

Budget Estimates 2016 – Questions on Notice Index

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BE16/001	Attorney-General	Outcome 1 Australian Human Rights Commission	N/A	Macdonald	Number of complaints applying to refugee, immigration and asylum seeker issues.	<p>CHAIR: This may have to be taken on notice. Professor, of the work the commission does, do you have a top-of-the-head percentage on how much is related to refugees or immigration matters? Is that something that you would have statistics on? If not, could you give us a gut-feeling sort of thing?</p> <p>Prof. Triggs: I can give you a precise answer: there is one person in the commission who is responsible for that work, and it is work that I have typically led. So it essentially me and one person. I would say that at least a third of the commission is devoted to managing the inquiries and complaints that we receive in the Investigation and Conciliation Service, and we have a legal team and others to support that. So that is the bulk of the work of the commission, along with the work of the individual commissioners and staff to support their work. But in terms of asylum seekers it is one.</p> <p>CHAIR: But, of the interaction you have with the public and the complaints that you get through the front door, is that again sort of one in six—one commissioner out of the six? So does that mean about a sixth of the complaints, or does it not work that way?</p> <p>Prof. Triggs: Do you mean how many complaints apply to asylum seeker issues?</p> <p>CHAIR: Yes—or to refugee or immigration issues generally.</p> <p>Prof. Triggs: I can give you a figure. I may have to take that on notice, but basically two-thirds of our complaints concern antidiscrimination matters, largely in employment and delivery of goods and services. I would say that probably something like five, eight per cent of our complaints relate to immigration detention, and those numbers of complaints are declining because fewer people are now held in immigration detention.</p> <p>CHAIR: That is fine. Thank you for that.</p>	5 May 2016 L&C: 6
BE16/002	Attorney-General	Outcome 1 Australian Human Rights Commission	N/A	Hanson-Young	Australian Human Rights Commission's legal view on detention by the Nauru government.	<p>Senator HANSON-YOUNG: Professor Triggs, I am not sure if you are aware of this. There are reports and there is a statement that was issued by the Nauru government only two weeks ago in relation to their firmly-held position that individuals who commit self-harm or attempt suicide will be charged. In fact, in a number of situations people have been held in the Nauru jail as a result of that. From an international human rights perspective, what is the commission's view on that? What is the commission's view on the Nauru government charging and jailing an asylum seeker for attempted suicide?</p> <p>Prof. Triggs: As you point out, Senator Hanson-Young, that is a relatively recent report. If I may, I would like to take that question on notice and provide a proper legal view on this.</p> <p>Senator HANSON-YOUNG: That would be wonderful.</p> <p>Prof. Triggs: But our view of the law is very well known that detention has become arbitrary on Nauru and, of course, there are obligations under the refugee convention not to discriminate against asylum seekers in any way, and particularly those who have been declared to be refugees. I would like to give a proper legal answer, if I may, on notice.</p> <p>Senator HANSON-YOUNG: That would be great. Thank you.</p>	5 May 2016 L&C: 9 & 10
BE16/003	Attorney-General	Outcome 1 Australian Human Rights Commission	N/A	Hanson-Young	Non-refoulement based on abortion.	<p>Senator HANSON-YOUNG: ...I appreciate that. I am also wondering what the commission's legal view is—and you may wish to take this on notice as well, or please feel free to give us your understanding, if you have it to hand—on a young woman who was recently subjected to sexual assault on Nauru while in Australia's care, fell pregnant and required an abortion. Rather than being brought to Australia for her termination, she was sent to Papua New Guinea at the Australian minister's request. It is illegal in Papua New Guinea to have an abortion. What is the commission's view of Australia sending a young woman in their care to a country where that termination is illegal?</p> <p>Prof. Triggs: Thank you, Senator. I am aware of that case.</p> <p>...</p> <p>Prof. Triggs: As I have said, I am aware of this and I have been briefed by the lawyers acting for the woman concerned, but the matter is now before the courts. It is not an area on which we are currently acting; it is before the courts and I cannot, frankly, say any more than that.</p> <p>Senator HANSON-YOUNG: International law requires Australia and other signatory countries to not participate in non-refoulement. Would you take on notice whether an incident like this would fall within the concerns in relation to non-refoulement.</p> <p>Prof. Triggs: We would be very happy to take that on notice and to look at the question, but,</p>	5 May 2016 L&C: 10 & 11

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						because this matter is before the court, I would necessarily give an answer which is a principled answer on the law, rather than on the details of this particular case. Senator HANSON-YOUNG: Thank you.	
BE16/004	Attorney-General	Outcome 1 Australian Human Rights Commission	N/A	Hanson-Young Smith	Non-refoulement based on sexuality.	<p>Senator HANSON-YOUNG: Thank you. Following on from the issue of nonrefoulement and Australia's transfer of individuals, there has been some debate and concern about, in particular, asylum seekers who are gay who have been left on Nauru and in Papua New Guinea—people who have been found to be refugees. Some of them have left their countries because of their sexuality being an issue of concern in their homelands. What is the obligation of Australia to ensure that those people are not further persecuted or threatened or harmed because of their sexuality?</p> <p>Senator SMITH: Or returned to persecution.</p> <p>Senator HANSON-YOUNG: Or returned to persecution.</p> <p>Prof. Triggs: We at the Human Rights Commission are deeply concerned by these particular cases. If I may say so, some two years ago—I would have to check my records—we were given an assurance that the respective ministers of immigration would never send people of a different sexual orientation to Manus and Nauru. We made direct and deliberate inquiries about that because we were particularly concerned about Manus Island and Papua New Guinea law. Sadly, we have some cases in which individuals have brought their concerns to our attention. There is a particular couple who are on Manus who, we are told, are fearful of leaving their living quarters because they fear that they will be attacked. I do not know the full story, but we are now getting a consistent level of information that there are people of a different sexual orientation, particularly on Manus, and it is a very difficult, distressing and possibly even dangerous environment for them. But this is a very good example of refoulement, if you like, to a country where their interests are not protected or where there is a risk that they will be then refouled again, to another country where they would be subject to persecution, and it clearly falls within the definition of a refugee. But, as you quite correctly point out, I believe the particular couple I have in mind have been determined to be refugees. I think this is a very egregious case and I would really ask that efforts be made to protect the interests of those particular people.</p> <p><i>REPEATED QUESTION:</i></p> <p>Senator SMITH: Professor, did I hear you correctly in previous evidence? You suggested that you might have had a commitment from a minister or previous minister that LGBTI people would not be sent to Nauru or Manus?</p> <p>Prof. Triggs: I think I did say I believed that we had. I would like to take that on notice and go back over our notes of the meetings. I know that I have raised it and that I had an assistant with me who was taking notes. I also know that Commissioner Tim Wilson has raised it. These are private meetings with ministers—I am sure you appreciate that.</p> <p>Senator SMITH: Of course.</p> <p>Prof. Triggs: It may or not be appropriate for us. I would like to be able to say that I can confirm that that was our respective understandings—both Mr Wilson's and mine—that commitments were given that those of a different sexual orientation would not be sent to Manus. That is the crux of it. That is my memory, but I would like to be absolutely clear that that is reflected in our notes. I will consult Mr Wilson to be sure that that reflects his own memory as well.</p>	5 May 2016 L&C: 11 & 12, 18
BE16/005	Attorney-General	Outcome 1 Australian Human Rights Commission	N/A	Hanson-Young	Legal status of the widow of an asylum seeker	<p>Senator HANSON-YOUNG: Are there any obligations that Australia has to the widow of Omid to ensure that her liberties are protected—that her rights to be able to communicate to her family and friends, in what must be a tragic, obviously horrifying and deeply sad situation—</p> <p>CHAIR: Well, you can leave the editorial out. Is that the question?</p> <p>Senator HANSON-YOUNG: Are there obligations that we have to ensure that she is now cared for properly while she remains in Australia?</p>	5 May 2016 L&C: 13

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						<p>Prof. Triggs: Senator Hanson-Young, I really would need to take that on notice, because I am unsure of the status of this young woman. But I think, obviously, if she is within the jurisdiction of Australia, she would have all the protections of any other resident or citizen or person who is within Australia's jurisdiction. That is a broad answer. Certainly she is to be treated in a non-discriminatory way and have, if she is a refugee, all the rights. I am afraid I can only give you a very general answer, and, if I may, I would like to look at that situation. I have been reading the same, or similar, reports. I would be very happy to come back to you with the kinds of legal responsibilities that we owe to this young man's widow.</p> <p>Senator HANSON-YOUNG: Thank you.</p>	
BE16/006	Attorney-General	Outcome 1 Australian Human Rights Commission	N/A	Heffernan	Handling of a child trafficking case	<p>Senator HEFFERNAN: Professor, under your guidance, portfolio and responsibilities, do you take any responsibility for the human rights of trafficked children and child prostitutes? Or has no one ever asked you before?</p> <p>Prof. Triggs: We do, in fact, have a particular member of our staff who follows these questions.</p> <p>Senator HEFFERNAN: Could I just put a proposition to you? As you know, I want to have a federal judicial commission and I have plenty of evidence. In Sydney, a group of seriously trafficked children were used by a group of gentlemen and they have had their lives destroyed. One of the particular gentlemen that used them was a bloke called Philip Bell. He was represented in court, knowingly, by a bloke called—I better not name the solicitor; and I can give you the details—under the false name of Philip Hill and got away with it. I wrote to the police—</p> <p>CHAIR: Senator—</p> <p>Senator HEFFERNAN: This is a human rights thing for the children.</p> <p>CHAIR: But it does need to be a question.</p> <p>Senator HEFFERNAN: I wrote to the police and said, 'Well why hasn't this guy'—the court knew that Philip Bell was appearing as Philip Hill. He of course went to jail eventually, and I think he is dead now. The solicitor—I will name the solicitor: Gordon Vivian Stewart—used to own the famous flat in Darley Street that everyone used. I asked the police whether Stewart had committed an offence for representing under a false name. The police wrote back some months later and said: 'In examining the matters you raised, consideration was given to the common law'—blah blah blah—'Matters of this nature are serious and require careful examination as to whether proceedings are commenced. In such matters, the prosecution must establish an intention to pervert the course of justice.' For God's sake! If you are knowingly doing it then you are intending. 'On the material provided by yourself'—which was just the evidence from the royal commission—the only evidence that supports the allegation is the finding of the royal commission and in itself, may not be admissible.' But he is guilty. He owned up to it in the royal commission. 'I am advised that the prosecution always retains a discretionary power not to proceed with an indictment.' That is what they did. They decided not to proceed even though the guy was found guilty. What does that say about the human rights of the children who were trafficked?</p> <p>CHAIR: Okay, there is the question.</p> <p>Prof. Triggs: Senator Heffernan, thank you for raising this matter. We are aware of these sorts of trafficked incidents in Australia. We do keep a watching brief on these matters. What I would very much like to do, if I may, is take your question on notice because I do not know the details of the matter that you have raised. I would like to get back to you about it. It is obviously a human rights issue. I would have to say that from my own work in relation to trafficking some years ago, I know that the police are doing everything that they can to make sure that prosecutions are brought. Why a prosecution has not been brought in this case, I really do not understand. I would really like to look at it properly and get back to you, if I may.</p> <p>Senator HEFFERNAN: Thank you very much.</p>	5 May 2016 L&C: 17

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BE16/007	Attorney-General	Outcome 1 Australian Human Rights Commission	N/A	McKim	Australian Human Rights Commission's position on post-sentence preventative detention	<p>Senator McKIM: Thank you, Chair. Professor Triggs, noting that 'succinct' is in the eye of the beholder I ask you, firstly, is the Human Rights Commission aware of the communique out of the April COAG meeting that the Commonwealth will draft legislation for a post-sentence preventative detention scheme, secondly, has the commission been consulted, or is the commission aware of any intent that it be consulted, on this scheme or on the legislation and, finally, does the commission have a view of whether a post-sentence preventative detention scheme would be in breach of any of Australia's international human rights obligations?</p> <p>Prof. Triggs: I am aware of that COAG decision. We have not been consulted, although perhaps if I could say more broadly partly as a consequence of the universal periodic review process before the Human Rights Council we are working both with the Attorney-General's Department and the department of foreign affairs on a number of matters that have arisen out of that. I do not want to suggest by not being consulted on this that we are never consulted—we are. But on this matter, as far as I am aware, no.</p> <p>I would like to take your question on notice. You will be well aware that I have been speaking for a very long time about my concern at what I believe is an over-reach of executive discretion in rearresting after a prison sentence has been served for a further period without trial or supervision by a judge. I keep coming back to that principle. We have a number of cases in the commission where people have been held in administrative detention with cognitive intellectual disabilities where they have never been sentenced at all or, as I am sure you are familiar, those with sexual offences have been detained in administrative detention after they have served their sentence, and there are other cases. We do not deny the right of the executive government to hold individuals where it might be necessary for both their own personal safety and the safety of the Australian community. We fully understand that but we do say—and I am speaking generally—that we need proper judicial or independent tribunal supervision of these kinds of detentions because we are detaining people—very often in prisons—when they have never been charged with an offence.</p> <p>With regard to this particular matter, I would like to see what drafting emerges because to answer in the abstract, as I have done, is not very satisfactory. If we have a precise program then we will respond from the Australian Human Rights Commission's position. We do respond to provisions of this kind in other contexts regularly, and I will be very happy to send you the materials and submissions we have already made on this broad question of detention without trial or administrative detention and the kinds of safeguards that we think need to be built around it.</p> <p>Senator McKIM: Thank you, Professor. I would appreciate that.</p> <p>Prof. Triggs: Thank you very much.</p>	5 May 2016 L&C: 18
BE16/008	Attorney-General	Outcome 1 Australian Human Rights Commission	N/A	Hanson-Young	At-risk legal status of potentially stateless children.	<p>Senator HANSON-YOUNG: My final question is in relation to a number of these children—38 of them are children that have been born in Australia, some to parents seeking asylum who are Rohingya, for example, who are stateless. What is the view of the commission about the status of children born in Australia to parents that the government wants to send back to Nauru? Are these children stateless now? Indeed, should they be afforded the opportunity to apply for citizenship here in Australia?</p> <p>Prof. Triggs: My understanding is that they are at risk of becoming stateless. They may not get citizenship in Nauru—it is arguably even highly unlikely that they will. Australia, of course, is a party to the statelessness convention, and there are obligations that flow from that. Can I take that on notice to give you a fuller legal view, but we are deeply concerned. I think there are 156,000 stateless people in the Asian region and we are going to see the problem of statelessness arise more frequently, most particularly because the Rohingya people are not given citizenship by Myanmar. So they are a very special category.</p> <p>Senator HANSON-YOUNG: So, of the 38 children that have been born here in Australia, you hold the view that they themselves may become stateless if Australia does not intervene?</p>	5 May 2016 L&C: 19 & 20

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						<p>Prof. Triggs: I believe there is a very severe risk that they will. As you will know, they are deemed to have arrived in Australia by sea under the terms of the Migration Act, which means that they will be deemed not to have been born in Australia. This makes their legal position extremely tenuous. But again, if I may, I would like to give you proper legal view of where we think the convention on statelessness would impinge or, rather, create an obligation for Australia with regard to the future of those children.</p> <p>Senator HANSON-YOUNG: Thank you.</p>	
BE16/009	Attorney-General	Outcome 1 Civil Justice Policy & Programmes Division	1.4	Gallagher	Attorney-General's meetings with community legal centres	<p>Senator GALLAGHER: In terms of this year's budget, the reductions that have come as a result of the national partnership agreement have not been reversed. So there is nowhere in the budget where the 12.5 and the 4.1 have been addressed?</p> <p>Ms Quinn: No, there was no budget item on those matters.</p> <p>Senator GALLAGHER: Were they forecast in last year's budget?</p> <p>Ms Quinn: Yes. There has been no change in the forward estimates.</p> <p>Senator GALLAGHER: Okay. Has the department had any meetings with the community legal centres about what this might mean for their delivery of service?</p> <p>Ms Quinn: We meet with community legal centres often, as you could imagine. The national partnership agreement makes our relationship more directly with the states and territories, but an aspect of the new part national partnership agreement is a requirement for the states to lead a process of service planning. That is about having all the providers, not just the ones funded under the national agreement but also the Indigenous providers and any ancillary providers, brought together to discuss the most efficient and effective way to distribute the funds they do have. They are also required to do that with an evidence base. We play a role in that process and participate in those meetings but also ensure that the states are doing that as thoroughly as we need them to. They are all progressing quite well on that front. That would be my main answer on that. But, yes, we do meet separately with peak bodies of the community legal sector and also individual CLC stakeholders quite regularly.</p> <p>Senator GALLAGHER: Are you aware if the Attorney-General has met with the community legal centres to discuss these reductions in funding?</p> <p>Senator Scullion: I will have to take that on notice. I am not aware specifically whether the Attorney himself has met with particular legal services.</p> <p>Ms Quinn: I can indicate—I could you could not give the specifics off the top of my head—that the Attorney has visited quite a few of the community legal centres in the last couple of months, and legal aid as well.</p> <p>Senator GALLAGHER: Personally met with them?</p> <p>Ms Quinn: Yes. They have also met with representatives of his office. I think we should take on notice the specifics, but to give you that assurance I am certainly aware that that has happened.</p> <p>Senator GALLAGHER: I am not sure how many questions on notice will be able to be turned around in the time.</p> <p>Ms Quinn: It should be a quick answer.</p> <p>Senator GALLAGHER: That would be useful.</p> <p>Senator Scullion: I am quite sure officers are listening. It is a matter of technical detail and I just wanted to be sure. I am quite sure somebody can provide that to us as we are going through this process.</p>	5 May 2016 L&C: 22
BE16/010	Attorney-General	Outcome 1 Civil Justice Policy & Programmes Division	1.4	Gallagher	Funding of the women's safety package	<p>Senator GALLAGHER: Fair enough. Of that \$15 million in the women's safety package, how much of that money has gone to the community legal centres, ATSILs and Family Violence Prevention Legal Services? Perhaps PM&C will have to answer that?</p> <p>Ms Quinn: No. That aspect of the women's safety package was entirely administered by us in Attorney-General's. There were 12 pilots to be funded across all states and territories. We made sure that we covered both regional, remote and urban areas, so there was that mix. We also made</p>	5 May 2016 L&C: 22 & 23

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						<p>sure we got a mix of areas with high culturally and linguistically diverse populations and also Indigenous populations. Unfortunately, high rates of domestic violence are across the board. That was not overly a driver and it is also hard to get information on. There are actually 13 funded organisations as a result of that. I think 10 are community legal centres and two are legal aid commissions; none are Indigenous specific. Much like the service-planning concept I talked about earlier, we have tried to streamline how many funding agreements we are entering into so there was not too much of the overhead in administration for the provider or us. So each provider is required to work cooperatively with all other providers, not just legal assistance providers but all sorts of support services that would be able to assist people in this circumstance. That is an important part of the process.</p> <p>...</p> <p>Senator GALLAGHER: Is that funding over three years?</p> <p>Ms Quinn: Yes.</p> <p>Senator GALLAGHER: Between, say, 13 pilots and the \$15 million, would the average roughly be about \$900,00; \$300,000 a year—is that right?</p> <p>Ms Quinn: It is a bit more nuanced than that. Some of the units are funded to provide a specialist domestic violence unit. Some are funded as well to deliver a health justice partnership. That is about getting embedded in some of the hospitals, for example.</p> <p>Senator GALLAGHER: There is no just general—</p> <p>Ms Quinn: I can provide specific amounts, but it is scaled for that.</p>	
BE16/011	Attorney-General	Outcome 1 Civil Justice Policy & Programmes Division	1.4	McKim	Allocation of funding to legal assistance and the caretaker period	<p>Senator McKIM: To follow up on the previous line of questioning, Minister, you have said that a significant proportion of the \$100 million for breaking the cycle of violence against women and children would be allocated to legal assistance. Firstly, can you be more specific than 'a significant proportion'. Are you talking about 10 per cent or 90 per cent, for example? Secondly, how will the allocations be decided and, particularly, when will they be decided given, by all accounts, we are not far off caretaker mode?</p> <p>Senator Scullion: In terms of the 'significant proportion', it means just that. It is vague, but 'significant' is what you would normally take from significant. It is quite a considerable amount. The reason it is not specific is because the next part of my answer was that it had not actually been announced, because it has not been worked out. In terms of the circumstances around caretaker mode, I am not sure whether anyone can provide some additional assistance about where we are up to in that regard. As I said, I am advised that it will be announced shortly. Even if it is after that period of time, I am sure that the budget would see us through until that time. Of course, it will be in consultation with legal services in the states and territories and with the sector to determine the distribution. I think the important part of this issue is that, when you are considering legal assistance, it might not be under the legal assistance specific provision in the budget but that it is encapsulated in the other packages that are designed to work more efficiently and effectively with other jurisdictions.</p> <p>Senator McKIM: Would you regard 'significant' as being more than half? Would that be a reasonable definition of 'significant'?</p> <p>Senator Scullion: Indeed.</p> <p>Senator McKIM: Thank you.</p> <p>...</p> <p>Senator McKIM: The question does still apply. To be clear, the likelihood is that the election will be called within the next few days. The Prime Minister has been very clear about that in his public statements. You have said that there is a process of consultation still to be gone through before decisions are made around the quantum of the \$100 million that will be allocated to legal assistance and, presumably, where within the broader legal assistance framework those funds will specifically be allocated—for example, through CLCs, Family Violence Prevention Legal Services, Aboriginal and Torres Strait Islander Legal Services, legal aid commissions and so</p>	5 May 2016 L&C: 23, 24 & 25

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						<p>forth. Given that you have said there is an intent to consult and given that the Prime Minister has basically said that he will be calling an election in the next few days, will those decisions be made before we enter caretaker mode? Secondly, if they are not made before we enter caretaker mode, can those decisions be made and enacted in caretaker mode?</p> <p>Senator Scullion: First of all, the consultation has not just started off. There has been some ongoing consultation to come to the position we are in. In regard to the second part of your question, the normal caretaker provisions will apply.</p> <p>Senator McKIM: I understand that. Having served as a minister in Tasmania, I am well aware of caretaker provisions and also ministerial sign-off. I would submit to you that it would be usual that a minister would sign off on decisions such as this, certainly based on advice from the department, and I am disappointed that we are not able to have some clarity around the timing of the decision-making and the subsequent announcement.</p> <p>Senator Scullion: Perhaps we can take that element on notice, and if there is any further information around those issues we will be able to provide it on notice.</p> <p>Senator McKIM: Thank you.</p>	
BE16/012	Attorney-General	Outcome 1 Civil Justice Policy & Programmes Division	1.4	McKim	Funding allocations to community legal centres	<p>Senator McKIM: That is okay. I acknowledge that this is not PM&C here right now. I just wanted to ask about the cuts to CLCs. CLCs are facing funding cuts of about 30 per cent—in 2017-18, about a \$12.1 million cut on my advice, as well as an additional \$11.6 million in 2018-19 and \$11.1 million in 2019-20. Given that you have acknowledged that a significant proportion of the \$100 million for family violence will be provided to legal assistance, presumably that will only go to CLCs that provide family violence related services, so where does this leave CLCs that do not do family violence work, acknowledging that most of them do? There are some that do not, and presumably will not receive any part of that \$100 million. Does that just simply leave them languishing, contrary, I might add, to the recommendations of the Productivity Commission?</p> <p>Senator Scullion: Clearly these initiatives, whether it is the women's safety package or the family violence package, are actually tied to ameliorating the challenges in those particular areas. So they are quite targeted funds. As you indicate, the vast majority of community legal services actually deal with family violence and women's safety issues respectively. I am not aware of the levels of details of those community legal centres that would not deal with those matters, but presumably they would focus on their general target clientele, if it does not fall within that, which surprises me. It is an area where I would have thought there would have been a very small number of them. I certainly, in my time, have not been aware of those who say, 'We're not dealing with domestic violence,' or, 'We're not dealing with women's safety issues'. These are targeted, and they are very much targeted at assisting a community where the provision of legal assistance is essential. I would have thought that, because these are targeted, these are going to those areas of need, and I am not aware of any Community Legal Centres that would not provide those levels of service.</p> <p>Senator McKIM: Yes. Minister, the budget contains a significant amount, to use your word—</p> <p>Senator Scullion: Over 50 per cent.</p> <p>Senator McKIM: of over 50 per cent—well, perhaps not over 50 per cent of the total budget, but a significant amount—of unspent funds, and there is funding in the contingency as well, as you would expect. Are you aware of any intent to use any part of that funding to reverse cuts to the CLCs and actually fund them in line with the Productivity Commission recommendations?</p> <p>Senator Scullion: No. I am not aware, but that may not mean that the government is not aware, so I will take that particular element of the question on notice.</p>	5 May 2016 L&C: 25
BE16/013	Attorney-General	Outcome 1 Civil Justice Policy & Programmes Division	1.4	Heffernan	Federal judicial commission	<p>Senator HEFFERNAN: Could the department confirm to me that the CEO of the Family Court is retiring on 30 June?</p> <p>Mr Manning: Yes, that is our understanding.</p> <p>Senator HEFFERNAN: I recently had a conversation, and I presume the CEO will not be</p>	5 May 2016 L&C: 26

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						<p>appearing again before the estimates committee because we have run out of time, so he is in the clear. But he did confirm that to me after the last estimates, and I did put some questions on notice, which I believe have not come back—correct?—because you been so busy.</p> <p>Mr Manning: I am not sure of the status of those questions on notice.</p> <p>Senator HEFFERNAN: No, you have not. That does not come as a shock. But he did confirm to me that I was right—that there is no way of dealing with an issue of inappropriate behaviour, misconduct et cetera in the family jurisdiction of the court, which is the federal jurisdiction, outside of the courtroom. Could you confirm that.</p> <p>Mr Manning: I would like to take it notice. Without the benefit of seeing what the court answered, which I assume would reflect the Chief Justice's opinion—</p> <p>Senator HEFFERNAN: No, that was in a conversation. What I am trying to do, as you may or may not be aware, is set out the case for a federal judicial commission. I am about to give you some examples, and I am hoping to take this up with the Attorney, who has been delayed, when he gets here. I just want to give you an idea. There is no question—you can do all the research you like. There is no way of dealing with inappropriate behaviour outside of the courtroom in either the High Court or the Family Court, other than a criminal matter. It was well publicised recently that:</p> <p>THE Chief Justice of the Family Court, Diana Bryant, has been forced to apologise to some of Australia's most senior judges after they stormed out of a dinner, hosted by her, which featured a sexually explicit comedy act.</p> <p>Are you aware of that?</p> <p>Mr Manning: I am not aware of that.</p>	
BE16/014	Attorney-General	Outcome 1 Civil Justice Policy & Programmes	1.1	Madigan	Review of the Family Law system	<p>Senator MADIGAN: Thank you, Attorney; I will keep moving as I am conscious of the time. The next issue I am going to move to is the Family Court. Attorney-General, I moved a motion on 2 February this year calling for a root and branch review of the family law system. I wrote to you on 10 March asking for an urgent update on this review, and I wrote again to you on 4 April. To date I have not received a response. Can you advise the Australian families out there who continue to struggle with the unacceptable failures of the family law system what you, as Attorney-General, are doing to help them?</p> <p>Senator Brandis: Let me take that question in two parts. Let us talk about resourcing and let us talk about law reform. I am not sure if you were in the room before, Senator, when there was some discussion about the additional money that the government provided last year as part of the family violence package, and the further money—the \$100 million—that was provided in the budget to deal with that matter as well. That is part of a much larger budgetary allocation—some \$1.6 billion in legal assistance over the next five years, most of which will be spent one way or another in the family law system.</p> <p>When it comes to law reform, there have been significant amendments to the Family Law Act, the details of which I can run through for you if you particularly want me to. I will just ask for a brief that sets them out in a comprehensive way so that I can take you through them one by one. However, your motion, which as you will recall we discussed, asked for, as you said, a root and branch review of the Family Law Act. I have thought very carefully about what you said to me in the course of that conversation, and I have thought very carefully and considered very respectfully the contributions you have made to this debate in the Senate. Reform of the family law system is always something that is on the mind of the government, and on my mind in particular as the Attorney.</p> <p>Senator MADIGAN: It was actually the Senate that called for the root and branch review—</p> <p>Senator Brandis: Well, I was giving credit where it was due, Senator—it was your motion.</p> <p>Senator MADIGAN: I appreciate that, but I have not received a response in writing to date. When can I expect to receive a response to that from the Attorney-General's Department—yourself—laying out what is actually being done so that people out there who are suffering, and</p>	5 May 2016 L&C: 36

Q No.	Responsible Minister	Outcome/ Division or Agency	Programme number	Senator	Subject	Question	Hearing Date and Proof Hansard Page or Written
						<p>most importantly the children, instead of us going around in a circle, can have something concrete?</p> <p>Senator Brandis: We will have prepared for you—and will have it to you by tomorrow—a letter that sets out, in summary form, all the reforms we have made to the family law system. Now, that does not address your broader question of a root and branch review, but it will give you some indication as to what the government has done in the past 2½ years.</p>	
BE16/015	Attorney-General	Outcome 1 Strategy and Delivery Division	General	Madigan	Status of previous questions on notice	<p>Senator MADIGAN: Very few of the questions taken on notice by organisations falling within your portfolio have been answered. How do you explain this flagrant disregard to their obligations to the Senate when questions are asked?</p> <p>Senator Brandis: I will have the question on compliance checked. You will of course be mindful of the fact that these estimates are a fortnight earlier than when the estimates were scheduled to occur.</p> <p>Senator MADIGAN: Specifically the Family Court questions.</p> <p>Senator Brandis: All right. I will take that up with the CEO of the Family Court.</p> <p>Senator MADIGAN: Thank you.</p>	5 May 2016 L&C: 37
BE16/016	Attorney-General	Outcome 1 Civil Justice Policy and Programmes Division	1.4	Heffernan	Handling of misconduct within the judiciary	<p>Senator HEFFERNAN: Just one final one, Macca. There is a judge in New South Wales who used to pick up kids in the toilet opposite Marcellin College—this is in the police intelligence report, which includes video surveillance. He heard the case of a guy who sexually whatevered someone who was underage, found him guilty and gave him 'to the rising of the court' as a sentence.</p> <p>Senator Brandis: I do not know anything about that.</p> <p>Senator HEFFERNAN: I bloody well do. Thank you very much!</p> <p>CHAIR: I am going to stop that there. Senator Brandis, perhaps on notice, could you highlight the difficulties of engaging an existing—and there is only one—commission to deal, on contract, with any of these rare occasions. From what Senator Heffernan has been saying for years now, he apparently has evidence. Some already established commission could do it. It is not a great cost and it would be rarely used, for the reasons you mention. And I agree, the federal judiciary has had an almost impeccable and unimpeachable record. Perhaps on notice, could you give us an answer on why that would not be possible?</p> <p>Senator Brandis: I will take the question on notice, but I want to repeat the main rejoinder I have to Senator Heffernan and others who raise this issue. If people have evidence of a crime they should give that evidence to the police. If they are dissatisfied with the way in which the police are pursuing the matter, then there are vehicles and avenues to complain about the prosecution or the investigation of the matter by the police. It is very, very inappropriate, in my view, for politicians to act as prosecutors.</p>	5 May 2016 L&C: 40
BE16/017	Attorney-General	Outcome 1 Civil Law Unit	1.4	Macdonald	Misbehaviour provisions for commissioners in the Australian Human Rights Commission	<p>CHAIR: Can I preface this question by saying that never, in any circumstances, am I suggesting this. No-one should relate this question to anything that has happened in the last three years. What does the act say, what is the provision, in the cases that Senator Heffernan raised, in an entirely different context, about what you do with judges who are misbehaving? What is the provision under the act in relation to commissioners? Again, I emphasise that not for a moment am I suggesting this. I would be the first into the streets for this not to happen.</p> <p>Senator Brandis: It is not really relevant.</p> <p>CHAIR: But how do you get rid of a commissioner if the commissioner is—</p> <p>Senator Brandis: A commissioner could be removed by the Governor-General in Council. But a commissioner is appointed for a fixed term. It would be very unusual—</p> <p>CHAIR: So are judges.</p> <p>Senator Brandis: thing to do. But judges, under chapter 3, may only be removed by an address of both houses of the parliament on the ground of proved misbehaviour or incapacity.</p> <p>CHAIR: In the case of any human rights commissioner?</p> <p>Senator Brandis: No, that provision of the Constitution does not apply to human rights</p>	5 May 2016 L&C: 51, 52 & 53

Q No.	Responsible Minister	Outcome/ Division or Agency	Programme number	Senator	Subject	Question	Hearing Date and Proof Hansard Page or Written
						<p>commissioners.</p> <p>CHAIR: What does apply?</p> <p>Senator Brandis: Not that section of the Constitution.</p> <p>CHAIR: No, forget the Constitution. What does the act provide for a recalcitrant—and again I repeat I am not for a moment suggesting it; I am simply asking at estimates what the—</p> <p>Senator Brandis: I am not even sure it is covered in the act. I will have that checked, and if those who are watching this—</p> <p>Mr Moraitis: It is. There is a provision in the act.</p> <p>...</p> <p>Senator JACINTA COLLINS: Mr Moraitis can tell us those provisions in the act.</p> <p>Mr Moraitis: I do not have the details, but—</p> <p>Senator Brandis: We will look the provision out. I do not have a copy of the act to hand, Senator, but before four o'clock we will get you your answer.</p> <p>CHAIR: I do not want to really carry this on.</p> <p>Senator Brandis: No, no; I will have my industrious staff look at it very promptly.</p> <p>...</p> <p>Senator Brandis: Yes. My exceptionally industrious staffer here, Mr Brennan, has found the provision, which appears to be section 46I of the Australian Human Rights Commission Act, 'Termination of appointment'. It states:</p> <p>(1) The Governor-General may terminate the appointment of the Commissioner— I take it that this applies to any member of the commission, including the president— because of:</p> <p>(a) misbehaviour; or</p> <p>(b) a disability that makes the Commissioner incapable of performing the inherent requirements of office.</p> <p>(2) The Governor-General must terminate the appointment of the Commissioner if the Commissioner:</p> <p>(a) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with creditors or makes an assignment of remuneration for their benefit; or</p> <p>(b) is absent from duty, except on leave of absence, for 14 consecutive days or for 28 days in any period of 12 months; or</p> <p>(c) engages in paid employment outside the duties of the office of Commissioner otherwise than with the approval of the Minister.</p> <p>It is quite different from the provisions for the removal of judges for several very obvious reasons. Firstly, it does not require the parliament, so the matter can be done by the executive government. Secondly, it is not the same test. The test in chapter III of the Constitution is 'proved misbehaviour or incapacity'; the test here is: misbehaviour; or ... disability that makes the Commissioner incapable of performing the inherent requirements of office.</p> <p>Thirdly, there is a requirement that the commissioner be removed in three identified circumstances—namely, insolvency, absence from duty without leave, or engagement in paid employment without the approval of the minister.</p> <p>...</p> <p>CHAIR: I am going to stop you there. The answer is not relevant to the question. I will ask you or one of the departmental people to take on notice—I do not want to start a long discussion on this, because we do want to move on, and I am conscious that time is running away—what does misbehaviour involve in the case of the act you have just referred to, as opposed to the Constitution?</p> <p>Senator Brandis: Sorry to prolong this, but I need to respond to that. Firstly, it is not at all clear</p>	

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						whether the word 'misbehaviour' in the act and the word 'misbehaviour' in the Constitution bear a different meaning. They may or may not; that has never been decided. Secondly, I am reasonably sure that section 46I of the Australian Human Rights Commission Act has never been the subject of judicial interpretation. Thirdly, I think that we will find some guidance from the report of the Senate committee to which I referred. I will take that on notice. It is a very interesting topic. CHAIR: If, on notice, you come to any other conclusion, let me know.	
BE16/018	Minister for Justice	Outcome 1 Emergency Management Australia	1.8	Cameron	Advice to Treasury regarding National Disaster Relief Recovery Arrangements	<p>Senator CAMERON: Mr Crosweller, I understand that what we have is over \$1 billion payment in Natural Disaster Relief and Recovery Arrangements, which were in the midyear economic update and are now not in the budget—is that correct? This is for Queensland.</p> <p>Mr Crosweller: That is correct.</p> <p>Senator CAMERON: From what I read, the issue is, apparently, that there were some problems with the process of claims and the ANAO delivered the report—is that correct?</p> <p>Mr Crosweller: That is correct.</p> <p>Senator CAMERON: Queensland is not receiving its payment of over \$1 billion—is that correct?</p> <p>Mr Crosweller: Not this financial year, no.</p> <p>...</p> <p>Senator CAMERON: At what level of government was the decision made to defer the funds?</p> <p>Mr Crosweller: It is part of the budget process.</p> <p>Senator CAMERON: Why would an issue of disaster relief be part of the budget process?</p> <p>Mr Crosweller: In essence, as I understand it, because it is a contingent liability and needs to be considered in that context of the broader budget implications of contingent liabilities, it forms part of the overall budget process.</p> <p>Senator CAMERON: What group was dealing with it? Was it the finance minister or the Attorney-General?</p> <p>Mr Crosweller: As I understand it, it was the ERC.</p> <p>Senator CAMERON: I do not ask what advice you provided, but did you provide advice to the ERC on this issue?</p> <p>Mr Crosweller: We provided advice to Treasury.</p> <p>Senator CAMERON: When was that advice supplied?</p> <p>Mr Crosweller: It would have been after the estimates and the claims were received from the states. I think it was in March, but I would have to take it on notice.</p> <p><i>REPEATED QUESTION:</i></p> <p>Senator CAMERON: Okay. I am back to the Queensland disaster recovery. Just let me reprise where we were up to. I think you advised that there was an ANAO report in March 2015?</p> <p>Mr Crosweller: April, Senator.</p> <p>Senator CAMERON: April 2015?</p> <p>Mr Crosweller: That is correct.</p> <p>Senator CAMERON: So then we had MYEFO in December—nine months later.</p> <p>Mr Crosweller: That is correct.</p> <p>Senator CAMERON: You indicated you had provided some advice to Treasury. Is that correct?</p> <p>Mr Crosweller: That is correct, Senator.</p> <p>Senator CAMERON: When did you provide that advice to Treasury?</p> <p>Mr Crosweller: I think I mentioned that I would have to take the specific date on notice. But we provide advice to Treasury in anticipation of MYEFO, based on forward estimates, and then we provide further advice to Treasury once we have received claims for expenditure from states and territories. Those claims can come in as early as January, but they must come in by the end of March, unless they seek an extension of time.</p>	5 May 2016 L&C: 53 & 54, 62

Q No.	Responsible Minister	Outcome/ Division or Agency	Programme number	Senator	Subject	Question	Hearing Date and Proof Hansard Page or Written
BE16/019	Minister for Justice	Outcome 1 Countering Violent Extremism Centre	1.7	McKim	Service providers on the Directory of Countering Violent Extremism Intervention Services	<p>Senator McKIM: This is the last question from me. I asked this at last estimates and I cannot see that a response has been provided since then, so I will just ask it again. Are you able to inform the committee of how many service providers are currently on the Directory of Countering Violent Extremism Intervention Services and how often the directory has been used?</p> <p>Senator Brandis: I think the officials should know the answer to that.</p> <p>Ms Lowe: The directory of intervention services was established quite some time ago in order to facilitate the department being able to procure services directly in support of individuals at risk and in response to referrals. With the way the model has evolved, those services are being more directly procured by the states—so a working partnership with the states. The states procure all those services to support intervention.</p> <p>The directory of intervention services is an evolving document, and as organisations develop more capability and willingness to participate in this program they get added to the service. One of the biggest contributors to the development of the directory is, in fact, 40 grants recipients that are coming to the end of their current grants process. There was a grants process launched about a year ago that was designed to build the capability of NGOs to deliver those referral services. As their capability increases and improves and they undergo training delivered by the department and others, they will continue to be added to the directory.</p> <p>In terms of the numbers on the directory and who is on the directory, it is not something that we publicise. Organisations want to be on the directory on a confidentiality basis. They provide services directly to government, but it is not something that we publish or publicise.</p> <p>Senator McKIM: Ms Lowe, I do accept that in terms of the identity those organisations, but I cannot see the argument against revealing the number of organisations on the directory.</p> <p>Ms Lowe: I am happy to take on notice the number as is currently the case, because, as I said, it is a developing service and so the number changes. I can take that on notice and give you the most accurate response.</p> <p>Senator McKIM: Thank you.</p>	5 May 2016 L&C: 61

Q No.	Responsible Minister	Outcome/ Division or Agency	Programme number	Senator	Subject	Question	Hearing Date and Proof Hansard Page or Written
BE16/020	Attorney-General	Outcome 1 National Security Division	1.7	Ludlam	Distribution of funds for the data retention scheme	<p>Senator LUDLAM: PM&C—that is fine; I will skip that. In that case, my final one was: could you provide us with an update of the moneys that have been appropriated to partially compensate internet service providers and telcos for implementing the mandatory data retention scheme? Could we just get an update from somebody as to how much of that money has been disbursed? Thank you, Mr Rice. I am sorry we did not have a bit more time with you.</p> <p>Senator Brandis: Ms Jones might be the person to do that for you, Senator.</p> <p>Senator LUDLAM: Thank you.</p> <p>Ms K Jones: In terms of the funding under the reimbursement program in relation to the expenditure for capital works associated with complying with the data retention regime, we are still processing the applications and finalising the detailed elements of the funding model, so no funding actually has been allocated yet. We are still in the process of working through the funding.</p> <p>Senator LUDLAM: How oversubscribed would you say you are?</p> <p>Ms K Jones: I would need to take that on notice. Certainly, in terms of the number of applications—I might get one of our colleagues here—I think it is approximately 200 applications that we have received. At this stage, we are processing all of them. Whilst there is no expectation that every applicant will receive the total amount that they have sought, because the government's program was a contribution to their costs—not a substantial contribution to their cost, not the total cost—at this stage, we are still looking at the total number of applications that have been made. Some, I understand, have withdrawn their applications and then the rest are still being considered.</p> <p>...</p> <p>Senator LUDLAM: Okay. That must have been a relief to them so that is not giving up hope at all. I withdraw that imputation. Could somebody provide us with an update of the implementation process: how close is industry to actually complying with this new obligation?</p> <p>Ms Chidgey: As at 27 April, we received implementation plans and some applications for exemptions or variations from 347 providers. We have notified 343 of those of decisions on their applications, and there have been 155 implementation plans approved. I think the priority is to work cooperatively with industry to achieve compliance by 13 April 2017.</p> <p>Senator LUDLAM: Are you able to provide us with a breakdown, either on notice or from the table, of what proportion of the total user pool, if you like, or the connected population, is in terms of numbers of people? Given that the industry participants you are dealing with range in size all the way from Telstra to little backyard operators, what proportion of the Australian population is presently covered by implementation plans that you have signed off on?</p> <p>Ms Chidgey: We would need to take that on notice, so we will do that.</p> <p>Senator LUDLAM: I figure. You would not want to even throw an estimate at us—something from the ballpark?</p> <p>Ms Chidgey: No.</p> <p>Senator LUDLAM: If you could provide that on notice.</p>	5 May 2016 L&C: 65 & 66
BE16/021	Attorney-General	Outcome 1 National Security Division	1.7	Ludlam	Implementation plans for the data retention scheme	<p>Senator LUDLAM: PM&C—that is fine; I will skip that. In that case, my final one was: could you provide us with an update of the moneys that have been appropriated to partially compensate internet service providers and telcos for implementing the mandatory data retention scheme? Could we just get an update from somebody as to how much of that money has been disbursed? Thank you, Mr Rice. I am sorry we did not have a bit more time with you.</p> <p>...</p> <p>Senator LUDLAM: If you could provide that on notice. Can you just speak briefly then of the big end of town—so your Telstras, your Optuses, TPGs and so on; have their implementation plans been signed off?</p> <p>Ms Chidgey: I do not have that detail and I am not sure we want to talk about individual providers.</p>	5 May 2016 L&C: 65 & 66

Q No.	Responsible Minister	Outcome/ Division or Agency	Programme number	Senator	Subject	Question	Hearing Date and Proof Hansard Page or Written
						<p>Senator LUDLAM: I think people who are subscribers to these services might want to know about individual providers. If you could take on notice—just to whatever granularity you are able to provide us with.</p> <p>Ms Chidgey: We will take that on notice.</p>	
BE16/022	Minister for Justice	Outcome 1 Emergency Management Australia	1.8	Cameron	Advice to government about allocation of NDRRA funds to the Queensland government	<p>Senator CAMERON: This letter is dated 26 May 2015—12 months ago. It says, 'The proposed collaborative activities'—this is after the ANAO report—'will extend the period for re-examination and audit of the 2013-14 expenditure beyond 30 June 2015. I suggest that the responsible officers in our departments work together to implement these arrangements for completion by 31 March 2016 in order to progress the funding to Queensland before the end of the 2015-16 financial year.' What happened?</p> <p>...</p> <p>Mr Crossweller: To respond to your question, we have been working on it for a period of time and we have been increasing and clarifying our—</p> <p>Senator CAMERON: For three years at least. Is that right? It is not 'a period of time'. It is three years.</p> <p>Mr Crossweller: That is correct, and the process has been improving over that time. I must again stress that all of this has to be done in collaboration with states and territories. It is not an imposition by the Commonwealth. Ultimately, when we move forward on a reform, when we move forward on improvements to the determination or any guidelines that attach, we need to seek, in essence, the collaborative agreement between all states and territories and the Commonwealth before we move forward. In any space, that is a complex process. Improvements have been made. ANAO did acknowledge that to a point, but pointed out that more needed to be done.</p> <p>As to the issue about looking at other, alternative options to those recommended by ANAO: what would cause even greater consternation is project-level expenditure assurance. We accept that that is problematic for states, and that is why we have moved to look at other or alternative arrangements. The whole basis of the reform, going forward, is to actually move out of this space of acquittal and expenditure and move to payment upon estimate.</p> <p>Senator CAMERON: That is fine, but that does not help the Queensland government, who have the equivalent, if it were the Commonwealth government, of a \$51 billion hole in their budget because of a lack of progress on this issue and a decision made not to pay the Queensland government. If that were the Commonwealth government, they would be screaming the house down.</p> <p>Ms K Jones: Can I make one important point: the claims have not been denied, but they are subject to being properly assured before the Commonwealth can release the funds.</p> <p>Senator CAMERON: But you have had three years dealing with this.</p> <p>Ms K Jones: No, we have not. Not for these claims. We received the claims on 24 March this year and they are going through an assurance process. But the Commonwealth can—</p> <p>Senator CAMERON: But you have been talking to them for a year on this issue.</p> <p>Ms K Jones: Yes, but we only received the claims on 24 March.</p> <p>Senator CAMERON: You only received the claim, but you have been dealing with the Queensland government for 12 months—</p> <p>Senator Brandis: Senator Cameron, can you please explain, perhaps, how it is you say that this matter should have been dealt with sooner before the claim was received?</p> <p>...</p> <p>Senator CAMERON: That is your opinion. I do not share that opinion. You can screw your face up as much as you like; I do not share that opinion. Let me just indicate the position, as I see it. In March, the Queensland government—</p> <p>CHAIR: It should be a question. Is that a question for the officers?</p> <p>Senator CAMERON: It will be a question, of course. When did you advise government on this</p>	5 May 2016 L&C: 67, 68 & 69

Q No.	Responsible Minister	Outcome/ Division or Agency	Programme number	Senator	Subject	Question	Hearing Date and Proof Hansard Page or Written
						<p>issue? It was back in March, wasn't it?</p> <p>Mr Crosweller : I would have to take that on notice. I do not know the exact date.</p> <p>Senator CAMERON: I am pretty sure you said March in a previous response; if that is not correct, I am happy for you to take it on notice. In April, there was a meeting of the national disaster recovery programs with the Queensland recovery authority in Darwin. Is that correct?</p>	
BE16/023	Minister for Justice	Outcome 1 Emergency Management Australia	1.8	Cameron	Dates of payments of NDRRA funds	<p>Senator CAMERON: Mr Crosweller, are you aware that any claims Queensland have made and lodged in March have historically always been paid very quickly?</p> <p>Mr Crosweller: We were criticised by the ANAO for paying prior to assurance of acquittal. It was one of the key findings of the ANAO—that the government of the day was paying on expenditure prior to acquittal.</p> <p>Senator CAMERON: But after the ANAO report came out—and that came out in April—payments were made—</p> <p>Mr Crosweller: No. As I understand it—</p> <p>Senator CAMERON: The ANAO report was 30 April.</p> <p>Mr Crosweller: If I can confer with my colleagues—my understanding is that when the secretary wrote to states and territories, that we ceased all payments and we moved to a collaborative assurance framework, in order to move to assurance and acquittal—</p> <p>Senator CAMERON: Is that your understanding, or do you know for sure?</p> <p>Mr Crosweller: Specifically, I would have to take it on notice. I am not aware of a payment that was made after the secretary's letter. In fact, I am almost positive.</p> <p>Senator CAMERON: I am told that after the ANAO report came out in April—it came out on 30 April, report No. 34—Queensland did receive payments. They did receive payments. They received them in the June, and that has been, historically, the position. They lodge the claim in the March. The claim gets paid in the June. That has historically been the position, because these are complex issues under the current—do you agree there are complex reconciliations happening?</p> <p>Mr Crosweller: Yes, absolutely. Yes they are.</p> <p>Senator CAMERON: So, they are complex reconciliations. Despite what Senator Brandis indicated, these are formal processes that have to be undertaken. They take a while. Normally, they are lodged in the March and paid in the June. That is the historical position.</p> <p>Mr Crosweller: Advance payments have been made in the past. It was the very thing the ANAO was critical of, because the payments were being made prior to assurance and acquittal. Ineligible expenditure was found, as well as a number of other concerning issues.</p> <p>Senator CAMERON: Well, why did you pay them in June 2015?</p> <p>Mr Crosweller: I am not saying we did. I would have to take that on notice. I am not aware of—</p> <p>Senator CAMERON: I am saying that—</p>	5 May 2016 L&C: 70 & 71
BE16/024	Minister for Justice	Outcome 1 Emergency Management Australia	1.8	Cameron	Date of reconciliation of funds under the NDRRA	<p>Senator CAMERON: But this is more than cleaning up. This is basically the Queensland community being denied \$1 billion for use in Queensland, and it is not in the forward estimates for this budget, so how can they be assured that they will be paid this \$1 billion that has been used to get them back into more productive approaches after a disaster? How can they be assured?</p> <p>Mr Crosweller: The money is budgeted for the next two financial years to pay Queensland back. Once the claim is acquitted, the payments will be made.</p> <p>Senator CAMERON: As soon as it is acquitted, it will be paid? That is what you are saying?</p> <p>Mr Crosweller: Over two financial years.</p> <p>Senator CAMERON: Why over two financial years?</p> <p>Mr Crosweller: That was the decision of the government.</p> <p>Senator CAMERON: That is a government decision. So, even if they can acquit within a month, the government has made a decision that the money will be withheld and will not be paid</p>	5 May 2016 L&C: 74 & 75

Q No.	Responsible Minister	Outcome/ Division or Agency	Programme number	Senator	Subject	Question	Hearing Date and Proof Hansard Page or Written
						<p>until over two financial years. That is a penalty against the Queensland population, isn't it?</p> <p>Mr Crossweller: All I can do is cite the budget papers. The budget identifies two payments, in 2016-17 and 2017-18.</p> <p>Senator CAMERON: That is a political decision, isn't it?</p> <p>Mr Crossweller: It is a decision of the government, Senator.</p> <p>Senator CAMERON: It is a political decision of the government to withhold this money from the Queensland government, even if they can reconcile, for two years.</p> <p>Mr Crossweller: I can only reiterate that it is a decision of the government.</p> <p>Senator CAMERON: I think that says it all. This is a political decision, and you should be ashamed of yourself, Senator Brandis.</p> <p>CHAIR: Come on!</p> <p>Senator Brandis: Senator Cameron, I think your characterisation of the decision, if I may say so, is completely wrong.</p> <p>Senator CAMERON: It is not.</p> <p>Senator Brandis: But, if you want me to inquire of the minister as to the bases of the decision, I am happy to take the question on notice.</p> <p>Senator CAMERON: I am happy for you to do that.</p> <p>Senator Brandis: Thank you.</p> <p>Senator CAMERON: Can you also then provide on notice whether, when the reconciliation is finished, Queenslanders can get access to the money that they are entitled to under the NDRRA, and it is not withheld for political reasons over two years?</p> <p>Senator Brandis: I am not sure whether that really is a question, but I am quite certain that people in every state in Australia including my own do have access to that to which they are entitled. You have raised a particular matter: why was this payment in two instalments over two years? I will find out the reasons for that.</p> <p>...</p> <p>Senator CAMERON: If I ask the question, I can go. Senator Brandis, could you also inquire if it is possible for the Queensland population, the Queensland government, to receive that \$1 billion as soon as the reconciliation is made, consistent with the ANAO and departmental requirements?</p> <p>Senator Brandis: I have already given you that assurance, Senator, but I will make an inquiry as to the bases of these decisions about staging the payments.</p>	
BE16/025	Minister for Justice	Outcome 1 Emergency Management Australia	1.8	Macdonald	Non-payment of NDRRA funds	<p>CHAIR: I am now abusing my own rules, but this is important, and I am at least grateful to Senator Cameron for one thing, and that is for raising this issue. There is that long chestnut about the one year—I think it is the 2013-14 year—where the NDRRA payment was not made. Why it was not made has been explained to me in the past and it is an explanation that, I must say, I have forgotten. But when I gave it to councils they all found it incredulous. Could you repeat it and tell me what the justification was? Do you know what I am talking about?</p> <p>Mr Verlin: Not in respect of 2013-14.</p> <p>CHAIR: There is one year—I thought it was 2013-14, but it might have been 2012-13.</p> <p>Mr Verlin: From 2008-09 through to 2013-14 there had been advance payments provided by the Commonwealth. So the payments have been made, but they have not been acquitted. What happened in early 2015 is that the Queensland Audit Office re-audited \$1 billion within those claims and provided an opinion of that following. The money for the previous years' claims has all been paid to Queensland; they just have not been acquitted.</p> <p>CHAIR: You are talking in technical terms, which you should, but I cannot. My understanding is, and everyone tells me, that there is a year where they were paid up to. Then, following an outcry, they were paid following that, but a year later—there was a one-year gap. Many of them are still desperately waiting, keeping their bankers at bay—probably with shotguns—so the bankers do not come and ask them for the money that they have not got, because they did not get</p>	5 May 2016 L&C: 79 & 80

Q No.	Responsible Minister	Outcome/ Division or Agency	Programme number	Senator	Subject	Question	Hearing Date and Proof Hansard Page or Written
						<p>it this one year.</p> <p>Mr Verlin: In respect of local government's use of their own resources, that was eligible under the national partnership agreement. The Queensland government sought an exemption from 2014 onwards, then there were subsequent conversations about the 2013-14 year. There was additional correspondence between Queensland and the Commonwealth, and the Commonwealth has written back to Queensland advising that 2013-14 is eligible for day labour costs. So they have been advised about that middle year.</p> <p>CHAIR: How recently was this?</p> <p>Mr Verlin: I would have to take that on notice.</p> <p>CHAIR: Was it last week, last month, or six months ago?</p> <p>Mr Verlin: It was earlier this year.</p> <p>CHAIR: Well, we still must be at odds because, as I say, I was out with councils in the west last week and it came up.</p> <p>Senator JACINTA COLLINS: You should ask for the reason.</p> <p>CHAIR: I should, rather than holding up estimates. You are right. I know it is a matter that has gone to the government—Senator Brandis has left us, but in his absence I know that Senator Cash, as a Western Australian minister, would also be very interested in this. I would ask Senator Cash and Senator Brandis to review that. I appreciate it is a government decision, not your decision, but it does seem iniquitous and there is real concern.</p>	
BE16/026	Minister for Justice	Outcome 1 Countering Violent Extremism Centre	1.7	Collins	Outcomes of evaluations into deradicalisation efforts	<p>Mr Moraitis: I just think it is a good question. The amount of money we have provided for both deradicalisation efforts and for CVE, and the money for challenging online propaganda, was received and it is being implemented. The \$5 million you refer to, which is about this counselling hotline plus some money for the e-safety commissioner, is I think, for the purposes of now, adequate for us to try to get to where we can on CVE. We continue to monitor its success and its effectiveness, and it is—</p> <p>Senator JACINTA COLLINS: That is what I was hoping to find out.</p> <p>Mr Moraitis: reassuring to hear from Duncan, from the director-general, that he feels that it is having an effect, which is good. But, as we discussed earlier, is a complex area, and we are experimenting with various things in the online space, in the deradicalisation spectrum and in the counselling area. The information hotline has moved beyond being purely informing to being a sort of counselling hotline. So there are a whole spectrum of things we explore, and I have set up a CVE centre which looks at all these things. So, in the future, will we need more? That is to be seen, but at the moment we have the resources that we need to pursue these various areas of activity.</p> <p>Senator JACINTA COLLINS: What would be the best way to capture an understanding of the outcome of the evaluations that we are conducting in this space—have a briefing from the centre, go to the centre?</p> <p>Mr Moraitis: We could provide a briefing, if you like.</p> <p>Ms K Jones: We could provide briefings in terms of evaluation, recognising that these programs are in a sense in their infancy and are being rolled out. But we have built evaluation in right from the start so we can get good evidence to adapt the programs if necessary. I would also note that there are state programs. Various state governments have invested quite significantly in CVE, as well. So we are trying to get a picture of—</p> <p>Senator JACINTA COLLINS: But the centre is consolidating all of that material, is it?</p> <p>Ms K Jones: In terms of evaluation and best practice, yes, we are looking to do that, but we are doing that collaboratively with the states and territories through the COAG task force that we established after the COAG agreements last year to focus on this. So we do have a working group under that task force that is focused specifically on research and evaluation. We could provide a briefing on the work that it is being done by that working group, as well as on the work that we are doing within our centre.</p>	5 May 2016 L&C: 86

Q No.	Responsible Minister	Outcome/ Division or Agency	Programme number	Senator	Subject	Question	Hearing Date and Proof Hansard Page or Written
						Senator JACINTA COLLINS: Anyway, I do not want to take up more time on this than necessary. I think it might be more appropriate to pursue more detailed information in that way, because, as you say, it is an evolving field. And the international experience—I picked this up not that long ago from the centre in Europe—is that it is multifaceted, and the best advice is to remain multifaceted but also to stay on top of what does seem to be working and what is not, and to link in with international experience as well. Chair, I think I have finished the questions I need to ask.	

BE16/027	Attorney-General	Outcome 1 Civil Justice Policy & Programmes Division	1.4	Lambie	Family violence and community legal centres	<p>1. The Government has included an additional \$100 million in the 2016-2017 Federal Budget for family violence (<i>Budget Paper No 2, p 141 below</i>)</p> <ol style="list-style-type: none"> What projects or services will be funded using that money? Will there be additional funding for legal assistance services from that money? If so, how will the allocations be decided and how much will be provided to each legal assistance service, specifically Community Legal Centres, Family Violence Prevention Legal Services, Aboriginal and Torres Strait Islander Legal Services and Legal Aid Commissions? Can you explain the \$10 million amount going to Department of Prime Minister & Cabinet in 2017-2018 and 2018-2019 and the \$12.2 million amount in 2019-20? Why is the total expense amount -\$12.2 million in 2019-20? <p>Domestic and Family Violence — new initiatives to break the cycle of violence</p> <table border="1"> <thead> <tr> <th>Expense (\$m)</th> <th>2015-16</th> <th>2016-17</th> <th>2017-18</th> <th>2018-19</th> <th>2019-20</th> </tr> </thead> <tbody> <tr> <td>Department of Social Services</td> <td>-</td> <td>33.3</td> <td>33.3</td> <td>33.3</td> <td>-</td> </tr> <tr> <td>Department of the Prime Minister and Cabinet</td> <td>-</td> <td>-</td> <td>-10.0</td> <td>-10.0</td> <td>-12.2</td> </tr> <tr> <td>Total — Expense</td> <td>-</td> <td>33.3</td> <td>23.3</td> <td>23.3</td> <td>-12.2</td> </tr> </tbody> </table> <p>The Government will provide \$100.0 million over three years from 2016-17 toward Commonwealth initiatives to break the cycle of violence against women and children. The Commonwealth initiatives will draw on the recommendations of the Third Action Plan 2016-19 (the Plan) under the <i>National Plan to Reduce Violence Against Women and their Children 2010-2022</i>, and build on existing Commonwealth initiatives under previous action plans.</p> <p>The final report of the Council of Australian Governments' Advisory Panel on Reducing Violence Against Women and their Children, released on 1 April 2016, will inform the development of the Plan.</p> <p>This measure builds on the \$101.2 million that was provided through the 2015-16 MYEFO measure titled <i>Women's Safety Package</i>.</p> <p>2. Nationally community legal centres are facing a funding cut of 30% in 2017-18 (amounting to \$12.1 million), as well as an additional \$11.6 million in 2018-2019 and \$11.13 million in 2019-2020.</p> <p>In Tasmania, community legal centres are facing the following funding cuts:</p> <ul style="list-style-type: none"> Between 2016-2017 and 2017-18 the cut is \$413,000 Between 2016-17 and 2018-19 is \$379,000 	Expense (\$m)	2015-16	2016-17	2017-18	2018-19	2019-20	Department of Social Services	-	33.3	33.3	33.3	-	Department of the Prime Minister and Cabinet	-	-	-10.0	-10.0	-12.2	Total — Expense	-	33.3	23.3	23.3	-12.2	Written
Expense (\$m)	2015-16	2016-17	2017-18	2018-19	2019-20																										
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Total — Expense	-	33.3	23.3	23.3	-12.2																										

						<ul style="list-style-type: none"> • Between 2016-17 and 2019-20 is \$343,000 <p>Why is this? Is the Department aware of anything being done to reverse these general funding cuts to Community Legal Centres in Tasmania?</p>	
BE16/028	Minister for Justice	Outcome 1 Australian Federal Police	N/A	Smith	Enrolments in the electorate of Indi	<p>1. In relation to criminal charges arising regarding certain enrolments in the electorate of Indi in 2013, and the subsequent discontinuance of prosecutions by the Commonwealth DPP in the Melbourne Magistrates Court in April this year against two individuals, Ms. Maggie McGowan and Ms. Sophie Fuchsen.</p> <p>a) Have you been given, or sought, an explanation from the DPP as to why the cases were discontinued? If so, what was that advice?</p> <p>2. These questions relate to the referral to the AFP, in October 2014, by the Australian Electoral Commission of 28 people for further investigation in relation to their enrolment in the Federal Electorate of Indi in 2013.</p> <p>The following questions were placed on notice in October 2015, but not answered on the basis that court proceedings were in progress. Now that proceedings appear to be concluded, the questions are re-stated below.</p> <p>a) According to newspaper reports at the time, the evidence of these individuals' residential and employment status was to be found on the internet, on various social media sites such as Facebook. Is this true? Is it also the case, as reported, that these social media records were rapidly deleted once the story "broke" in the media?</p> <p>b) To what extent was this social media material important in the investigation? Did the deletion of this material make it difficult to gather evidence?</p> <p>c) If the social media material was important from an evidentiary point of view in relation to the 28 referrals, how was it established that there were not other individuals who may have removed material from the internet in order to prevent further investigation?</p> <p>d) Did it appear, on balance, that there was some level or likelihood of organization amongst some portion of the group of 28 people under investigation?</p> <p>e) In addition to the offence of providing false or misleading information to the AEC, the nature of the activity that occurred in Indi suggests that other offences may also have been potentially committed – for example joint commission, or incitement. Were other charges such as these considered during the course of your investigation (and, if so, please list the specific offences and Acts). How closely were these issues examined?</p> <p>f) Is it a specific offence under the law for a person to witness an electoral enrolment form without satisfying themselves as to the veracity of the information on the form? Were the witnesses to the enrolment forms of every one of the individuals under investigation themselves questioned? Do you believe all these witnesses did not know they were witnessing a false declaration? Were there any cases where the same witness signed more than one of these forms for the 28 people under investigation? If so, in how many instances did this occur?</p> <p>g) Of all 28 individuals investigated, how many made admissions of any kind to your officers? How would you summarise those admissions?</p>	Written