



LEGISLATIVE COUNCIL

PORTFOLIO COMMITTEE NO. 5 – JUSTICE AND COMMUNITIES

BUDGET ESTIMATES 2024-2025

Supplementary questions

Portfolio Committee No. 5 – Justice and Communities

Attorney-General

(Daley)

Hearing: Friday 28 February 2025

Answers due by: 5.00 pm Thursday 27 March 2025

Budget Estimates secretariat

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BUDGET ESTIMATES 2024-2025

SUPPLEMENTARY QUESTIONS

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| Questions from Hon Tania Mihailuk MLC |
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Office of the Director of Public Prosecutions – Sexual Assault Review Report

- (1) Did Sally Dowling SC follow the NSW Government’s Procurement Policy Framework when engaging the services of Sir Max Hill KC and Professor Julia Quilter to review a draft version of the sexual assault review report?
 - (a) If yes, how many respondents were there for the RFT/RFP/RFQ/EOI?
 - (b) If not, then why not?
- (2) Has the Office of the Director of Public Prosecutions requested additional funding from the NSW Government for FY 23/24, FY 24/25, or FY25/26?
 - (a) the request approved?
 - (b) If not, then why not?
- (3) Will the NSW Government provide the Office of the Director of Public Prosecutions the funding gap highlighted during budget estimates? (“SALLY DOWLING: Currently, no. We would need more funding for that. Currently there is not sufficient funding.”)
 - (a) What is the value of the funding gap?
 - (b) If not, then why not?

Value of contracts to reportable political donors

- (4) Has you, the Attorney General’s Office, or the DCJ procured the services of any reportable political donors in each of the past three financial years?
 - (a) If yes, please advise:
 - i. The value of each contract;
 - ii. The date each contracted service began;
 - iii. The name of the political party or candidate who received the political donation;
 - iv. The nature of the contracted services.

(b) the DCJ require reportable political donors to disclose their status as a reportable political donor prior to the procurement of their services?

i. If not, then why not?

QUESTIONS FOR SALLY DOWLING SC, DIRECTOR OF PUBLIC PROSECUTIONS (QUESTIONS 5 – 11)

(5) How many hours did Sir Max Hill KC bill for when reviewing the draft sexual assault report?

(a) What was his hourly rate?

(6) How many hours did Professor Julia Quilter bill for when reviewing the draft sexual assault report?

(a) What was her hourly rate?

(7) What was the full cost of the Sexual Assault Review Report?

(8) How many FTE staff within the Office of the Director of Public Prosecutions contributed to the development and release of the Sexual Assault Review Report?

(9) How many contractors were engaged by the Office of the Director of Public Prosecutions to develop and release the Sexual Assault Review Report?

(10) On page 64 of the uncorrected hearing transcript you stated:

“The Hon. TANIA MIHAILUK: Okay. In total there were 17; would any of the other 16 be for similar reasons?”

SALLY DOWLING: I can't answer that without going back to look at them.

The Hon. TANIA MIHAILUK: Will you commit to actually providing some more detail as to the other 16 cases?

SALLY DOWLING: I'm not planning to at this moment.”

(a) How many casefiles of the 17 discontinued matters did Sir Max Hill KC have access to when reviewing your draft report?

(b) How many casefiles of the 17 discontinued matters did Professor Julia Quilter have access to when reviewing your draft report?

(11) Did Sir Max Hill KC and Professor Julia Quilter review only the substance and accuracy of the text that you had written in the draft report provided to them?

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| Questions from Hon Chris Rath MLC (on behalf of the Opposition) |
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Community Justice Centres

- (12) What is the cost of CJsCs?
- (13) Was the cost of private mediation considered in the decision to close Community Justice Centres?
- (14) What proportion of Community Justice Centre clients are able to afford private mediation?
 - a) Was this factored in to the decision to close Community Justice Centres?
- (15) What impact will the closure of Community Justice Centres have on Local Court waiting lists?
- (16) Who will Local Court counter staff refer parties to once Community Justice Centres are closed?
- (17) When will the details of the new in-house mediation service be announced?
 - (a) Where will these in-house services operate?
 - (b) What will be the operating hours of these in-house mediation services?
- (18) When was the decision made to closure the CJsCs?
- (19) What communications were made to organisations and councils about the CJsCs closures?

BA v The King

- (20) Last estimates (Budget Estimates pg.49) you answered a question on notice about the outcomes of your consultation and review of the break and enter offences in regard to BA v The King, and said that the consultation raised many complex issues and you could not determine what the outcomes of that process were (pg 15 & 49). Can you now determine what the outcomes of the consultation process were?
 - (a) What stakeholders have you met with in regard to BA v The King?
 - (b) When will legislation be introduced to Parliament to address BA v The King

Legal Aid NSW Funding

- (21) What work has been undertaken by Legal Aid NSW to develop a needs-based funding methodology for CLCs?
 - (a) If the work has been undertaken, why is it not publicly available?

- (22) Does the new National Access to Justice Partnership, which begins this July, provide an opportunity to revise the current funding methodology and implement needs-based funding?
- (23) What is the current process to determine individual funding allocations to CLCs?
- (24) Does funding correspond with areas of need?
 - (a) If so, how is this measured?
- (25) How is funding adjusted to reflect population changes?
- (26) How much was provided to each CLC for its General Legal Services in the last financial year?
 - (a) Where can this information be obtained?
- (27) Has there been any change in the approach to funding in the last five years?
- (28) Is there an intention to allocate funding according to areas of need, and to well-performing CLCs which demonstrate an ability to meet that need?
- (29) How do you measure the productivity of each CLC?
 - (a) Is this information published? If not, why not?
- (30) When will the latest funding be announced for CLCs under the National Access to Justice Partnership 2025-30?
 - (a) Who is being consulted?
 - (b) Is data and evidence on performance and outcomes being considered in determining this five-year funding arrangement?

Magistrates called 'Judges' in Local Court Act

- (31) Criminal matters have increased almost 40 per cent since 2012 – what additional support is being provided for judicial officers in the Local Court?

Bail decisions made by magistrates not registrars

- (32) Are the new acting magistrates who are employed for the weekend new magistrates, or are they former magistrates who have returned to work in an acting capacity?
 - (a) If they're new magistrates, what training have they received prior to making bail decisions?
- (33) What's the estimated cost of the Parramatta centralised bail court?

ODPP

- (34) Did every victim whose matters were discontinued by the ODPP receive a statement of facts from the ODPP explaining why their matter was discontinued?

Bail laws for young offenders

- (35) What data was consulted in the decision to extend the section 22C amendment of the Bail Act 2013 by three years?
- (36) How many homeless young people were detained under section 28 of the Bail Act in:
- (a) 2022-23?
 - (b) 2023-24?
 - (c) For the above include by region?

Crime Prevention Fund and the Graffiti Initiatives Fund

- (37) Will the government reverse its decision to cut the Crime Prevention Fund and the Graffiti Initiatives Fund?

93IB and 93IC of the Crimes Act

- (38) How many people have received a jail term in excess of two years for custody of a knife either under section 93IB or 93IC of the Crimes Act?
- (39) Statistically, what impact has 93IB and 93IC on the number of arrests that have been made?

Review into prostitution

- (40) What are the terms of reference of the inquiry?
- (41) Where can the public find the terms of reference?
- (42) When was the inquiry established?
- (43) Is the consultation open to the public, or is it by invitation to selected stakeholders?

Surrogacy

- (44) Which provision in the Surrogacy Act prohibits a grant of a parentage order if a woman is a slave?
- (45) Have you met with the Anti-slavery Commissioner to discuss appropriate safeguards?
- (46) With respect to the appropriate safeguards, will these include appropriate safeguards for the child who is to be born as a result of the commercial surrogacy arrangement?

- (47) What safeguards, if they exist, ensure that New South Wales commissioning parents are not convicted sex offenders?
- (48) What safeguards are there for spare embryos of New South Wales couples that they will not be sold to the highest bidder?
- (49) How will these laws be enforced in overseas jurisdictions?
- (50) Are these protections already in place?
- (51) Section 17 of the Surrogacy Act requires "an application for a parentage order must be supported by a report prepared by an independent counsellor." The report must address matters including whether any consent given by the birth parent "is informed consent, freely and voluntarily given". When an overseas commercial surrogate is the birth parent, how is an Australian counsellor to assess the consent of the birth mother?
- (52) If an overseas counsellor is to be used, what's the mechanism in place to ensure that the counsellor is independent as required by the Surrogacy Act?
- (53) Clause 7 of the Surrogacy Regulation sets out the requirements for a qualified counsellor under the Act: Only those registered in Australia or New Zealand are recognised. Are you proposing to change that regulation?
- (54) Have you been in discussions with AHPRA, RANZCP, or the Australian Association of Social Workers about potential changes to that regulation?
- (55) For example, if the birth mother has not given consent freely and voluntarily—because she's been trafficked into surrogacy slavery—what happens to the child who is born as a result of that commercial and exploitative relationship?

The AG's evidence on 28 February

- (56) Of the 195 first bail appearances under section 22 C between April and December 2024 that were bail refused (Hansard page 3):
 - (a) How many of the 195 were the subject of a review by a higher court?
 - (b) As a consequence of that review, how many of the cases in (a) were granted bail?
 - (c) Of the 195 cases sited, when taking into account the grant of bail upon review, what was the bail refusal rate percentage compared to the nearly 80% that was the evidence to the committee?

- (57) From 28 March 2023 to the present, how many cost certificates were granted against the Crown as was the case in R v Hallak (Hansard p 4)?
- (58) Of the cases in answer to the previous questions, please provide in respect of each case in which there has been a cost certificate granted against the DPP:
- (a) The name of each case including the citation if there is one;
 - (b) The Judge involved;
 - (c) A copy of each judgement or note of judgment;
 - (d) The amount of costs ultimately assessed as payable by the Crown to the defendant pursuant to the cost certificate;
 - (e) A copy of the certificate upon which the costs were payable.
- (59) It was taken on notice (Hansard p 6) about the weekend acting magistrates dealing with bail matters:
- (a) whether they are employed for the weekend only;
 - (b) whether they are new magistrates;
 - (c) whether they are people who were formally magistrates;
 - (d) what training they have received;
- (60) It was taken on notice (Hansard p 7) what is the estimated cost of the bail court.
- (61) It was taken on notice whether the AG organise a briefing on the inciting hatred legislation for the faith council and who else was briefed (Hansard p 8).
- (62) It was taken on notice who attended the briefing by the AGO, DCJ and the faith council, what kind of briefing it was, whether there were lawyers present (Hansard p 8-9).
- (63) It was taken on notice whether the meetings with the faith council had minutes taken (Hansard p 10).
- (64) After gaining advice on the matter are there any black holes in the coverage of the electronic monitoring equipment in NSW (Hansard p 39).

DPP Sexual Assault Prosecutions Audit

- (65) In DPP's sexual Assault Audit Report released just prior to the Budget Estimates hearing last week, at page 27, states that 327 matters were examined, and 17 matters were discontinued. Is there any reason for the discrepancy in numbers between the DPP's

evidence to budget estimates on the last occasion that of the 330 matters set down for trial between April and December last year that had been audited 15 matters had been discontinued but the final audit report reports numbers of 327 matters and 17 cases discontinued respectively?

- (66) The report breaks the 17 discontinued cases down to be 9 on evidentiary grounds and 8 on discretionary and/or evidentiary grounds.
- (67) At the time of the newspaper articles becoming public that gave rise to the audit of sexual assault matters and the completion of the audit, were any sexual assault matters no billed in addition to the 17 discontinued matters?
- (68) How many sex assault cases were no billed in the 12 months prior to the commencement of the audit? How many of those were no billed in the 6 months prior to the commencement of the audit?
- (69) With regard to the matters that were all no billed prior to the completion of the audit were they therefore in addition to the 17 discontinued matters referred to in your Audit?
- (70) How many sex assault cases were no billed between the commencement of the audit and its completion?
- (71) How many of the matters that were no billed at the request of defendants?
- (72) Were any matters that were no billed as a result of the exercise of the ODPP's discretion and without the request of the defendants? If so, how many?
- (73) Of the 5 matters referred to on page 28 of the Audit that did not comply with the prosecution guidelines that proceeded to trial, were any of them the subject of costs orders against the DPP?
- (74) If so, what were the names of the cases, the Judge that awarded costs and please provide a copy of the judgment awarding costs against the DPP.
- (75) Do you believe that the DPP guidelines are capable of being followed?
- (76) In respect of each of the 5 matters referred on page 28 of the Audit, what was the reason that the DPP Guidelines were not followed?
- (77) What systems has the DPP put in place to ensure that the guidelines are always followed in the future?

- (78) What ongoing system of audit and review will continue to take place to ensure that the DPP Guidelines are followed by the ODPP and Crown Prosecutors?
- (79) Are you satisfied that every one of the victims whose matters were discontinued has received a statement of facts from the ODPP explaining why the matter was discontinued?

Protocols - DPP

- (80) On how many occasions in the calendar year 2024 (excluding social interactions) did the Director of Public Prosecutions corresponded directly, by any means, with:
- (a) a Judge of the District Court?
 - (b) A justice of the Supreme Court?
 - (c) On how many of these occasions did this correspondence make a complaint or raise any issue with the conduct of a matter by a judge or justice?
 - (d) On how many of these occasions was this correspondence an ex parte communication?

General questions

CFMEU meetings

- (81) Given ministerial diary disclosures do not include all meetings and provide exceptions to disclosures, since 28 March 2023, have you met with the CFMEU?

ETU meetings

- (82) Given ministerial diary disclosures do not include all meetings and provide exceptions to disclosures, since 28 March 2023, have you met with the ETU?

Ministerial disclosures to The Cabinet Office

- (83) On what date did you last update/make a ministerial disclosure to The Cabinet Office?

Department(s)/Agency(s) Employees

- (84) How many redundancies were processed by each Department(s)/agency(s) within your portfolio responsibilities since 28 March 2023?
- (a) Of these redundancies, how many were:
 - i. Voluntary?
 - ii. Forced?

(b) What was the total cost of all redundancies in each Department/agency within your portfolio responsibilities?

(c) On what page are redundancies published in the respective Department(s)/Agency(s) Annual Reports?

Department(s)/Agency(s) Annual Reports

(85) On what date were the annual report(s) from 2023-24 for each department / agency in your portfolio published?

(86) Were the annual report(s) from 2023-24 for each department / agency in your portfolio printed?

(a) If yes, what was the printing cost(s) for each department / agency?

(87) Did the annual report(s) from 2023-24 for each department / agency in your portfolio use in part or full an external production / body / consultant to draft?

(a) If yes, what was the cost(s) for each department / agency?

(88) In what month will the 2024-25 annual report(s) for each department / agency in your portfolio be published?

(89) Will the 2024-25 annual report(s) for the department / agency in your portfolio include a printed copy?

(a) If yes, how much is budgeted for printing in 2024-25 for each department / agency?

State Records Act

(90) Have you and your ministerial office had training and/or a briefing about the State Records Act from State Records NSW and/or The Cabinet Office and/or Premier's Department?

(a) If yes, when?

Advertising

(91) On what page is advertising published in the respective Department(s)/Agency(s) annual report(s)?

Department(s)/Agency(s) Gifts and Hospitality Register

(92) Does your portfolio department(s)/agency(s) have a gifts and/or hospitality register?

(a) If yes, is it available online?

i. If yes, what is the website URL?

Ministerial staff disclosure of gifts and/or hospitality

- (93) Does your ministerial office keep a register of gifts and/or hospitality for staff to make disclosures?
- (a) If yes, what is the website URL?
- (94) Have any staff members in your office been the recipient of any free hospitality?
- (a) What was the total value of the hospitality received?
- (b) Are these gifts of hospitality declared?

Ministerial Code of Conduct

- (95) Since 28 March 2023, have you breached the Ministerial Code of Conduct?
- (a) If yes, what was the breach?

Credit Cards

- (96) Have you ever been issued with a credit card by a NSW Government department(s) and/or agency(s) since 28 March 2023?
- (a) If yes, under what circumstance?
- (b) If yes, what items and expenditure was undertaken?
- (97) Do public servants in your portfolio department(s)/agency(s) been issued with department/agency credit cards?
- (98) If yes, what is the website URL of the credit card policy?

Department(s)/agency(s) desk or office

- (99) Do you have a desk or office in your portfolio department(s)/agency(s) building(s)?

Senior Executive Drivers

- (100) As of 1 February 2025, how many senior executives in your portfolio department(s) / agency(s) have a driver?

GIPA Applications – Ministerial Office

- (101) Has your Ministerial Office received a GIPA Application(s) since 28 March 2023?
- (a) If yes, how many?
- (b) If yes, what is the website URL of the disclosure log?

GIPA Applications – Department(s)/Agency(s)

(102) Since 28 March 2023, have you and/or your ministerial office given instructions to your portfolio department(s)/agency(s) in relation to Government Information (Public Access) Act application(s)?

GIPA Act – Disclosure Log Website URL

(103) What is the website URL for the GIPA Act disclosure log each of your portfolio department(s) / agency(s)?

TikTok

(104) Are you on TikTok?

(a) If yes, do you access TikTok from a NSW Government device?

Signal

(105) Are you and/or your ministerial staff on Signal?

(a) If yes, do you and/or your ministerial staff access Signal from a NSW Government device?

(b) If yes, does Signal comply with the State Records Act?

Training

(106) Since 28 March 2023, have you had training from an external stakeholder that included an invoice and payment paid for using your ministerial budget?

(a) If yes, what is the description of training?

(b) If yes, how much?

Cabinet documents

(107) Since 28 March 2023, have you shared Cabinet documents with your Parliamentary Secretary?

Parliamentary Secretary

(108) Does your Parliamentary Secretary have pass access to your ministerial office?

(109) Does your Parliamentary Secretary have a desk in your ministerial office?

(110) Has your Parliamentary Secretary ever used your Ministerial Vehicle?

Media releases and statements

(111) Are all the ministerial media releases and statements issued by you publicly available at <https://www.nsw.gov.au/media-releases>?

(a) If no, why?

Overseas Travel

(112) As Minister, do you approve overseas travel for public servants from your portfolio department(s)/agency(s)?

Data Breaches

(113) Does your portfolio department(s)/agency(s) keep a register of data breaches in accordance with the Privacy and Personal Information Protection (PPIP) Act?

(114) If yes to 38, what is the website?

Discretionary Fund

(115) As Minister, do you have a discretionary fund?

(a) If yes, what department(s) / agency(s) administer it?

(b) If yes, what is the website URL detailing expenditure?

Qantas Chairman's Lounge

(116) Are you a member of the Qantas Chairmans Lounge?

Local Government Councillors

(117) How many of your Ministerial staff is a local government councillor(s)?

Questions from Ms Abigail Boyd MLC

Domestic and family violence

(118) How many courts and police stations have well-functioning and reliable audio-visual link technology allowing victim-survivors to provide feedback safely without being intimidated by the alleged perpetrator?

(a) How many courts and police stations require an upgrade?

(119) Six million dollars was allocated in the 2024 domestic and family violence emergency funding package to upgrade audio-visual link technology and provide up to six more magistrates. How many sites have been upgraded?

- (a) Is the allocated funding sufficient for the number of upgrades to audio-visual link technology that are required across NSW?
- (120) What are you doing to ensure accountability for magistrates who are making poor court bail or sentencing decisions that lead to the harm or death of victims of domestic and family violence?
- (121) In July 2022, the Department of Communities and Justice undertook a statutory review of the Victims Rights and Support Act 2013. When can victims and the specialist domestic and family violence sector expect an outcome from the review?
- (a) What are the main concerns raised in the statutory review regarding how Victims Services is operating?
- (b) What improvements do you anticipate will be made as a result of the statutory review?
- (122) What is the NSW Government doing to ensure the Domestic Violence Death Review Team is appropriately funded to undertake their critical work of examining domestic and family violence homicide and identifying where systemic improvements are required to prevent the deaths of women and children?
- (123) Can you provide a copy of the DCJ discussion paper regarding the role of the independent victim services commissioner?
- (a) Which stakeholders were invited to provide feedback on the discussion paper?
- (b) Can you provide any more details about the consultation process, including its timeline and whether any of it will be publicly available?
- (124) When will the NSW Government amend its legislative definitions of family and domestic violence to include all relationships in which people with disability experience family and domestic violence, in all domestic settings, in line with Recommendation 8.24 of the Disability Royal Commission?
- (a) Will the NSW Government commit to undertaking a detailed analysis in relation to this, similar to what the Victorian Government has indicated it will do?

Guardianship Working Group

- (125) How many times has the Guardianship Working Group met since its establishment?
- (126) Which stakeholders were part of each of these meetings?

Reviewing disability deaths

(127) Following the Disability Royal Commission, is any work underway regarding reviewing disability deaths, given the disproportionate rate of preventable deaths for people with disability?

(128) When will the NSW government establish a disability death review scheme?

Justice Advocacy Service

(129) In relation to the court diversion service Justice Advocacy Service operated by the Intellectual Disability Rights Service, how much funding did the NSW Government provide in each financial year from 2017-18 to 2024-25?

(a) Can you break this down to indicate how much funding has been provided to each local court in which the service operates?

(b) Given the service's success, will the NSW Government commit to providing additional funding to expand the project across the state?

Specialist domestic and family violence training for magistrates and court staff

(130) In regards to the government's commitment to roll out specialist domestic and family violence training for magistrates and court staff, what is the timeline for this being rolled out?

(a) Has any training been developed yet?

(b) What consultation is being undertaken for this?

(c) How much funding is allocated to developing and rolling out training?

Support for victims of sexual violence in the justice system

(131) Are you aware of the 2 year pilot program proposed by FullStop in their 2025-26 Pre-Budget Submission for a "justice navigator pilot", which would provide support for victims of sexual violence to move through the justice system?

(a) Is this something you'd consider funding?

(b) Will you commit to meet with FullStop to discuss this important initiative?

Specialist legal service for LGBTIQ+ communities and sex workers

(132) I wrote to you last year about the Inner City Legal Centre's funding request to establish a dedicated, specialist legal service for LGBTIQ+ communities and sex workers, similar to Victoria's service Q+ Law which receives funding from the Victorian government. ICLC is asking for \$2 million annually, similar to what the NSW government provides to Redfern

Legal Centre to run the Financial Abuse Legal Service. Is this something the NSW Government is considering providing funding for?

(a) If not, why not?