

# **PORTFOLIO COMMITTEE NO. 5 - JUSTICE AND COMMUNITIES**

**Wednesday 4 September 2024**

**Examination of proposed expenditure for the portfolio area**

## **ATTORNEY GENERAL**

<b>UNCORRECTED</b>
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**The Committee met at 9:15.**

### **MEMBERS**

The Hon. Robert Borsak (Chair)

Ms Abigail Boyd

The Hon. Susan Carter

Dr Amanda Cohn

The Hon. Greg Donnelly

Ms Sue Higginson (Deputy Chair)

The Hon. Dr Sarah Kaine

The Hon. Natasha Maclaren-Jones

The Hon. Tania Mihailuk

The Hon. Cameron Murphy

### **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**

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**The CHAIR:** Welcome to the third hearing of the Portfolio Committee No. 5 – Justice and Communities inquiry into budget estimates 2024-25. 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 respect to any Aboriginal and Torres Strait Islander people joining us today. My name is Robert Borsak, and I am the Chair of the Committee. I welcome Attorney General Daley and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolio of Attorney General.

I ask everyone in the room to please turn their mobile phones to silent. Parliamentary privilege applies to witnesses in relation to the evidence they give today. However, it does not apply to what witnesses say outside 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. To all the witnesses, welcome. Thank you for taking the time to give evidence. 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 you have already been sworn before the Committee during this inquiry and therefore you do not need to be sworn again.

**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

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

**Ms SALLY DOWLING, SC**, Director of Public Prosecutions, Office of the Director of Public Prosecutions, affirmed and examined

**Dr JAMES COCKAYNE**, NSW Anti-slavery Commissioner, affirmed and examined

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

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

**The Hon. SUSAN CARTER:** Minister, did you ever receive a bottle of gin from the police commissioner?

**Mr MICHAEL DALEY:** No, unfortunately I didn't.

**The Hon. SUSAN CARTER:** Not even as a legacy and reminder of your former work as police Minister?

**Mr MICHAEL DALEY:** No. I got a boring old cap with a police badge on it from Andrew Scipione but never a bottle of gin.

**The Hon. SUSAN CARTER:** That's a shame. You're on the list of those who missed out. Turning to another topic, do you think there is a need for legislative reform to reduce the influx of illegal tobacco into New South Wales, or is this more an issue of enforcement?

**Mr MICHAEL DALEY:** I think that's more of an issue for the Commonwealth Government.

**The Hon. SUSAN CARTER:** There's no concerns about illegal tobacco in New South Wales at all?

**Mr MICHAEL DALEY:** I noticed from reading the transcript, Ms Carter, that you're apt to begin with a statement which is dressed up as a question. You've just done it then. I'm not going to play that game today. Why don't you draft your question accurately for me, please?

**The Hon. SUSAN CARTER:** Sorry—you're complaining about the way I frame questions, are you?

**Mr MICHAEL DALEY:** Yes. Let's get that out of the way early on.

**The Hon. SUSAN CARTER:** Do you complain about everybody's questions or is it just me, because I'm a woman, that you're complaining about my questions?

**Mr MICHAEL DALEY:** That's drawing a long bow there. You make a statement, throw a question mark on the end of it and want to lead me into some discussion when you should just be asking me to elicit some information. That's the purpose of today.

**The Hon. SUSAN CARTER:** I will listen to your critique, but I will reserve the right to ask questions as I think is appropriate for this undertaking. Perhaps you could tell me what your view is about the MV *Nami*, which was allowed to refuel in New South Wales waters despite carrying two tonnes of illicit tobacco. As a former customs officer, do you think Australian Border Force was right to stop the New South Wales police from intercepting that vessel?

**Mr MICHAEL DALEY:** I'm not sure if you look at the New South Wales allocation of Acts Act that you see "Michael Daley former customs officer Act" that requires me to answer questions of that nature today. Sorry.

**The Hon. SUSAN CARTER:** I just thought you might be able to assist us with your personal experience.

**Mr MICHAEL DALEY:** No. That's not why you asked me that question, but anyway.

**The Hon. SUSAN CARTER:** So, you're a mind-reader now, Minister, are you? That must be very useful for you.

**Mr MICHAEL DALEY:** It is.

**The Hon. SUSAN CARTER:** If this is a cross-border issue, are you planning to raise this at SCAG?

**Mr MICHAEL DALEY:** Only if it relates to the duties, functions and responsibilities of the Attorney General.

**The Hon. SUSAN CARTER:** And do you believe it does?

**Mr MICHAEL DALEY:** Vessels at sea don't, as far as I can see.

**The Hon. SUSAN CARTER:** Whose responsibility would it be to raise then, to address this issue for the people of New South Wales?

**Mr MICHAEL DALEY:** Immigration and Border Force, and perhaps police.

**The Hon. SUSAN CARTER:** There was a dispute between police and Border Force. Who was right?

**Mr MICHAEL DALEY:** I don't know.

**The Hon. SUSAN CARTER:** You don't have a view about this matter?

**Mr MICHAEL DALEY:** You've done it again.

**The Hon. SUSAN CARTER:** Thank you, Mr Attorney. I can see that you're not interested in answering questions from the people of New South Wales.

**Mr MICHAEL DALEY:** In no way can that be regarded as a question—that last statement of yours.

**The Hon. SUSAN CARTER:** You are hiding behind complaints about my questions to show that you don't really care about illegal tobacco in New South Wales, and you don't really care about this law and order issue in New South Wales.

**Mr MICHAEL DALEY:** And there you go again.

**The Hon. SUSAN CARTER:** And there you go again, Mr Attorney, actually not caring about issues that are important to the people of New South Wales. Let's talk about knife crime. One of the first bills that you introduced was designed to address knife crime and introduce sections 93IB and 93IC into the Crimes Act, which doubled the penalties for carrying a knife from two years to four years imprisonment. Is it fair to say that doubling the penalty was considered by you, as Attorney General, as the most appropriate way to deal with knife crime in New South Wales?

**Mr MICHAEL DALEY:** The most appropriate way? I think there are many ways that governments should have at their disposal to deal with knife crime, including education and good parenting. Doubling the penalties for knife crime, as you've described, was one of the responses that we took from opposition when I introduced a private member's bill, and then we followed that up when we got into Government, and that was—

**The Hon. SUSAN CARTER:** Therefore, you have a history, as you say, of seeing doubling penalties as an appropriate way to deal with knife crime.

**Mr MICHAEL DALEY:** No. I didn't say that at all. I said that was one of the things that we did, and I did it—

**The Hon. SUSAN CARTER:** You introduced it as a private member's bill in opposition. You then did it as one of your first acts as Attorney General.

**Mr MICHAEL DALEY:** Please don't interrupt me. You asked me a question; let me answer it. One of the reasons we did that was, notwithstanding the fact that crimes involving knives were stable, we saw that there was about a 50 per cent recidivism rate for people charged with possessing a knife in a public place or school. I saw that the issue of people carrying and using knives had, I think, gotten away from the authorities in the UK. We wanted to make sure we remained vigilant so that knife crime didn't get away from us in New South Wales, which is why we followed up with further amendments, in relation to Jack's law and the like, in 2024.

**The Hon. SUSAN CARTER:** You indicated that there are a range of measures available to you. Jack's law was already operating in Queensland at the time you introduced that first piece of legislation. Why didn't you introduce Jack's law at that time?

**Mr MICHAEL DALEY:** When you're a new government—in fact, for any government—issues arise from time to time. Governments take their time to work out what the best and most appropriate responses are. Sometimes government actions that manifest themselves in legislation can be a result of people making submissions or public inquiries or, in the case of Jack's law, Jack's mum and dad who have been advocating strongly and effectively all over the country for the introduction of that. Legislation and government responses arise from time to time as a result of various sources, pressures and things like that.

**The Hon. SUSAN CARTER:** You didn't think about Jack's law at the time of the first legislation, even though it was on the books.

**Mr MICHAEL DALEY:** It wasn't considered at the time that Cabinet made its decision. That's how we decided to respond at that particular time.

**The Hon. SUSAN CARTER:** You agree that, by doubling the penalties from two years imprisonment to four years, you were exceeding the jurisdictional limit of the local court and that, since they were table 1 offences, any actual awarding of those penalties would have needed to proceed by way of indictment in the District Court?

**Mr MICHAEL DALEY:** Yes, we were aware of that.

**The Hon. SUSAN CARTER:** On how many occasions has the DPP proceeded by way of indictment in the District Court in respect of a breach of either 93IB or 93IC of the Crimes Act?

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

**The Hon. SUSAN CARTER:** Has the DPP declined to accept the recommendation of the police to proceed by way of indictment in relation to matters in 93IB or IC?

**Mr MICHAEL DALEY:** Unless the director wants to help me out now, I'm happy to take that on notice.

**The Hon. SUSAN CARTER:** Since your new law was put in place, how many proceedings for offences under 93IB or IC have been commenced by indictment in the District Court?

**Mr MICHAEL DALEY:** I think, rather than search through these folders for the answers, it's probably more efficient use of time to take that on notice as well, Mr Chair.

**The Hon. SUSAN CARTER:** How many proceedings commenced summarily in the Local Court?

**Mr MICHAEL DALEY:** Again, I'll take that on notice. We'll try and get you an answer before the end of—

**The Hon. SUSAN CARTER:** I understand the importance of detail, and I thank you for paying attention to the detail. But, given that this law focused on penalties, and given that the focus of this law was a doubling of penalties, why is it that you are not aware of how many times that double penalty was actually handed down? If it hasn't been handed down, has this law been effective?

**Mr MICHAEL DALEY:** Because, when you ask me a question that requires someone to have compiled statistics, I want to make sure that I answer it accurately. This is not a memory test; it's an accuracy test.

**The Hon. SUSAN CARTER:** I'm not suggesting it's a memory test. Are you following the success or not of this law that was one of your first pieces of legislation as an Attorney General?

**Mr MICHAEL DALEY:** There are mechanisms built into the legislation for reviews. From time to time, BOCSAR issues its reports. Those reports are contained there. I discussed these things with the police Minister and others at the time. Courts sit every day. Charges are heard every day. The statistics are fluid on a daily, sometimes hourly, basis.

**The Hon. SUSAN CARTER:** Do you have any evidence at all that this law has done anything to reduce knife crime?

**Mr MICHAEL DALEY:** I'll have a look at the statistics and rely on the experts like BOCSAR to see what the effectiveness of those laws has been. However, the prosecution rate and the conviction rate and things like that are one measure of success. I did say in media commentary when we introduced both those laws—and also, if I'm not mistaken, in my second reading speeches—that one of the intentions that governments have when they bring laws like that and others to the floor of the Parliament is for those laws to send a message as well.

I recall saying in press conferences that one of the messages that we wanted to send to young men—because it's almost exclusively young men. The bringing of these laws into the public realm was for us to send a message to them to walk out the door without knives in their pockets. That's one of the other things that legislation brings: a community educational aspect as well.

**The Hon. SUSAN CARTER:** You think young men are sitting down reading the New South Wales legislation website to see what you've done to penalties?

**Mr MICHAEL DALEY:** No, but when one of their friends gets picked up and they find out that the knife crime penalty has doubled and he got a penalty and a sentence longer than they thought he might, then their ears might prick up a little bit.

**The Hon. SUSAN CARTER:** Which is exactly my question: How many of their friends have actually received double the penalty that was provided for in your law?

**Mr MICHAEL DALEY:** And I told you I'll take that question on notice.

**The Hon. SUSAN CARTER:** Let's look at the BOCSAR figures, shall we, because knife-related robbery and assault have been relatively static in the 12 months since you passed that law. Would you agree with that, Minister?

**Mr MICHAEL DALEY:** I don't have those in front of me, but I did say to you at the outset of this answer that, when we introduced them, crimes involving the use of knives was relatively stable. I said that, notwithstanding that, one of the reasons we brought the legislation into the House was to drive it down if we could. That was one of the measures that we brought.

**The Hon. SUSAN CARTER:** The figures indicate that it has not driven it down. In fact, if we—

**Mr MICHAEL DALEY:** It's early days. It's only a year old.

**The Hon. SUSAN CARTER:** You wouldn't expect to see any result from legislation in a year?

**Mr MICHAEL DALEY:** Possibly not.

**The Hon. SUSAN CARTER:** What's your time frame for legislation?

**Mr MICHAEL DALEY:** I don't have a time frame. That's why we've got BOCSAR.

**The Hon. SUSAN CARTER:** Minister, if you say a year isn't sufficient, what is your time frame?

**Mr MICHAEL DALEY:** Sometimes, when you're looking at crime trends, you require a few years for those results to manifest themselves—to get a good sample size so that you can ascertain what the trends are doing.

**The Hon. SUSAN CARTER:** If we drill down into the BOCSAR figures, we can see that there has actually been a slight but significant increase in knife crime in the last 12 months. There were 14 more knife assaults on strangers this year than in the year before you doubled your penalties. Is that what success looks like, Minister?

**Mr MICHAEL DALEY:** That's a leading question. I'm not answering that.

**The Hon. SUSAN CARTER:** You're not concerned that there have been 14 more knife crime assaults after you've doubled the penalties?

**Mr MICHAEL DALEY:** There you go again—"You're not concerned". When did I say—can we go to the *Hansard* and see where I said I'm not concerned?

**The Hon. SUSAN CARTER:** Minister, you're playing word games with me.

**Mr MICHAEL DALEY:** I am, because it's your job to ask me accurate questions today and not play word games with me.

**The Hon. SUSAN CARTER:** Minister, it is your job to actually be answerable to the people of New South Wales through this forum. You're not playing word games with me; you're playing word games with the people of New South Wales.

**The Hon. Dr SARAH KAINE:** Point of order: The Hon. Susan Carter was not attempting to ask a question there; she was attempting, in some bizarre way, to lecture the Attorney General on what he should be doing. I ask her to refrain from that.

**Ms SUE HIGGINSON:** To the point of order: I think it is important to note, and the witnesses should be reminded, that there's not really such a thing as a leading question in budget estimates. Questions are questions.

**The Hon. Dr SARAH KAINE:** There has to be a question, though.

**Ms SUE HIGGINSON:** It's not a court. I just make that point. I don't think it really goes anywhere, but I think it's important to remember.

**Mr MICHAEL DALEY:** My inaccuracy; I should have said, "That's a statement, not a question". To your point, we don't make any apology for introducing tough new laws in relation to knives or any other crime—none whatsoever.

**The Hon. SUSAN CARTER:** I'm asking you, Minister, do you think your law has worked?

**Mr MICHAEL DALEY:** I've just told you that, if you look at publications by BOCSAR and other crime statisticians—and in relation to statutory reviews—you need a proper sample size over a suitable time frame to make proper and informed judgements from crime statistics. I'm not sure, with the small sample size over a year, that that's the case, but I'm happy to take that on notice.

**The Hon. SUSAN CARTER:** Minister, over the past year, knife murders have increased by almost 30 per cent. Do these figures indicate your legislation was successful?

**Mr MICHAEL DALEY:** I'd have to sit down and have a look at the statistics and the context around those statistics to be able to sensibly answer that question.

**The Hon. SUSAN CARTER:** Is there any reason, Minister, why it's been a year and you haven't actually sat down and looked at those statistics and got a sense of whether this law was actually working or not?

**Mr MICHAEL DALEY:** There are review mechanisms in place. We track laws. My department gives me briefings on them from time to time. I've just told you that you've asked me a specific question about the effectiveness of it. When you're talking about the effectiveness of criminal laws like that, I rely on reports from the experts to tell me about what their effectiveness may or may not be. I've just gone through with you that, with one year and a relatively small sample size, I'm not sure that you could ascertain what effects those laws have had on behaviour in New South Wales, but I would have a look at that and take it on notice.

**The Hon. SUSAN CARTER:** So you react to what the department says. You react to what other people say. You don't drive proactively as the Minister and take responsibility in this area.

**Mr MICHAEL DALEY:** No. I was proactive, not reactive, when I introduced the laws in the first place, as you pointed out.

**The Hon. SUSAN CARTER:** Have they worked?

**Mr MICHAEL DALEY:** I've just answered that question two, maybe three, times.

**The Hon. SUSAN CARTER:** In June 2023, Minister, you said of your knife crime laws, "The tougher maximum penalty will send a strong message about the gravity of knife-related crime", but this message hasn't been received by those carrying knives in our community, has it?

**Mr MICHAEL DALEY:** I think you've just asked me that question in a different way a couple of times already, Ms Carter.

**The Hon. SUSAN CARTER:** Then let's jump forward a year where in another press release you said, "These tougher maximum penalties highlight the seriousness of knife-related crime." What law were you talking about there? The same law?

**Mr MICHAEL DALEY:** I don't have that press release in front of me so I don't know.

**The Hon. SUSAN CARTER:** I can tell you even though it was the same words, it was not the same law. It was actually Jack's law. You issued a press release with almost the exact words almost exactly a year apart. Your message is the same, but is there any evidence that knife criminals are listening to you?

**Mr MICHAEL DALEY:** I've just answered that question for the third—is it fourth?—time now.

**The Hon. SUSAN CARTER:** Minister, if you had answered it, I wouldn't need to keep asking it.

**Mr MICHAEL DALEY:** I'm not sure that's correct actually, Ms Carter. But anyway, let's leave it there.

**The Hon. SUSAN CARTER:** When will Jack's law be proclaimed?



**Mr MICHAEL DALEY:** I'm not sure. I think we're waiting for police readiness before that is proclaimed.

**The Hon. SUSAN CARTER:** Have you given a date for which you hope the police will be ready by?

**Mr MICHAEL DALEY:** I don't think so.

**The Hon. SUSAN CARTER:** So you're not driving it proactively. You're waiting for the police to let you know when it would be a good idea to have Jack's law. Is that right?

**Mr MICHAEL DALEY:** Given that it requires the police to purchase equipment and train their officers in the use of it and of the accompanying legislation, yes.

**The Hon. SUSAN CARTER:** How much money's been allocated in the budget for the implementation of Jack's law?

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

**The Hon. SUSAN CARTER:** So you can't take me to where in the budget papers that funding's been allocated?

**Mr MICHAEL DALEY:** No. I just said I'd take it on notice.

**The Hon. SUSAN CARTER:** What advice about the failure of the first knife laws did you receive that was used to shape the second knife laws, Jack's law?

**Mr MICHAEL DALEY:** I think you've proceeded upon a misapprehension there. What advice did I receive about the failure of the first laws? Can you table that advice, please?

**The Hon. SUSAN CARTER:** No, I'm asking you for the advice. I'm asking you. So we have knife law in June 2023, which, on BOCSAR measures, is not working. Knife crime, if anything, is going up. We have new knife laws in June 2024, Jack's law. Why Jack's law now? What advice did you receive about the first knife laws that led into your decision to proceed with the second knife laws?

**Mr MICHAEL DALEY:** Why are you proceeding on the assumption that Jack's law proceeded on the basis that the doubling of knife crime a year earlier was a failure? Where's the correlation there? Can you table some document or something for me?

**The Hon. SUSAN CARTER:** Minister, if you were so confident that your first laws were working to deal with knife crime, why did we need a second bite of the cherry?

**Mr MICHAEL DALEY:** Surely you'll understand that that question proceeds on the basis that when a Parliament passes a law like to double knife crime that will then automatically reduce knife crime to zero and you don't need to bring any further laws in. Do you understand the basis of the question you've just asked me?

**The Hon. SUSAN CARTER:** I understand that you've apparently paid no attention to the success of the first law and that it hasn't fed into Jack's law. In budget estimates on Friday, you may be aware, Minister, that the police gave evidence that, in terms of Jack's law, we're looking at some trial by Christmas, but "in the second half of 2025 it is more realistic that we have that capability".

**Mr MICHAEL DALEY:** Sorry, what page of police estimates are you reading from there?

**The Hon. SUSAN CARTER:** It was Deputy Commissioner Thurtell, and it was page 62, the sixth paragraph down. I can read the whole thing to you.

**Mr MICHAEL DALEY:** "I can't tell you that exactly. What I can tell you is if we are commencing a trial in December or November—whenever it is—then I'm not going to turn around and say that we'll be fully operational by January. However, I would suggest in the second half of 2025 it is more realistic that we have much more capability." Is that it?

**The Hon. SUSAN CARTER:** Yes. After the horrible events at Bondi Junction, why will nothing really be in place until the end of next year to protect New South Wales from knife crime?

**Mr MICHAEL DALEY:** Nothing will really be in place?

**The Hon. SUSAN CARTER:** Jack's law will not be fully operational till the end of next year.

**Mr MICHAEL DALEY:** I'm not sure it's fair to link the introduction of Jack's law with what happened at Bondi Junction, frankly, so I think I'll leave that question there.

**Ms SUE HIGGINSON:** Good morning, Attorney. Can I please just take you to another topic. Can I ask you what is happening with the anti-protest law review that is underway? I understand that submissions were closed. You made that a public process, and submissions closed on 1 June. I'm curious if you could inform the Committee on where things are up to with that one part you're responsible for?

**Mr MICHAEL DALEY:** I think that the statutory review is nearly complete, and should be made public before the end of the year.

**Ms SUE HIGGINSON:** Could you give us a spoiler or a teaser of some sort? What did the submissions say? How many did you receive? Is there anything you can give us any insight into?

**Mr MICHAEL DALEY:** I'd have to go and look at the statistics. Perhaps Mr McKnight or Mr Tidball could refresh me on some of the numbers of submissions. About a thousand submissions. Is that right?

**PAUL McKNIGHT:** Something in the order of 1,300 submissions were received. A number of them were submissions from individuals that had a kind of form. They were—how can I put this?—individualised but they had a kind of form aspect to them.

**Ms SUE HIGGINSON:** Yes, which is what a lot of people do nowadays to mobilise and communicate their desires.

**PAUL McKNIGHT:** Indeed. It's perfectly understandable. I'm just looking for the number of institutional submissions.

**Mr MICHAEL DALEY:** Before Mr McKnight gets back to you, I think that the time frame requires the stat review to be published some time around October.

**Ms SUE HIGGINSON:** So not far away.

**Mr MICHAEL DALEY:** Yes, that's right. It must be tabled in each House of Parliament within six months after the end of April—so it's the first week of October.

**Ms SUE HIGGINSON:** So we think there's been around 1,300 submissions. Is there, as I say, any kind of spoiler in terms of what you think and what the feel is within the department?

**Mr MICHAEL DALEY:** The vibe?

**Ms SUE HIGGINSON:** The vibe of the thing. You are the Attorney.

**Mr MICHAEL DALEY:** No, I can't. No early Christmas presents—I'm sorry, Ms Higginson.

**Ms SUE HIGGINSON:** If it comes to the point where the review is those laws are not really providing any great purpose and they're no longer particularly relevant—and, in fact, they could be harmful to democracy—you would consider repealing those laws or letting them die a death that they should.

**Mr MICHAEL DALEY:** If those tectonic thresholds were met—I'm not sure they will be—we might consider doing something. The early Christmas present I might give you is that the Government has no intention at this time of repealing those laws.

**Ms SUE HIGGINSON:** It's a very sad Christmas present, Attorney General.

**Mr MICHAEL DALEY:** I'm sorry. I'm the Christmas Grinch.

**Ms SUE HIGGINSON:** You know the sentiment. The very active pro-democracy community thinks that those laws are such an indictment on our democracy and our rights to participate.

**Mr MICHAEL DALEY:** But do you know what, Ms Higginson? Every Sunday or thereabouts since the horrific events of October last year, there've been people who've been peacefully protesting in the Sydney CBD, cooperating with the police. Under the Summary Offences Act, they haven't had arrests that I know of. They've shut down streets here and there and they've inconvenienced people but they've been able to express themselves in a democratic way in the busiest CBD in the nation, and they've been pretty much peaceful. So when people make statements like we're shutting down democracy, I'm not sure that's really accurate.

**Ms SUE HIGGINSON:** I would suggest to you very strongly that they are precisely the people asking for the repeal of these laws—that that has been undertaken in spite of these laws and under very heavy police armed presence. If that's your version of democracy, Attorney, it's a very different one to many other citizens.

**Mr MICHAEL DALEY:** So you're suggesting they'd rather stop a van in the Harbour Tunnel or glue themselves to Stoney Creek Road than have a protest?

**Ms SUE HIGGINSON:** That's not what I'm saying, Attorney, and I'm the one asking questions today. Attorney General, could you remind me who was consulted during the consideration and the making of the new knife wandong powers?

**Mr MICHAEL DALEY:** I'd have to go back and have a look and get some advice from the department about who was consulted.

**Ms SUE HIGGINSON:** Do you recall talking to the Bar Association about those laws?

**Mr MICHAEL DALEY:** I'd have to check. I don't want to be inaccurate about those.

**Ms SUE HIGGINSON:** I don't think you did, but if you could check I would be grateful.

**Mr MICHAEL DALEY:** Yes, sure.

**Ms SUE HIGGINSON:** Do you recall consulting with the Law Society about those laws?

**Mr MICHAEL DALEY:** Again, I'll have to check.

**Ms SUE HIGGINSON:** I don't think you did; I'd be grateful if you could. Did you consult with the Law Enforcement Conduct Commission about these laws?

**Mr MICHAEL DALEY:** Probably not but, again, if you're asking me a general question, one after the other, about who I've met, I'll—

**Ms SUE HIGGINSON:** No, I'm asking you if you consulted with each of those professional bodies.

**Mr MICHAEL DALEY:** I didn't. I'm not sure if the police did, or if either the departments did or the Police Force did. I don't know.

**Ms SUE HIGGINSON:** With respect, Attorney General, I'm asking you because you are responsible for making those laws.

**Mr MICHAEL DALEY:** They're my laws but they—

**Ms SUE HIGGINSON:** They are your laws.

**Mr MICHAEL DALEY:** Yes, they are.

**Ms SUE HIGGINSON:** And that's why I'm asking if you recall consulting with those three bodies.

**Mr MICHAEL DALEY:** But a lot of the consultation was done by the police because they necessarily involve police powers, police activities, police equipment—things like that.

**Ms SUE HIGGINSON:** Are you aware that Griffith University's review of the knife wandong trials in Queensland found no evidence that the program reduced knife possession or violent offences with knives?

**Mr MICHAEL DALEY:** I have had a look at a study by Griffith University months ago, when we were contemplating these laws.

**Ms SUE HIGGINSON:** Did you read the part that I just read out?

**Mr MICHAEL DALEY:** Yes, but I haven't had a look at it since then.

**Ms SUE HIGGINSON:** Does it concern you that the empirical evidence shows that, really, these laws don't do the thing that you're claiming you think these laws do—that is, reduce knife possession by making people leave their knives at home, in your words? I think that's what your evidence was earlier today, but the empirical evidence is that that's not what these laws do.

**Mr MICHAEL DALEY:** Sorry, what's the question there?

**Ms SUE HIGGINSON:** Are you concerned at all that the basis upon which you are suggesting you've made these laws—the evidence shows that they don't achieve those purposes?

**Mr MICHAEL DALEY:** Often when you are considering introducing criminal laws, there are contrary views.

**Ms SUE HIGGINSON:** I'm talking about evidence, not views. This was a research paper. It was research done on Queensland's laws.

**Mr MICHAEL DALEY:** And Cabinet decided, based on—

**Ms SUE HIGGINSON:** So they're not your laws—it was Cabinet?

**Mr MICHAEL DALEY:** I take them to Cabinet and the Cabinet decides whether they tick them off or not.

**Ms SUE HIGGINSON:** Are they your laws or Chris Minns' laws?

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

**Mr MICHAEL DALEY:** They're the Government's laws, actually.

**The Hon. GREG DONNELLY:** It should be one question followed by the opportunity for the Attorney to provide an answer. The compound questioning of any witness—particularly, in this case, the Attorney, who's answering the question—is unfair.

**Ms SUE HIGGINSON:** To the point of order: I think the Attorney General was managing. He was coping.

**The CHAIR:** I uphold the point of order, although I think the Attorney was doing quite well.

**Ms SUE HIGGINSON:** Can we go back to the point about the empirical evidence that shows these laws are not effective, and you were suggesting Cabinet thought otherwise.

**Mr MICHAEL DALEY:** The Government decided to introduce these laws because we saw value in them. After discussions with the police, we considered that they would bring a positive benefit to New South Wales.

**Ms SUE HIGGINSON:** Can we talk about that? What is that positive benefit again?

**Mr MICHAEL DALEY:** The positive benefit is that it enables the police to use other tools in addition to those they've got to detect people who, despite my urgings, have decided to walk out the door with a knife in their pocket.

**Ms SUE HIGGINSON:** Are you concerned that these new wandering powers will be disproportionately used against First Nations people, as we found out in Queensland and as we find with other discretionary police powers in New South Wales?

**Mr MICHAEL DALEY:** That's a matter for the police to use them.

**Ms SUE HIGGINSON:** They're your laws, Attorney General. It's your responsibility, is it not?

**Mr MICHAEL DALEY:** The police have the responsibility on the ground to use those laws as they see fit.

**Ms SUE HIGGINSON:** Yes, but you've made these laws, aware of these facts. Discretionary police powers—and you're suggesting the reason you've made these laws is to give police these discretionary powers—disproportionately impact First Nations people.

**Mr MICHAEL DALEY:** During discussions with the police before the laws were implemented, police assured all those concerned that they wouldn't use these on a discriminatory basis. In addition to that, the Government has convened an implementation group, jointly chaired by the Secretary of the Premier's Department and the Commissioner of Police, with representatives from key government agencies and the Coalition of Aboriginal Peak Organisations. The purpose of the group would be to guide the development of operational procedures for the use of handheld metal scanners to align with the Government's ongoing commitment to Closing the Gap.

**Ms SUE HIGGINSON:** Can you explain, then, how this will actually not disproportionately impact First Nations people on the ground? It's fine that you've got a taskforce, but how? Is the plan not to wand First Nations people? What's the plan? How is this actually going to take effect?

**Mr MICHAEL DALEY:** That's a question—

**Ms SUE HIGGINSON:** They're your laws, Attorney.

**Mr MICHAEL DALEY:** The scanners are in the hands of police. That's a question for the police.

**Ms SUE HIGGINSON:** Will the Law Enforcement Conduct Commission be enlisted to review the development of the training materials in the exercise of these new powers?

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

**Ms SUE HIGGINSON:** Thank you, and if you could take on notice that if you haven't already enlisted them to do so, it is a wise idea to do so. I think they would be very willing and able to do that.

**Mr MICHAEL DALEY:** I'm not sure that's within their charter but, as I said, I'll take it on notice.

**Ms SUE HIGGINSON:** I'm sure you're aware the LECC have, in fact, offered to review the capacity and the implementation. Were you aware of that?

**Mr MICHAEL DALEY:** No.

**Ms SUE HIGGINSON:** Attorney, who did you consult with on your youth bail reforms?

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

**Ms SUE HIGGINSON:** Thank you, and if you could take on notice whether you consulted with the Law Society, the Bar Association and the ALS, remembering that it was perhaps the most politically pointed statement—

**Mr MICHAEL DALEY:** I did consult with ALS and with some Aboriginal peak organisations. I had a meeting with Karly Warner and others about that.

**Ms SUE HIGGINSON:** Yes, I think that was after they issued the most politically pointed statement they've ever made in the history of their existence.

**Mr MICHAEL DALEY:** It might well have been, but you asked me who I've consulted with and I've consulted with them.

**Ms SUE HIGGINSON:** Did you see the Treasurer when he had to introduce those laws into the New South Wales upper House?

**Mr MICHAEL DALEY:** No, I didn't.

**Ms SUE HIGGINSON:** Do you think that, at this point in time, it's good to introduce laws to give this level of police powers and the unprecedented bail reforms you've introduced, against all advice from legal experts and community groups? Do you think it's wise to do that?

**Mr MICHAEL DALEY:** We've got a responsibility, Ms Higginson, to ensure community safety. Notwithstanding that sometimes there is advice to the contrary or that laws might not be popular, governments have a responsibility to ensure that members of the community are safe. That was the driving factor behind the introduction of those bail laws and performance crime laws.

**Ms SUE HIGGINSON:** You've also got a serious responsibility, and you a particular responsibility, in relation to closing the gap on First Nations incarceration. Commissioner Webb, as you would know, said that officers are not responsible for Closing the Gap targets. You and the Premier have both pushed for these new laws—exactly the kind that the Productivity Commission identified as directly worsening the gap in terms of incarceration outcomes. So what are you doing to close the gap on First Nations incarceration?

**Mr MICHAEL DALEY:** I can tell you that those reforms were not made lightly, and we approached cautiously—

**Ms SUE HIGGINSON:** Are these part of your "proud to be tough on law" laws?

**Mr MICHAEL DALEY:** Hold on, let me answer the question. This reform was not made lightly, and we approached them cautiously given the potentially serious consequences for young people, and particularly for Aboriginal young people. That's why the provision was carefully targeted to certain provisions of the Crimes Act only, and time-limited to 12 months, with an evaluation to take place at the end of that period. But also keep in mind, Ms Higginson, which goes to the second part of your question, that it's also part of a package of broader non-legislative initiatives aimed at reducing youth offending and supporting young people in their communities. We do remain committed to working with communities and our Closing the Gap partners to develop long-term therapeutic and community-based approaches to address offending by young people on a broader scale. We had these long discussions, good discussions, you and I, at this very forum last time we were in estimates, about these sorts of things.

**Ms SUE HIGGINSON:** Can I just say, though, Attorney, there is a very strange and bizarre hypocrisy. You talk about being cautious and yet there was no genuine consultation or engagement with the professional legal expert bodies in this State. You ignored the Bar Association. You ignored the Law Society. Really, it's an indictment, and I feel that there is a deep hypocrisy that you are speaking to the people of New South Wales right now. And let's face it, you know darn well that more young First Nations people are being incarcerated. What are you doing to close the gap?

**Mr MICHAEL DALEY:** I do acknowledge that these laws have and will fall disproportionately on Aboriginal young people. I do acknowledge that. But we have—

**Ms SUE HIGGINSON:** So what's more important?

**Mr MICHAEL DALEY:** We had a situation in Moree, for example, where a small—

**Ms SUE HIGGINSON:** Attorney, these laws apply to the whole of New South Wales.

**Mr MICHAEL DALEY:** Yes, that's right. But we had—

**Ms SUE HIGGINSON:** You flew in some sports stars to Moree, and you're locking up kids. Can you please explain how you are closing the gap?

**Mr MICHAEL DALEY:** No, I will answer the first question first about why we did it. We had a situation where there was a small cohort of young people, not simply Aboriginal people but young people, in Moree and in other parts of the State who were breaking into people's houses, sometimes armed, often in company, filming those acts, to steal car keys to then go driving around the State at night, in packed cars, with young unlicensed drivers, with no seatbelts on. We had to act quickly to ensure that someone wasn't hurt or killed during one of those home invasions and that more carloads full of young kids didn't wrap themselves around a tree or collide with a truck or another vehicle. We've introduced these targeted measures to keep the community and these young people safe. The alternative was to do nothing, and to let those kids continue to do what they were doing. Before long, they were going to hurt themselves. I understand a carload of kids did crash north of Moree, with catastrophic consequences. I understand these laws weren't popular, and that there was some opposition to it, but we didn't have a choice. We didn't have a choice.

**Ms SUE HIGGINSON:** That's just not true. That is just not true. You're the Attorney General of New South Wales; you always have a choice. You have a lot of choices. You have more choices than anyone in this State to deal with crime, to deal with bad behaviour. And this tough-on-law that you don't apologise for, how is it going?

**Mr MICHAEL DALEY:** I don't accept that—

**Ms SUE HIGGINSON:** How is it going?

**Mr MICHAEL DALEY:** I don't accept that characterisation, by the way.

**Ms SUE HIGGINSON:** They're your words—"tough on laws" and "I don't apologise for them".

**Mr MICHAEL DALEY:** We're talking about the doubling of penalties for knife crime.

**Ms SUE HIGGINSON:** So you do apologise for these laws?

**Mr MICHAEL DALEY:** We don't apologise for—

**Ms SUE HIGGINSON:** Are you apologising to New South Wales for these awful, racist, draconian laws that are impacting First Nations young people?

**Mr MICHAEL DALEY:** I think that's a speech. Why don't you ask me a question?

**Ms SUE HIGGINSON:** I am asking you if you apologise for these laws.

**Mr MICHAEL DALEY:** No, we don't apologise for these laws.

**Ms SUE HIGGINSON:** Well, you're saying you had no choice. What is it? This is a predicament our State is in. There are people on their knees. There are people working in the courts, in the jail systems, around the clock, on the streets, and they're First Nations people.

**The Hon. GREG DONNELLY:** Is there a question here?

**Ms SUE HIGGINSON:** They're on their knees.

**The Hon. GREG DONNELLY:** Is there a question here?

**Ms SUE HIGGINSON:** Do you apologise to them for these laws? I asked the question.

**Mr MICHAEL DALEY:** And there are also—

**Ms SUE HIGGINSON:** Do you apologise to them for these laws?

**Mr MICHAEL DALEY:** —many people, particularly older people in regional New South Wales, who feel unsafe in their homes. Also, I don't want kids wrapping themselves around a tree at high speed.

**Ms SUE HIGGINSON:** Nobody does, Attorney. Nobody does.

**Mr MICHAEL DALEY:** So that's—

**Ms SUE HIGGINSON:** Are these laws working for you?

**Mr MICHAEL DALEY:** So the first—

**Ms SUE HIGGINSON:** They're not working for First Nations kids and they're not working for all those people on the streets.

**Mr MICHAEL DALEY:** How about I just sit back? I'll just sit back, and you just keep going—just make a speech.

**The Hon. CAMERON MURPHY:** Point of order—

**Ms SUE HIGGINSON:** Are the laws working for you?

**The Hon. GREG DONNELLY:** Just give us a lecture, Sue.

**The CHAIR:** A point of order has been taken.

**The Hon. CAMERON MURPHY:** The procedural fairness resolution requires that the witness is given time to answer the question when asked. What is starting to creep in is just a series of questions, one on top of another, without a fair opportunity to respond.

**Ms SUE HIGGINSON:** I'll slow them down.

**The CHAIR:** I uphold the point of order. The Attorney must be given an opportunity to fairly answer the question before you staccato him again with another one. Please proceed.

**Ms SUE HIGGINSON:** Do you apologise for these laws?

**Mr MICHAEL DALEY:** No.

**Ms SUE HIGGINSON:** So you don't apologise for the fact that there are—

**The Hon. GREG DONNELLY:** Asked and answered.

**The CHAIR:** The member can ask another question.

**Ms SUE HIGGINSON:** Thank you, Chair. So you don't apologise for the disproportionate impact on and the further incarceration of young First Nations people in regional New South Wales?

**Mr MICHAEL DALEY:** I don't apologise for the introduction of those laws, and I have already explained why they were necessary.

**The Hon. SUSAN CARTER:** Attorney, I take you back to your statements when we were speaking earlier. I raised the delay in the implementation of Jack's law and questioned public safety after the awful events of Bondi Junction. You indicated, I believe, that Jack's law was unrelated to the incident at Bondi Junction.

**Mr MICHAEL DALEY:** I'd have to go back and have a look at the *Hansard* to see what the exact context of those comments was.

**The Hon. SUSAN CARTER:** I think all of us remember 20 minutes ago and we heard you say that. Your press release of 6 June describes Jack's law as essentially a response to recent tragic events witnessed in New South Wales. If it wasn't Bondi Junction, what other tragic events are you referring to?

**Mr MICHAEL DALEY:** No, I think you were suggesting to me that those laws might have prevented what happened in Bondi Junction. That was what my response was.

**The Hon. SUSAN CARTER:** I am not suggesting that at all. I am suggesting—

**Mr MICHAEL DALEY:** Well, that was the context in which I was replying.

**The Hon. SUSAN CARTER:** —that the people of New South Wales are concerned about knife safety. Your first law failed, and Jack's law will not be implemented until at least the end of next year. What are you doing about knife safety between now and the end of next year? New South Wales is worried.

**Mr MICHAEL DALEY:** The police have ample powers under the Summary Offences Act to deal with people, now, that they apprehend are carrying knives. They also run operations from time to time in various areas, like train stations, where they search people. The police are out there working as hard as they can to keep the community safe, as you know. But that's really more a question for the police.

**The Hon. SUSAN CARTER:** If you're so confident the police have ample powers, why was there any need for either of these pieces of legislation?

**Mr MICHAEL DALEY:** Because from time to time governments consider that powers need to be improved and augmented.

**The Hon. SUSAN CARTER:** Minister, you've increased penalties for knife crime, and you've increased penalties for knife-related crime. You've done it twice in two separate pieces of legislation. You said the same thing, essentially, in two separate press releases a year apart. Why are you doing the same thing and expecting you will get a different result?

**Mr MICHAEL DALEY:** I'm not sure I'd characterise it that way. "Doing the same thing"—what does that mean?

**The Hon. SUSAN CARTER:** It means increasing penalties that are functionally unenforceable because they are in the District Court rather than the Local Court, introducing a law that will not be operational for probably a good 18 months after you introduced it, and thinking that people will get a message from a press release rather than from actual enforcement on the ground.

**Mr MICHAEL DALEY:** There is plenty of enforcement on the ground. That's why you were quoting statistics to me earlier about how many people were charged and convicted.

**The Hon. SUSAN CARTER:** The statistics I quoted to you, Attorney, about half an hour ago were about people dying from knife crime, which has increased 30 per cent since you doubled the penalties. I'll hand over to my colleague.

**Mr MICHAEL DALEY:** Are you saying your party doesn't support the knife crime laws that we brought to the Parliament, that you voted for?

**The Hon. Dr SARAH KAINE:** That's what I heard.

**The Hon. SUSAN CARTER:** I'm saying what I'm looking for is implementation of your laws. Frankly, I am shocked that you do not have a start date for Jack's law. That was your legislation, that you introduced. I ask you again, Mr Attorney. Your law of June 2023—what is the start date for Jack's law?

**Mr MICHAEL DALEY:** I've already answered that question.

**The Hon. SUSAN CARTER:** You answered it that you don't know. So you introduce a law to protect the people of New South Wales, but we don't know when?

**Mr MICHAEL DALEY:** No, the answer is when the police are operationally ready. I'll remind you that—

**The Hon. SUSAN CARTER:** And you, as Attorney General, are not driving that at all? Is it not your responsibility?

**The Hon. CAMERON MURPHY:** Point of order: The situation is creeping in where we have yet again the honourable member—a different one this time—asking a series of rapid-fire questions towards the Attorney General as witness and not giving him an appropriate time to answer each question. As a matter of fairness, he should be provided with time to answer the first question before he gets the second, third and fourth in a row.

**The Hon. SUSAN CARTER:** To the point of order: If the Minister was providing an answer, I would have been delighted to hear it.

**The Hon. Dr SARAH KAINE:** You don't get to tell him how to answer.

**The CHAIR:** I uphold the point of order. That is not really a response.

**The Hon. NATASHA MACLAREN-JONES:** We might move on to another topic. Thank you, Attorney General, and to everyone else for coming today. I might return to a couple of things that were raised at previous estimates. You will recall questions around *BA v The King* at the last estimates on 6 March—page 44, if you need to look it up. You responded, when asked about *BA v The King*, that we discussed this at last estimates—you were referring to the November estimates. You went on to say:

I reported then that the Government would have some legislation to bring before the Parliament to address the implications of *BA v The King*.

You then went on to say, "It's important and it's not something I want to delay."

**Mr MICHAEL DALEY:** Sorry, could you take me to the page you're talking about there?

**The Hon. NATASHA MACLAREN-JONES:** Page 44 from budget estimates in March this year. The first section is obviously your answer to a previous question, and then my question was:



We also discussed in estimates *BA v The King*. I followed up with the Minister for Women—  
—and so on. I've just quoted from you directly. Do you have that in front of you?

**Mr MICHAEL DALEY:** Sorry, I've got November 2023. Keep going. I'll find it.

**The Hon. NATASHA MACLAREN-JONES:** My question is where is that up to?

**Mr MICHAEL DALEY:** Last year I asked the Department of Communities and Justice to review all of the break and enter offences in division 4 of part 4 of the Crimes Act, which have sat without any significant review or update for nearly 20 years, and to carefully consider the serious issues raised by the High Court in *BA v The King* as part of that process. It is a complex area of law; careful analysis is required. A consultation paper developed by DCJ was released to relevant stakeholders, including the domestic and family violence sector and legal stakeholders, earlier this year. The consultation paper sought stakeholder reviews on reform to part 4, division 4. That consultation has now ended and DJC is working on a brief that will make recommendations for legislative reform, taking into account the issues raised by stakeholders, including important feedback from the domestic and family violence sector.

We are doing this because we are serious about, as I said in the last estimates, protecting victim-survivors from domestic and family violence, and we are working on this across government. In the context of the specific issue raised by *BA v The King*, there are in addition some protections for tenants experiencing domestic violence in the Residential Tenancies Act. Under section 79 of that Act a person's tenancy is automatically cancelled on the making of a final apprehended violence order that prohibits the person from having access to the premises. Under section 105B a person has a right of early termination of a residential tenancy agreement in circumstances of public violence. NSW Fair Trading is conducting a review of those provisions and undertook consultation in late 2022.

Further questions about the status of the review should be directed to the Minister for Better Regulation and Fair Trading. The New South Wales Government is also continuing our significant work to improve responses to domestic and family violence, including the passage of significant reforms to the bail framework and to better protect victim-survivors of domestic violence and landmark investment of \$230 million over four years as part of an emergency package to enhance support for domestic, family and sexual violence victim-survivors and expand programs that aim to reduce the rates of violence against women and children. This includes significant investment and early intervention primary prevention. I also stood up with the Premier and other Ministers on Monday, Mrs Maclaren-Jones, and announced some further reforms in the domestic and family violence sector.

**The Hon. NATASHA MACLAREN-JONES:** From what I gather from that, there are a couple of reviews that are being fed in to you. My question is what is the time frame?

**Mr MICHAEL DALEY:** The time frame is mid-January this year, commencement of target consultation; end of March, consultation closed; July, DCJ briefed the Attorney General of consultation outcome. A draft Cabinet submission is being put together. Hopefully it will go to Cabinet in September. Then, after that, we will be drafting a further target of consultation on the draft bill and an introduction to Parliament early next year.

**The Hon. NATASHA MACLAREN-JONES:** What were the outcomes from that consultation?

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

**The Hon. NATASHA MACLAREN-JONES:** Attorney General, on 15 May this year, you said, "Our Government is taking urgent action to address the unacceptable and persistently high rates of domestic violence in our State." That was when you were introducing the Bail and Other Legislation Amendment (Domestic Violence) Bill 2024. Do you recall that?

**Mr MICHAEL DALEY:** I'm sure I made some comment like that. I don't know what you're specifically quoting from.

**The Hon. NATASHA MACLAREN-JONES:** That's fine. That was around 81 days ago. I am interested to know what were the provisions of that bill?

**Mr MICHAEL DALEY:** Sorry, what?

**The Hon. NATASHA MACLAREN-JONES:** What were the provisions of that bill? What were the specific details—the clauses, the sections? What were the key things in the bill?

**Mr MICHAEL DALEY:** You could go back and look at my second reading speech and the bill, Mrs Maclaren-Jones. We made changes to show cause and made changes to the unacceptable risk. We added

additional offences to the provision in relation to stays. There are others. It is all in the bill. It is all in the second reading speech.

**The Hon. NATASHA MACLAREN-JONES:** But you can't name them?

**Mr MICHAEL DALEY:** I just have done it.

**The Hon. NATASHA MACLAREN-JONES:** So they are the only things that you recall?

**Mr MICHAEL DALEY:** I can get them—but yes.

**The Hon. NATASHA MACLAREN-JONES:** I am happy to wait because I am interested to know if all of those have been introduced—or implemented, I should say.

**Mr MICHAEL DALEY:** There were also provisions in relation to electronic monitoring and things like that.

**The Hon. NATASHA MACLAREN-JONES:** When did the legislation commence?

**Mr MICHAEL DALEY:** So it expanded the category of show cause offences to require, as I said, alleged offenders to demonstrate why they should be out in the community. That test will now apply to serious domestic violence offences committed by intimate partners, including sexual assault, strangulation with intent to commit another offence, and kidnapping, with a maximum penalty of 14 years or more jail. It will include the coercive control offence, which commenced on 1 July 2024. It will require electronic monitoring of people charged with serious domestic violence who are on bail. That will mean that that cohort will generally either be held on remand or electronically monitored. As I said, it expands the category of offences for which bail decisions can be stayed—that is, the accused person remains in custody while prosecutors make a detention application to the Supreme Court. This will act as an additional safeguard to prevent the release of dangerous domestic violence offenders.

It made changes to the unacceptable risk test, requiring bail decision-makers to consider, where relevant, domestic abuse risk factors including red flags such as behaviour that is physically abusive or violent; behaviour that is sexually abusive, coercive or violent; behaviour that is stalking; behaviour that causes death or injury to an animal; behaviour that is verbally abusive; and behaviour that is intimidating. It will also take into account the views of victims and their family members where possible about safety concerns for all domestic violence offences committed against an intimate partner. There will be changes to make it easier to prosecute perpetrators who use tracking devices in a domestic violence context. We are also making changes to bail courts across New South Wales to ensure bail decisions are made by magistrates—for example, using audiovisual links. The show cause, stay, red flags, victim views and tracking device changes have all commenced. The Government has—

**The Hon. NATASHA MACLAREN-JONES:** So that has commenced. What about the other items that you just listed?

**Mr MICHAEL DALEY:** All of them. I think the only one that hasn't commenced is the electronic monitoring—

**The Hon. NATASHA MACLAREN-JONES:** So everything else has—

**Mr MICHAEL DALEY:** —and that will be the end of September.

**The Hon. SUSAN CARTER:** Excuse me. There is a definite date for electronic monitoring, is there? End of September?

**MICHAEL TIDBALL:** Electronic monitoring is the end of September.

**The Hon. SUSAN CARTER:** It is the end of September that it will be introduced?

**MICHAEL TIDBALL:** That is the proposal, yes.

**The Hon. SUSAN CARTER:** We're talking about 28 days—it will be in place.

**Mr MICHAEL DALEY:** Sorry, there's an implementation taskforce here that has been looking at this.

**PAUL McKNIGHT:** The electronic monitoring will commence very shortly. We're expecting early October.

**The Hon. SUSAN CARTER:** But you don't have a date. It's end of September; it's early October.

**PAUL McKNIGHT:** It's very imminent.

**The Hon. SUSAN CARTER:** Is there a definite date for electronic monitoring?

**Mr MICHAEL DALEY:** It's not a definite date but we hope it will be around October some time.

**The Hon. SUSAN CARTER:** So we have an October hope for the introduction of electronic monitoring?

**Mr MICHAEL DALEY:** Expectation.

**The Hon. NATASHA MACLAREN-JONES:** On electronic monitoring, how much money has been allocated in the budget for the implementation?

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

**The Hon. NATASHA MACLAREN-JONES:** Have funds been allocated in the budget?

**Mr MICHAEL DALEY:** I'll take it on notice because I want to be accurate about that.

**The Hon. NATASHA MACLAREN-JONES:** I might move on. How many prisoners are on remand currently?

**Mr MICHAEL DALEY:** Mr Tidball will have that at his fingertips, I think.

**MICHAEL TIDBALL:** As of this morning, there are 13,009 adult prisoners in the New South Wales corrections system, and 56 per cent of those are sentenced prisoners and 43 per cent are held on remand.

**The Hon. NATASHA MACLAREN-JONES:** Do you have a figure for, maybe, 30 June this year or earlier?

**MICHAEL TIDBALL:** I would. Can I come back with that through the day? I certainly will have it this afternoon. I have it on me; I just need to go searching.

**Mr MICHAEL DALEY:** I think BOCSAR published those, but I don't have them with me.

**The Hon. SUSAN CARTER:** Mr Tidball, do you have a figure for those people on remand who are on remand as a result of the changes introduced in this legislation?

**MICHAEL TIDBALL:** No, I don't.

**Mr MICHAEL DALEY:** I don't think they are available yet through BOCSAR, but we could get them through other avenues.

**The Hon. SUSAN CARTER:** We would be very interested in, essentially, a metric of the success of these laws—the rise in prisoners on remand as a result of the introduction of these DV bail laws.

**The Hon. NATASHA MACLAREN-JONES:** Attorney General, what is the cost of increased remand time under this legislation?

**Mr MICHAEL DALEY:** The cost? I don't know if those figures would be available. If they were, they'd be in Mr Chanthivong's bailiwick, not mine.

**The Hon. NATASHA MACLAREN-JONES:** Do you know if that is being looked at?

**Mr MICHAEL DALEY:** That's a question for Minister Chanthivong. They're Corrections costs.

**The Hon. NATASHA MACLAREN-JONES:** Have you had any discussions with the Minister for Corrections in relation to the budget?

**Mr MICHAEL DALEY:** In relation to the budget?

**The Hon. NATASHA MACLAREN-JONES:** In relation to the implementation of—

**Mr MICHAEL DALEY:** Informally, yes.

**The Hon. NATASHA MACLAREN-JONES:** But you didn't discuss the amount that would be required to implement those laws?

**Mr MICHAEL DALEY:** No.

**The Hon. NATASHA MACLAREN-JONES:** No, you didn't.

**Mr MICHAEL DALEY:** There are Cabinet processes about that, and discussions were had in the Cabinet context, but I obviously can't share them. Mr Tidball might be able to assist.

**MICHAEL TIDBALL:** Can I just indicate that the Minister for Corrections can obviously deal with these matters in his estimates, but the Commissioner of Corrective Services and I regularly touch base on

projections in terms of sentencing and remand. Those figures, with close reference to BOCSAR figures, are recalibrated according to law reform. We do project the numbers and there is capacity in the system.

**The Hon. NATASHA MACLAREN-JONES:** Back to electronic monitoring, I understand that you don't have the figures of how much has been allocated in the budget for that. Do you know how many electronic monitoring devices will be available?

**Mr MICHAEL DALEY:** That's not being led by DCJ. There's an implementation taskforce that's being driven by Premier's.

**MICHAEL TIDBALL:** There is, yes. But they'll be Corrective Services devices.

**Mr MICHAEL DALEY:** Corrections do electronic monitoring. They will be the ones who do that—supervising that, purchasing the equipment and all those sorts of things.

**The Hon. SUSAN CARTER:** Who are the members of the implementation taskforce?

**Mr MICHAEL DALEY:** Is that right—there is an implementation taskforce? Or is it just a group led by Premier's?

**PAUL McKNIGHT:** There is an implementation taskforce led by the Cabinet Office.

**Mr MICHAEL DALEY:** The Cabinet Office, sorry.

**The Hon. SUSAN CARTER:** And the members are?

**PAUL McKNIGHT:** It includes membership from all of the government agencies that are affected by electronic monitoring.

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

**PAUL McKNIGHT:** Off the top of my head, the policy areas that deal with it. Corrections, police and Legal Aid are on the taskforce. There will be other members too.

**The Hon. SUSAN CARTER:** Is AG's on the taskforce?

**PAUL McKNIGHT:** What is AG's?

**The Hon. SUSAN CARTER:** Attorney General's.

**PAUL McKNIGHT:** I'm on the taskforce.

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

**PAUL McKNIGHT:** The Department of Communities and Justice.

**The Hon. SUSAN CARTER:** Who else is on the taskforce representing DCJ or any other departments?

**Mr MICHAEL DALEY:** The Commissioner of Corrective Services.

**CHRIS D'AETH:** I'm also on that taskforce.

**The Hon. SUSAN CARTER:** On notice, could we have a list of the membership of the taskforce?

**PAUL McKNIGHT:** Yes.

**The Hon. SUSAN CARTER:** How often do they meet?

**PAUL McKNIGHT:** Very regularly.

**The Hon. SUSAN CARTER:** Is it daily, weekly, monthly?

**PAUL McKNIGHT:** I would have to take that on notice. It is very frequent.

**The Hon. SUSAN CARTER:** Could you take it on notice, please? What's the budget that you are looking at for the implementation of electronic monitoring?

**PAUL McKNIGHT:** I would have to take that on notice.

**The Hon. NATASHA MACLAREN-JONES:** I have one final question: Which Minister is ultimately responsible for the implementation? Is it the Premier or the Attorney General who has ultimate oversight of this taskforce and drives it?

**Mr MICHAEL DALEY:** It is being led through the Cabinet Office.

**The Hon. NATASHA MACLAREN-JONES:** So the Premier is responsible for this taskforce?

**Mr MICHAEL DALEY:** It is being led through the Cabinet Office, but the legislation is mine.

**The Hon. NATASHA MACLAREN-JONES:** So you're ultimately responsible for the taskforce?

**Mr MICHAEL DALEY:** I'm responsible for the legislation, and then government departments go away and put the machinery provisions together to make it work.

**The Hon. NATASHA MACLAREN-JONES:** But I'm just trying to ascertain this: Ultimately someone in Government has to be responsible for this taskforce and have the reporting done to them. Is that the Premier or yourself?

**Mr MICHAEL DALEY:** Probably the Minister for Corrections in relation to the electronic monitoring.

**The Hon. TANIA MIHAILUK:** Good morning, Attorney General. I want to start with asking you about these horrific charges on the former member for Pittwater, Rory Amon. That's 10 child sexual assault charges. I appreciate that you may not be able to answer all of my questions, but I do want to put them. I understand that the Minister for police indicated that she had no knowledge of it. I suspect that's the same with yourself. Prior to the day that the charges became public, you had no knowledge, Attorney General?

**Mr MICHAEL DALEY:** None.

**The Hon. TANIA MIHAILUK:** None whatsoever. I wanted to ask about the processes, and it may be that you might seek advice on this or take it on notice. It appears that the investigation, from what was reported, started in June 2022, and in March 2023 Strike Force NOORAL, if I've got the word right, was established. It then took 17 months for this person to be charged. I'm trying to understand why, Attorney General, there was such a length of time. It was 17 months before this person was charged with what seem to be very horrific charges—10 child sexual assault charges, including five counts of sexual intercourse with a child under the age of 14. That's 17 months that this member of Parliament went around to community events, went around to school events and went around to sporting events. There are parents now absolutely outraged that they had any interactions with this person or that their child had interactions with this person. What I want to put to you is this: Is it very likely that this individual would have been notified, prior to the charges being laid, that he was under investigation and that there was such a strike force?

**Mr MICHAEL DALEY:** I have no knowledge of any of those matters. They sit fairly and squarely—not even with the police Minister; they sit within operational police. I have no knowledge of any of those aspects that you're asking me about.

**The Hon. TANIA MIHAILUK:** When does the DPP get involved?

**Mr MICHAEL DALEY:** That is after charges are laid and a brief has been presented. The director is sitting there, but when the police serve a brief on the DPP, they take over the prosecution because they are indictable offences.

**The Hon. TANIA MIHAILUK:** When does that happen?

**SALLY DOWLING:** Charges are laid by police. They proceed for a period of time in the Local Court under the carriage of police, and then the brief is handed to DPP. Depending on the complexity of the brief, it is usually within about 12 weeks of charges being laid and then carriage of the matter remains with my office.

**The Hon. TANIA MIHAILUK:** Attorney General, because these are such horrific charges and the person was in public office, I think many people are asking the question. How could an investigation take so long? How could the strike force take so long? How is it that the Attorney General was not notified, the police Minister was not notified and nobody was Parliament is notified that there was even a strike force established? This person was able to continue interacting with children and young people and families across his electorate.

**Mr MICHAEL DALEY:** I really don't feel comfortable, as Attorney General, engaging in commentary about this. This is before the courts. I'm sorry, it's not appropriate.

**The Hon. TANIA MIHAILUK:** I understand that. There are pretty strong penalties, obviously, for such charges. Would the Government ever consider people in public office having stronger penalties? The point, to me, is that for somebody in public office there should be a higher threshold. Would the Government ever consider looking at that? I think there are people asking the question. Yes, he's going to be charged. He may end up being convicted. But there's a real expectation that people are honourable when they're members of Parliament. I think this has been a very difficult thing for the community to accept because it's so horrific, and I don't think it should be swept under the carpet. I know it suits some that that's the case. Is there ever a consideration that people in public office should be held to a higher standard, Attorney General?

**Mr MICHAEL DALEY:** I think we already are held to a higher standard in many regards. You're asking me to speculate about what the Government might do.

**The Hon. TANIA MIHAILUK:** I understand that. I did indicate that you couldn't answer some of these questions.

**Mr MICHAEL DALEY:** In the context of those charges, as I indicated, I don't feel comfortable proceeding.

**The Hon. TANIA MIHAILUK:** That's fine. I'll move onto a couple of other issues that I wanted to raise this morning. I wanted to ask you for an update on how we're going with the Anti-Discrimination Act review that's being undertaken by the Law Reform Commission. Have you had any updates?

**Mr MICHAEL DALEY:** It's with the Law Reform Commission. I can't put a time frame on when they might get that back to me, but I anticipate it will be either late this year or perhaps early next year. But I can't hurry that committee up.

**The Hon. TANIA MIHAILUK:** Preliminary submissions were due and finalised in September '23. They've now indicated that they're preparing a consultation paper. They haven't indicated to you or your office when that consultation paper will be released?

**Mr MICHAEL DALEY:** Preliminary submissions to the review closed on the 29th. There are 92 published on the website. The commission currently is reviewing these and expects to release a consultation paper in the coming months.

**The Hon. TANIA MIHAILUK:** That's off the website. I've read the same thing. Thank you to your staff member, but I've read the exact same thing. It's on the website.

**Mr MICHAEL DALEY:** The answer is no, and I don't really want to hurry them. We have one of the most eminent lawyers in Australian legal history, Tom Bathurst, heading that commission up.

**The Hon. TANIA MIHAILUK:** I'm just asking whether he has notified your office to advise when this consultation paper is coming out.

**Mr MICHAEL DALEY:** No. As a matter of convention, they don't do that. They don't give time frames for that.

**The Hon. TANIA MIHAILUK:** What about the fact that you have an equality bill before Parliament right now that is proposing 52 amendments to the ADA review, and apparently that's now going to be considered in October. Is that right?

**Mr MICHAEL DALEY:** That's a matter for government.

**The Hon. TANIA MIHAILUK:** Well, you're in government.

**Mr MICHAEL DALEY:** Yes. It crosses a great many portfolios. Government has not made a decision.

**The Hon. TANIA MIHAILUK:** Will you be the person charged in the Labor Party to have carriage of it?

**Mr MICHAEL DALEY:** I expect so.

**The Hon. TANIA MIHAILUK:** Yes, I expect so, too. But there will be 52 amendments to the ADA that are being proposed in that bit of legislation, and there's a review of the ADA at the same time.

**Mr MICHAEL DALEY:** Yes.

**The Hon. TANIA MIHAILUK:** So why would the Government even consider this legislation if they haven't even got a consultation paper out on the ADA?

**Mr MICHAEL DALEY:** As I say, we'll have a look at all those considerations and make our mind up in due time.

**The Hon. TANIA MIHAILUK:** Minister, have you had a look at what the Queensland Government introduced this year, in June, in respect to the ADA?

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

**The Hon. TANIA MIHAILUK:** They also undertook a three-year review of the Human Rights Commission in Queensland. Are you familiar with the report that was published with regards to that?

**Mr MICHAEL DALEY:** No, I'm not.

**The Hon. TANIA MIHAILUK:** And you're not familiar with the draft bill that the Human Rights Commission originally proposed—the ADA in Queensland?

**Mr MICHAEL DALEY:** In Queensland? No.

**The Hon. TANIA MIHAILUK:** They produced their own draft bill and the Queensland Government then rewrote it, rebranded it and essentially took out the more controversial parts. Are you expecting the Law Reform Commission to draft a bill in this process, similarly to what happened in Queensland?

**Mr MICHAEL DALEY:** I don't think so. I think the Law Reform Commission will just release its report with recommendations, and the Government will then have to take into consideration what those recommendations are—

**The Hon. TANIA MIHAILUK:** And draft its own bill. Is that what you're suggesting?

**Mr MICHAEL DALEY:** —and draft its own bill, yes. When we get to that point—because there will be amendments to the Act. The Act is a 1977 Act that was due for statutory review a decade ago and was ignored. It's not fit for purpose; I've said that before.

**The Hon. TANIA MIHAILUK:** Why is it not fit for purpose?

**Mr MICHAEL DALEY:** Let me give you some examples. There are, as I see, about 11 protected attributes. When you're talking about racial discrimination, race is protected in terms of discrimination and vilification. Then you have provisions around sexual harassment that were dropped in that sit by themselves. Then you have sexual discrimination but no vilification on the grounds of sex. On transgender status, you have discrimination and vilification. On the status of being married or in a domestic relationship—discrimination but no vilification. For disability, discrimination is protected but not vilification—things like that. There are inconsistencies right through the Act. It's just not fit for purpose now, so there will be amendments to it. I can't say what they will be or what the Act will look like, but I want to give assurance to the public that we will consult very, very widely on those.

**The Hon. TANIA MIHAILUK:** What about the exemptions for religious institutions?

**Mr MICHAEL DALEY:** I'm sure Mr Bathurst and the committee will look at those in great detail.

**Ms SUE HIGGINSON:** Attorney, I want to go back to Closing the Gap, if I can. Based on the current rate of incarceration of First Nations young people, when will your Government meet Closing the Gap target 10 and reduce the rate of Aboriginal and Torres Strait Islander adults held in incarceration by at least 15 per cent?

**Mr MICHAEL DALEY:** If you're asking me to predict when we might do that or otherwise, I can't give you any dates about that.

**Ms SUE HIGGINSON:** I'm asking when your Government is planning to do that. What is your forecast? You're committed to this, surely, so what is the plan?

**Mr MICHAEL DALEY:** Are you saying there's a set date on which we might—

**Ms SUE HIGGINSON:** Surely there's a prospective time frame of how long you're going to take to get there?

**Mr MICHAEL DALEY:** The national agreement around Closing the Gap determines that by a certain date, States and jurisdictions will have reduced rates by a certain amount.

**Ms SUE HIGGINSON:** And when is that for gap target 10?

**Mr MICHAEL DALEY:** I don't have the—

**MICHAEL TIDBALL:** If I can assist? I'm stating the obvious; 2031 is obviously the target. We are 45 young people, or very close to that figure, above that as of June 2023. We have been close. The gap has increased recently.

**Ms SUE HIGGINSON:** Why is that, Attorney? Does it concern you that the gap has increased? Can you yet make any correlation on how many children have been refused bail or prosecuted under the new laws as well?

**Mr MICHAEL DALEY:** I can get you all of those.

**MICHAEL TIDBALL:** I want to say this with sensitivity. It is a sensitive figure. There are 231 young people in custody as of today. They are all important lives, I acknowledge, but the figure—of course, it is that number—is way more sensitive than, say, in the adult prison system.

**Ms SUE HIGGINSON:** So there are 231 people in custody now.

**MICHAEL TIDBALL:** Correct.

**Ms SUE HIGGINSON:** And what was that part, sorry, about the figure being—

**MICHAEL TIDBALL:** Clearly, if you have 231,000 as compared with an adult population of 13,000, this figure is highly sensitive to movements in percentage terms.

**Ms SUE HIGGINSON:** I see. Do you know, Attorney, whether the figures at the moment have any reflection on your new targeted laws that will lead to more young First Nations children being incarcerated?

**Mr MICHAEL DALEY:** I don't have those figures, but I'll readily concede—

**Ms SUE HIGGINSON:** You'll take that on notice?

**Mr MICHAEL DALEY:** No. I'll concede, Ms Higginson, that they will result in a disproportionate number of Aboriginal young people being incarcerated, held on remand and arrested. They will reflect negatively on our Closing the Gap targets. At the moment, targets 10 and 11 are not on track, and they're worsening. That's why the initiatives that we are undertaking are important—things like the expansion of circle sentencing. We've expanded circle sentencing from 12 to 22 local courts in higher priority locations, which will provide access to circle sentencing for up to 2,100 additional Aboriginal offenders.

**Ms SUE HIGGINSON:** Excuse me, Attorney General, but can you see the hypocrisy? What does that do? That's after the event. That's after the fact. Don't even try at this point. You've just provided evidence that you are worsening the gap. Earlier today you provided evidence that you're unashamedly tough on crime and that this is the consequence.

**Mr MICHAEL DALEY:** Please don't make those characterisations.

**Ms SUE HIGGINSON:** Oh sorry, I'm mixing it up between the knifing and the bail laws. Apologies.

**Mr MICHAEL DALEY:** Yes, you are.

**Ms SUE HIGGINSON:** Attorney, I think there is a point where it is really important to accept that a tough-on-crime, law-and-order agenda doesn't actually work and that what it does is cause really significant harm to the most vulnerable peoples in our communities. Would you not agree?

**Mr MICHAEL DALEY:** I don't like that expression—"tough on crime." We're appropriate on criminals. I don't use that expression, that we're "tough on crime". I don't like it. It's not appropriate.

**Ms SUE HIGGINSON:** You said, Attorney, you don't apologise for the bail laws.

**Mr MICHAEL DALEY:** For introducing those tough knife laws.

**Ms SUE HIGGINSON:** No. You said you don't apologise for the bail reforms.

**Mr MICHAEL DALEY:** Yes.

**Ms SUE HIGGINSON:** Unapologetically, you are sitting here saying you are not closing the gap. You are worsening the gap. You are widening the gap for First Nations young people in the State of New South Wales. Surely that is shameful.

**The Hon. GREG DONNELLY:** Is there a question in this?

**Ms SUE HIGGINSON:** I'm asking, surely it is, is it not?

**Mr MICHAEL DALEY:** That's not a question.

**Ms SUE HIGGINSON:** So, you don't think it's shameful.

**Mr MICHAEL DALEY:** Our job is to keep communities safe.

**Ms SUE HIGGINSON:** No, your job is to close the gap. You just said that. You're saying you're not doing that. You're going the opposite direction. What do we do as a Committee? How do we take that evidence? Do we just sit here and say it's fine that the State is not only not closing the gap, it's widening the gap in what is identified as one of the worst impacts on First Nation communities: young people incarcerated in regional New South Wales—young First Nations children. Is it shameful? Do you apologise?

**Mr MICHAEL DALEY:** Don't ask me questions like that. That's not a question seeking information.

**The Hon. GREG DONNELLY:** It's a lecture.



**Mr MICHAEL DALEY:** Yes. It was a good speech, but no.

**Ms SUE HIGGINSON:** It is seeking from the Attorney General, the highest law officer in this State, a position on the state of the law, closing the gap and First Nations justice, particularly for young people in this State.

**The Hon. Dr SARAH KAINE:** Point of order—

**Ms SUE HIGGINSON:** It is a question. I'm just asking for your answer.

**Mr MICHAEL DALEY:** There's no question there.

**The Hon. Dr SARAH KAINE:** While I think we all feel very deeply about these issues, the Attorney General has indicated—

**Ms SUE HIGGINSON:** Do we?

**The Hon. Dr SARAH KAINE:** Yes, we do, Ms Higginson. There is a level now of rhetorical questioning that's not even requiring answers. They're not questions appropriate for budget estimates in terms of how they're being framed. I'm sure the Attorney will answer the appropriate questions—as he has about the figures with regards to closing the gap.

**The CHAIR:** Rhetorical questions are acceptable. Whether the Attorney answers them or not is another issue.

**Mr MICHAEL DALEY:** In response to that—

**Ms SUE HIGGINSON:** Okay. I'll move on to another question.

**Mr MICHAEL DALEY:** No. Sorry, but you just had a two-minute question—

**Ms SUE HIGGINSON:** No. I'll move on to another question.

**Mr MICHAEL DALEY:** No you won't, because I'll finish my answer.

**Ms SUE HIGGINSON:** It's my job to ask the questions, Attorney.

**The CHAIR:** Order!

**Mr MICHAEL DALEY:** You've just had a diatribe, and I didn't interrupt you.

**Ms SUE HIGGINSON:** I didn't diatribe. Is that what it is? It's diatribe, is it, Attorney?

**Mr MICHAEL DALEY:** Let me tell you what we are doing.

**Ms SUE HIGGINSON:** Not closing the gap is diatribe.

**Mr MICHAEL DALEY:** Let me tell you what we are doing to address criminal behaviour. The New South Wales Government has committed a total funding package of \$10 million over four years to expand justice reinvestment in New South Wales. The Paul Ramsay Foundation are also contributing \$9.4 million towards advancing justice reinvestment in New South Wales, specifically in Kempsey and Nowra, and in the existing sites of Bourke, Mount Druitt and Moree. In January of this year, DCJ launched the NSW Justice Reinvestment Grant Program to expend \$7.5 million of this funding package from June 2022 to June 2027. There were successful recipients there. The NSW Justice Reinvestment Grant Program prioritised three-year proposals led by Aboriginal and/or Torres Strait Islander community controlled organisations that develop local solutions to curb the high rates of adults and young people in contact with the police. In June 2023, DCJ entered into a contract —

**Ms SUE HIGGINSON:** Can I excuse you now, Attorney General? I didn't ask you the question, but thank you anyway. I feel you've had a long time now. Can I move on?

**Mr MICHAEL DALEY:** Yes.

**Ms SUE HIGGINSON:** Thank you.

**Mr MICHAEL DALEY:** You're suggesting that we were doing nothing in relation to helping young Aboriginal people.

**Ms SUE HIGGINSON:** No. I didn't suggest that at all.

**Mr MICHAEL DALEY:** Yes, you did.

**Ms SUE HIGGINSON:** I suggested that you've widened the gap. You're not closing it, and you are incarcerating more young First Nations children across the State. I asked you whether you are proud of that or ashamed of that.

**Mr MICHAEL DALEY:** I readily conceded that to you without you having to prompt me.

**Ms SUE HIGGINSON:** Attorney, in the last 40 seconds, could you please tell me how the ex gratia payment is going to Kathleen Folbigg at this point? How are you going with that, and the decision?

**Mr MICHAEL DALEY:** I understand—and correct me if I'm wrong here—on 27 July Ms Folbigg's legal representatives wrote directly to DCJ Legal seeking an ex gratia payment. DCJ is now preparing a response for me in order to consider what we do with that application.

**Ms SUE HIGGINSON:** Will you commit to having it finalised before the end of this year?

**Mr MICHAEL DALEY:** I'm not going to commit to anything, because I haven't been in this position before. I don't know that we've had such a high-profile case as Ms Folbigg's seeking an ex gratia payment. I want to make sure that we get this absolutely right. It won't be based on my opinions in relation to anything. It will be based on expert, detailed legal advice.

**Ms SUE HIGGINSON:** But just in terms of the timing?

**Mr MICHAEL DALEY:** I can't give you that. What I will commit to is no delay on the part of the department or me. I understand there's serious ramifications here all around. No delay.

**The Hon. SUSAN CARTER:** If I can go back to the implementation committee for the electronic monitoring. Once it's up and running, who will be running the electronic monitoring?

**Mr MICHAEL DALEY:** Who will be running it? Corrections will be.

**The Hon. SUSAN CARTER:** Corrections.

**Mr MICHAEL DALEY:** Yes.

**The Hon. SUSAN CARTER:** Can you give me another example of when Corrections will be handling a program for people, none of whom have yet been convicted of anything?

**Mr MICHAEL DALEY:** There isn't one in New South Wales. That's part of the problem. We're starting a—

**The Hon. SUSAN CARTER:** So why is the choice to have Corrections run it?

**Mr MICHAEL DALEY:** Because Corrections do a really good job with post-parole and post-conviction offenders.

**The Hon. SUSAN CARTER:** Yes. So now they'll be dealing with pre-conviction people who may possibly not even be offenders?

**Mr MICHAEL DALEY:** Correct.

**The Hon. SUSAN CARTER:** Why is this a Corrections matter?

**Mr MICHAEL DALEY:** Because they have the expertise in running electronic monitoring.

**The Hon. SUSAN CARTER:** That can't be shared with somebody else—another department or another operating group—who would be more appropriate to deal with people who are not prisoners?

**Mr MICHAEL DALEY:** No, because they have the expertise within that department. It is prudent to draw on that expertise, I would have thought.

**The Hon. SUSAN CARTER:** I understand that Corrections also have expertise dealing with programs that get people into work. Should they be handling all of the Government's programs getting people into work?

**Mr MICHAEL DALEY:** No.

**The Hon. SUSAN CARTER:** Why should they be dealing with this and not that if it's a question of expertise?

**Mr MICHAEL DALEY:** I don't know that I can answer your question more effectively than I have.

**The Hon. SUSAN CARTER:** Is there a systemic issue with saying that Corrections, whose only job is to deal with people who have been convicted of an offence, should now be asked to deal with people who may not ever be guilty of an offence? You see no problem with that?

**Mr MICHAEL DALEY:** I don't know that you're characterising it correctly. Corrections have a division within their department that deals with the electronic monitoring of people who are on parole.

**The Hon. SUSAN CARTER:** What's the difference between parole and bail, Mr Attorney?

**Mr MICHAEL DALEY:** One is pre-conviction and one's post-conviction, obviously.

**The Hon. SUSAN CARTER:** Exactly my point.

**Mr MICHAEL DALEY:** What, you want us to build from scratch a whole new department within police?

**The Hon. SUSAN CARTER:** I worry about people who are on bail being seen to be handled by Corrections and the message that might send to the community.

**Mr MICHAEL DALEY:** But Corrections hold people on remand now. Corrections deal with the security of people who are on remand already.

**The Hon. SUSAN CARTER:** It's essentially remand.

**Mr MICHAEL DALEY:** Fifty-six per cent of the prison population are on remand. They're looked after by Corrections now.

**The CHAIR:** There being no Government questions, we will now break until 11.15 p.m.

**(Short adjournment.)**

**The CHAIR:** We'll go to Opposition questions.

**The Hon. SUSAN CARTER:** Minister, part of your reforms that we were discussing just prior to the break in relation to domestic violence included a commitment that bail decisions would be made by magistrates, not registrars. Is this in place now?

**Mr MICHAEL DALEY:** It's getting there. Money has been allocated for upgrades to AVLs and it's on the way. Mr Tidball will have a precise timetable for you.

**MICHAEL TIDBALL:** In terms of the timetable, given the nature of the provision i.e. needing to have the capacity for registrars to effectively be able to process across the State, the \$4 million—

**The Hon. SUSAN CARTER:** Excuse me—registrars or magistrates?

**MICHAEL TIDBALL:** Sorry—matters being heard only by magistrates, not by registrars. There's a process working right across the State. I have had my most recent discussion with the police commissioner last week about effectively mapping the State so that we stand up that AVL, which has been funded. Whether it is in a police station or a court does not matter; the thing that matters is that the State is covered. There's a \$4 million allocation for that AVL and the work is progressing. The plan is to turn that provision on when everything is in place. That's expected to be by the end of calendar 2024.

**The Hon. SUSAN CARTER:** The expectation is that that legislation will commence at the end of December 2024?

**Mr MICHAEL DALEY:** The legislation has commenced. The provision, the operational guide—

**MICHAEL TIDBALL:** That particular provision—

**The Hon. SUSAN CARTER:** Excuse me, Mr Attorney General. Have all of the provisions of the legislation commenced?

**Mr MICHAEL DALEY:** I'd have to go through.

**The Hon. SUSAN CARTER:** You don't know that?

**Mr MICHAEL DALEY:** Show cause has. Electronic monitoring—

**The Hon. SUSAN CARTER:** You don't know when your legislation commences?

**Mr MICHAEL DALEY:** Don't interrupt me. You asked me a question.

**The Hon. CAMERON MURPHY:** Point of order—

**Mr MICHAEL DALEY:** Show cause has; I've already answered that.

**The CHAIR:** Order!

**Mr MICHAEL DALEY:** Electronic monitoring, we've spoken about.

**The CHAIR:** There is a point of order.

**The Hon. SUSAN CARTER:** Excuse me, Mr Attorney—

**The Hon. CAMERON MURPHY:** My point of order is it's quite disrespectful for the honourable member to keep interrupting the Attorney General when he's actually answering the question. She should be called to order and allow the Attorney General to actually continue with his answer.

**The CHAIR:** I don't think it quite makes the threshold for being called to order compared to what I've seen in these estimates in the past. I uphold the point of order except that part.

**Mr MICHAEL DALEY:** The answer is, Ms Carter, everything except electronic monitoring and registrars has been introduced. We've answered the timetable in respect of both of those this morning.

**The Hon. SUSAN CARTER:** Just to confirm, electronic monitoring has not commenced. Magistrates have not commenced yet.

**Mr MICHAEL DALEY:** No. That's right.

**The Hon. SUSAN CARTER:** Is there a commencement date for electronic monitoring?

**Mr MICHAEL DALEY:** I think we've been through that already this morning.

**The Hon. SUSAN CARTER:** No, commencement date for the legislation. You've talked about implementation. Is there a commencement date for the legislation?

**PAUL McKNIGHT:** That was the answer I gave you this morning.

**The Hon. SUSAN CARTER:** What is the commencement date for the legislation?

**PAUL McKNIGHT:** We expect electronic monitoring to be in place in early October.

**The Hon. SUSAN CARTER:** That's the implementation. When will the legislation commence?

**PAUL McKNIGHT:** Same answer.

**The Hon. SUSAN CARTER:** Sometime in early October, but we don't know when?

**PAUL McKNIGHT:** That's right.

**The Hon. SUSAN CARTER:** The magistrates—the commencement date for that is?

**MICHAEL TIDBALL:** As I've said, the provision will be turned on, commenced, when the registrar matter is dealt with, and we're working through that. We're working through that quickly. We're working through it in lockstep with the police, but it is about standing up AVL and making sure that we have a network of capability in place. It will be by the end of the year. I cannot give you a specific date other than by the end of calendar 2024.

**The Hon. SUSAN CARTER:** In the *Gender Equality Budget Statement*, Attorney General, at page 41, you say that up to six additional magistrates will be employed as part of the response to domestic violence. Have they been appointed yet?

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

**The Hon. SUSAN CARTER:** Is their appointment to reduce existing delays in hearing domestic violence matters or are they specifically for bail matters?

**Mr MICHAEL DALEY:** Sorry, I don't understand the question.

**The Hon. SUSAN CARTER:** You state that there will be up to six additional magistrates employed. Are they to reduce delays in domestic violence matters? Are they for bail? What is the purpose of those six magistrates?

**Mr MICHAEL DALEY:** They were as part of the bail package, I think, weren't they? I might just hand you over to Chris D'Aeth.

**CHRIS D'AETH:** They'll be general magistrates employed in the Local Court, responsible for all the duties of a magistrate.

**The Hon. SUSAN CARTER:** So they will assist with reduction in delays?

**CHRIS D'AETH:** They'll assist in all areas of the Local Court.

**The Hon. SUSAN CARTER:** They will be in which courts?

**CHRIS D'AETH:** I don't have the details. The location of the magistrates is a matter for the Chief Magistrate.

**The Hon. SUSAN CARTER:** Their salary—is that to be paid for as part of the \$45 million package to improve bail laws in the justice system, or does that come from a different fund?

**Mr MICHAEL DALEY:** I'm not sure.

**CHRIS D'AETH:** There's a combination. I think I might take it on notice.

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

**The Hon. SUSAN CARTER:** Perhaps you could also take on notice whether that funding is one off or whether they will continue to be employed in coming years.

**Mr MICHAEL DALEY:** Sure.

**The Hon. SUSAN CARTER:** The gender equality statement says up to six. Does this mean that you may employ less than six?

**Mr MICHAEL DALEY:** At the moment the target is six, I think.

**The Hon. SUSAN CARTER:** Is there a guarantee that there will be six, or is that an aspirational target?

**CHRIS D'AETH:** I think the applications—expressions of interest—closed recently for additional magistrates, and there'll be a process to go through in relation to those applications. It will be a matter then for the Attorney in terms of how many appointments are made from those candidates.

**The Hon. SUSAN CARTER:** I guess that's what I'm asking. What is the Attorney's current intention as to how many magistrates will be employed?

**Mr MICHAEL DALEY:** I'll just take that on notice so I can give you a completely accurate answer.

**The Hon. SUSAN CARTER:** So you can't share your current intention. Can you explain something to me about how the new centralised bail court is going to work?

**Mr MICHAEL DALEY:** What will happen is—at the moment, in some courts, magistrates will come in on the weekends, but mostly they're done by registrars. We've made a commitment that no bail hearings will be heard by registrars. On the weekend there will be a centralised bail court at Parramatta, where there will be, I think, six acting magistrates on duty to hear all bail matters. Where it's not feasible to transport the offender to Parramatta, they will be heard via AVL from the venue that they are at.

**The Hon. SUSAN CARTER:** That's funded as part of the \$230 million domestic violence package?

**Mr MICHAEL DALEY:** No, it's funded as part of the \$45 million package.

**The Hon. SUSAN CARTER:** Of the \$45 million, what's the estimated cost of that centralised bail court?

**Mr MICHAEL DALEY:** I have to get you the updated figures on that, so I'll take that on notice.

**The Hon. SUSAN CARTER:** If you could, that would be good. Just in relation to the audiovisual link facilities and the centralised bail court, if we look at *Budget Paper No. 03* at 2-11, it indicates that the total cost of this will be \$18 million but currently, until the end of 2028, there's only \$14.1 million allocated. Does this mean that—the budget suggests—this will actually roll out past December and take more than four years to actually implement?

**Mr MICHAEL DALEY:** No, it won't.

**The Hon. SUSAN CARTER:** Then how do you explain the budget figures?

**Mr MICHAEL DALEY:** I'll take that on notice. I think the budget might have predated those announcements.

**The Hon. SUSAN CARTER:** The budget predated the announcements, so the budget figures are wrong?

**Mr MICHAEL DALEY:** I'll take it on notice.

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

**The Hon. NATASHA MACLAREN-JONES:** The gender equality statement, on page 41, states:

The NSW Government has passed new laws to strengthen community safety by making it harder for alleged serious domestic violence offenders to get bail and ensuring all bail decisions are made by magistrates or judges.

Today in *The Daily Telegraph* there was an article regarding a man, Kamal El Jamal, who has been charged with shooting his wife and severing her spine. It states that he's been granted bail, yet again, while he awaits trial—this time after he allegedly drove at a security guard while trying to flee the rehabilitation facility. Attorney General, do you think your new bail laws are currently working?

**Mr MICHAEL DALEY:** I don't want to comment on that specific matter because it's currently before the courts. I have great reluctance in talking about individual matters anyway, but that one's before the court.

**The Hon. SUSAN CARTER:** Point of order: I understand the Attorney General's reluctance to discuss matters before the court. The question did not ask the Attorney to discuss a matter before the court. The question gave an example, and asked the Attorney to reflect on whether the new laws were actually working.

**The Hon. CAMERON MURPHY:** To the point of order: That's just not right in that the entire characterisation and framing of the question was specifically about a case that's before the courts. It would be completely inappropriate for the Attorney to answer a question framed in that way.

**The CHAIR:** Would you like to frame the question again?

**The Hon. NATASHA MACLAREN-JONES:** Attorney General, do you think your current bail laws are working? Do you have examples of where they are?

**Mr MICHAEL DALEY:** It's a bit early to tell because they came in on 1 July. We will see what will happen to the remand figures. I suppose one of the measures will be whether there are more serious offenders who are remanded due to not being able to get bail as a result of our new laws. They only came in on 1 July, so it's a bit early to tell.

**The Hon. NATASHA MACLAREN-JONES:** Will you be monitoring those remand figures? Or is that the responsibility—

**Mr MICHAEL DALEY:** I'll be monitoring them carefully.

**The Hon. NATASHA MACLAREN-JONES:** How often will you be checking? Six-monthly? Monthly? Twelve-monthly?

**Mr MICHAEL DALEY:** It might be weekly. I meet with these senior officers weekly. Remand figures are of great concern, and I may even be asking them on a weekly basis about what's happening, and talking to Minister Chanthivong as well.

**The Hon. NATASHA MACLAREN-JONES:** We're now two months in. Have you asked for any of those figures to date?

**Mr MICHAEL DALEY:** I've spoken to the officers about that and the figures that I'm getting show that the remand population is on the increase. But I need to then make the necessary connection between those figures and these provisions. It's possible, Ms Maclaren-Jones—and anecdotally I've been told—that following the alleged murder of Molly Ticehurst there was already behavioural change in the judiciary, where magistrates and judges were refusing bail more often in relation to sexual assault and domestic violence matters than they might have been previously. I don't have any figures to back that up; that's just my conversations with judicial officers.

**The Hon. NATASHA MACLAREN-JONES:** When you're looking at those figures, and also at being able to then do a breakdown as to whether or not the bail laws are effective, will you be releasing that data publicly?

**Mr MICHAEL DALEY:** Yes. I think BOCSAR will do that.

**MICHAEL TIDBALL:** Yes. I also receive a weekly update on remand figures with some breakdown from the Corrective Services commissioner, which I monitor very closely.

**The Hon. NATASHA MACLAREN-JONES:** Attorney General, I might move to the Hunter Valley bus crash and a question that you were asked on 8 May in the Parliament. You stated at the time that you had asked the DPP for "comprehensive briefing on all aspects of the matter when it is finally concluded". Did you receive that briefing?

**Mr MICHAEL DALEY:** I don't have those *Hansard* comments in front of me, and I'm very reluctant to talk about this because it's before the courts. In fact, I think the sentencing hearing is on next week. I think what I did say at the time was, having met with some of the grieving fathers from that accident—and that was a really difficult meeting, I have to tell you, given the pain that those people were feeling. I am disappointed when any victims or families of victims feel hurt or traumatised or let down by the justice system, but the matter is before the courts. The DPP is an independent statutory office holder. But when the matter is finally dealt with, I would be asking the DPP to brief me on what happened in the lead-up to the prosecution, her dealings with the families and things like that. Once it's done then I'll be sitting down with the DPP to see if we can assist her and her office to improve those processes of talking to affected people, if we deem that those improvements are necessary.

**The Hon. NATASHA MACLAREN-JONES:** So you haven't had a meeting or a briefing from the DPP regarding this?

**Mr MICHAEL DALEY:** Not in respect of those comments, because I'm waiting for the matter to be concluded. I think I've got that right, haven't I, Director?

**SALLY DOWLING:** Yes.

**The Hon. NATASHA MACLAREN-JONES:** Yes, I've got a copy here of *Hansard*, and you have said the "aspects of the matter when it is finally concluded".

**Mr MICHAEL DALEY:** Yes.

**The Hon. NATASHA MACLAREN-JONES:** Would you comment on whether or not you think the DPP has handled this matter appropriately?

**Mr MICHAEL DALEY:** No, it's before the courts. No.

**The Hon. NATASHA MACLAREN-JONES:** Do you know when the matter will be concluded and you intend to speak to the DPP?

**Mr MICHAEL DALEY:** My understanding is that the sentencing hearing is on in Newcastle court next week, and it's set down for three days. Beyond that, I don't know. It might well be that the judge will take submissions over three days and reserve a decision, or whether they hand it down straightaway, I don't know.

**The Hon. NATASHA MACLAREN-JONES:** I understand, based on media reports and also from *Hansard*, that you did speak to some of the family members. I would like to know your opinion or your view in relation to how the DPP does communicate with victims and what improvements can be made.

**Mr MICHAEL DALEY:** I think I just properly answered that question.

**The Hon. NATASHA MACLAREN-JONES:** I might move on to graffiti, in particular, Attorney General. Do you subscribe to the broken windows theory?

**Mr MICHAEL DALEY:** I'm not sure what the broken windows theory is. Is that that if someone breaks a window or graffiti something, you fix it up straightaway to deprive them of their artistic exhibitionism?

**The Hon. NATASHA MACLAREN-JONES:** Yes, visible signs of crime.

**Mr MICHAEL DALEY:** Probably, yes. I think there's some currency in that, yes.

**The Hon. NATASHA MACLAREN-JONES:** Then can you explain why you've chosen to cut the Crime Prevention Fund and the Graffiti Initiatives Fund in the last budget?

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

**The Hon. NATASHA MACLAREN-JONES:** But aren't these line items in your budget, or have been previously?

**Mr MICHAEL DALEY:** I'll take it on notice.

**The Hon. NATASHA MACLAREN-JONES:** But why did you choose to cut them?

**Mr MICHAEL DALEY:** I just said I'll take it on notice.

**The Hon. NATASHA MACLAREN-JONES:** But you made the decision to cut them.

**Mr MICHAEL DALEY:** I can't be any more specific than that I'll take it on notice.

**The Hon. Dr SARAH KAINE:** Point of order: Witnesses, including the AG, are entitled to take things on notice in order to get correct information. Mrs Maclaren-Jones has asked the same question four or possibly five times. The Minister has said he'll take it on notice.

**The Hon. NATASHA MACLAREN-JONES:** To the point of order: I'm asking why he's made a decision. Clearly, he would know why he decides things.

**Mr MICHAEL DALEY:** My answer is that I will take it on notice.

**The CHAIR:** Okay, that's the answer.

**The Hon. NATASHA MACLAREN-JONES:** Attorney General, did you actually make the decision, or did someone make it for you?

**Mr MICHAEL DALEY:** I'll take it on notice, but the budget is a Government document that goes through Cabinet.

**The Hon. NATASHA MACLAREN-JONES:** But, Attorney General, those two funds were administered by the Attorney General. You're saying that you didn't know that they were being cut?

**Mr MICHAEL DALEY:** I think, if you're asking me to rely on memory, that they were programs that were funded by the previous Government for four years only, but I will take that on notice.

**The Hon. NATASHA MACLAREN-JONES:** Attorney General, an email was sent by the crime prevention email advising:

This decision follows the Comprehensive Expenditure Review announced by the NSW Government in June 2023, which resulted in the inclusion of \$13.0 billion in savings, reprioritisation, and other budget improvement measures in the State Budget over the next four years.

They went on to state, "We recognise this decision will be disappointing for many." Attorney General, can you outline what is more important as a priority than funding crime prevention in local communities?

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

**The Hon. NATASHA MACLAREN-JONES:** Attorney General, I was referring to the two grants that have been defunded.

**Mr MICHAEL DALEY:** The ones you just asked me about that I've said I'm taking on notice, right.

**The Hon. NATASHA MACLAREN-JONES:** Yes, and your department advised the local community that they were being cut because of an expenditure review decision. I'm asking you what is a higher priority than funding graffiti removal.

**Mr MICHAEL DALEY:** So you're asking me about the context in which those programs were discontinued, and I've said I'll have to go back and take that on notice. It might well be that they weren't value for money, that they didn't work or that they were evaluated as not being—that there were better ways to do it. I don't know; that's why I said I'd take it on notice.

**The Hon. NATASHA MACLAREN-JONES:** And I'm asking you what is more important than funding programs like that. What has replaced it?

**Mr MICHAEL DALEY:** I'll take it on notice. It might be that they weren't replaced. I don't know; that's why I said I'll take it on notice. You asked me about a budget from over a year ago, so I'll have a look and get back to you.

**The Hon. NATASHA MACLAREN-JONES:** But this is budget estimates. Surely you know what you're funding and what you're not.

**Mr MICHAEL DALEY:** When a Minister says, "I'll take it on notice," I don't know that you can eke out more information than that.

**The Hon. NATASHA MACLAREN-JONES:** But surely you should come prepared.

**Mr MICHAEL DALEY:** Surely I've just told you five times that I'm taking it on notice. That's last year's budget. You could have asked me that in last year's estimates.

**The Hon. TANIA MIHAILUK:** I want to go back to asking questions about the equality bill. Is your office working on anything at all in regard to that bit of legislation? Are they managing any briefing notes or seeking legal counsel or advice?

**Mr MICHAEL DALEY:** I'm not sure what you're getting at, Ms Mihailuk.

**The Hon. TANIA MIHAILUK:** The equality bill is currently before the Parliament. We know it's been extended to October. You mentioned earlier that you are likely to have carriage on behalf of the Labor Party and



the Government. There's a note coming up to you. What work is already being undertaken in your office and within the department in preparation for that legislation?

**Mr MICHAEL DALEY:** I told you earlier that the Government hasn't yet arrived at a position on that.

**The Hon. TANIA MIHAILUK:** Well, that's clear. That's why it keeps extending the date.

**Mr MICHAEL DALEY:** That's right, so what we'll be doing at the moment is receiving and considering submissions that people are making on an informal basis to our office.

**The Hon. TANIA MIHAILUK:** Okay, so there are now stakeholders separately notifying—

**Mr MICHAEL DALEY:** People write letters to me and the Ministers all the time in relation to all sorts of matters, and the equality bill is one of them.

**The Hon. TANIA MIHAILUK:** And you're meeting with stakeholders as well, I imagine. Is that right?

**Mr MICHAEL DALEY:** My office is, yes, and the department is, yes.

**The Hon. TANIA MIHAILUK:** You're obviously examining what other States have done as well. Is that part of the process?

**Mr MICHAEL DALEY:** That'll form part of our considerations.

**The Hon. TANIA MIHAILUK:** As I mentioned earlier, I note that Queensland's bill, the Respect at Work and Other Matters Amendment Bill 2024, has chosen not to consider any of the exceptions and exemptions in relation to religious institutions, for example. That's not being considered by Queensland. My concern, as I reminded you earlier, is that 52 amendments to the ADA have been proposed by the equality bill. You currently have a review into the ADA that you don't have an end date for or any advice from the Law Reform Commission as to when that consultation paper will be made publicly available. Why would the Government even consider the equality bill prior to a consultation paper coming out on the ADA review?

**Mr MICHAEL DALEY:** Because it's a bill that's before Parliament, and we'll work out, when we arrive at a position, what—

**The Hon. TANIA MIHAILUK:** But somebody must be going through the copious amounts of—we're talking about 80 amendments to 20 pieces of legislation.

**Mr MICHAEL DALEY:** Ms Mihailuk, I don't know. When I say to you the Government—it has been examined, but the Government hasn't arrived at a final position on it yet.

**The Hon. TANIA MIHAILUK:** Are your staff, specifically, in the ministerial office spending a lot of time on the equality bill?

**Mr MICHAEL DALEY:** They have been, yes.

**The Hon. TANIA MIHAILUK:** Have they looked closely, for example—

**Mr MICHAEL DALEY:** Can I also just remind you that it's not a Government bill. It's not our bill.

**The Hon. TANIA MIHAILUK:** No, I know. You could just knock it on its head. It's a private member's bill; I appreciate that. I think that there's an easy solution. You've got an ADA review, and most of the amendments being proposed by the equality bill are to the ADA.

**Mr MICHAEL DALEY:** Some of them are; some of them aren't.

**The Hon. TANIA MIHAILUK:** There are 52 amendments.

**Mr MICHAEL DALEY:** Across a range of portfolios.

**The Hon. TANIA MIHAILUK:** Attorney General, I just wanted to ask specifically, have you met with any groups in relation to concerns around women's rights, for example?

**Mr MICHAEL DALEY:** Yes.

**The Hon. TANIA MIHAILUK:** I think last time I asked you a question about who you'd met with and you hadn't met with any women's groups at that stage.

**Mr MICHAEL DALEY:** No, that's not true. I meet with women's groups.

**The Hon. TANIA MIHAILUK:** You have since?

**Mr MICHAEL DALEY:** I have been meeting with women's groups and domestic and family violence groups since the day I was sworn in as Attorney General.

**The Hon. TANIA MIHAILUK:** Have people raised to you concerns about self-ID checks, for example?

**Mr MICHAEL DALEY:** Yes.

**The Hon. TANIA MIHAILUK:** And the impact on women's rights and children's rights?

**Mr MICHAEL DALEY:** Yes.

**The Hon. TANIA MIHAILUK:** And you have no view on that? You're not making public your view on any of this?

**Mr MICHAEL DALEY:** My view is the Government's view.

**The Hon. TANIA MIHAILUK:** What is the Government's view? That's what we're trying to find out. This is the third budget estimates that we're asking essentially the same questions. We can't get any answers.

**Mr MICHAEL DALEY:** These are hugely complex issues with serious ramifications. That's why we're taking our time to make sure we do all of the assessments on an informed basis and not in a rushed way.

**The Hon. TANIA MIHAILUK:** What about the issue of surrogacy? Has your office reviewed, for example, what the Council of the European Union and the European Parliament have introduced in relation to the exploitation of surrogacy? One of the areas this bill is looking at is legalising international commercial surrogacy in New South Wales.

**Mr MICHAEL DALEY:** As I said, we are carefully considering all aspects of the equality bill, but on the Surrogacy Act it's very complex, particularly in the context of children who are living in New South Wales with families who got here via commercial surrogacy agreements at some point. I've met with advocates who have made submissions to me about the processes that relate to surrogacy, and my office has met with the member for Sydney and Equality Australia to discuss this matter. We made a commitment prior to the election to review the Surrogacy Act 2010 and the Status of Children Act 1986. That review is underway. Submissions closed on 2 August this year. We'll consider those submissions, along with information from all submissions made directly to us and from stakeholders, on this complex issue.

**The Hon. TANIA MIHAILUK:** Are you also seeking legal guidance into the humanitarian and legal consequences of commercial surrogacy? I imagine that is part and parcel.

**Mr MICHAEL DALEY:** I imagine that will form part of the all-encompassing review that the department will look at.

**The Hon. TANIA MIHAILUK:** So you'll be looking at what the European Union, for example, has had to say in relation to the exploitation of surrogacy?

**Mr MICHAEL DALEY:** The review will be done by my department, by DCJ. They will look at things that they consider to be relevant. But now that you've reminded them here to look at that, I'm sure they will.

**The Hon. TANIA MIHAILUK:** What do you know of the self-ID checks in other States? What is now legal in other States, that you're aware of?

**Mr MICHAEL DALEY:** I'm not in a position to give you a discourse here about what may or may not be on the statute books in other States.

**The Hon. TANIA MIHAILUK:** But you said earlier that you would be looking into that. You want to be across what other States are doing, don't you, to make a decision on what New South Wales may do?

**Mr MICHAEL DALEY:** In relation to self-identification on birth certificates and sex markers on birth certificates, if that's what you're referring to—

**The Hon. TANIA MIHAILUK:** Yes, just changing the sex on the birth certificate.

**Mr MICHAEL DALEY:** —New South Wales is the only jurisdiction that requires a surgical procedure for a person to apply for a change of sex in the registry. We're considering that concurrently with and as part of our response to the equality bill.

**The Hon. TANIA MIHAILUK:** On parental rights—I asked you this at the last budget estimates in relation to parental consent, and we talked about Gillick competence—do you believe that parents have a right to permit and oversee any medical treatment their children receive?

**Mr MICHAEL DALEY:** It's not a matter of what I believe; it's a matter of what the experts say. I don't have anything to add—

**The Hon. TANIA MIHAILUK:** Who are the experts that you're relying on?

**Mr MICHAEL DALEY:** These are the health issues, these are the psychological issues that are in consideration here. I don't have anything to add.

**The Hon. TANIA MIHAILUK:** Have you met with any experts in relation to this issue? It's a big part of this bill that, apparently, people in your office are working on at the moment.

**Mr MICHAEL DALEY:** Can you let me answer the question?

**The Hon. TANIA MIHAILUK:** Sure.

**Mr MICHAEL DALEY:** I don't have anything to add to that, other than what I said to you in the last estimates.

**The Hon. TANIA MIHAILUK:** That wasn't much very much, Attorney General. I am just trying to understand, given that you're getting closer to a government decision, what work has been undertaken in relation to parental rights and children receiving medical treatment.

**Mr MICHAEL DALEY:** I think that's properly a matter for the Minister for Health in the first instance.

**The Hon. TANIA MIHAILUK:** Is it?

**Mr MICHAEL DALEY:** Yes.

**The Hon. TANIA MIHAILUK:** The equality bill would make it legal for people under the age of 18 to undergo gender-affirming medical treatment without their parents' consent.

**Mr MICHAEL DALEY:** Yes, and a lot of those considerations will be guided by the advice from medical and psychological experts.

**The Hon. TANIA MIHAILUK:** And where do you find these medical or psychological—

**Mr MICHAEL DALEY:** When Ryan is sitting in this chair next week, you can ask him.

**The Hon. TANIA MIHAILUK:** So it's the health department?

**Mr MICHAEL DALEY:** Yes.

**The Hon. TANIA MIHAILUK:** But you wouldn't seek any separate legal advice in relation to this?

**Mr MICHAEL DALEY:** The legal advice will be what implements the advice given by health experts.

**The Hon. TANIA MIHAILUK:** Europe and the UK have emphatically walked away from the affirmative model of gender-affirming care when it comes to minors. Why is New South Wales going against international medical consensus by considering introducing these laws?

**Mr MICHAEL DALEY:** That's a question that is not directed properly to me, but to the Minister for Health.

**The Hon. TANIA MIHAILUK:** You're the chief law officer, with respect.

**Mr MICHAEL DALEY:** I have just answered that question.

**The Hon. TANIA MIHAILUK:** I think it is a matter for you, and you've just indicated to me that you've got staff within your office who are working, as we speak, on this equality legislation. They're clearly going to be preparing notes—

**Mr MICHAEL DALEY:** And earlier in the day, I said—

**The Hon. TANIA MIHAILUK:** —and you will have carriage on behalf of the Labor Party, on behalf of the Government.

**Mr MICHAEL DALEY:** That doesn't mean that all of the issues in that bill fall into my portfolio. There are some that don't and, on those issues, they are health and medical issues, as I've just explained to you.

**Dr AMANDA COHN:** Good morning, Attorney General. I understand that in 2014 the Criminal Records Act was amended to allow historical homosexual offences to be extinguished, and the formal apology by the Parliament earlier this year to those impacted by the criminalisation of homosexuality in this State was

welcome, it was important and it drew public attention to the opportunity for expungement. Is any compensation available for applicants who go through that process?

**Mr MICHAEL DALEY:** I'm not sure. I would have to take that on notice, unless someone can—

**PAUL McKNIGHT:** It's not a process that involves compensation, no.

**Dr AMANDA COHN:** Has any additional funding been allocated to meet the increased demand for expungement—for example, Community Legal Centres?

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

**PAUL McKNIGHT:** I'm not sure that we've seen any increased demand in recent months.

**Dr AMANDA COHN:** I'm certainly advised by at least one Community Legal Centre that there has been.

**PAUL McKNIGHT:** That's excellent.

**Dr AMANDA COHN:** I'm also interested to know, and I appreciate it may be on notice, what communication is made with people with relevant offences about their eligibility for extinguishment?

**Mr MICHAEL DALEY:** We can take that on notice if you want.

**PAUL McKNIGHT:** Many of these offences stretch back a number of years, and when people come forward to have their convictions considered it's often a question of going back through court records that are sometimes actually quite difficult to find and sometimes are not in existence anymore. So it just isn't possible to go back through the court records and find all of these problematic convictions and be proactive about looking at their expungement. We do rely on people coming forward with their convictions, and when they do come forward we look at them very carefully and we consider the issues very seriously.

**Dr AMANDA COHN:** Attorney General, when you spoke to the apology, you rightfully acknowledged the impact that these offences have had on some people's lives—their work, their relationships, their ability to travel. People who have gone through all of that now have to proactively go through a process that's been described to me as fairly onerous to have those records extinguished. Would you consider providing additional support for people to go through that process without it being retraumatizing?

**Mr MICHAEL DALEY:** I'm happy for you to come and meet with me and suggest some assistance in that regard, sure.

**Dr AMANDA COHN:** I will take you up on that offer. I appreciate these questions may need to be taken on notice. Has the department collected data on how many people who had been charged with historical homosexual offences are now eligible?

**PAUL McKNIGHT:** I'm not sure I understand the data you're looking for there. I'm very happy to take on notice the question. It might be helpful, though, to put those questions on supplementary, just so we're absolutely clear on the question that's being asked.

**Dr AMANDA COHN:** Sure. I'm happy to do that. It's referring to offences like buggery and attempted buggery, which clearly have no relevance today.

**PAUL McKNIGHT:** Absolutely. Most of the offences are in the nature of offensive conduct offences.

**Dr AMANDA COHN:** I am happy to provide a written supplementary question with those offences. I am also interested to know how many people have actually applied for extinguishment, and how many of those have been successful.

**PAUL McKNIGHT:** Absolutely. I don't have those statistics in front of me today, but I'm very happy to take that on notice. As I was saying, many of these offences are in the nature of offensive conduct offences and they were committed in a range of situations. Sometimes they relate to quite obscure offences that were in what I would describe as random Acts on the statute book that have now been cleaned up and have gone away. It's often the case that actually it's not just the conduct that is coming to light; sometimes the offences people were charged with are obscure. Sitting in the mid-twenty-first century, we just don't know what those offences were. It's a complex issue.

**Dr AMANDA COHN:** My further questions are for the Attorney General. I also have some questions about the Anti-Discrimination Act. During the apology, which we have already talked about, you said, according to *Hansard*:

No-one should be discriminated against because of their sexual orientation. It should not happen today and it should not have happened 40, 50 or 100 years ago.

I agree with you. But as I'm sure you know, the Anti-Discrimination Act at the moment doesn't provide protection based on sexual orientation broadly; it only provides protection based on homosexuality and transgender status. Someone who is bisexual, like me, receives no protection at all. Do you support that very simple change to the Anti-Discrimination Act to provide protection based on sexual orientation and gender identity broadly?

**Mr MICHAEL DALEY:** I have spoken earlier about this. One of the reasons that I referred the Anti-Discrimination Act off to the Law Reform Commission is because it's not fit for purpose for exactly reasons like that you have pointed out.

**Dr AMANDA COHN:** Minister, I really appreciate that, and The Greens supported the referral to the Law Reform Commission. But last year you passed an amendment to the Anti-Discrimination Act which extended vilification protections on the basis of religion despite that review being underway. Given that this particular change is very simple, why haven't you treated it with the same urgency?

**Mr MICHAEL DALEY:** Because the protection of religious attributes were a part of longstanding efforts by Labor in opposition. My predecessor, the former member for Liverpool, and shadow Attorney General, Paul Lynch, brought two private member's bills before the House that were defeated by the Coalition Government. It was something that has been a longstanding effort of ours. It was the one thing that I said we would bring in respect of amendments to the Anti-Discrimination Act.

For example, Ms Cohn, you might know that racial attributes are protected from discrimination and vilification. Transgender: discrimination and vilification. Marital or domestic status: no protection against vilification. On the grounds of disability: no protection against vilification. Carers' attributes: no protection from vilification. Age: discrimination, yes; vilification, no. So there is a lot of work to do. I had to draw the line somewhere, and we drew it at religious protections because that was a longstanding effort of the Labor Party. But if I was going to go down the route of doing a whole raft of other amendments, it would make a bit of a mockery of asking the Law Reform Commission to do that work.

**Dr AMANDA COHN:** You said that it was a longstanding commitment of the Labor Party. It's my recollection that the Hon. Penny Sharpe, now Leader of the Government in the upper House, tabled petitions to this effect while Labor was in opposition. Members of the Labor Party marched in the Mardi Gras alongside the Premier wearing t-shirts that said, "Labor: A Future Free From Discrimination." And this is no longer an urgent commitment for this Government?

**Mr MICHAEL DALEY:** It will be a part of the review. I don't know that I can answer in any other way. They were the decisions that we made.

**Ms SUE HIGGINSON:** Attorney General, I know we have spoken about this in previous estimates, but I have had a few former members of—actually, quite a lot of former members of cults in contact with my office. I am really concerned that these people just have no way of accessing their assets that are held in trust by religious assemblies when they make the difficult and challenging decision to leave these coercive organisations. I have seen evidence of people left fairly destitute and open to abuse by these organisations. Are you aware of any particular protections for former members of religious assemblies who rightly want to control their homes and businesses and belongings when they leave these institutions?

**Mr MICHAEL DALEY:** That's a pretty simple question to what seems to me like a complicated answer, depending on the personal circumstances of each individual and how their assets are dealt with. I don't know that I can answer that question in the way you want me to.

**Ms SUE HIGGINSON:** I know we have had a brief discussion about it. You may not recall.

**Mr MICHAEL DALEY:** I don't recall that in either of my two estimates—talking about cult members.

**Ms SUE HIGGINSON:** I raised it with you at the last estimates or the one before. I'm really curious. There are laws that seem to enable this behaviour for some religious institutions.

**Mr MICHAEL DALEY:** So what are you saying? Members of cults have signed over their assets to somebody else and—

**Ms SUE HIGGINSON:** Whilst they're part of that religious association. And then they leave and they have no way of accessing their assets. It seems like there are laws that protect the behaviour of these cults, for want of a better term. Individuals are roaming around New South Wales now, literally, incapable of accessing mechanisms to be able to get control over their lives and assets again.

**Mr MICHAEL DALEY:** I'm happy for you to come and meet with me and with the department. We will talk about what might be done there. But at the moment, if you've got, for example, a person who is of sound mind and body who makes a gift or makes a legal disposition of real or other property to someone, and then wants to revoke it later on—once the transaction is complete, I don't know that, absent any form of coercion or dishonesty or some behaviour on behalf of the recipient that might have invalidated that disposition, there'd be much that anyone could do.

**Ms SUE HIGGINSON:** That's the reality. There are laws at the moment, whether it's stewardship foundations—these are Acts of the New South Wales Parliament that provide these institutions this kind of ongoing protection of these assets. I'm very grateful for the offer, and I think perhaps that might be the next step. If there were laws that needed to change in order to provide—

**Mr MICHAEL DALEY:** Yes. I'll take on notice what provisions currently exist—it might assist people in that regard—and extend the opportunity for you to come and meet with me to educate us up on this a bit more.

**Ms SUE HIGGINSON:** That's very good of you. Thank you.

**The Hon. NATASHA MACLAREN-JONES:** Attorney General, in March you increased the threshold for bail for young people who have repeatedly engaged in break and enter and motor vehicle theft. This was limited to 12 months. Has there been a reduction in break and enter and motor vehicle theft?

**Mr MICHAEL DALEY:** I would have to get some advice on that. I will take that on notice.

**The Hon. NATASHA MACLAREN-JONES:** Are you currently undertaking a review?

**Mr MICHAEL DALEY:** Of those? I think that they were time limited to 12 months, those provisions.

**The Hon. NATASHA MACLAREN-JONES:** Yes. So will you be undertaking a review?

**Mr MICHAEL DALEY:** One hundred per cent, yes.

**The Hon. NATASHA MACLAREN-JONES:** At the moment we are halfway through the implementation of those changes. You have no data available at the moment?

**Mr MICHAEL DALEY:** We can get it. I don't know if we will be able to ascertain anything meaningful from it, but we can get it. I just said to you a minute ago that I would take it on notice. We will find those statistics about how often those charges have been used—unless you want to hang on for a minute and I'll see if someone here has got a note about them. Do you want to know about the performance crime offence or the temporary bail test in relation to break and enter, or both?

**The Hon. NATASHA MACLAREN-JONES:** Both, please.

**Mr MICHAEL DALEY:** In relation to the performance crime, New South Wales police initiated 19 legal actions for offences under section 154K of the Crimes Act between April and June of this year. Of the 19 legal actions, four of them were cautioned under the Young Offenders Act, and 15 court attendance notices were issued. So there were 19 legal actions, four cautions and 15 court attendance notices. Of the 15 court attendance notices, two of them were issued to adults and 13 were to young people. Between April 2024 and June 2024 two section 154K charges were finalised in the Children's Court. Both of them were proven. One defendant received a suspended sentence with supervision and the other one received a children's community service order. That's in relation to the "post and boast" offences, if you want to call it that.

**The Hon. NATASHA MACLAREN-JONES:** Sorry to interrupt but my question was actually asking whether there has been a reduction. So I'm interested if you're able to compare.

**Mr MICHAEL DALEY:** Sorry, I thought you were asking about the—

**Ms SUE HIGGINSON:** I want the stats.

**The Hon. NATASHA MACLAREN-JONES:** He can come back to you.

**Mr MICHAEL DALEY:** Has there been a reduction in—

**The Hon. NATASHA MACLAREN-JONES:** In break and enter and also motor vehicle theft since—

**Mr MICHAEL DALEY:** I'll have to take that on notice. We rely on BOCSAR for those figures and, if not, we'd have to go digging for them somewhere else.

**The Hon. NATASHA MACLAREN-JONES:** When I asked about a review being done, you are undertaking a review of, once those changes came in, whether they've been successful or not?

**Mr MICHAEL DALEY:** Yes.

**The Hon. NATASHA MACLAREN-JONES:** When that will that commence?

**Mr MICHAEL DALEY:** It's time-limited to 12 months. At the 12-month mark we'll ascertain what effect that regime had.

**The Hon. NATASHA MACLAREN-JONES:** In response to a question in the Legislative Assembly on 13 March, you said that the laws would not increase the threshold for 17-year-olds accused of sexual assault while on bail for another sexual assault charge, and that the "legislation is not perfect". What are you doing to address the legislation?

**Mr MICHAEL DALEY:** Sorry, I don't understand you. There's not enough context there. I can't remember what the question was. I don't remember what my answer was.

**The Hon. NATASHA MACLAREN-JONES:** I can hand you a copy of *Hansard*. I'm referring to the question that was asked in relation to the bail laws, where you indicated they weren't perfect. My question was, in that response, you said the legislation is not perfect. I'm interested to know what you're doing to improve that legislation.

**Mr MICHAEL DALEY:** I can't remember what was in my mind at the time, but I was probably suggesting that it's not a panacea. It won't solve all of those issues overnight. That's what I meant by "it's not perfect".

**The Hon. NATASHA MACLAREN-JONES:** Are you taking any actions to address what you might think is not perfect?

**Mr MICHAEL DALEY:** I've said in relation to not only those laws but all of the many Acts that are under my purview that I consider that all of those Acts and all of those legislative provisions are apt to be reviewed at any time. Nothing is written in stone and if circumstances change, what a good government should do is to move to improve those provisions. We will be talking to all of the relevant stakeholders in relation to those provisions—the police, Aboriginal legal services, Legal Aid, DPP and all of the relevant stakeholders. We'll sit down after them and see what effect, if any, they've had and what we need to do from there.

**The Hon. NATASHA MACLAREN-JONES:** That question was specifically in relation to sexual assaults.

**Mr MICHAEL DALEY:** Yes.

**The Hon. NATASHA MACLAREN-JONES:** That's something you'll look at later on?

**Mr MICHAEL DALEY:** The question was how the new provisions will relate to a 17-year-old who is out on sexual assault—so, yes, the same thing.

**The Hon. NATASHA MACLAREN-JONES:** In Moree, sexual assaults have increased by 112 per cent over the last—

**Mr MICHAEL DALEY:** Since when?

**The Hon. NATASHA MACLAREN-JONES:** Over the last two years. That's according to the latest BOCSAR figures. In your opinion, is sexual assault a lesser crime than motor vehicle theft?

**Mr MICHAEL DALEY:** That's not a fair question. Lesser in what sense?

**The Hon. NATASHA MACLAREN-JONES:** You've just said that the bail laws are not perfect and you're saying these are things that you'll look at down the track. You're tackling motor vehicle crime and break and enter, but when it comes to sexual assault, that's something you'll look at in the future. Is that correct?

**Mr MICHAEL DALEY:** No. If you have a look at the amendments that we made and that we spoke about earlier in relation to domestic violence, they contain considerations in relation to sexual assault. We'll be bringing in a new raft of measures in relation to breaches of ADVOs and things like that. I'm not sure what your question is getting at.

**The Hon. NATASHA MACLAREN-JONES:** This is about youth violence and sexual assault, not domestic and family violence.

**Mr MICHAEL DALEY:** Yes.

**The Hon. NATASHA MACLAREN-JONES:** I might refer to a press release that you put out on 12 March announcing a targeted response to youth crime in Moree and a six-month action plan that would optimise service delivery in Moree. Has this plan been completed?

**Mr MICHAEL DALEY:** That is being led by the Cabinet Office, I think, isn't it?

**PAUL McKNIGHT:** The Premier's Department.

**Mr MICHAEL DALEY:** The Premier's Department. There was a legislative response and a non-legislative response for Moree. The non-legislative response is being led by the Premier's Department—Cabinet Office.

**The Hon. NATASHA MACLAREN-JONES:** Are you saying the Premier is responsible for the action plan?

**Mr MICHAEL DALEY:** No, the department. His department is leading those—

**The Hon. NATASHA MACLAREN-JONES:** Who's responsible for that department? Is it the Premier?

**MICHAEL TIDBALL:** It is an across-government effort coordinated by the Secretary of the Premier's Department, working with police, DCJ, Health, Education and a number of agencies.

**The Hon. NATASHA MACLAREN-JONES:** I'll go back to my previous questions. Ultimately, a member of the Cabinet needs to be responsible. Are you saying the Premier is responsible for implementing that action plan and all non-legislative—

**Mr MICHAEL DALEY:** No. I'm saying that the organisation for the place-based responses in Moree are being coordinated through the Premier's Department.

**The Hon. NATASHA MACLAREN-JONES:** I understand that. But what I'm asking for is who around the Cabinet table is responsible for getting an update on the action plan? Who is actually checking the plan is being implemented? It's not a person in a department or an office.

**Mr MICHAEL DALEY:** It's the Cabinet.

**The Hon. NATASHA MACLAREN-JONES:** It's ultimately a person around that table that is responsible. Are you saying it is the Premier that is ultimately responsible, or are you?

**Mr MICHAEL DALEY:** It's a team effort.

**The Hon. NATASHA MACLAREN-JONES:** But who is responsible? Who's getting the briefing? Who receives the minute? Who receives the information and asks the questions about this action plan? Is it you or the Premier?

**Mr MICHAEL DALEY:** It depends on what aspect of the place-based response is being dealt with. Youth action meetings and things like that are dealt with by the police Minister. But the Premier is taking a leading role in that. So it would be the Premier who's on top of that, yes.

**The Hon. NATASHA MACLAREN-JONES:** The Premier is responsible for the action plan?

**Mr MICHAEL DALEY:** I don't use the word "responsible". We're all responsible for it. It's a decision of Cabinet which is multifaceted, so we are all responsible. The Government, the Cabinet—we are all responsible for it. Each aspect of the place-based response is being coordinated through the Premier's office, with assistance from the relevant department.

**The Hon. NATASHA MACLAREN-JONES:** Attorney General, what is the status of the new bail accommodation in Moree?

**Mr MICHAEL DALEY:** That's one of the place-based responses I've just been talking about.

**The Hon. NATASHA MACLAREN-JONES:** Who would be responsible for that?

**Mr MICHAEL DALEY:** Rewind everything I've just said about place-based responses; insert bail accommodation.

**The Hon. NATASHA MACLAREN-JONES:** You're saying that, ultimately, there's no Minister responsible. You're leaving it to someone in an office to drive your announcements?

**MICHAEL TIDBALL:** In relation to bail accommodation, the new bail accommodation support service for young people in Moree is a very tight coordination with a number of groups, particularly local government and the mayor, but it has been co-designed in partnership with local community stakeholders. There is active co-design, and that issue is being worked through with community. From memory, the formal process for commissioning of that or seeking tender goes out at the end of September. If that is not accurate, I'll correct it on notice.



**The Hon. NATASHA MACLAREN-JONES:** Again, I'll ask the question as to who is responsible for ensuring the construction that is delivered? Is it the Premier? Is there a Minister ultimately responsible?

**Mr MICHAEL DALEY:** There is a governance group which provides accountability for work taking place. As I have said, it's coordinated by the Premier's Department with secretaries working closely with the Secretary of the Premier's Department across DCJ, Education, Health and Police.

**The Hon. SUSAN CARTER:** I might jump in and ask a couple of questions about section 93Z, Attorney. Have you had consultations with the Director of Public Prosecutions in relation to the exercise of the director's discretion with respect to the bringing of prosecutions in relation to section 93Z?

**Mr MICHAEL DALEY:** I'll have to go back and check on notes from my regular monthly meetings with the director.

**The Hon. SUSAN CARTER:** So you have no memory of that coming up specifically?

**Mr MICHAEL DALEY:** We might have had general conversations about it, but you've asked about something very specific about her discretion.

**The Hon. SUSAN CARTER:** It's just in terms of the structure of the legislation before it was amended that matters couldn't proceed without the director.

**Mr MICHAEL DALEY:** In those specific terms, yes, I had a discussion with the director before we made those amendments, and she expressed no difficulty with us proceeding in that regard.

**The Hon. SUSAN CARTER:** I wonder whether part of your consideration was driven by the two cases which police had successfully prosecuted and, I understand, had achieved convictions in relation to section 93Z before they realised that, under the legislation as it was then drafted, those prosecutions had been improperly brought because they hadn't gone through the DPP. And then, when those matters in respect of which there had been successful prosecutions were brought to the DPP, the DPP declined to prosecute. Do you have any concerns in relation to that?

**Mr MICHAEL DALEY:** In relation to what aspect of them?

**The Hon. SUSAN CARTER:** That two matters which have been the subject of a successful conviction, when they went to the DPP—essentially, the police asked the DPP to re-prosecute because they recognised they didn't have the power as the section was currently drafted. The DPP declined to exercise discretion to prosecute. Did you have any concerns about that?

**Mr MICHAEL DALEY:** I have full confidence in the DPP and the decisions she might have made in relation to those matters. I don't really want to talk about individual matters anyway.

**The Hon. SUSAN CARTER:** Did your discussions about these matters inform your decision to refer the operation of section 93Z to the Law Reform Commission? Sorry, I shouldn't have asked you that question. I'll withdraw that question, Chair.

**Mr MICHAEL DALEY:** I think we've been over that ground, actually.

**The Hon. SUSAN CARTER:** It was made while you were on leave, that decision, wasn't it? That was the Premier's decision, not yours. Is that correct?

**Mr MICHAEL DALEY:** Yes. We've been over that in the last estimates.

**The Hon. SUSAN CARTER:** Yes, it's my notes. Is there a timeline for when that review will be finished?

**Mr MICHAEL DALEY:** I'll refer you to my earlier answers in relation to the Law Reform Commission review of the Anti-Discrimination Act, and the answer is no.

**The Hon. SUSAN CARTER:** Have you read the Law Reform Commission's option paper on serious racial and religious vilification?

**Mr MICHAEL DALEY:** Yes, I have.

**The Hon. SUSAN CARTER:** Are you aware of the proposed changes that are canvassed?

**Mr MICHAEL DALEY:** There are no proposed changes. They're canvassing the elements of those issues. There are no proposed changes.

**The Hon. SUSAN CARTER:** In budget estimates earlier this year, Deputy Commissioner Malcolm Lanyon told us that the reason no arrests were made at the Opera House protests almost a year ago is because

there was no specific individual to whom the possible offences could be attributed. Would any of the changes canvassed in the options paper have any impact on that situation?

**Mr MICHAEL DALEY:** My understanding of those comments is that the police didn't have any evidence to proceed. Unless you want to legislate for police proceeding to prosecute people with a lack of evidence—no.

**The Hon. SUSAN CARTER:** Did you perceive that there was a problem with section 93Z because no successful prosecutions could ever be brought in relation to those Opera House protests?

**Mr MICHAEL DALEY:** No. You're linking—no, that's not correct.

**The Hon. SUSAN CARTER:** So you didn't see that as a concern with section 93Z?

**Mr MICHAEL DALEY:** A concern in what regard?

**The Hon. SUSAN CARTER:** A concern that there were groups of people disrupting a prayer vigil at the Opera House, yelling out all sorts of things, and yet section 93Z was apparently ineffective to be able to prosecute anybody. You were not concerned by the lack of prosecutions at that Opera House protest?

**Mr MICHAEL DALEY:** I can't comment on what behaviour may or may not have occurred there in relation to the elements of section 93Z or why the police were not able to proceed with a prosecution. You're asking me a question about things about which I can't have the requisite knowledge.

**The Hon. SUSAN CARTER:** I'm asking you your view about section 93Z and your concerns about its operation when there was clearly considerable community concern that it did not operate to protect a prayer vigil at the Opera House.

**Mr MICHAEL DALEY:** That's you characterising it in that way. There's nothing specific that you've asked me there that I can meaningfully respond to, Ms Carter.

**The Hon. SUSAN CARTER:** One of the possible changes canvassed, as you've indicated, is increasing the maximum penalties. Do you think that this would send a strong message about the gravity of inciting?

**Mr MICHAEL DALEY:** I'm not going to pre-empt what the Law Reform Commission's report might say. I'm not getting ahead of myself there. We'll wait and see what happens when they send their report back.

**The Hon. SUSAN CARTER:** So you don't have a view about the success or otherwise of increasing penalties to send strong messages about undesirable behaviour?

**Mr MICHAEL DALEY:** Whether I have a view or not is irrelevant. It's what the Law Reform Commission sends back to me to have regard to, and they haven't sent it back.

**The Hon. SUSAN CARTER:** You had a view about penalties in relation to knife crime, did you not?

**Mr MICHAEL DALEY:** That's because the Government made a decision. I'm not looking into a crystal ball.

**The Hon. SUSAN CARTER:** I'm curious, Mr Attorney General—

**Mr MICHAEL DALEY:** Ms Carter, don't bother going there. You can if you want to, but you're going to be wasting whatever time you have left.

**The Hon. SUSAN CARTER:** I'm curious, Mr Attorney General. You keep referring to the Government as if you are not a part of that Government.

**Mr MICHAEL DALEY:** I'm one aspect of it. The Cabinet makes the final decision on issues.

**The Hon. SUSAN CARTER:** You seem to be presenting yourself as a very junior player in the Government. Is that correct?

**Mr MICHAEL DALEY:** No, I'm not. That's your characterisation of it.

**The Hon. SUSAN CARTER:** Could you perhaps outline for us exactly which of the initiatives you introduced to Parliament you actually have ministerial responsibility for their implementation?

**Mr MICHAEL DALEY:** Which Acts?

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

**Mr MICHAEL DALEY:** Go back over the *Hansard* and have a look at all the Acts.

**The Hon. SUSAN CARTER:** Jack's law—are you responsible for the implementation of that?

**Mr MICHAEL DALEY:** It depends on which Act has been amended. If it's my Act under the allocation of Acts, it's mine.

**The Hon. SUSAN CARTER:** Jack's law, from memory, amended LEPR.

**Mr MICHAEL DALEY:** The Summary Offences Act and LEPR.

**The Hon. SUSAN CARTER:** You're responsible for LEPR, aren't you?

**Mr MICHAEL DALEY:** Yes.

**The Hon. SUSAN CARTER:** So you're responsible for the implementation of Jack's law, then?

**Mr MICHAEL DALEY:** Yes, jointly with police, because the subject matter revolves around police procedures and equipment and standard operating procedures and things like that.

**The Hon. SUSAN CARTER:** Are you responsible for the implementation of the changes to the DV laws, electronic monitoring, magistrates and show cause for bail?

**Mr MICHAEL DALEY:** Yes, in terms of bringing the legislation before the Parliament. But in terms of the implementation, as we've been over several times, there are other aspects of the implementation. For example, the electronic monitoring has been done by Corrections.

**The Hon. SUSAN CARTER:** And who is responsible for that?

**Mr MICHAEL DALEY:** We've been over this. Go and look at—

**The Hon. SUSAN CARTER:** We're coming back to it because there has been no answer, Attorney General. Which Minister has responsibility for the implementation of these laws?

**Mr MICHAEL DALEY:** Which ones?

**The Hon. SUSAN CARTER:** Electronic monitoring.

**Mr MICHAEL DALEY:** We've done this to death.

**The Hon. SUSAN CARTER:** Then the answer should be on the tip of your tongue, Minister.

**Mr MICHAEL DALEY:** Yes. It's my legislation. It's the Minister for Corrections and Corrections for the implementation of electronic monitoring.

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

**Mr MICHAEL DALEY:** Not the implementation, no.

**The Hon. SUSAN CARTER:** Who is responsible for the implementation of that?

**Mr MICHAEL DALEY:** Of what?

**The Hon. SUSAN CARTER:** Of the magistrates, not registrars, hearing bail matters.

**Mr MICHAEL DALEY:** Me.

**The Hon. SUSAN CARTER:** So you are the Minister responsible for it?

**Mr MICHAEL DALEY:** Yes.

**The Hon. SUSAN CARTER:** Thank you. I think my time is up.

**The Hon. TANIA MIHAILUK:** Attorney General, I'm going to go back to the equality legislation amendment that you have indicated to budget estimates today that you have carriage over, together with bits and pieces to other Ministers. What is the full title, right now, of that legislation? What is it? It's the equality legislation amendment.

**Mr MICHAEL DALEY:** I don't know. I'd have to go back and have a look.

**The Hon. TANIA MIHAILUK:** Do you know what the name of the full bill is that you've got full carriage over? Are your staff and your officer telling you that?

**Mr MICHAEL DALEY:** No. We just refer to it as Alex Greenwich's equality bill. What the long title or the short title is—

**The Hon. TANIA MIHAILUK:** It's got a name. What's the full title?

**Mr MICHAEL DALEY:** I don't know.

**The Hon. TANIA MIHAILUK:** How can you not know the title, Minister? You just said you've got carriage of it.

**Mr MICHAEL DALEY:** Why don't you tell me? You've got it in front of you.

**The Hon. TANIA MIHAILUK:** You've got carriage of it.

**Mr MICHAEL DALEY:** At the moment we just refer to it as the equality bill.

**The Hon. GREG DONNELLY:** It's Greenwich's bill.

**Mr MICHAEL DALEY:** It's not a Government bill.

**The Hon. TANIA MIHAILUK:** Okay, but it's a pretty big piece of legislation that has twice now been delayed. You've told me you've got full carriage of it. I've got to say, Attorney General, I've got stakeholders telling me that rather than you having carriage of it, it's been put to them that it is, in fact, with the Premier and the Cabinet Office. Is that right?

**Mr MICHAEL DALEY:** The Government has made no decision on it.

**The Hon. TANIA MIHAILUK:** Who has carriage? Would you say that the Premier is more involved in this or yourself? You're telling me you've got carriage. You can't give me the full name of the bill.

**Mr MICHAEL DALEY:** I'm telling you that the Government has made no decisions. That's it.

**The Hon. TANIA MIHAILUK:** Stakeholders are telling me they've been told to bypass your office and to actually deal with the Premier, and that the Premier and Cabinet Office are, in fact, dealing with the finer detail of the legislation. Would you say that's correct—that they are, in fact, dealing with the finer detail?

**Mr MICHAEL DALEY:** The Government's made no decision on that legislation.

**The Hon. TANIA MIHAILUK:** What do you define as Government? The Premier and Cabinet Office—are they Government?

**Mr MICHAEL DALEY:** The Cabinet is the Government.

**The Hon. TANIA MIHAILUK:** They've made no decision. Who's going through the finer detail in relation to this legislation? I think the full title is Equality Legislation Amendment (LGBTIQA+).

**Mr MICHAEL DALEY:** The Government has made no decision on it.

**The Hon. TANIA MIHAILUK:** Minister, what does the plus stand for?

**Mr MICHAEL DALEY:** The plus relates to—let's go through it.

**The Hon. TANIA MIHAILUK:** You know now. It's in front of you.

**Mr MICHAEL DALEY:** Lesbian, gay, bisexual, transgender—

**The Hon. TANIA MIHAILUK:** I is intersex. It's been given to you in some notes.

**Mr MICHAEL DALEY:** The symbol is generally used to represent those who do not identify with one of the letters in the acronym, for example—

**The Hon. TANIA MIHAILUK:** I'm glad you've got a note there, Minister. I'm glad you've got a note, but I would have thought you might have been on top of that acronym.

**Mr MICHAEL DALEY:** I know. Wasn't that just one of the highlights of parliamentary democracy in New South Wales.

**The Hon. TANIA MIHAILUK:** I've got to say that I wouldn't be laughing about it. It wasn't one that I expected to ask. I just assumed you knew a title of a piece of legislation that you have just told us an hour ago that you've got carriage over and that staff in your office are dealing with the specific details of this legislation. It's not a gotcha moment. I'm just surprised you didn't know that. That's all. It might make sense why stakeholders are telling me that, in fact, the Premier's office has taken over the full carriage of the equality bill. Would you suggest that's right? Would you agree with that? Is the Premier's office playing an equal role?

**Mr MICHAEL DALEY:** It doesn't matter how many times you ask me where this bill is up to, I can only give you the same answer.

**The Hon. TANIA MIHAILUK:** And that is that you don't know, or it's up to Government.

**Mr MICHAEL DALEY:** It is that the Government has made no decision on the final aspects of that bill.

**The Hon. TANIA MIHAILUK:** There is a deadline of October. Is that right? There is a parliamentary deadline of October. Is that correct?

**Mr MICHAEL DALEY:** What deadline are you referring to?

**The Hon. TANIA MIHAILUK:** The deadline in Parliament. It's been extended. There are time limits to private members' bills in the House.

**Mr MICHAEL DALEY:** It's up to the House to extend it again if the House wants to.

**The Hon. TANIA MIHAILUK:** Well, it extended it on the back of the Government Leader of the House suggesting that it be extended because a decision hadn't been made by Government. Is that right? You had no role in why it was extended last time.

**Mr MICHAEL DALEY:** It was extended because the Government is working with the member for Sydney, and we haven't arrived at a final position yet.

**The Hon. TANIA MIHAILUK:** I think the member for Sydney indicated publicly that he was unhappy with the extension. Is that right?

**Mr MICHAEL DALEY:** I don't know what you're referring to.

**The Hon. TANIA MIHAILUK:** I have no further questions, thank you.

**Ms ABIGAIL BOYD:** Good afternoon, Attorney General. Can I just start with the coercive control taskforce. I asked some questions on notice a couple of months back asking about the remuneration of individuals on that taskforce. I understand that the independent member is not remunerated for their time. Are you aware of that?

**Mr MICHAEL DALEY:** No, but one of the fine officers here can assist me with that.

**MICHAEL TIDBALL:** If you're referring to the chair of the Lived Expertise Reference Group—

**Ms ABIGAIL BOYD:** Yes, who's also the independent member on the—

**MICHAEL TIDBALL:** Yes. My understanding is that the community members are remunerated. If that is not the case, I will correct that in my evidence this afternoon, but my understanding is that they are.

**Ms ABIGAIL BOYD:** If you could look. I'm referring, in particular, to Annabelle Daniel who, as you know, is very well respected.

**MICHAEL TIDBALL:** I can deal with Ms Daniel. I'm talking about an individual here. There is a process in place to address remuneration to Ms Daniel.

**Ms ABIGAIL BOYD:** So that's already been picked up as being an issue?

**MICHAEL TIDBALL:** Ms Boyd, it would require, as I understand it, a ruling of the Public Service Commissioner. The machinery to deal with that has been activated, and that is the plan.

**Ms ABIGAIL BOYD:** You're aware of it, and you're doing something about it?

**MICHAEL TIDBALL:** We're well aware of it, and it is well progressed.

**Ms ABIGAIL BOYD:** Good, thank you. We spoke last estimates about safe waiting rooms in courts for victim-survivors of domestic and family violence, in particular. I gave you examples of where, in some locations, the safe waiting place was sort of under a tree nearby as opposed to actually in the court. Where do we still have gaps in that system? How many of our courts now have a safe waiting room?

**Mr MICHAEL DALEY:** I'm not sure if Mr D'Aeth can help me with that, otherwise I'll take that on notice.

**CHRIS D'AETH:** Just one moment, I'll just turn out the information on that. In New South Wales, 78 per cent of courthouses are heritage listed, and 70 per cent are over 100 years old, as you might be aware.

**Ms ABIGAIL BOYD:** It sounds like an excuse coming.

**CHRIS D'AETH:** No. A small number of court locations are too small to include a dedicated safe room. Site constraints—such as lot size, room layouts and heritage and security considerations—can present difficulties. In some instances, the safe waiting area is offsite at the police station. Safe waiting arrangements are determined

by considerable factors, including the size, the layout of the waiting area, access to sheriffs, location of security cameras that are monitored by the sheriffs and the use of monitoring and duress alarms.

**Ms ABIGAIL BOYD:** So we're not getting safe waiting rooms in every court. Is that what I'm hearing? Even under the last Government they committed to make that happen.

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

**Ms ABIGAIL BOYD:** Thank you, if you could. Similarly, how many courts and police stations have well-functioning and reliable AVL technology in order to allow victim-survivors to give evidence remotely?

**Mr MICHAEL DALEY:** We are upgrading AVLs. We spoke about this earlier in relation to weekend bail.

**Ms ABIGAIL BOYD:** Is that the \$6 million emergency—

**MICHAEL TIDBALL:** It's the \$4 million. That particular component of the \$45 million is the \$4 million.

**Mr MICHAEL DALEY:** I'm not sure if any of those AVLs will be able to assist in that regard as well, but we're happy to look at that.

**Ms ABIGAIL BOYD:** It would be good to know just how far off we are.

**Mr MICHAEL DALEY:** I've got a very long and detailed note here, which I won't read out, but you might want it.

**MICHAEL TIDBALL:** Also, site specifically on these two challenges, if there are particular sites where you are aware that there is an acute need—because there is a challenge with quantum of funds, as Mr D'Aeth's response has indicated. If there are particular locations where the problem is acute, we're very happy to engage.

**Ms ABIGAIL BOYD:** I appreciate that it takes time and there are obstacles sometimes, but I guess what we're looking for is to know that the department understands what it has left to do, and then we can have some sort of timeline as to when it will be completed.

**Mr MICHAEL DALEY:** As Mr Tidball said, if you have any submissions about that then we're all ears, because we all want to get on top of that as well.

**Ms ABIGAIL BOYD:** When will the Government honour the 2023 election commitment to appoint an independent advocate for all victims of crime?

**Mr MICHAEL DALEY:** We are doing a statutory review now on the Victims Rights and Support Act. That's a key election promise to do that. I can't give you a specific time frame, but we do intend to honour that as soon as we can.

**Ms ABIGAIL BOYD:** Is there a reason for the delay?

**Mr MICHAEL DALEY:** I'm looking at the whole Act and scheme in the context of the statutory review. We're going to do all of that as one.

**Ms ABIGAIL BOYD:** When can we expect the outcome from that review?

**Mr MICHAEL DALEY:** I can't give you a time frame. It's not being delayed for any purpose. We're having a detailed look at the scheme as a whole.

**Ms ABIGAIL BOYD:** I understand that that's been delayed a little while as well. I think that was due in 2021. Am I thinking of the right—

**Mr MICHAEL DALEY:** Yes and so, because we're a new government—

**Ms ABIGAIL BOYD:** Getting less new, unfortunately, by the month.

**Mr MICHAEL DALEY:** That's true, but I wanted to start from scratch and have a look at that scheme as a whole to make sure that it's viable in the long term.

**Ms ABIGAIL BOYD:** Are you able to give us any kind of timeline?

**Mr MICHAEL DALEY:** No. All I can say is that there's no attempt to delay it for any particular reason. There's just a lot of work to do.

**Ms ABIGAIL BOYD:** The Domestic Violence Death Review Team was a bit delayed in releasing its latest report. We were waiting for some time. Is that team being adequately funded?

**Mr MICHAEL DALEY:** I want to thank the team. I had a meeting a couple of weeks ago when they did release their latest report—with the magistrate—to the Coroner, Teresa O'Sullivan. The two women who constitute that team, they do amazing work. They've just done a deep dive on domestic violence murders over the last 20 years, I think. The work they do is amazing. I'll take that on notice but I think that, as part of Minister Harrison's \$236 million augmentation, some of those funds—correct me if I'm wrong. Was it \$2 million?

**ANNE CAMPBELL:** Yes, there were \$2 million.

**Mr MICHAEL DALEY:** Two million dollars to augment their funding.

**Ms ABIGAIL BOYD:** Was a lack of funding the reason why that was so delayed? I understand it was prepared and sat for a while.

**Mr MICHAEL DALEY:** I don't know. I don't know when it was supposed to have been.

**ANNE CAMPBELL:** I don't think that was the reason, but I can come back in the afternoon and provide you with their response.

**Ms ABIGAIL BOYD:** That would be useful. The Community Legal Centres have been, as I understand it, a bit left out of the other frontline services when we come to talk about domestic and family violence. Given that the Community Legal Centres do significant amounts of DV work, is there a reason for that? Are we looking to adequately—

**Mr MICHAEL DALEY:** Community Legal Centres and Legal Aid are funded under the National Legal Assistance Partnership program. That funding runs out in June 2025. We are in the midst now of negotiations with the Commonwealth and all the States at SCAG to come up with a new NLAP agreement.

**Ms ABIGAIL BOYD:** They're not considered within that frontline domestic violence funding piece because they are dealt with separately under a different funding—

**Mr MICHAEL DALEY:** They're administered by Legal Aid through the NLAP funding arrangements, which is a combination of State and Federal funding, but mostly Federal funding. National Cabinet's on Friday. We're hoping that there might be some more money forthcoming from the Commonwealth. I don't know if there is or there isn't, but I'm hoping there will be for domestic violence.

**Ms ABIGAIL BOYD:** The "Your Reference Ain't Relevant" campaign—since we last spoke, the Sentencing Council has got their submissions in and closed the date for submissions. I think that was 9 July, so we're still quite early after that, but do you have any timeline of when we can expect them to come back?

**Mr MICHAEL DALEY:** No, I don't know when Judge McClellan will hand that report back to me, so I can't assist you there. I don't know. We don't put a time frame on either them or on the Law Reform Commission, and they don't publish and anticipate a time frame either.

**Ms ABIGAIL BOYD:** I understand that there is a piece of legislation coming soon that's dealing with some of those child sexual assault—no? Did I dream that one? I may have dreamt that one.

**Mr MICHAEL DALEY:** I don't know.

**Ms SUE HIGGINSON:** Attorney General, I'm curious how many times, if any, the Children's Court has exercised the power in section 85 of the children's care and protection legislation to request provision of a restoration service to a child or young person or their family in order to facilitate the safe restoration? I think this was a question I tried to put yesterday, Mr Tidball, but I think it belongs in this estimates.

**Mr MICHAEL DALEY:** Maybe Mr Tidball has got the answer now, but it's pretty specific, so I think we better take that on notice.

**Ms SUE HIGGINSON:** It's about the amount of times the court has exercised that power, so it's a question about the courts. I'm happy if you want to take that on notice. Out of interest, Attorney General, who's going to be attending the National Cabinet meeting? Will the whole Cabinet Office be there on behalf of New South Wales?

**Mr MICHAEL DALEY:** No, I think only Premiers get invited to that prestigious gig.

**Ms SUE HIGGINSON:** I was just curious. It just seems like the Cabinet Office is where everything—we love collaborative decision-making, of course, but just wondering about these events.

**Mr MICHAEL DALEY:** That's good, because there's plenty of that going on.

**Ms SUE HIGGINSON:** Attorney General, it would not be a budget estimates if I did not ask you when you are intending to raise the age of criminal responsibility in New South Wales.

**Mr MICHAEL DALEY:** There are currently no plans to raise the age.

**Ms SUE HIGGINSON:** Why?

**Mr MICHAEL DALEY:** Why don't we just go back and read the transcript from the last two estimates? Nothing has changed.

**Ms SUE HIGGINSON:** Attorney General, I'm asking you, in deep anticipation and hope, on behalf of all of those incredibly hardworking advocates and experts of all relevant expertise who are really imploring you for a different response. Is there nothing that you would add that is slightly different in anything in regard to all of the evidence on the table about the importance of raising the age of criminal responsibility?

**Mr MICHAEL DALEY:** No, there is nothing I can add to what I told you in the last estimates.

**Ms SUE HIGGINSON:** Could you explain to me why, when all of the evidence is suggesting that it would be the most reasonable and sensible thing to do through the lens of youth justice, community cohesion and genuine welfare outcomes for young people?

**Mr MICHAEL DALEY:** I have explained this to you in two previous estimates.

**Ms SUE HIGGINSON:** Remind me.

**Mr MICHAEL DALEY:** As I explained, passing a law to raise the age is the easy part. It's the alternative pathways that need to be built to treat these young offenders who are not going through the criminal justice system. At the moment, those pathways do not exist.

**Ms SUE HIGGINSON:** What are you doing to fill those pathways, Attorney General?

**Mr MICHAEL DALEY:** I've asked the department to come up with some plans for what alternative responses might look like. I'm hoping that the responses in Moree will go some way to be used as a pilot program in that regard.

**Ms SUE HIGGINSON:** How many young people have been signed up to an NRL star? How's that one going?

**Mr MICHAEL DALEY:** I don't know.

**Ms SUE HIGGINSON:** You're not sure. Who do I ask? How do I find out?

**Mr MICHAEL DALEY:** What do you mean by "signed up to an NRL star"?

**Ms SUE HIGGINSON:** Mentored by one. How many young people?

**Mr MICHAEL DALEY:** I think that's a program that's being run by the NSW Police Force Youth Command.

**Ms SUE HIGGINSON:** I'll ask the cops how that's going.

**Mr MICHAEL DALEY:** Paul Pisanos is an excellent officer.

**Ms SUE HIGGINSON:** What else are you seeing in Moree? What else can you tell us about these alternative pathways, rather than just locking kids up?

**Mr MICHAEL DALEY:** In what regard?

**Ms SUE HIGGINSON:** The reason you're not raising the age—because that's the easy part and you could do that tomorrow.

**Mr MICHAEL DALEY:** When the department does that work, I'll have more to say.

**Ms SUE HIGGINSON:** When will that work be done?

**Mr MICHAEL DALEY:** I'm not sure.

**Ms SUE HIGGINSON:** Is there some plan?

**Mr MICHAEL DALEY:** I haven't put a time frame on that. I want the department to go into all of the discussions with other stakeholders that they need to, and then come back with something that we can work on.

**Ms SUE HIGGINSON:** Which stakeholders? Because all the stakeholders that I'm aware of out there, and there are many of them—in fact, let's consider that. How many reports have you read that say that we should be raising the age and that the evidence is so clear? Which other stakeholders will you be talking to, if it's not the ones saying you should raise the age as a matter of priority?



**Mr MICHAEL DALEY:** It would be the ones that would provide, for example, alternative therapeutic pathways for children who are troubled, who wouldn't go down the justice system but might need to live in some accommodation service where they receive counselling and therapeutic treatment—those sorts of stakeholders.

**Ms SUE HIGGINSON:** Are those stakeholders suggesting that you shouldn't raise the age tomorrow, like you said you could?

**Mr MICHAEL DALEY:** No. You asked me when. I'm saying that the department is doing some work to come up with what alternative pathways might look like. I'm in discussion with other States as well. No other States, as I understand it, have really come up with a definitive gold standard place-based treatment, if you like, for these pathways. That's why there are different views amongst the States about whether they will act or not act or whether they will raise it.

**Ms SUE HIGGINSON:** There are very different views. Look at the Northern Territory. It's looking disastrous, Attorney General. I hope you're not looking too closely there. Are you able to provide the Committee with a list of stakeholders that you're working with on this particular issue?

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

**Ms SUE HIGGINSON:** In relation to Moree and the facility, I think Mr Tidball said something to the effect of tenders would go out at the end of September. What are you envisaging there? What's in your vision, Attorney General?

**MICHAEL TIDBALL:** I was speaking specifically in relation to the bail accommodation component. The intention is that we are working to co-design that with the actual community.

**Ms SUE HIGGINSON:** Can I ask what the Government's vision part is that it will be bringing to the table about that? I'm a bit confused about what you have in your mind's eye about bail accommodation in Moree.

**Mr MICHAEL DALEY:** We'll just have to wait and see what they come up with. It will be somewhere to take young children to, who are on bail, so that they can get proper therapeutic treatment rather than just being thrown into a Juvenile Justice detention centre or something like that.

**MICHAEL TIDBALL:** In terms of the design, our approach is a partnership approach with the Moree Plains Shire Council and the Coalition of Peaks Aboriginal organisations to genuinely co-design it, which is why we have taken some time to get to this point. That is what we are doing. There is a suite of other activities that are being developed in the community to ensure that there are—

**Ms SUE HIGGINSON:** But can I just ask, on this—

**The CHAIR:** Order!

**Ms SUE HIGGINSON:** Don't I have another two minutes?

**The CHAIR:** No, you don't. You've had yours.

**The Hon. NATASHA MACLAREN-JONES:** We're happy for her to start and then we get our big guns out.

**Ms SUE HIGGINSON:** I just have one final point on this. Didn't the Parliament say that these bail laws would come to some kind of fruition in 12 months, or be reviewed?

**Mr MICHAEL DALEY:** That's the bail legislative responses to the crimes that we've spoken about. But, in addition, there are place-based responses in Moree where we're working with community, working with the council and working with the police to do things on the ground in Moree.

**Ms SUE HIGGINSON:** You are literally doing a facility that won't even come online before the laws that you enacted to deal with where these facilities were meant to be—the placation of all of the harm—and yet those laws will coming to an end by the time the facility's broken. I think it's a mess. I think it's a genuine mess, and I think you have, in many ways, misled the New South Wales Parliament and misled the New South Wales people about what the Government's intention on these youth bail laws, particularly in Moree, really is.

**Mr MICHAEL DALEY:** I'll take that as a comment, as they say in the game shows.

**Ms SUE HIGGINSON:** Please do.

**The Hon. SUSAN CARTER:** In fact, I had a question on the same line. Will the facility at Moree be ready before the bail laws expire?

**MICHAEL TIDBALL:** In terms of timing?

**The Hon. SUSAN CARTER:** Yes, because we're six months into a 12-month bail law change and we're still planning this facility in Moree.

**MICHAEL TIDBALL:** I think the drivers for the Moree facility have not been about changes to legislation. There have been some—

**Ms SUE HIGGINSON:** That's how they were sold.

**The Hon. SUSAN CARTER:** Sorry, it's a very specific question. Will this facility be ready to accept young offenders before this law is sunsetted out of existence?

**Mr MICHAEL DALEY:** We'll wait and see what the work of the committee is. We'll take that on notice in that regard.

**The Hon. SUSAN CARTER:** We're six months in.

**Mr MICHAEL DALEY:** Mr Chairman—

**The Hon. SUSAN CARTER:** Do we realistically believe it's going to be built in—

**Mr MICHAEL DALEY:** I've just answered that. Mr Chairman, I'm just conscious of time. I did undertake to answer some questions on notice.

**The Hon. NATASHA MACLAREN-JONES:** Point of order: It's still our Opposition time.

**The Hon. SUSAN CARTER:** Government time's at—

**Mr MICHAEL DALEY:** Can I get some guidance from the Chair about that?

**The CHAIR:** We've still got nearly three minutes of questions, of you, Minister.

**Mr MICHAEL DALEY:** In the past you've asked me to read these in during questions.

**The Hon. NATASHA MACLAREN-JONES:** We're now actually wasting Opposition time.

**The CHAIR:** We can do that if the Government has no questions for you. You can do it their time.

**The Hon. SUSAN CARTER:** I have a question about the young offender bail laws. You've undertaken that you will review them. Will you be extending them if you find in your review that they have been a successful deterrent to crime?

**Mr MICHAEL DALEY:** I'm not pre-empting anything about the extension or otherwise. At the moment—

**The Hon. SUSAN CARTER:** What's the purpose of a review if there's no action to flow from it?

**Mr MICHAEL DALEY:** I'm just telling you; I'm not pre-empting any decision in that regard. One of the purposes of the review will be to see what effect, if any, they had—whether they worked or what the ramifications of them were, what the numbers turned out to be, whether it reduced crime and all those things.

**The Hon. NATASHA MACLAREN-JONES:** Attorney General, back to the place-based response in Moree—and I note that there is a nameless, faceless person in the Cabinet Office that's ultimately responsible—I wanted to know whether or not you would be responsible, as Attorney General, for the additional judicial resources for local and children's court jurisdictions, including associated Legal Aid, office of DPP and police costs.

**Mr MICHAEL DALEY:** They come within my—the police costs, did you say?

**The Hon. NATASHA MACLAREN-JONES:** That's the bracket from the press release—that it was additional judicial resources.

**Mr MICHAEL DALEY:** That's right, yes.

**The Hon. NATASHA MACLAREN-JONES:** In the press release it said it would be for six months, with additional funding for Aboriginal Legal Service. How much of that \$13.4 million has been spent?

**Mr MICHAEL DALEY:** Unless Mr D'Aeth can help me out here, we'll take that on notice.

**The Hon. NATASHA MACLAREN-JONES:** It's for only six months. Was that from when this was put out in March? Or it is from next month?

**Mr MICHAEL DALEY:** The timing depends when the chief magistrate wants to engage that extra person.

**The Hon. NATASHA MACLAREN-JONES:** So you have no time frame?

**CHRIS D'AETH:** The additional temporary magistrate for Moree region for six months will be commencing on 26 August, so it has already commenced.

**The Hon. NATASHA MACLAREN-JONES:** Already commenced.

**The CHAIR:** It appears the time has come.

**Ms SUE HIGGINSON:** I had one last question. Is there any move on foot to look to expand the Walama List into the Northern Rivers at this point in time?

**Mr MICHAEL DALEY:** I think the Walama List is undergoing an evaluation so there'll be no plans to do anything with it until that evaluation's complete.

**Ms SUE HIGGINSON:** Is there a timeline? I should know but I'm not aware—

**Mr MICHAEL DALEY:** I've forgotten that as well. I don't know. I think it's next—it's '25 sometime. We'll take that on notice.

**The CHAIR:** There are no Government questions.

**Mr MICHAEL DALEY:** Mr Chairman, a question was asked: Who provided submissions to the statutory review on protest laws? Answer: A campaign submission from 1,318 individuals, with 45 submissions by individuals that were not part of a campaign, including three by academics. There were seven submissions from NGOs, six submissions from trade unions and other bodies representing workers' interests, three submissions from legal stakeholders and one submission from the NSW Police Force.

Question two was when will Jack's law be proclaimed. An implementation taskforce is being led by the Premier's Department. The precise commencement will be determined by police readiness. The next question was how much money has been allocated in the budget for Jack's law. The answer: There has not been a budget allocation for these laws at this point in time. As is the case with any new government initiative, budget will be allocated if and when required to operationalise the laws.

The next question was "Can you remind me who was consulted during the consideration and making of the wanding powers? Do you recall speaking to the Bar? Do you recall consulting with the Law Society? Did you consult with the LECC?" Answer: The bill was drafted in consultation with the NSW Police Force and the Cabinet Office. An early draft of the bill was provided to Legal Aid NSW, the Office of the Director of Public Prosecutions and the Public Defenders Office.

Next question: Will the LECC be asked to review the Jack's law training materials? Answer: No, but the reforms will be closely monitored. Under the Law Enforcement (Powers and Responsibilities) and Other Legislation Amendment (Knife Crime) Act 2024, there is a statutory review two years from commencement and the reforms sunset at three years. Next question: "Who did you consult with on youth bail? Did you consult with the Bar, Law Society and ALS?" Answer: The measures were discussed with the Coalition of Aboriginal Peak Organisations in broad detail, and the Premier's Department also visited the local Moree community. No other external stakeholders were consulted. DCJ has convened a cross-agency monitoring group to consider the impact of the laws, in consultation with BOCSAR. The group includes government agencies as well as representatives from the ALS, Legal Aid and the Children's Court.

Next question: What were the outcomes of the consultation and review of the break and enter offences in regard to *BA v The King*? Answer: Consideration of the outcomes of consultation remains ongoing as the consultation raised many complex issues. We are not yet at a point where we can say what the outcomes of that process were at this stage of the process. Question—list of the membership of the implementation taskforce. How often do they meet? Answer: The Cabinet Office are leading an implementation taskforce that includes membership from DCJ, relevant policy areas and court representatives, Corrections, police and Legal Aid. On average, the taskforce has been meeting fortnightly. Question: What is the budget for electronic monitoring? Answer: The costs of the electronic monitoring program have not yet been quantified. The implementation taskforce is working through this detail. As with any new government initiative, budget will be made available to support the Government's commitment.

Question: Will the new targeted laws lead to more young First Nations people being incarcerated? Answer: The Department of Communities and Justice has convened a cross-agency group to monitor and report back on the impact of the provision. BOCSAR has been engaged in this process. The work of this group also involves seeking data and feedback from other agencies on the operation of section 22C, noting that the BOCSAR data is indicative only.

BOCSAR's preliminary analysis has identified 66 first bail appearances from April 2024 to June 2024 inclusive, where the matter was within the scope of section 22C of the Bail Act, noting that BOCSAR data is indicative only as our system does not record precisely all of the matters that fall within 22C and where 22C was the determinative factor. Of these 66 appearances, 56 individuals—85 per cent, that is—involved defendants who were Aboriginal, and 52 individuals, representing 79 per cent, resulted in court bail refusal and the young person being remanded to custody. Of the 52 appearances resulting in court bail refusal, 46 individuals—that is 88 per cent—involved defendants who were Aboriginal. Fifty-three individuals—that is 80 per cent—involved defendants from regional New South Wales. Finally, of the 52 appearances resulting in court bail refusal, 42—that is 81 per cent—involved defendants from regional New South Wales. Mr Chair, might I just make a brief closing statement, if you would indulge me?

**The CHAIR:** Please.

**Mr MICHAEL DALEY:** On the last occasion of estimates—and I'm not directing these comments to anyone in particular—I was watching those proceedings where departmental officers and statutory officeholders, including the Director of Public Prosecutions, were being questioned. I considered, having been involved in this game for a very long time, that some of the tone, manner and demeanour of the questions was rude, disrespectful and unbecoming of members of the Legislative Council, given that these people are servants of the government of the day. Regardless of their political colour, they are experts in their field, and I would have expected that they might have been afforded a bit more protection from the rudeness and inappropriate questioning. I would ask members of this Committee, respectfully, to treat these officers with great respect this afternoon, and that you might be particularly vigilant, Mr Chairman, to ensure that occurs.

**The CHAIR:** I will, Attorney, noting that we now have standing orders that can actually deal with any major transgressions or rudeness that we never had before.

**Mr MICHAEL DALEY:** Great—music to my ears. Thank you to you and to the Committee.

**The CHAIR:** That brings to an end the attendance of the Attorney today.

**(The Attorney General withdrew.)**

**(Luncheon adjournment)**

**The CHAIR:** We'll commence with questions from the crossbench.

**Ms SUE HIGGINSON:** Dr Cockayne, could you update the Committee on the work that you're undertaking and also, in particular, any of the work practices that are happening across New South Wales, in relation to workplace visas? Is there any work in that area being undertaken at the moment?

**JAMES COCKAYNE:** Thank you very much, Ms Higginson. I think that was a question in two parts, so I'll try to answer in two parts. In general, we have a very busy program, currently. We see a significant increase in requests for support and assistance from me and my office under section 9 (1) (b) of the Act, so that's direct support and assistance to survivors of modern slavery, and we have increasingly complex matters. What I would say is that our hotline that we now provide on 1800 FREEDOM—so that's 1800 3733366—is emerging as something of a fail-safe for survivors who are struggling to get support and assistance from the system. That might be, to come onto the second part of your question, because they are out of valid visa status, for example. So that prevents them accessing most of the Federal-Government-funded supports and assistance, and can create real difficulties for them—even, for example, to access basic health care.

I will be tabling, for the first time, a report under section 19 (4) of the Modern Slavery Act. That's a provision that allows me to present reports to the Parliament on my own motion. I will be presenting such a report to the Minister, who then, under the Act, will furnish it to the presiding officers, probably in the next two to three weeks, specifically looking at the vulnerability of temporary migrant workers in rural and regional New South Wales to modern slavery. That draws on the two years I've had in the role, over 12 regional visits, and support and assistance to over 30 such workers. I don't want to pre-empt the report, if you don't mind. But we'll certainly be presenting a quite detailed study of those challenges that temporary migrant workers, in particular, are facing across New South Wales, in the coming weeks.

**Ms SUE HIGGINSON:** Does your report style take on findings and recommendations? Is it that kind of report style?

**JAMES COCKAYNE:** Yes. What I would say, though, is I don't have investigative power under the Act, so we necessarily have to temper how prescriptive we can be based on the evidence that has come our way rather than we have gathered, if I can make that distinction. I don't have investigative power, so we're relying

primarily on information from consultations we've undertaken and from people who've presented for support and assistance.

**Ms SUE HIGGINSON:** I might have raised with you in the last estimates—I should have checked—the current system of labour in New South Wales prisons and whether that is something that has come across your radar that you feel empowered to look at. I have received a lot of complaints and concerns about the labour force within our prison system in New South Wales—the thousands of people in custody and the fact that they work and yet receive very low remuneration for that work. I'm just wondering if you have any views on that or if you think you have any capacity to look at that.

**JAMES COCKAYNE:** It has come up in our work, through two different directions. First of all, we have had information shared with us, which I guess you would characterise as whistleblower information, about work that appeared to be involuntary, undertaken or forced to be undertaken in various carceral settings—so not only prisons but other carceral settings in New South Wales. We've undertaken some inquiries, using my powers under section 14 of the Act, to seek information. We've also had questions from both public sector and private sector entities that have reporting obligations in relation to products in their supply chains. There are both public sector and private sector entities in Australia, in New South Wales, that are purchasing goods made through prison labour in Australia.

Of course, prison labour per se is not illegal. There are some quite complex rules under international law, and I should note that the relevant committee of the ILO looked at this, just a couple of years ago, in Australia and had very little to say about the New South Wales arrangements. For our part, having received those inquiries, we have been undertaking some work to look at the voluntariness of work being performed in prison and carceral settings, including through CSI, which is a matter for the secretary. We have not yet reached any firm conclusions and the reason for that is, simply, resourcing. We have not had adequate resources to undertake that work at the speed we would have wished to. We have to, like everybody else, prioritise, unfortunately.

**Ms SUE HIGGINSON:** One of the concerns I hear from inmates, and I don't know if you've heard it too, is that economic injustice is one of the greatest contributors to inmate abuse and violence and lack of cohesion within prisons, and it's because of, apparently, this lack of access to what inmates consider a decent pay for the work that they are doing. It would be good to know that your office has capacity to look at that matter.

**JAMES COCKAYNE:** We certainly intend to keep pursuing the matter, as resources allow.

**Ms SUE HIGGINSON:** Secretary, I'm wondering if you have any information about sheriffs' concerns and conditions. Is that within your remit? In my region, sheriffs walked off work—perhaps there are IR issues involved. I'm wondering, given they are attached to our courts and that's the work they're doing, can you update the Committee in relation to that situation?

**MICHAEL TIDBALL:** Yes. I say this noting that sheriffs, this year, are 200 years old. It's their birthday and they do remarkable work, quite seriously.

**Ms SUE HIGGINSON:** Sorry, how old?

**MICHAEL TIDBALL:** Two hundred. The Third Charter of Justice—

**CHRIS D'AETH:** The same as the Parliament.

**MICHAEL TIDBALL:** The same as the Parliament, the same as the Supreme Court and, of course, created by virtue of the charter. We are, obviously, aware of and seeking to manage the industrial action which is having an impact across the State—and I acknowledge that. We are seeking and have been seeking to work with the PSA. I underscore the value of the work that those officers do. It is work that does have skill and is very important work for the operation of the courts. There is an acknowledgement that there is pressure arising, that there is industrial action underway, and a desire to see it resolved. I really don't know, looking to Mr D'Aeth, whether there is much that I'd be wanting to add in my evidence at this point.

**CHRIS D'AETH:** I don't think so, unless there is something further we can—

**Ms SUE HIGGINSON:** I suppose the further part of the question is what Mr Tidball went to, that it is having an impact. What back-up plans does the court system have? What are you relying on?

**MICHAEL TIDBALL:** We are keen to resolve the dispute, full stop. In terms of backup for the courts, a lot of work has been done, some of it on an outsource basis, some of it by use of other staffing resources. To this point we've been able to manage those pressure points. We are conscious of the security issues where there are impacts on listing arrangements in the interests of security and the ordering of the courts. We undertake that work, but it is causing stress and it is causing strain. We have hitherto been able to manage with the resources that we have, partly on an outsourced basis. Mr D'Aeth?

**CHRIS D'AETH:** Yes, that's correct.

**Ms SUE HIGGINSON:** When you say "outsourcing", is that referring to private security firms as well?

**MICHAEL TIDBALL:** Yes, on a very limited basis.

**Ms SUE HIGGINSON:** Which regions are we talking about where we've had to do that?

**CHRIS D'AETH:** I should just clarify that outsource basis exists in most places anyway in addition to the sworn sheriff officers, but obviously it has been increased because of this particular action. All regions are affected by the work bans that are in place and the industrial action that is occurring.

**Ms SUE HIGGINSON:** Are there any regions in particular where you've had to increase the use of private security because of the current dispute?

**CHRIS D'AETH:** Yes, but I have to take on notice quantifying that increase for each of those locations.

**MICHAEL TIDBALL:** I think the answer to the question is yes. In terms of the specifics by region, we would be happy to provide that on notice.

**Ms SUE HIGGINSON:** Ms Hitter, do you have any knowledge about the increase, if any, of Legal Aid services in relation to the newer introduced bail laws that have come in? Do you have a lens on that?

**MONIQUE HITTER:** I would need to take that on notice, Ms Higginson, in terms of numbers. Of course we service the courts and provide Legal Aid to young people and to adults before the courts in relation to bail, but I would need to take on notice the actual numbers and whether there has been any particular increase in those numbers following the changes to the legislation.

**Ms SUE HIGGINSON:** Just culturally, has there been any discussion amongst Legal Aid lawyer teams in different regions, particularly around Moree and other places?

**MONIQUE HITTER:** Obviously policy setting is a matter for government, and we provide services as needed. As people present to courts, we provide those services. We continue to do that through changes to legislation.

**Ms SUE HIGGINSON:** Do Legal Aid and the ALS have a dialogue?

**MONIQUE HITTER:** We do. We do talk together quite often, particularly at a local level. We need to work closely together because we are providing services to the same communities, often. In relation to things like where there is a conflict or there is more than one party that needs to be represented, we would be working together with the ALS to make sure that everybody gets representation that needs it.

**Ms SUE HIGGINSON:** This might be to you, Mr McKnight. I'm interested in understanding a bit more about the consultation with the ALS and the AG with the bail reforms. The AG gave evidence earlier that there was some kind of consultation with the ALS. He referred to Karly Warner in particular. Is there evidence you can provide about what that consultation involved or any feedback at that point?

**PAUL McKNIGHT:** That consultation happened at a very high level indeed. Did you want to take that?

**MICHAEL TIDBALL:** Look, I can help in so much as I was a part of—I would stress, Ms Higginson, because in talking about these issues there was discussion and, in that sense, consultation. I think the AG and those involved would not purport that it was co-design or shared decision-making or anything close to it. There were discussions to which I was a party with Simon Draper, the Secretary of the Premier's Department, and Kate Boyd, the Secretary of the Cabinet Office, with Karly Warner and John Mahama from AbSec. They were consultations, but I would not state that it was—it was limited consultation, but nevertheless it did occur, and it occurred in the context of the changes to bail as well as in the context of other regional crime issues which were playing out at that time.

**Ms SUE HIGGINSON:** The Attorney General spoke this morning about the funding—I think he referred to it as increased funding into justice reinvestment. Could you tell the Committee about what that looks like in terms of the programs?

**MICHAEL TIDBALL:** Yes. Ms Campbell is the person.

**ANNE CAMPBELL:** I think the Attorney General talked about the \$9.8 million that was made by the New South Wales Government in June 2023. There was also a contribution of \$9.4 million from Paul Ramsay Foundation. In January 2024 we launched a grant to expend the remaining \$7.5 million, so \$2.5 million last year went to Just Reinvest in Kempsey and Nowra. We undertook a two-stage process. From 23 January until 18 March we did an EOI and we also engaged Thirriwirri, an independent Aboriginal-led consulting firm to really support

some of the ACCOs in being able to apply for these grants. It closed on 13 May. We did prioritise projects—three projects led by ACCOs—and four were successful, three of which were Aboriginal. That was Just Reinvest in Mount Druitt, the Toomelah Local Aboriginal Land Council, Jana Ngalee, which is the local Aboriginal land council in the Clarence Valley, and Wahluu Aboriginal corporation in the Bathurst area. All the funds have now been—I think we're signing up contracts as we speak.

**Ms SUE HIGGINSON:** In terms of the direct investment into Moree, obviously that wasn't covered in any of that.

**ANNE CAMPBELL:** That's correct. There was already a pre-existing Paul Ramsay justice reinvestment project in Moree, so that's now working with the Premier's Department and the mayor and other local stakeholders to ensure that it is really looking at prevention and early intervention so that young people don't obviously need to be bailed and get supports earlier.

**Ms SUE HIGGINSON:** I've been told this is a matter for the police, but have you heard anything about the NRL stuff and how that's going? Has there been any kind of discussion about that mentoring program? Is it in existence? Are you aware if the program is happening or not?

**ANNE CAMPBELL:** I'm not aware. I know it is happening but I'm not sure of the details. I'm happy to take that on notice. I think it's being led by the Premier's Department.

**Ms SUE HIGGINSON:** I've been told in each estimates it's someone else and someone else, and nobody has actually said where it is.

**ANNE CAMPBELL:** I'm happy to come back and give you information.

**Ms SUE HIGGINSON:** If that's the case, I would be really interested in knowing a bit of detail about the NRL program and, in particular, how many children, if any, have signed on to that program, which NRL stars are involved, and how many times, if any, those NRL stars have been to Moree. And what are the aspects of that program? Is it a phone contact? Is it a Zoom contact? How do these young people connect with these superstars that they've been apparently connected to? I would be very grateful.

**The Hon. NATASHA MACLAREN-JONES:** I might follow on in relation to the justice reinvest. Just to clarify, in the Government's announcement back in March, it was \$12.9 million to fund a new range of services, and they said \$7.5 million in justice reinvest. Are they the grants that you just referred to?

**ANNE CAMPBELL:** Correct.

**The Hon. NATASHA MACLAREN-JONES:** There's no new money that was going into Moree?

**ANNE CAMPBELL:** No, other than what's going through the recent—separate to that, there's funding for the bail, and I think they're out on a grants round at the moment to look at wraparound supports.

**The Hon. NATASHA MACLAREN-JONES:** But that's not part of the justice reinvest.

**ANNE CAMPBELL:** That's separate.

**Ms SUE HIGGINSON:** That's really interesting.

**The Hon. NATASHA MACLAREN-JONES:** It's very misleading. I'm not familiar with the Paul Ramsay program in Moree. Is that all philanthropic funding?

**ANNE CAMPBELL:** Correct.

**The Hon. NATASHA MACLAREN-JONES:** Could you outline what that involves?

**ANNE CAMPBELL:** You may be familiar with the Maranguka program out at Bourke. That has been operating for a number of years. It operates quite differently in different communities. There's a lot of co-design. It's really looking at how services are working together on the ground to address the particular issues. It will look different in each community. They raise money from a whole range of sources. They really focus on the data, the outcomes and the evidence. They've started in a number of locations in New South Wales. I'm just trying to find my notes here.

**The Hon. NATASHA MACLAREN-JONES:** I'm mindful that they are an independent—

**ANNE CAMPBELL:** Yes, they are. They certainly have been a strong advocate of this approach, and that was part of the reason that the New South Wales Government funded it.

**PAUL McKNIGHT:** I have Justice Reinvestment sites in Bourke, Mount Druitt and Moree funded out of philanthropy.

**ANNE CAMPBELL:** I'm just seeing if I've got anything more.

**The Hon. NATASHA MACLAREN-JONES:** That's okay.

**ANNE CAMPBELL:** With the Kempsey and Nowra Justice Reinvestment sites, both sites have commenced understanding, monitoring, evaluation and learning initiatives. Each site's data team meet frequently, including support from the University of Southern Queensland and Just Reinvest NSW head office. Paul Ramsay Foundation has engaged Taylor Fry to undertake a quasi-experimental evaluation for both sites. Kempsey and Nowra have commenced discussions with Just Reinvest NSW to transition to Aboriginal community controlled establishments. This includes immediate plans for Just Reinvest to subcontract a portion of their contract. Kempsey hosted the Learning the Macleay forum in 2024, with representatives from government and non-government agencies to engage in community-led systems change to address local issues.

Kempsey continues to facilitate the cross-sector leadership group. The next meeting is this month. Initial development of the theory of change frameworks have commenced in both of those sites. If you wanted a little update on the Maranguka, that was initiated in 2013 in Bourke by Just Reinvest NSW. Then it was auspiced by the Aboriginal legal centre and the Bourke Tribal Council. It was actually the first Aboriginal led and based model of Justice Reinvestment in New South Wales. There's quite a lot of detail here in terms of some of the previous funding, but it's not as contemporary as the \$9.8 million.

**The Hon. NATASHA MACLAREN-JONES:** The other final part is the Paul Ramsay Foundation is looking at—did you say Taylor Fry?

**ANNE CAMPBELL:** Yes, correct.

**The Hon. NATASHA MACLAREN-JONES:** Will the evaluation that is being done be given to government?

**MICHAEL TIDBALL:** I would expect it would.

**ANNE CAMPBELL:** I would imagine it would be shared with government, because it's a partnership.

**MICHAEL TIDBALL:** We do have a good relationship with the Paul Ramsay Foundation and there is very tight coordination. It is a very credible partner.

**The Hon. NATASHA MACLAREN-JONES:** Do you have a time frame of when that evaluation will commence or be completed?

**ANNE CAMPBELL:** Because they're still establishing particularly Kempsey and Nowra, it will probably not be quick, I wouldn't have thought, because you'd want to look at whether this approach actually leads to sustained outcomes.

**The Hon. NATASHA MACLAREN-JONES:** While I'm on that announcement, I wanted to get a better understanding, particularly around the place-based responses and who would be responsible for the rollout. Obviously, the additional jurisdictions judicial resource is AG. The youth Aboriginal people would be linked to Indigenous organisations, Elders, culture and family support from their own communities, with skilled, qualified, trained and consistent staff on site 24/7 providing child-safe care. This has come from the press release. Would that be something that's managed through DCJ?

**MICHAEL TIDBALL:** Youth Justice, I believe, which is part of DCJ, as you know.

**The Hon. NATASHA MACLAREN-JONES:** Yes. Then what about the out-of-home care activities, which is the partnership with Moree Plains Shire Council and Aboriginal controlled organisations

**MICHAEL TIDBALL:** Can I say DCJ? It's definitely DCJ. Youth Justice—Paul O'Reilly, who gave evidence yesterday, is a key person in working on the ground in Moree. But there are different parts of DCJ that are involved.

**The Hon. NATASHA MACLAREN-JONES:** I'm happy for you to take it on notice, but could I get a better understanding of what those after-hours activities are and if there's a funding allocation to that and grants process and—

**MICHAEL TIDBALL:** Of course. I am happy to take that on notice.

**ANNE CAMPBELL:** I can probably just add a little bit. I'm just looking at the notes. There's a small grants program, which is administered by the Premier's Department. One million dollars of the funding invested into the targeted response in Moree has been allocated to a new small grants program to deliver more after-hour activities, which has seen funding already allocated to services in the area, which includes PCYC awarded \$314,000 to expand the U-NITES program to an additional two evenings each week, on a Thursday and Saturday.



That program is really aimed at helping young people build positive friendships and deeper connection to their community and culture. The Moree Sports Health Arts and Education Academy was awarded \$152,000 to deliver specialised youth programs on Friday and Saturday evening each week, with staff support until 2.00 a.m. in the morning. Miyay Birray was awarded \$282,000 to improve and expand Street Beat so that it operates until 12.00 a.m. on Monday to Wednesday and until 2.00 a.m. on Thursday to Sunday evenings each week.

The Police Force have also established a local Community Safety Precinct Committee to improve local safety responses, increased community knowledge and awareness of crime prevention measures, and improved community crime prevention planning. The NSW Police Force will also be working with Moree council to undertake safety audits and risk assessments, support businesses and local residents to improve personal and property security, and identify crime prevention activities. They continue the Police Force operations in the Moree area to meet community needs. This includes continuing to surge operational resources. In addition to the Youth Command, it will continue Operation Youth Safe, which combines education and early intervention to at-risk children.

**The Hon. NATASHA MACLAREN-JONES:** That's all out of the \$1 million small grants from the Premier's budget?

**ANNE CAMPBELL:** Correct.

**The Hon. NATASHA MACLAREN-JONES:** The other thing to clarify is, in the release, it says \$13.4 million for a targeted response, which included a new \$8.57 million for the bail accommodation. Is that additional to the \$13.4 million or within the \$13.4 million?

**ANNE CAMPBELL:** My understanding is it's within the \$13.4 million, but if I'm wrong, I'll come back.

**The Hon. NATASHA MACLAREN-JONES:** That's fine. Then I assume that \$1 million would also be part of that \$13.4 million.

**ANNE CAMPBELL:** Correct.

**The Hon. NATASHA MACLAREN-JONES:** In relation to the \$12.9 million under the broader regional crime prevention initiatives, it states the rollout of the \$7.5 million in Just Reinvest. Is that within the \$12.9 million or new money?

**ANNE CAMPBELL:** I haven't got the media release but the \$9.8 million was previously announced, back in 2023. Only \$2.5 million was allocated in that financial year. The other \$7.5 million, independent of what's happening in Moree, occurred this year, so I suspect it's separate to that.

**The Hon. NATASHA MACLAREN-JONES:** In relation to crime figures for Moree, is there any information being collated—or has it been collated—over the past six months or since the March announcement?

**ANNE CAMPBELL:** I'd probably need to take that on notice. I'm sure there is a lot of data.

**MICHAEL TIDBALL:** There would be data, but we would need to take it on notice.

**The Hon. NATASHA MACLAREN-JONES:** Can you look at if it has been collated since that announcement and also what categories, types of crime, are being examined and tracked? In relation to the electronic monitoring this morning, I want to clarify the time frame of when that will be rolled out. Did you say the end of September or early October?

**MICHAEL TIDBALL:** It is imminent. October is anticipated, yes.

**The Hon. NATASHA MACLAREN-JONES:** The end of October or the beginning?

**MICHAEL TIDBALL:** I had thought early, but I want to be faithful in my evidence.

**PAUL McKNIGHT:** Early October is our desire.

**The Hon. NATASHA MACLAREN-JONES:** Has a budget been set?

**PAUL McKNIGHT:** The funding for electronic monitoring is anticipated to be part of \$45 million set aside for justice initiatives at the moment. But we are rolling the program out, so we need to monitor the budget to see if that's adequate.

**The Hon. NATASHA MACLAREN-JONES:** So it's within the \$45 million, but you don't know how much you have allocated for electronic monitoring?

**MICHAEL TIDBALL:** Colleagues, correct me if I'm wrong here. As with any initiative, we are trying to predict the behaviour of the courts and the manner in which courts make orders. It is very difficult with precision to forecast what the demand might be in that sense, particularly during the establishment phase. There is an allocation of funds. It would be very difficult to specify what the demand would be and, therefore, to put a precise cost on it. That will become clearer over time, after we see the number of orders made by the court that require EM.

**The Hon. NATASHA MACLAREN-JONES:** At this stage, is it fair to say that no new devices have been purchased? You're just working within the existing parameters.

**MICHAEL TIDBALL:** Again, I'm looking to my colleagues, who will know the detail better than me. These devices are used by Corrective Services. They are effectively leased; they are not purchased. The devices are unique in that they're devices which potentially have two components to them. One is for the alleged perpetrator or the person—

**PAUL McKNIGHT:** In this case, there's an existing stock of electronic monitoring devices that cover a range of situations where they are currently used. They're used for domestic violence cases and parole matters. They are also used in intensive corrections orders and home detention situations. There are some situations where they are used for inmates who are on leave from prison, so there is an existing stock. Whether that stock is enough or not to cover the new cases that will come along through that is a little bit unclear, but that stock can flex. We don't anticipate significant problems in having enough devices on hand.

**MICHAEL TIDBALL:** My understanding is that it's an agile stock, in the sense that there is a perpetrator device and, in some cases, there is a victim device.

**PAUL McKNIGHT:** There are victims' devices at the moment in the parole situation.

**The Hon. NATASHA MACLAREN-JONES:** I might turn to a couple of things that have been outlined in the budget papers for police and justice—"Our plan for New South Wales", page 35. The \$66.9 million to divert young people away from police and courts through community programs—can you outline what those programs are and if there are any new programs?

**MICHAEL TIDBALL:** I'm happy to do so. The \$66.9 million from the 2024-25 year, over the forward years, for Youth Justice diversionary responses includes Youth on Track, which helps young people reduce their risk of offending; the Bail and Accommodation Support Service; the Broadmeadow Children's Court project, which provides wraparound supports for young people presenting to the court; A Place to Go; Rural Residential Rehabilitation Adolescent Alcohol and Other Drug Services; provision of legal services to Aboriginal people in detention; the short-term remand pilot, which provides accommodation to young people on remand; and domestic and family violence therapy.

**The Hon. NATASHA MACLAREN-JONES:** And none of those are new?

**MICHAEL TIDBALL:** They are existing programs, yes.

**The Hon. NATASHA MACLAREN-JONES:** In relation to the \$40.3 million for legal officers in the Office of the DPP, how many staff are currently employed and is any of that money for additional new staff?

**SALLY DOWLING:** I'll take that. Before I do, I was hoping to make a brief statement, with permission of the Chair. Is it suitable that I make that now or answer the question first?

**The CHAIR:** Answer the question first.

**SALLY DOWLING:** Sure. Our current staffing levels are at 988 full-time equivalent staff. As a result of the recent extra funding in the budget, we have been able to fund another 63 positions. I thank the members of the Committee for your interest and engagement with the work of the Office of the Director of Public Prosecutions, the peak prosecution agency for New South Wales. At the outset, I would like to stress that the ODPP and I, as the director, embrace the constitutional importance of our being accountable to the Parliament. Like the other prosecution agencies of Australia, the independent New South Wales ODPP was created in response to the political corruption scandals of the 1970s and 1980s, when it was recognised that there was an inherent conflict of interest in having prosecutions conducted by attorneys-general.

A key aspect of the proper functioning of the ODPP is the independence of the exercise of prosecutorial discretion. Decisions by my office about criminal prosecutions are to be made free of influence by political, individual or other sectional interests. Contemporary political theory recognises the importance of an independent prosecution agency as a key indicator of the health of a democracy and the maturity of the rule of law in any given jurisdiction. It is critical to our democracy and integral to the rule of law in New South Wales that our systems of government and governance do not countenance direct interference in the prosecutorial discretion. It is not only

direct interference that undermines trust in government and the legal system; the perception that the independence of the ODPP has been impacted or compromised is equally damaging. Importantly, prosecutorial discretion is not free from oversight.

First, every decision to proceed with a criminal charge is axiomatically and appropriately reviewed by the judiciary in the form of a trial, and my office's decisions are rigorously overseen by the courts.

Secondly, the ODPP is accountable to the Parliament and to the Attorney General through the statutory obligation to prepare and furnish annual reports, and the requirement under the DPP Act that the director must consult the Attorney General when requested. Third, there is the victim's right of review, with its legislative foundation in the Victims Rights and Support Act 2013, which requires the ODPP to review its decision-making on request by a victim. Fourth, all ODPP staff are accountable to the general public, victims of crime, accused persons and other stakeholders in the criminal justice system through the application of the prosecution guidelines of New South Wales, which were developed after broad community consultation. The prosecution guidelines are public, and they are published on the ODPP website. They prescribe the two main considerations for the exercise of the discretion of whether to prosecute.

Namely, the requirement that a prosecution enjoys reasonable prospects of conviction and that it is in the public interest. The prosecution guidelines are the only policy applied in determining whether to institute or maintain a prosecution in New South Wales. Finally, so far as prosecution policy is concerned, it is legitimate that society may settle matters of policy through the political system with appropriate parliamentary control. This is another important aspect of the rule of law: transparent law reform processes where issues of legal policy can, and should be, discussed. There are various established and effective law reform bodies, which include the State and Federal law reform commissions, working parties convened by the Department of Communities and Justice, the work of the NSW Bureau of Crime Statistics and Research and broader academic research commissioned by the Government, all of which is informed by inclusive and respectful discussion.

**The Hon. NATASHA MACLAREN-JONES:** I'll go back to *Overview: Our Plan for New South Wales* and the \$38.2 million that's delivering "service improvements across the Justice portfolio", upgrading around cybersecurity. It has only mentioned the NSW Trustee and Guardian, NCAT and also Youth Justice. Any reason why those three are mentioned, or is it across all of DCJ and agencies to improve cybersecurity or prevent cybersecurity issues?

**MICHAEL TIDBALL:** I will need to take that on notice, Ms Maclaren-Jones. I believe it would be broader, but I'm speculating. I should take that on notice.

**The Hon. NATASHA MACLAREN-JONES:** And also just to check whether it is in response to a particular issue or just routine because upgrades to IT might be needed.

**MICHAEL TIDBALL:** I'm happy to detail what the work is.

**The Hon. NATASHA MACLAREN-JONES:** In relation to court staff, particularly in regional areas, are there any issues in recruiting court staff, in particular, to rural and regional areas?

**MICHAEL TIDBALL:** As I travel around the State and talk to various court staff, many of them are actually recruited locally. There are people embedded in communities who have grown up in those communities. I think, in terms of registries in the courts, there are many, many staff who are recruited locally and who have very long service in the courts. I'm aware of recruitment challenges across a number of areas in DCJ at the moment, which are well known. I have not at any point had concerns raised about the recruitment of court staff. Mr D'Aeth may be able to supplement that.

**CHRIS D'AETH:** I have no specific concerns. We operate in the same employment market as others, and there's no particular concerns that I'm aware of.

**The Hon. NATASHA MACLAREN-JONES:** With respect to judicial officers, is there any difficulty around managing work health and safety issues, particularly around exposure to trauma or cases that they may have to deal with?

**MICHAEL TIDBALL:** The answer to that question is yes. Particularly as the work of the courts changes over time. The Local Court, as I think this Committee will appreciate, undertakes an immense amount of work with domestic and family violence. That can be work which is very challenging for judicial officers. Similarly, the work of the District Court, with the amount of children's sexual offence trials which occur there, that is similarly difficult work. There is dialogue that occurs constantly between the department heads of jurisdiction about programs and initiatives. There is no point at which you ever have these matters covered off. They are the subject of constant review. In terms of what we're doing in the courts and initiatives that we have

stood up, both in the Local Court—where there's been discussion and activity over the last year—and also the District Court, I could easily take that on notice. I'm happy to specify what the initiatives are.

**The Hon. TANIA MIHAILUK:** Could I ask Mr Tidball, in relation to case law, that's obviously administered by your department online?

**MICHAEL TIDBALL:** Yes, it would be. Is it, Mr D'Aeth?

**CHRIS D'AETH:** Yes.

**The Hon. TANIA MIHAILUK:** I noticed that *R v Martinez*, which was handed down on 5 December 2023, has been removed and is listed as restricted on the Caselaw website as of 29 August. Is that right? Could you take that on notice?

**MICHAEL TIDBALL:** I'm very happy to take that on notice.

**The Hon. TANIA MIHAILUK:** And also another case, *R v Smith*, handed down on 27 February 2024 was also removed and listed as restricted on the Caselaw website on 23 August 2024. That's a Whitford case. The other one is a Newlinds case. I note, if I may ask you, the website says:

Some decisions are either temporarily unavailable due to further proceedings or permanently restricted from publication on NSW Caselaw.

Could you let me know which one is the case? What's the reasoning behind these two cases no longer being restricted?

**MICHAEL TIDBALL:** I'll take that on notice. Of course.

**The Hon. TANIA MIHAILUK:** Can I also ask Ms Dowling a quick question. In March you indicated that you're undertaking a review of 400-plus sexual assault cases.

**SALLY DOWLING:** Yes.

**The Hon. TANIA MIHAILUK:** Is there any update to that? Is that review finalised?

**SALLY DOWLING:** It's almost finalised.

**The Hon. TANIA MIHAILUK:** I take it that none of that will become public knowledge. It's only for purposes within the DPP for review.

**SALLY DOWLING:** No. There will be a public report that will be published on my website.

**The Hon. TANIA MIHAILUK:** There will be a public report being published. Obviously that is being handled by the Senior Crown Prosecutors. Is that right? I'm just trying to understand who is, sort of, managing the—

**SALLY DOWLING:** If I may give you a bit of a synopsis, the review commenced—as you say, in March—following an initial planning and preparation phase. The scope of the review is all adult sexual assault trials listed between 1 April 2024 and 31 December 2024, but excluding child sexual assault matters. Of matters listed for trial in this year, 330 adult sexual assault prosecutions are being reviewed, but there is a final outcome pending in 11 matters. It is not quite finished yet. The reviewers were tasked with considering whether the decision to prosecute, including the maintenance of the prosecution, was in accordance with the prosecution guidelines, with particular regard to issues that frequently arise in sexual assault prosecutions, including the impact of intoxication, the relationship between the accused person and the complainant, proof of the complainant's lack of consent and proof of the accused person's knowledge thereof. The review adopted the principles of the New South Wales Government internal audit policy which ensures high standards of independence and objectivity.

The key controls adopted to ensure that objectivity were a clear scope and outline of responsibilities which were fully documented and communicated to reviewers. The documents utilised in the review have been recorded for transparency. The reviewers were all very experienced Crown Prosecutors and Deputy Senior Crown Prosecutors who were selected by the Senior Crown Prosecutor. The reviewers were independent from the prosecution team, each coming from an office different to that of where the prosecution was commenced. Any conflicts of interest were managed and fully documented. The application of the prosecution guidelines itself acted as a further control on the decision-making of the reviewer. There were multiple tiers of review with matters referred to DPP Directors Chambers for determination when potential issues were identified, as well as to senior counsel for further review when required. There will be a final external academic review of the report before it is published.

**The Hon. TANIA MIHAILUK:** When do you roughly think it will be published?

**SALLY DOWLING:** The current timeline is that we are hoping to send it for academic review in mid-October. Depending on the availability of the reviewer, we were hoping for finalisation of the reports in late October or early November.

**The Hon. TANIA MIHAILUK:** As a result of the review, have any cases been discontinued?

**SALLY DOWLING:** Yes. The review has demonstrated a consistently high standard of legal analysis by the prosecution teams in an area of the law that is complex. No systemic issues have been identified, but opportunities for improvement have been noted. No unwritten policies have been identified. Of the 330 matters, there have been 15 matters terminated. Eight were terminated on evidentiary grounds and seven were terminated on either discretionary grounds or a combination of discretionary and evidentiary grounds.

**The Hon. TANIA MIHAILUK:** Discretionary and evidentiary—one or the other?

**SALLY DOWLING:** That's right. I do want to stress that, of the eight matters that were terminated on evidentiary grounds, it is my understanding that it is likely that these matters would have been identified in the normal course of the prosecution because some of these matters were many months out from trial. Also of relevance is—

**The Hon. TANIA MIHAILUK:** How do you come to that understanding? Is that advice that you've been given?

**SALLY DOWLING:** Because, in the life of a prosecution, the viability of the prosecution is constantly under review. For example—and this is just a hypothetical example—if a matter is listed for trial in November and it's being reviewed in April, it is likely that, between April and November, a very detailed review of that would have been taken in the normal course. The Crown Prosecutor who was going to be running that matter in preparation for the matter would have identified the problems with it and sent it up.

**The Hon. TANIA MIHAILUK:** That's a normal number for every year—if you have 300 or so cases, that around 15 would be discontinued. That's nothing—

**SALLY DOWLING:** We have a number that are discontinued every year. I'm optimistic to be able to have a useful analogue contained in the report, but extracting that data from our systems is very, very time consuming. In fact, it's a manual process. The short answer to your question is yes, there are matters that are discontinued all the time during the life of the prosecution. It is also relevant to note that, in all of the ones that were discontinued—I withdraw that. There were 10 matters that have been identified as noncompliant with the prosecution guidelines but not all of those have been discontinued. In all of those matters, late brief service was a contributing factor. That means that the time for certification of those charges was much truncated due to the late receipt of the brief. That results in intense time pressures for the certifier at the ODPP.

**The Hon. TANIA MIHAILUK:** That would have been the only prosecutorial guidelines that were breached in that instance, but not of the fault of—

**SALLY DOWLING:** I'm not sure I understand.

**The Hon. TANIA MIHAILUK:** Not breached—I should say, "not compliant with the prosecutorial guidelines".

**SALLY DOWLING:** My point is that, in all of those matters, there was less time than is properly—

**The Hon. TANIA MIHAILUK:** Yes, that you would normally expect under those guidelines.

**SALLY DOWLING:** —regarded as necessary to make those complex decisions.

**The Hon. TANIA MIHAILUK:** Ms Dowling, were you aware that the *R v Martinez* case and the *R v Smith* case are no longer available on the case law website?

**SALLY DOWLING:** I became aware of that when it was reported in the Telegraph.

**Ms SUE HIGGINSON:** Mr Tidball, I want to ask about whether you're aware—or maybe it might be Mr McKnight—whether any work is happening in the department about a post-conviction review system in New South Wales. I've spoken with the Attorney General at previous estimates. I'm fairly certain he assured me there was some work happening, but I would like to know if there is and, if so, if there's an update on that work.

**PAUL McKNIGHT:** We've provided the Attorney advice on that question in the past. There's no current work going on on that matter.

**Ms SUE HIGGINSON:** What question was that?

**PAUL McKNIGHT:** The issue of post-conviction review—the issue you raised.

**Ms SUE HIGGINSON:** As in?

**PAUL McKNIGHT:** I might have lost the thread of your question, Ms Higginson.

**Ms SUE HIGGINSON:** No, that's very helpful. It sounds like the only work in the department around a post-conviction review process was in response to my question. Is that right?

**PAUL McKNIGHT:** You're testing my memory. I don't think that's quite the case.

**Ms SUE HIGGINSON:** I'm not trying to trick you.

**PAUL McKNIGHT:** There was advice provided to the AG about that matter. I'm not sure whether that was prompted by your question or prompted by other stakeholders raising questions, but the advice has been provided. As I say, there's no current work going on on that question.

**Ms SUE HIGGINSON:** What I'm trying to understand, then, is not necessarily the contents, but what the parameters of that advice were. Was it about whether there should be a system, whether there could be—in response to looking at other post-conviction review systems through other jurisdictions?

**PAUL McKNIGHT:** I must I say can't recall the detail of the advice. I'm not sure that I would canvass the content of advice we provide to Government in this forum anyway, Ms Higginson. Policy matters, as you know, are matters for Government.

**Ms SUE HIGGINSON:** Was it provided to the Government or to the Attorney General?

**PAUL McKNIGHT:** To the Attorney General.

**Ms SUE HIGGINSON:** Is it something you can take on notice, whether or not you can provide any detail? I'm just curious. I asked the Attorney General and I just haven't had the opportunity to follow up by letter. I know there are a lot of stakeholders out there, and I think quite a few of us assumed that there was work happening in the department.

**PAUL McKNIGHT:** I'm happy to take that question on notice.

**Ms SUE HIGGINSON:** I am interested in what work has been done and what advice has been provided about New South Wales progressing—

**PAUL McKNIGHT:** I think I understand the question. I would say, there are quite extensive provisions under the existing criminal appeal and review Act for convictions to be considered by courts post-conviction. Those are different provisions than exist in other States.

**Ms SUE HIGGINSON:** I think the concern—and I think we've had this discussed in this forum—is that they're completely archaic, antiquated and not really fit for purpose. We would just look at the Kathleen Folbigg scenario to evidence that concern. I think that's where the discussion commenced around a post-conviction review system and that New South Wales is, in fact, a bit behind many other jurisdictions. I understood that was what the Attorney General was looking into on those bases—and, yes, he maintained that we do have provisions. I'd be very grateful if we could look at it. If you are able to provide the Committee some advice, that would be very helpful. I would like to know about and am interested in the Judicial Commission of NSW. I'm not sure who's best placed to answer that. I have a few questions around what the constitution of that body is.

**MICHAEL TIDBALL:** Right. It is established under statute.

**PAUL McKNIGHT:** It's established under the Judicial Commissions Act, yes. It is constituted by the heads of bench across the court system. When it sits in conduct matters, it is augmented by community representatives.

**MICHAEL TIDBALL:** Its president is the Chief Justice.

**Ms SUE HIGGINSON:** How often does it meet, or does it only meet for conduct matters? I'm just curious about the way it functions.

**PAUL McKNIGHT:** I don't know. It is an independently constituted body that obviously has responsibility for not just judicial conduct but also judicial training. Those are issues that the judiciary, quite properly, jealously guards as matters of their independence. I'm happy to take on notice any detailed questions that you have.

**MICHAEL TIDBALL:** It does have its own chief executive, Una Doyle.

**PAUL McKNIGHT:** It's very active.

**Ms SUE HIGGINSON:** Very active.

**MICHAEL TIDBALL:** It's work isn't just purely—it just doesn't work within the realm of conduct; it has a very active education program. But I'm reluctant to speak for it because it does operate under its own piece of legislation.

**PAUL McKNIGHT:** Rates, bench books.

**Ms SUE HIGGINSON:** I'm aware of that. What I'm interested in is how often the judicial officers meet in their capacity as the Judicial Commission.

**MICHAEL TIDBALL:** I don't think we can comment on that.

**CHRIS D'AETH:** Regularly, but I think we might take it on notice in terms of that timing.

**Ms SUE HIGGINSON:** Do they have minuted meetings or do they just do their own thing? I understand that they are a statutory independent body.

**MICHAEL TIDBALL:** To be very direct with you, we haven't come here with briefing material. I'm happy to assist in any way. Beyond that, we're probably starting to speculate, which is not helpful to the Committee.

**Ms SUE HIGGINSON:** Not helpful, I understand, and dangerous territory perhaps. One thing I would ask is—and you may know the answer to this—if there is a conduct matter and it's determined, what does somebody do if they think the outcome of the determination is not the right determination? Where would, say, a senior counsel who has made a complaint about a judge or something and then they're not content with the outcome—is there anywhere for them to go or nowhere for them to go?

**MICHAEL TIDBALL:** Again, I refer to my previous response. I think we would need to take that on notice.

**Ms SUE HIGGINSON:** I'd be really grateful to understand if there are any final avenues of appeal. Can we go back to the matter that I spoke a lot about with the Attorney earlier in terms of Closing the Gap, the incarceration target and the fact that the data is not good in so far as—I think you also expressed here, Mr Tidball, that the numbers have increased in terms of—

**MICHAEL TIDBALL:** I was talking about target 10, I think, specifically, and youth, which I acknowledge are largely due to the growth in remand numbers.

**Ms SUE HIGGINSON:** With the remand, you provided evidence earlier that there were 13,009 people on remand.

**MICHAEL TIDBALL:** Correct, yes.

**Ms SUE HIGGINSON:** Of those, 56 per cent were sentenced prisoners and 43 per cent held on remand. I'm interested in the percentage of that 43 per cent held on remand that are First Nations people.

**MICHAEL TIDBALL:** I do, I believe, have that.

**Ms SUE HIGGINSON:** I'm happy for you to give me that in any form that you want to give.

**MICHAEL TIDBALL:** Of the total 13,009, I've indicated 56 per cent are sentenced and 43 per cent are on remand. Of that total cohort of the population of 13,009, approximately 31.5 per cent are Aboriginal or Torres Strait Islander.

**Ms SUE HIGGINSON:** What about the young people? Have you got that number? When I say young people, under 18 years of age and then under 14 is—

**MICHAEL TIDBALL:** I did absolutely have that number here. I'm searching for it. I seem to have lost that piece of paper I had this morning, but as of 30 June there were 145 Aboriginal young people in detention, which constitutes 58.7 per cent of the total youth detention population. Currently 78.6 per cent of Aboriginal young people in detention are on remand. In June 2024 there were 114 Aboriginal young people on remand, up 35, or 43 per cent, since June 2023. In terms of offence breakdown, I can also give you that, if you want to know what—

**Ms SUE HIGGINSON:** Sorry, it was an increase of what? Thirty?

**MICHAEL TIDBALL:** It was 35 people, or 43 per cent.

**Ms SUE HIGGINSON:** A 43 per cent increase in the 12 months?

**MICHAEL TIDBALL:** On remand, yes.

**Ms SUE HIGGINSON:** That's quite an alarming number, Mr Tidball.

**MICHAEL TIDBALL:** Just in terms of the drivers of that, they were car theft, at 29.8 per cent of the increase, and break and enter, at 21.1 per cent.

**Ms SUE HIGGINSON:** I know my time's up. Sorry, you were going to give me some more numbers then.

**MICHAEL TIDBALL:** I'm out of numbers.

**Ms SUE HIGGINSON:** You're out of numbers? Thank goodness, because the ones we have are pretty bad. Out of those, what is the youngest person that's held on remand at the moment as of the numbers you have?

**MICHAEL TIDBALL:** We can attempt to—I suspect it's here somewhere.

**Ms SUE HIGGINSON:** Could you please try and get me that in the next session?

**MICHAEL TIDBALL:** Bearing in mind it can shift by the day.

**Ms SUE HIGGINSON:** I know. A 43 per cent increase of young people—First Nations—incarcerated in 12 months. We're doing great, aren't we?

**The Hon. NATASHA MACLAREN-JONES:** I might move on to some items in the budget paper. In *Budget Paper No. 03*, page 2-11, in regards to the expansion upgrade of the audiovisual link facilities, I'm interested to know how many courts and tribunal rooms currently have facilities available?

**CHRIS D'AETH:** I don't know if I've got the number with me. We'll take that on notice, I think.

**MICHAEL TIDBALL:** We need to take that on notice.

**The Hon. NATASHA MACLAREN-JONES:** Could you also take that on notice as to locations breakdown?

**MICHAEL TIDBALL:** Yes.

**The Hon. NATASHA MACLAREN-JONES:** That's obviously metro and regional. In relation to the announcement that's been made, how many courts and tribunals will be upgraded with that \$18 million?

**MICHAEL TIDBALL:** We will need to take that also on notice.

**The Hon. NATASHA MACLAREN-JONES:** In the budget papers it's actually allocated \$18 million as a total cost, and then over the four-year period to 2027-28 only \$14 million has been allocated. Does that mean that it's expected to take longer or go beyond 2028? And if so—

**CHRIS D'AETH:** The AVL program is effectively an ongoing and rolling program because the equipment itself, of course, gets to the end of its useful life and needs to be replaced. The budgets are for a particular forward period, of course, but AVL program itself will need to continue to seek funding into future years to replace equipment that's already in place in courts.

**The Hon. NATASHA MACLAREN-JONES:** Are these changes—the AV changes—required to implement the new DV laws?

**CHRIS D'AETH:** In relation to the change from registrars' bail to magistrate, yes.

**The Hon. NATASHA MACLAREN-JONES:** So what impact will it have if it's going to take over the next four years?

**CHRIS D'AETH:** There is separate capital funding, which I think was canvassed earlier in the proceedings, in relation to AVL upgrades for police locations.

**The Hon. NATASHA MACLAREN-JONES:** How much is that?

**CHRIS D'AETH:** It's \$4 million.

**The Hon. NATASHA MACLAREN-JONES:** The Drug Court expansion—where is that up to, as to what will be rolled out this year and over the forward estimates?

**MICHAEL TIDBALL:** The Drug Court—I'll ask Mr D'Aeth to assist me, but it is ratcheting up in Sydney in terms of LGAs. I believe that this was covered in evidence at the last estimates. My understanding is it is on schedule, but we can provide to you the list of LGAs to which it's now been expanded.

**The Hon. NATASHA MACLAREN-JONES:** So obviously the locations and if they're on track, and when they're expected to be completely rolled out.



**MICHAEL TIDBALL:** Yes.

**The Hon. NATASHA MACLAREN-JONES:** In relation to Campbelltown Court House, there have been previous media reports of inadequate bathrooms and that some felt that the site wasn't secure, particularly where offenders needed to use the same bathrooms and entrances as victims. Are there any funds allocated in the budget for upgrades of Campbelltown Court House?

**MICHAEL TIDBALL:** No.

**CHRIS D'AETH:** Not specifically.

**PAUL McKNIGHT:** Not that I'm aware of.

**The Hon. NATASHA MACLAREN-JONES:** I'm mindful the Children's Court is there as well. Is anything being done in relation to ensuring that victims and perpetrators aren't having to share bathrooms or doorways?

**MICHAEL TIDBALL:** I have no knowledge of difficulties. That's not to say that they do not exist. I would, however, need to take that on notice.

**The Hon. NATASHA MACLAREN-JONES:** That's fine, and then if you could also provide information about accessible bathrooms at the court—whether they're available and if they're on each floor.

**MICHAEL TIDBALL:** Certainly.

**The Hon. SUSAN CARTER:** I have a few questions for you, Dr Cockayne, if that's okay. Have you done any policy or research work on connections between surrogacy and modern slavery?

**JAMES COCKAYNE:** Yes.

**The Hon. SUSAN CARTER:** What potential issues has that research or policy work demonstrated?

**JAMES COCKAYNE:** I've received several representations about the connections between modern slavery risks and commercial surrogacy. In February of this year I wrote to Mr Greenwich to raise concerns regarding schedule 19 to the Equality Legislation Amendment (LGBTIQ+) Bill 2023—I believe that's the correct full name of the bill—which would, as you know, amend the Surrogacy Act. I raised three specific concerns. First, poorly regulated commercial surrogacy arrangements may produce modern slavery in some circumstances. Secondly, as it was then drafted—so I'm going back to February this year—schedule 19 risked feeding a race to the bottom, encouraging New South Wales residents to use poorly regulated commercial surrogacy arrangements despite associated modern slavery risks. Thirdly, New South Wales residents may end up being exposed to criminal liability for violation of certain Commonwealth and New South Wales offences identified in schedule 2 to the Modern Slavery Act 2018 or, indeed, liability for breaching modern slavery laws overseas.

**The Hon. SUSAN CARTER:** What are those modern slavery risks?

**JAMES COCKAYNE:** The first is that—I should emphasise that surrogacy, whether commercial or altruistic, can be organised in a manner that does ensure that it's free of coercion and consistent with the rights of all parties. However, when poorly regulated, commercial surrogacy may in some circumstances create several different risks relating to modern slavery. In 2018 the United Nations Special Rapporteur on the Sale and Sexual Exploitation of Children flagged concerns around abusive practices in some international commercial surrogacy arrangements. In some such arrangements this can amount to the sale of children. The special rapporteur made several recommendations, including the introduction of various safeguards to prevent the sale of children.

Just to give this a little bit of context, this is not a purely abstract or hypothetical concern. In September 2023, so about a year ago, authorities in Greece raided the Mediterranean Fertility Institute and charged all its staff members with participation in human trafficking after an investigation uncovered use of brokers, fraud and record falsification to traffic at least 98 women from Ukraine, Moldova, Romania, Albania and Georgia, many of whom became birth mothers at the clinic. They targeted financially vulnerable women. Shockingly, around half of all the clientele for that institute were reportedly Australian. Between 60 and 150 Australian families are thought to have been impacted by this incident. Many lost tens of thousands of dollars, they lost embryos and, of course, they lost the expectations of parenthood—so a true tragedy for them. Some were temporarily separated from—

**The Hon. SUSAN CARTER:** But if I understand you, Dr Cockayne, their parenthood would have been predicated on the modern slavery of other women from those countries that you mentioned.

**JAMES COCKAYNE:** It could have been, unknowingly to them.

**The Hon. SUSAN CARTER:** Yes, I accept that.

**JAMES COCKAYNE:** Some of them were also temporarily separated from babies at the clinic due to doubts over parentage and citizenship. This is, of course, part of what schedule 19 precisely seeks to address: the uncertainty created around parentage orders. The policy inputs that we've provided go to identifying those risks and beginning to think about what some potential solutions to those risks might look like.

**The Hon. SUSAN CARTER:** Are you aware if these risks have been dealt with successfully in policy so that commercial surrogacy is available in any other Australian State or at a Commonwealth level?

**JAMES COCKAYNE:** Commercial surrogacy is not available in Australia as a matter of policy, as you're probably aware. Obviously, questions of parentage and so on have complex constitutional implications. This is a matter, to my knowledge, of ongoing consideration, of course, both in your Parliament and federally.

**The Hon. SUSAN CARTER:** Since you've done so much work in this area, did you contribute to the Legislative Assembly inquiry into—and I'm going to give it the short title—the equality bill? Were you part of the preparation of the New South Wales Government response to that inquiry?

**JAMES COCKAYNE:** As I'm independent of the New South Wales Government, I wasn't part of that process. But I have provided a submission which is on essentially the same terms to the recent Surrogacy Act review.

**The Hon. SUSAN CARTER:** Did you also contribute to the current review of the New South Wales Surrogacy Act?

**JAMES COCKAYNE:** That's the one I mean.

**The Hon. SUSAN CARTER:** Okay, so you contributed to the Surrogacy Act but not the LA equality bill review.

**JAMES COCKAYNE:** Correct.

**The Hon. SUSAN CARTER:** And in the terms that you've provided for us now?

**JAMES COCKAYNE:** More or less, yes.

**The Hon. SUSAN CARTER:** How difficult would it be to achieve policy settings for the Surrogacy Act that did not involve risks of exploitation of women in the context of what we call modern slavery?

**JAMES COCKAYNE:** It would certainly require very careful thought and regulatory design, and it would require consultation with the Federal Government, I would suggest, because foreign affairs matters would be implicated. One of the ideas that was floated in my correspondence with Mr Greenwich and the Government was the idea of an expert group identifying jurisdictions that meet the standards set out by international experts for effective protections of women and other parties in commercial surrogacy arrangements. The challenge there, of course, is that you then have an expert group perhaps making recommendations to the Attorney or otherwise that give a tick or a cross, in effect, to different jurisdictions for the human rights protections in those jurisdictions. That has obvious foreign affairs implications and, therefore, I recommended that conversation be had between the State and Federal governments on that matter.

**The Hon. SUSAN CARTER:** I imagine, if we're looking at international arrangements, there would be potential issues with—what might we call it?—the rigorous nature of people reporting against obligations and whether we actually had full oversight over what was happening. The example that you gave of the clinic in Cyprus, that was originally thought to be a very reputable, high-quality clinic, I believe?

**JAMES COCKAYNE:** In Crete, yes.

**The Hon. SUSAN CARTER:** Crete—I apologise.

**JAMES COCKAYNE:** I think those reporting challenges are central to the difficulties of addressing modern slavery in all contexts, in all jurisdictions.

**The Hon. SUSAN CARTER:** Is it fair to characterise the essence of slavery as treating human beings as if they are commodities rather than as people?

**JAMES COCKAYNE:** The definition of slavery per se under international law certainly has the exercise of the powers attached to the rights of ownership as a central threat. That has been recognised, in fact, by the High Court in this country in *The Queen v Tang*, back in 2008.

**The Hon. SUSAN CARTER:** The idea that people become tradeable commodities, is that the essence of it?

**JAMES COCKAYNE:** Yes, and what we see these days is that doesn't necessarily happen through physical restraint but through contractual restraint. That contract might be an employment contract. That's the form of contract that's relevant, for example, to forced labour offences or debt bondage. It might be a marriage contract. That's the form of contract relevant to forced marriage offences, which have, for much of the past five years, been the most reported form of slavery in New South Wales and, indeed, in Australia. Or, indeed, as I mentioned, debt contracts can also be used. This provides a framework for psychological coercion and control. There is a lot of overlap also with the coercive control type offences that are now recognised in New South Wales.

**The Hon. SUSAN CARTER:** So you could have an overlap situation where a marriage that was a forced marriage had aspects of slavery but also exhibited coercive control?

**JAMES COCKAYNE:** Indeed, and it's important to understand—I'm just going to go to some other notes; bear with me, please, one moment—that there is a significant overlap with domestic, family and sexual violence offences, and that there has been a recognition in New South Wales law for some time now of that significant overlap between these offences.

**The Hon. SUSAN CARTER:** I am not a scholar of modern slavery or a scholar of surrogacy. I have read a bit around these issues, just to inform myself. I wonder if you would be comfortable commenting on this proposition. I have read suggestions that one of the challenges of commercial surrogacy, as opposed to altruistic surrogacy, is that it can encourage an attitude that what the surrogate is carrying is a commodity that is being bought by the people who are engaging in that surrogacy contract. To what extent does that then start encouraging an attitudinal shift that we can, in certain circumstances, look at people, in this case the child who is to be born, as commodities and that makes it harder then for us to address the whole slavery mindset?

**JAMES COCKAYNE:** Certainly, that issue has been raised by commentators and experts, particularly overseas. I think, against that, we need to hold also evidence from real life that most parents who are forced into the terrible situation of having to resort to this very complex mechanism in order to realise a dream that they have to be a parent usually have very loving relationships with the children born out of those arrangements. What I see in my own experience is that the objectification tends to attach more to the birth mother, and that is where there is a particular imbalance of power between the birth mother or the surrogate mother and some other intermediary. The challenge with encouraging offshore commercial surrogacy is that is precisely where the reach of government to regulate that contractual relationship is weaker. So the danger is that, by outlawing the practice within Australia but permitting it overseas, we are actually exposing people in Australia who wish to participate in commercial surrogacy to a greater risk of poor regulation of the commercial relationship into which they are entering.

**The Hon. SUSAN CARTER:** Slavery is something which impacts everybody around the slave. Are you aware of any work that has been done on the impact on siblings of a child born of a surrogate mother with the design that that child will not form a permanent part of that family?

**JAMES COCKAYNE:** I'm not aware of any such research.

**The Hon. SUSAN CARTER:** Thank you, I thought that you may be. In the circumstance that you outlined before, that example you gave of those women who had been trafficked—and I realise this is in some ways a piece of string question—what is the likelihood of us being able to effectively reach into Crete or Ukraine or another country and have a very clear understanding of the situation of the women who are being engaged as commercial surrogates?

**JAMES COCKAYNE:** At one level, it is a similar question that we now ask many commercial actors, whether public or private, to think about their offshore supply chains. It's a question of offshore due diligence and thinking about the ultimate buyer—whether it's a public entity buying computers or, unfortunately in this context, to use the same language, whether it's the counterparty here that's soliciting the surrogacy arrangements—what ability they have to regulate the commercial activity on the other side offshore. Government probably has a role to play there. But traditionally, again, it would be the Federal Government rather than the State Government that, through its consular arm, for example, might be involved in forming an assessment or a view of the regulation of a particular sector offshore. So it can be done, but there would need to be careful safeguards and mechanisms in place.

**The Hon. SUSAN CARTER:** And in your experience in your role, are we getting better at managing slavery and the supply chains or is it still a major challenge?

**JAMES COCKAYNE:** We're getting better, slowly, and there is a lot of work going on within New South Wales Government. There are over 400 entities now that are reporting—all government departments, local councils, 10 universities, eight state-owned corporations. We have been able to furnish them, late last year, with 200 pages of guidance on how to manage those risks in their supply chains better and give them a suite of tools that they are now using. Those are so popular, in fact, that many ASX-listed firms are now using the tools

supplied by us to the New South Wales Government. We are getting better, but there is a long way to go, I would say, in actually being able to demonstrate that, at a system level, we are reducing the risk at a system level—so not just removing the risk from a particular buyer but actually removing the risk that, say, solar panels are made with modern slavery.

**The Hon. SUSAN CARTER:** Is that something that we need to be careful about when we purchase solar panels? Is that an example where you've seen instances of modern slavery?

**JAMES COCKAYNE:** They are one of the product categories listed as high risk in the inherent risk identification tool that we provide to government, yes.

**The Hon. SUSAN CARTER:** And how guilty should I feel when I pick up some fast fashion at a ridiculously cheap price?

**The Hon. Dr SARAH KAINE:** Very!

**JAMES COCKAYNE:** I always like to say that the issue is a systemic one and the system is made up of all of us, so we all have a role to play. But it is tricky. I am on the public record saying when you go to buy your jeans and you look at the label it's very hard to know where that cotton really comes from. In my private consumer capacity I am fairly forgiving, but as officials I think we all have an important role to play in shifting the system. Indeed, that's what the legislation provides for, but there is a long way to go and there will be dedicated resources required across government to ensure that government is able to identify where, maybe not fast fashion but, for example, the uniforms that it's supplying are indeed made. I would refer there to the important work that the Modern Slavery Committee is doing, including as a result of an inquiry that Dr Kaine championed into ethical clothing trade and the important arrangements there.

**The Hon. SUSAN CARTER:** Thank you very much. That's very interesting.

**The CHAIR:** We will have a break now and come back in 15 minutes.

**(Short adjournment)**

**The Hon. NATASHA MACLAREN-JONES:** I have a handful of random questions. One is about the \$5 million for youth resilience to violent extremism. I'm mindful it might be under Youth Justice. Is that a new program or an extension of programs that are already in place?

**ANNE CAMPBELL:** Are you talking about the Engagement and Support Program?

**The Hon. NATASHA MACLAREN-JONES:** No. It's listed in the budget paper—it just has \$5 million for youth resilience to violent extremism, but no details.

**MICHAEL TIDBALL:** I may have a note.

**The Hon. SUSAN CARTER:** When you find it, is that run outside a correctional environment or inside a correctional environment?

**MICHAEL TIDBALL:** There are two or three separate programs, aren't there, that we run?

**The Hon. NATASHA MACLAREN-JONES:** It's on page 35 of *Overview: Our plan for New South Wales*:

\$5.0 million to deliver community-based initiatives to strengthen youth resilience to violent extremism.

**ANNE CAMPBELL:** No, I don't think it's in my patch. I think it's the Youth Justice one.

**The Hon. NATASHA MACLAREN-JONES:** I thought it might be.

**MICHAEL TIDBALL:** What is it called again?

**The Hon. NATASHA MACLAREN-JONES:** All it is named as is the \$5 million to deliver community-based initiatives to strengthen youth resilience to violent extremism.

**MICHAEL TIDBALL:** I think the safest course is for us to take that on notice.

**The Hon. NATASHA MACLAREN-JONES:** That's fine. Going back to *Budget Paper No. 03*, Regional Key Worker Housing is listed under works in progress. Is that under Housing?

**MICHAEL TIDBALL:** That would, I believe, be a question for Minister Jackson.

**The Hon. NATASHA MACLAREN-JONES:** That's coming up next week. I have two more questions. *The Performance and Wellbeing Consultation Paper*—I'm mindful that there are no targets or anything within it,

but how is the department planning to measure what is expected? Will there be priorities listing key targets and deliverable dates? The information that is provided is very vague.

**MICHAEL TIDBALL:** That is a process we are working through with Treasury. I think that where DCJ goes will be very similar to other agencies. It is a good question; I just think I will need to revert on notice.

**The Hon. NATASHA MACLAREN-JONES:** Could you also take on notice the time frame of when it is expected—when the final plan, whatever it is, will be announced following the consultation paper?

**MICHAEL TIDBALL:** Of course.

**The Hon. NATASHA MACLAREN-JONES:** The final question is in relation to the Office of the Director of Public Prosecutions. I think it is capital expenditure for Wagga Wagga accommodation. Obviously, you've got the Sydney location. What is the Wagga Wagga location for, and why is it Wagga and nowhere else?

**SALLY DOWLING:** It's to expand our office in Wagga because we've outgrown it, is the short point, and we're taking some more space in the same building.

**The Hon. NATASHA MACLAREN-JONES:** Are there any plans to expand into other regional areas at all?

**SALLY DOWLING:** We are outgrowing all of our offices at a pretty rapid rate, but we're trying to make do within our current budget in our other locations. We have requested an increase in capital funding for some other offices. Some of that was not successful, but we will be renewing those efforts in the next budget funding round.

**The Hon. NATASHA MACLAREN-JONES:** Which offices have you outgrown?

**SALLY DOWLING:** We really need more space at Parramatta and at Newcastle, and also at Gosford—pretty much all of our offices. Lismore is also tight. Of course, in Sydney we're about to move. Even in Sydney, with our space contingency, it will be tight when we move in there.

**The Hon. NATASHA MACLAREN-JONES:** I have a broad question around DCJ buildings and offices. Are there any plans for consolidating offices or DCJ regional offices in any way?

**MICHAEL TIDBALL:** Not at this stage—to my knowledge, no. Bearing in mind DCJ is a hydra-headed entity, in terms of the functions that we're considering today, other than courts and the like, we are stable. In terms of the reference yesterday to districts, which fell within Minister Washington's estimates, there are changes that happen there occasionally. There will be some restructuring of districts, but that attaches to separate estimates. My answer is not to my knowledge.

**The Hon. SUSAN CARTER:** To follow up on that, in terms of DCJ what are the current guidelines and what percentage of people would work from home five days a week, four days a week, three days a week? What is happening in that space in DCJ?

**MICHAEL TIDBALL:** We've had, obviously, post-COVID, a number of people with flexible work in place and that has been permitted. In terms of measurement and a percentage, I don't know that it would be possible to provide that figure, even if I took it on notice. But clearly the Premier's Circular issued on 5 August, to which I then on the same day communicated with DCJ staff, indicated that, whilst not mandating a specific pattern of attendance, the requirement was that office-based staff would principally work in an approved workplace. We have a flexibility framework within DCJ which was promulgated in 2021. We are in the process with consultation at the moment of aligning that with the clear expectation or requirement that staff will principally work in the office, i.e., at least 50 per cent of the time.

Anecdotally, although we don't have numbers in at this stage, the evidence is that we actually do have a very healthy movement coming back. I believe that will be for the good of the organisation. Just quickly on DCJ, of course the point to be made about DCJ is that whilst the function subject to this estimates today is heavily office-based in a traditional sense, our workforce is very frontline-based: prisons, child protection, housing and other things. Those things, by necessity, occur on the front line in prescribed workplaces. But separately, the return to the workplace will be an important process to work through. There is a requirement. We also want people to come back to the office, and therefore the way we consult and work with our staff is going to be important.

**The Hon. SUSAN CARTER:** When you're looking at those figures, are you able to separate out between frontline staff who really have no choice but to be at their workplace—

**MICHAEL TIDBALL:** Of course, yes, absolutely.

**The Hon. SUSAN CARTER:** Ms Dowling, can you comment on this? For something like the DPP, how possible is it for staff to work from home? Is a hybrid pattern possible?

**SALLY DOWLING:** We have a flexible working policy that has a maximum of two days working from home, but that has to be subject to operational requirements, subject to approval from a manager and in an agreement in writing. We are a litigation law firm and most of our staff carry a litigation practice, so it's not that feasible to work from home.

**The Hon. SUSAN CARTER:** I wonder if you could comment, and maybe Mr Tidball, on issues around working from home in terms of staff development, especially development of junior staff.

**SALLY DOWLING:** It's certainly our view that there is a great deal of benefit from staff working together in the office for those professional development opportunities, which are often just incidental from seeing people in the tea room. And, certainly, we have a high number of fairly junior staff who do need that one-on-one mentoring with their peers and with their managers. Having said that, we are confident that we've got the balance about right.

**The Hon. SUSAN CARTER:** I'm just curious because, if you look at the legislation—and I have a very imperfect knowledge of it—you have an unusual structure in a sense, because the ultimate decision-making rests with you. How do you approach delegating decision-making or developing those capacities for the touch and feel of a case, in a sense, with junior staff? How does that work in your very unique role?

**SALLY DOWLING:** We have a very well-established network of learning and development and mentoring. We have, as you no doubt know, almost 400 solicitors in the solicitor's office. We have 110 Crown Prosecutors. Then we have a significant number of paralegals as well. Important decisions as to the prospects of conviction, for example, or the application of the prosecution guidelines, are made subject to well-established delegations by more senior practitioners. That learning of what's admissible and what the prospects of conviction are really like in a particular manner is a process that is learnt from a combination of knowledge of the law and experience in running matters.

**The Hon. SUSAN CARTER:** But are there particular issues that you face? I'm just thinking, for example, in a typical bar practice, the barrister is the decision-maker, whereas in a lot of circumstances, the Crown Prosecutors are not the decision-makers, are they?

**SALLY DOWLING:** I disagree with the question. Important decisions in cases are made by the clients. So no barrister can ever terminate a matter without instructions from their client. Generally, in most cases, there's an instructing solicitor who also is very much involved in the important forensic decisions that are made in a case.

**The Hon. SUSAN CARTER:** Who is your client, as it were?

**SALLY DOWLING:** I am the client. The Crown Prosecutors and solicitor advocates appear on my behalf.

**The Hon. SUSAN CARTER:** Mr Tidball, do you have comments about development of junior staff if they're working out of the office or—

**MICHAEL TIDBALL:** I would say that we have some leaders who have been—and I don't say it for convenience's sake. Paul McKnight has had a team of lawyers who have had significant time working remotely, who haven't been in the office working. What I've observed is the leadership. Where we're going, I think, will be very good for the organisation and a sense of cohesion and purpose—the alignment of office-based teams with our operational staff. Having said that, I've seen fine examples of leadership, teams working and meetings. There have been ways of building cohesion and a sense of coordination and shared purpose, and checking in to ensure that staff are not feeling isolated, particularly staff who may be working on difficult matters. There has been a process and a discipline around that in DCJ. Having said that, I think the movement back to having greater presence in the office will, as it plays out, be for the good of the communities that we serve.

**The Hon. SUSAN CARTER:** I've got some particular questions about the budget and, for your convenience, I'm looking at *Budget Paper No. 02*, the Agency Financial Statements, and I'm looking at 4.1. Crown Solicitor's Office are getting 38 per cent less. Is it because they're more efficient or what's happening there? Is there a reason for that?

**MICHAEL TIDBALL:** I will need to take that on notice, if I may.

**The Hon. SUSAN CARTER:** If you could. Legal Aid Commission are getting almost 40 per cent more. Is that volume of work? Is that a better deal for solicitors undertaking Legal Aid work? Do we know what that is?

**MONIQUE HITTER:** I'm not familiar with the 40 per cent figure, Ms Carter.

**The Hon. SUSAN CARTER:** It's 39.7; I apologise.

**MONIQUE HITTER:** But we did get some funding in order to retain the same level of fees that we pay for private practitioners over the next four years. Without that funding, we would have had to revert back to the level of fees that we were paying in 2019, which were significantly less.

**The Hon. SUSAN CARTER:** That would have created significant difficulties, I would imagine.

**MONIQUE HITTER:** It would have, yes—as well as some other little items that we also got funding for this year.

**The Hon. SUSAN CARTER:** Ms Hitter, the community legal centres are funded through Legal Aid as well, I understand?

**MONIQUE HITTER:** We administer the funding. The funding is allocated by the Government—by both the Commonwealth and the State Government. The Public Purpose Fund also provides some funding for CLCs, and we just administer the funding, as it were.

**The Hon. SUSAN CARTER:** I apologise. I'm not as up to date as I would like to be on this, but there have been some difficulties with the funding of the Broken Hill CLC. Are you aware of where that is at?

**MONIQUE HITTER:** I am. It's not so much difficulties with funding the Broken Hill CLC. It was more that the CLC provider indicated to us that they no longer wanted to continue to provide those services, and so—

**The Hon. SUSAN CARTER:** They were contracting them out to another CLC, I believe?

**MONIQUE HITTER:** In the interim period, until we got a new provider, they were contracting them out to another provider. We are now providing funding through the CLC program to that new provider.

**The Hon. SUSAN CARTER:** So there was no break in service?

**MONIQUE HITTER:** Not as far as I'm aware.

**The Hon. SUSAN CARTER:** That's great.

**MICHAEL TIDBALL:** Can I just distinguish, in the paper from which you were reading, between expenses and capital? The Crown Solicitor's Office has minimally moved.

**The Hon. SUSAN CARTER:** You're right. I'm looking at the capex. Apologies.

**MICHAEL TIDBALL:** And there is a significant decrease in capital for the Legal Aid Commission of New South Wales.

**The Hon. SUSAN CARTER:** Thank you for pointing that out. But the Office of Sport, about which you probably can't help me, gets 25 per cent more in operating expenses. What are they doing in the Office of Sport?

**MICHAEL TIDBALL:** They are no longer party of the consolidated entity or they're no longer a related entity. They've been subject to a MOG change.

**The Hon. SUSAN CARTER:** I wasn't expecting—I just glanced down the page and saw that and I thought, "Very interesting." I am very sad to notice the black hole that is the Home Purchase Assistance Fund, but we'll move on from that. There is no change in the Judicial Commission's operating expenses, but a 66 per cent change in their capital expenditure. What's happening at the Judicial Commission?

**MICHAEL TIDBALL:** It's a very small budget.

**The Hon. SUSAN CARTER:** But what are they doing that they need 66 per cent more of it in capital?

**MICHAEL TIDBALL:** I'm speculating. It could be technology.

**PAUL McKNIGHT:** It's \$100,000 in cost.

**The Hon. SUSAN CARTER:** Could you take that on notice?

**MICHAEL TIDBALL:** I am happy to take it on notice, yes.

**The Hon. SUSAN CARTER:** It's just that when you see big variations like that, it's just interesting to know what they're for. The Office of the Children's Guardian is down 8 per cent in operating expenses, and there is a 661 per cent change in capital expenditure. What are they doing?

**MICHAEL TIDBALL:** This was subject to questions yesterday in Minister Washington's estimates.

**The Hon. SUSAN CARTER:** Apologies. Can you give me a highlight, just for my curiosity?

**MICHAEL TIDBALL:** From memory, I think it's to do with fee structure and fee revenue—a substitution of consolidated revenue as opposed to fee revenue.

**The Hon. SUSAN CARTER:** Thank you. I'll pull the transcript and have a look at it. The DPP, Ms Dowling or Mr Tidball—15 per cent higher operating expenditures, 60 per cent higher capital. Is that Wagga or is that other things?

**SALLY DOWLING:** I don't want to misstate it, but that will be a combination, I think, of Sydney relocation and Wagga. I'll clarify that.

**The Hon. SUSAN CARTER:** Thank you. That would be good. And we should hope to see a similar figure in other years as other accommodation?

**SALLY DOWLING:** That would be good.

**The Hon. SUSAN CARTER:** And this is because you've got a growing workload or—

**SALLY DOWLING:** Yes.

**The Hon. SUSAN CARTER:** I have a couple of questions for you, Ms Dowling. This was raised this morning; perhaps you've had a chance to have a look at it. For 93IB and 93IC of the Crimes Act, how many matters have you been asked to deal with? How many have proceeded by way of indictment?

**SALLY DOWLING:** I know that we do have a number of matters. My understanding is that they are part of other offending. I don't know how many we've got. I will have to come back to the Committee.

**The Hon. SUSAN CARTER:** Is it possible to get those figures?

**SALLY DOWLING:** Yes.

**The Hon. SUSAN CARTER:** That would be very good. Are you aware if you've declined to accept the recommendation of the police on any occasion to proceed by way of indictment in relation to a 93IB or 93IC?

**SALLY DOWLING:** I'm not aware. I can look into that.

**The Hon. SUSAN CARTER:** If you could provide that, that would be great. Thank you very much. Are you aware of the outcome of any prosecutions that may have taken place?

**SALLY DOWLING:** Again, I can make those inquiries.

**The Hon. SUSAN CARTER:** Thank you. We had interesting testimony on Friday—I don't know whether you're aware of this—from Deputy Commissioner Hudson in relation to section 93Z. He indicated that there were two or three matters that they had run in error because they didn't realise the legislation, as it then was, required your office. As I understood the testimony, they had been successfully run, convictions were achieved and then they realised that they shouldn't have been brought in the first place. They were then referred to your office and I understand a decision was made not to proceed with those. I'm curious. Why, when convictions have been achieved, would your office be recommending against?

**SALLY DOWLING:** My information is that perhaps there's an error with the police information. Those matters were, as you say, charged without sanction. There were pleas of guilty entered. Then it was realised that they were nullities because of the lack of sanction, so they were annulled under section 4 of the Crimes (Appeal and Review) Act.

**The Hon. SUSAN CARTER:** Thank you. I was wondering how that happened.

**SALLY DOWLING:** That process is one that was conducted entirely by police. Those matters never came to the ODPP and they have never been referred back to us. They are not with my office and have never been with my office.

**The Hon. SUSAN CARTER:** The information we got on Friday—estimates next time, I suppose. We clearly got evidence that they were and you had declined, and I was curious as to why that what happen.

**SALLY DOWLING:** I made those inquiries today and they've never been referred.

**The Hon. SUSAN CARTER:** Very interesting. Thank you very much. Has the ODPP made a submission to the Law Reform Commission in relation to 93Z of the Crimes Act?

**SALLY DOWLING:** Yes, we have.

**The Hon. SUSAN CARTER:** Is that submission public?



**SALLY DOWLING:** I'd have to check that.

**PAUL McKNIGHT:** The Law Reform Commission normally publishes its submissions online, so it's likely to be there.

**The Hon. SUSAN CARTER:** Thank you very much. Last time you told us about the audit of the sexual assault cases. That has been completed?

**SALLY DOWLING:** Not quite, but it's almost completed. I gave some evidence earlier when you were out.

**The Hon. SUSAN CARTER:** Apologies, I was out. If you bear with me, the audit was performed by whom?

**SALLY DOWLING:** It's a review, and it has been performed by Senior Crown Prosecutors, Deputy Senior Crown Prosecutors and deputy directors.

**The Hon. SUSAN CARTER:** So people within your office?

**SALLY DOWLING:** Yes.

**The Hon. SUSAN CARTER:** Are you able to share any of the results with us so far?

**SALLY DOWLING:** Yes. The 330 matters have been reviewed. There were 353 matters that fell within the established scope; 23 of those matters had already been referred to chambers for consideration.

**The Hon. SUSAN CARTER:** Sorry, could you explain what that means?

**SALLY DOWLING:** That means that those 23 matters had already been identified as ones where the prosecution team were concerned about aspects of the prosecution, whether that's evidentiary or discretionary, so they were already with a deputy director for consideration.

**The Hon. SUSAN CARTER:** Sorry, I'm just trying to understand. What is the possible outcome of that consideration?

**SALLY DOWLING:** After committal, under the DPP Act, the only person who can discontinue a prosecution is me or a deputy director, and that power cannot be further delegated. These 23 matters had been identified as ones where perhaps, in the view of the prosecution team, which is the solicitor with carriage and the advocate who will be appearing at the trial, they may be matters that should be discontinued. They were already being reviewed by a person with the appropriate delegation to make that decision, so they weren't included in the scope of the review.

**The Hon. SUSAN CARTER:** And the review is against the ODPP prosecution guidelines?

**SALLY DOWLING:** It's in relation to the application of the prosecution guidelines, and you'll recall the circumstances in which the review was called.

**The Hon. SUSAN CARTER:** Would those prosecution guidelines have been engaged when there was a decision to proceed to committal in respect of those 23 matters?

**SALLY DOWLING:** Yes. The committal test is contained in the Criminal Procedure Act and it is expressed in section 66 (2) of the Criminal Procedure Act. It's expressed as "Is there evidence available to the prosecutor that is capable of establishing each element of the offence?" Notwithstanding that that is slightly differently worded to the prosecution guideline test, which is "reasonable prospects of conviction and the public interest", the prosecution guideline test applies equally pre-committal, at that charge certification time. In fact, one of the learnings that we're getting from the review is that a total coincidence of those two tests would be preferable. To answer your question, that prosecution guideline test applies at every stage of the prosecution, pre-committal and post-committal.

**The Hon. SUSAN CARTER:** But with the matters that are referred, there's a concern that either understanding has changed, that evidence has developed or that perhaps there was a misapplication?

**SALLY DOWLING:** No. I was answering your initial question about scope. There were 353 matters that fell within the scope, which is listed for trial between 1 April and 31 December this year. Of those, 23 matters had already been referred to chambers, so they were taken out of the review, and the remaining 330 matters were then reviewed. Of those matters, 15 matters have been terminated, eight on evidentiary grounds and seven on either discretionary grounds or a combination of discretionary and evidentiary grounds. As I was giving evidence earlier this afternoon, I'm not able to inform the Committee in relation to the evidentiary grounds, whether that's as a result of the change in the evidence post-committal and pre-trial, but it is my belief that it is likely that all of

those matters would have been identified in the lead-up to the trial, because that is the routine process within the ODPP. As matters are prepared for trial—bearing in mind that there is often new evidence that is served by police or arises out of conferences—the question of reasonable prospects is constantly being assessed, hence the discontinuation of some matters fairly close to trial or even during trial, as evidence changes.

**The Hon. SUSAN CARTER:** And so it's being reassessed by the solicitor and the Crown Prosecutor working as a team?

**SALLY DOWLING:** Yes.

**The Hon. SUSAN CARTER:** And then there's a referral mechanism to go to chambers?

**SALLY DOWLING:** Yes. The non-review mechanism is that the prosecution team will write an initial report, then there will be a second report by the advocate who is running the matter, then it will be referred up to chambers. It'll be then assessed for a third time in chambers and a decision will be made by the deputy director or me.

**The Hon. SUSAN CARTER:** If there's a disagreement between the solicitor who makes the initial assessment and the advocate who makes the second assessment, does it still proceed? What happens?

**SALLY DOWLING:** If it's post-committal, that will still come up to chambers, and then the decision is made by the deputy director or by me.

**The Hon. SUSAN CARTER:** So the solicitor and the advocate are not involved with the decision to proceed to committal?

**SALLY DOWLING:** That's the EAGP process. That's the charge certification process, which is the first stage. Once the matter is certified and committed, it then moves into the District Court or the Supreme Court. The prosecution team remains with it. The same lawyers remain in it, in an ideal world, but there is, of course, often a necessity to re-brief.

**The Hon. SUSAN CARTER:** I'm just curious—and I don't know whether you've thought about this—if you had a situation where the solicitor recommended that it proceed. The advocate didn't believe that there were reasonable prospects of success or there was some reason they didn't believe that the matter should proceed, but the ultimate decision was that it would proceed. In what circumstances could that advocate ask to be reassigned? Because it's a sort of unusual employment situation—they're required to comply with directions—what sort of scope do they have as barristers as well as employed Crown Prosecutors?

**SALLY DOWLING:** They have the ethical obligations under the bar rules. It is always open for a particular advocate to approach me as the client and say that they feel they can't remain in the brief. However, if that's because of a personal view about the quality of some evidence, then under the bar rules that would not be a sufficient basis. People are not being forced to run matters in my office.

**The Hon. SUSAN CARTER:** It is entirely possible for a Crown Prosecutor to come to you and say, for whatever reason, "I don't believe that this matter should proceed, and ethically I don't believe that I should be running this matter."

**SALLY DOWLING:** In that case, what I would do—and it hasn't happened to me since I've been the director—

**The Hon. SUSAN CARTER:** Sorry, it has never happened?

**SALLY DOWLING:** It has not happened. In that case what I would do is I would invite the advocate to explain to me in writing which part of the bar rules prevent them continuing in the matter.

**The Hon. SUSAN CARTER:** I understand it's hypothetical, but what's the likely next step in that situation?

**SALLY DOWLING:** I'd consider the report and make a decision.

**The Hon. SUSAN CARTER:** I don't have any further questions.

**The CHAIR:** I think we've come to an end then—an abrupt early end. I note that you've taken a certain number of questions on notice. The secretariat will be in contact with you about appropriate answers and timing. Thanks very much for coming today.

**(The witnesses withdrew.)**

**The Committee proceeded to deliberate.**