that judge was.

The Hon. SUSAN CARTER: I'm happy to tell you later—in fact, if you had read any of the press coverage, you would be very well aware of some of the comments in relation to that judge. This invited personal derision of a member of the judiciary. Isn't that an issue for independence of the judiciary, to which we should all be alive?

CRAIG HYLAND: The judge contacted me and asked for her details to be provided to the independent investigator.

The Hon. SUSAN CARTER: Therefore, you must have been aware that there was some impact on the judge.

CRAIG HYLAND: I do not know what the particular impact was. Her details were passed on.

CORRECTED

The Hon. SUSAN CARTER: How does that impact on protection of independence of the judiciary?

CRAIG HYLAND: You were asking were her views heard.

The Hon. SUSAN CARTER: As an individual, but I'm talking about systemic protections for the judiciary. Do you need to take that on notice?

CRAIG HYLAND: No, that's fine.

The Hon. SUSAN CARTER: It's different to an individual judge being heard about concerns he or she may have had and what we are doing to proactively ensure this doesn't happen again. I'm not hearing any thinking about this, which is disturbing, I must admit. You have nothing to add to that?

CRAIG HYLAND: No, I have nothing to add to that.

The Hon. SUSAN CARTER: I look forward to getting those answers on notice. I have a couple of other things to raise with you, Mr Hyland, if you are able to help me. How many times in the past year would a costs order have been made requiring the ODPP to pay the other party's costs?

CRAIG HYLAND: They would be in our annual report. The figures are not yet compiled for our annual report.

The Hon. SUSAN CARTER: Could you give me a guesstimate of what might have been the figure in last year's annual report? Is it weekly, monthly, occasionally?

CRAIG HYLAND: I did have something on that, if you'll give me a moment. In the annual report last year it was recorded as 125 orders for costs.

The Hon. SUSAN CARTER: So that's roughly two a week, sort of thing.

CRAIG HYLAND: Yes, 10 a month.

The Hon. SUSAN CARTER: On how many occasions does the ODPP challenge that costs ruling?

CRAIG HYLAND: To my knowledge, there have been two challenges. The most recent is in relation to a judgement of a district court judge. That was a mechanism that only became available after a decision of the Court of Criminal Appeal in 2023 in the matter of Rodden, so it's a relatively new concept and it's a relatively new avenue for the prosecution.

The Hon. SUSAN CARTER: I was unable to find the question of costs being addressed in the prosecution guidelines. Is it there and I missed it? Where would we find the principles governing the ODPP's decision to challenge costs rulings?

CRAIG HYLAND: It comes in the guidelines under—I was going to say you would look at the area that relates to appeals. It's guideline 10.

The Hon. SUSAN CARTER: Perhaps you could read that, because I would have thought appeals governs appealing a decision rather than a costs ruling.

CRAIG HYLAND: No, it's really a clarification on a point of law.

The Hon. SUSAN CARTER: Perhaps you could read that if it's not too lengthy, if that's appropriate.

CRAIG HYLAND: It's in 10.2. Let me take that on notice and I will come back to you. That is the relevant section; I just can't pick that up at the moment.

The Hon. SUSAN CARTER: I must admit that I skimmed that but I couldn't see costs addressed in that.

CRAIG HYLAND: Costs wouldn't be specifically enumerated, but the principles would apply.

The Hon. SUSAN CARTER: What is the reasoning, then, in those two cases—or perhaps the most recent case that has been covered in the press—for challenging the costs order?

CRAIG HYLAND: It would be on the basis that there was an error made by the judge in his assessment of costs in that matter.

The Hon. SUSAN CARTER: So not an appeal that there was an error in terms of the judgement but an appeal in terms of the assessment of costs? What is the error that would be involved?

CRAIG HYLAND: The basis of his order.

CORRECTED

The Hon. SUSAN CARTER: Sorry, I didn't hear that.

CRAIG HYLAND: It was "Error with respect to His Honour's assessment of the complaint evidence adduced by the Crown and latent error with the decision to grant a certificate."

The Hon. SUSAN CARTER: Basically, the argument is that you shouldn't be paying costs.

CRAIG HYLAND: We don't pay costs but, in this case, the Government shouldn't be paying costs.

The Hon. SUSAN CARTER: Whose budget do costs orders actually come out of?

CRAIG HYLAND: The Attorney's, DCJ.

The Hon. SUSAN CARTER: Are you able to answer questions in relation to the audit of the sexual assault cases that was conducted?

CRAIG HYLAND: I will try. If I can't, then I will take them on notice.

The Hon. SUSAN CARTER: What do you understand to be the principal reason or the principal issue that that audit was seeking to address?

CRAIG HYLAND: Whether there was compliance with the prosecution guidelines, I would say, was the principal issue in that report.

The Hon. SUSAN CARTER: When you say "compliance with prosecution guidelines", what was the issue? Was there public concern that there hadn't been compliance with the prosecution guidelines?

CRAIG HYLAND: I would say the review was in response to various comments of the judiciary and media articles.

The Hon. SUSAN CARTER: And the general tenor of those comments was what?

CRAIG HYLAND: That, in the media parlance, the DPP was running hopeless cases.

The Hon. SUSAN CARTER: "Hopeless cases" and the prosecution guidelines—like, they're running hopeless cases because the guidelines weren't followed, or they're running hopeless cases because there was a particular view taken of the guidelines?

CRAIG HYLAND: There was even an allegation that there was an unwritten policy being promulgated in relation to the running of matters.

The Hon. SUSAN CARTER: So three arguments: unwritten guidelines—so a source of decision-making other than the prosecution guidelines—the prosecution guidelines being ignored, or a particular cultural view taken of the prosecution guidelines that was inconsistent with other people's reading of it. All of those three?

CRAIG HYLAND: All of those three.

The Hon. SUSAN CARTER: Who conducted the audit?

CRAIG HYLAND: The audit was conducted by a number of deputy senior Crown prosecutors and senior Crown prosecutors with expertise in sexual assault prosecutions.

The Hon. SUSAN CARTER: So, essentially, it was an internal review?

CRAIG HYLAND: It was an internal review.

The Hon. SUSAN CARTER: There was a limited external review function. I understand that there were I think it was English consultants, who, I think from answers to questions on notice, reviewed four matters or something. Does that sound accurate?

CRAIG HYLAND: The report—and it was covered in the last budget estimates—was reviewed by Professor Julia Quilter and Sir Max Dixon, I think it was or whatever his name was, in the UK.

The Hon. SUSAN CARTER: We both know who we're talking about.

CRAIG HYLAND: Yes. Certain documents were provided to them, but not the entire 327 matters.

The Hon. SUSAN CARTER: I suppose my question goes to the structure of the audit. How does an internal review conducted by people who likely are responsible for supervising the decision-making about which questions were raised, or who are likely to have trained the people who are making the decisions about which questions are raised, or who were involved in the culture of an organisation about whose questions are raised—

CORRECTED

how does that internal review actually satisfy the concerns that were raised about the way in which decisions about prosecutions are being made?

CRAIG HYLAND: I think the report went through the various audit factors and compliance with those audit factors. I think you'll also see that matters were not reviewed by the office that they originated from. They were reviewed by another office.

The Hon. SUSAN CARTER: But if the issues raised were about a culture in the office, then surely that permeates the entire office. The fact that somebody else is reviewing it doesn't help us satisfy those criticisms, does it?

CRAIG HYLAND: Really, that's a matter for your conclusion. Our view was that the best way to conduct the audit was to do it internally, using the expertise that we have, and having that reviewed by two external sources.

The Hon. SUSAN CARTER: How many matters were discontinued in the two months prior to the commencement of that audit?

CRAIG HYLAND: I do not know.

The Hon. SUSAN CARTER: Are you able to take that on notice?

CRAIG HYLAND: I can take that on notice.

The Hon. SUSAN CARTER: Thank you. There is still an outstanding question as to whether everybody whose case was discontinued as a result of that audit has been communicated with adequately. Are you aware if in every single case the statement of facts has been provided to the relevant complainants?

CRAIG HYLAND: The response to question 69 on notice from the February budget estimates—

The Hon. SUSAN CARTER: Sorry, I don't have that in front of me. I don't even know what question 69 is.

CRAIG HYLAND: I can give you question 69.

The Hon. SUSAN CARTER: Thank you.

CRAIG HYLAND: The answer was to your question. The answer given on notice is:

The ODPP is satisfied that a summary of the reasons for discontinuance was provided to victims whose matters were discontinued as part of the SAR Report, as required by Chapter 5.6 of the Prosecution Guidelines.

The Hon. SUSAN CARTER: Perhaps I could inform you that I have very different information, and I would encourage you to review the records. Mistakes happen. In this case, though, if there are women who were sexually assaulted, who bravely came forward to give evidence and whose cases were not continued, and they have not received a statement of facts—as I am reliably informed—they are victims who are being revictimised by a system. I would really encourage you to carefully review the records of what has been provided to all of those women.

CRAIG HYLAND: I don't take issue with anything you've said. What I would ask—and this was asked at the last budget estimates—to advance this question is that we be provided with details of those people or those people who write requesting reasons under guideline 15.

The Hon. SUSAN CARTER: My understanding is that those communications have come from affected individuals and have not received satisfactory answers. My understanding is that that has happened over an extended period of time and continues to cause extreme distress to the people who are involved.

CRAIG HYLAND: I'm entirely empathetic with that position. Two questions—or one question is the review was for matters discontinued between 1 April and 31 December. This answer was given in response to matters within that review period. The matters of which you speak—matter or matters—I do not know whether they fell within that review or they're outside of that review period. I do not know whether they were included in the review. What I'm asking is we're more than happy to respond on notice if we know what we're responding to. To go through an entire—the question of the Attorney this morning was hundreds and hundreds of matters. If we can short-circuit this in some way to better utilise the expenditure of the DPP, I'm more than happy to assist with that process.

The Hon. SUSAN CARTER: Perhaps two comments, if I may. I understand that that would be a significant undertaking. But if it was a significant undertaking that assisted victims to heal, I think it would be well worth the effort. Secondly, I will communicate with the principal case that I am discussing and, if I have permission, I will happily pass on a letter to you, if I may, with the details of the particular individual.

CORRECTED

CRAIG HYLAND: I'd be very happy to help out. The response of the director to the question on notice still stands that it is her belief that everyone has been advised. If there are exceptions or errors, I'm happy to hear about them.

The Hon. SUSAN CARTER: Perhaps I could turn to you, Mr Tidball, or maybe Mr D'Aeth in relation to a couple of questions about the community justice centres. The new mediation service, I understand that commenced on 1 July.

CHRIS D'AETH: That's correct.

The Hon. SUSAN CARTER: How many disputes has it addressed?

CHRIS D'AETH: Twenty-seven in the month of July.²

The Hon. SUSAN CARTER: How is it being advertised to stakeholders and to clients?

CHRIS D'AETH: The service deals with court-referred mediations.

The Hon. SUSAN CARTER: So it's only referrals from the court?

CHRIS D'AETH: The court's aware of the service.

The Hon. SUSAN CARTER: I understood from the website that it would also deal with matters that arose in respect of incorporated associations.

CHRIS D'AETH: You're correct.

The Hon. SUSAN CARTER: How is it being advertised to members of incorporated associations with disputes?

CHRIS D'AETH: If a member of an incorporated association wants to refer a dispute for mediation, there's a referral form available on the DCJ website.

The Hon. SUSAN CARTER: How does the member of that association know to look there? It's a relevant question, isn't it? It's a new service. Their constitution probably says "community justice centre" because, if it's the standard constitution, it hasn't been rewritten. How do they know to look there for this new service? Do you have any plans to advertise this to incorporated associations?

CHRIS D'AETH: I think incorporated associations are a different Minister, but I can take that on notice.

The Hon. SUSAN CARTER: If you could take it on notice, because this affects I think a very large number of people in the State, so I think it's important. How many locations does the new service operate?

CHRIS D'AETH: The previous community justice centres operated statewide. It didn't operate from a particular premises as such. The new service continues to operate. As I say, it takes court-referred matters and those matters under the incorporated associations.

The Hon. SUSAN CARTER: What do we call this new mediation service?

CHRIS D'AETH: It's just called a mediation service.

The Hon. SUSAN CARTER: If I'm in Boggabilla, how do I access the mediation service?

CHRIS D'AETH: If the matter is referred from the court to the department, the department team that organises the mediations will continue to organise mediations in a similar way to which they've done previously.

The Hon. SUSAN CARTER: If I'm in Boggabilla, where is the mediation likely to occur?

CHRIS D'AETH: I might take that on notice.

The Hon. SUSAN CARTER: Perhaps you could also take on notice what would be considered a reasonable travel distance for somebody in a regional area to access the mediation.

CHRIS D'AETH: I'm happy to take that on notice.

The Hon. SUSAN CARTER: Have you been able to repurpose the existing investment in the Resolve computer system?

² In [correspondence](#) to the committee dated 15 September 2025, Mr Chris D'Aeth, Deputy Secretary, Courts, Tribunals and Service Delivery, Department of Communities and Justice clarified their evidence.

CORRECTED

CHRIS D'AETH: I don't have any specific information on that, so I'll take that on notice.

The Hon. SUSAN CARTER: If you could, because I believe last time that was the hope. Some millions of dollars had just been spent on that for the CJC.

CHRIS D'AETH: That's correct.

The Hon. SUSAN CARTER: What has happened with Lotus Notes?

CHRIS D'AETH: In what respect?

The Hon. SUSAN CARTER: Have they been decommissioned?

CHRIS D'AETH: I'll take that on notice. It's presumably in relation to the particular service?

The Hon. SUSAN CARTER: Yes.

CHRIS D'AETH: I'll take that on notice.

The Hon. SUSAN CARTER: What happened to the physical assets held by the CJC at Parramatta Justice Precinct and the Campbelltown court?

CHRIS D'AETH: I'll take that on notice.

The Hon. SUSAN CARTER: Who is watching for the impact of the closure of the CJCs on lists in the Local Court?

CHRIS D'AETH: We're not anticipating an impact on the numbers in the Local Court. As you would be aware, the Local Court deals with tens of thousands of matters.

The Hon. SUSAN CARTER: The closure management plan indicated that increased filings in the Local Court were a risk, so who's responsible for managing that risk?

CHRIS D'AETH: I think it was indicated it would be a low risk. As I say, the CJCs in FY24 dealt with only 728 matters.

The Hon. SUSAN CARTER: Is anybody monitoring that potential risk in the Local Court?

CHRIS D'AETH: We'll continue to look at the Local Court numbers, of course, yes.

The Hon. SUSAN CARTER: Who's doing that work?

CHRIS D'AETH: We do that regularly.

The Hon. SUSAN CARTER: Who's looking at the impact of the closure of CJCs on lists in the Land and Environment Court?

CHRIS D'AETH: The secretary and myself have regular contact with heads of jurisdiction, including Justice Preston, the Chief Judge of the Land and Environment Court.

The Hon. SUSAN CARTER: And that issue would be picked up at those meetings?

MICHAEL TIDBALL: We regularly talk about filings. We talk at each meeting about the workload of the court. No head of jurisdiction has raised any concerns.

The Hon. SUSAN CARTER: What happened to the IP of the CJC? Has it been transferred?

CHRIS D'AETH: Which IP in particular are you referring to?

The Hon. SUSAN CARTER: Any IP that they held. Organisations always hold intellectual property. They would have had intellectual property about workflows and how to manage all sorts of things. What happened to it?

CHRIS D'AETH: The work that was occurring was occurring within the Department of Communities and Justice. It still is occurring within the Department of Communities and Justice.

The Hon. SUSAN CARTER: So there's no IP?

CHRIS D'AETH: There's no loss of IP because the work was occurring within the Department of Communities and Justice previously and continues to occur within the Department of Communities and Justice.

The Hon. SUSAN CARTER: Are CJCs mentioned on government websites at all or that has all been cleansed?

CORRECTED

CHRIS D'AETH: I don't know that I've done a full scan of all government websites. I'm not sure I can answer that question.

The Hon. SUSAN CARTER: It is important if members of the public are looking at those websites, isn't it? Is anybody responsible for that work?

CHRIS D'AETH: I'll take that on notice.

The Hon. SUSAN CARTER: Is anybody looking at the closure of the CJs on the community legal centre workload? Is there any intention to look at that?

CHRIS D'AETH: No.

The ACTING CHAIR: On that note, thank you to all of you government officers for your attendance today. The Committee secretariat as always will be in touch in the near future regarding any questions taken on notice and of course supplementary questions. We're very grateful to all of you for your time and your diligence and your attendance today.

(The witnesses withdrew.)

The Committee proceeded to deliberate.