

**Division 28: Office of the Director of Public Prosecutions, \$43 627 000 —**

Ms M.M. Quirk, Chair.

Mr J.R. Quigley, Attorney General.

Miss A.L. Forrester, SC, Director of Public Prosecutions.

Mr L.N. Beeck, Chief Financial Officer.

Miss L.A. Markussen, Ministerial Liaison Officer.

Mr J. Lee, Principal Policy Adviser.

[Witnesses introduced.]

**The CHAIR:** This estimates committee will be reported by Hansard. The daily proof *Hansard* will be available the following day. It is the intention of the Chair to ensure that as many questions as possible are asked and answered and that both questions and answers are short and to the point. The estimates committee's consideration of the estimates will be restricted to discussion of those items for which a vote of money is proposed in the consolidated account. Questions must be clearly related to a page number, item, program or amount in the current division. Members should give these details in preface to their question. If a division or service is the responsibility of more than one minister, a minister shall be examined only in relation to their portfolio responsibilities.

The Attorney General may agree to provide supplementary information to the committee rather than asking that the question be put on notice for the next sitting week. I ask the Attorney General to clearly indicate what supplementary information he agrees to provide and I will then allocate a reference number. If supplementary information is to be provided, I seek the Attorney General's cooperation in ensuring that it is delivered to the principal clerk by Friday, 31 May 2019. I caution members that if a minister asks that a matter be put on notice, it is up to the member to lodge the question on notice through the online questions system.

I give the call to the member for Hillarys.

**Mr P.A. KATSAMBANIS:** My first question relates to pages 400 and 401 of budget paper No 2; in particular, the spending changes in relation to point 2 under "Significant Issues Impacting the Agency". This relates to the well-known issue that we canvassed in the previous division around the prosecution of a gentleman—I use that term very loosely—called Bradley Robert Edwards. I initially asked for some clarity on those spending changes. The ongoing initiative "Public Prosecutions Services Expenditure" has increased by more than \$3 million from the estimated actual in the current financial year to this budget year, and then there is a further allocation of \$2.8 million for the special prosecution division. How many of those changes in each case are related to the matter from the Macro task force relating to Edwards?

**Mr J.R. QUIGLEY:** I know the answer, but I will defer to the director because she is probably a bit more accurate.

**Miss A.L. Forrester:** The amount related to the prosecution of Mr Edwards is \$2.823 million at the line "Special Prosecution Division".

**Mr P.A. KATSAMBANIS:** None of the \$3.2 million increase in public prosecutions services expenditure will be related to Mr Edwards?

**Mr J.R. QUIGLEY:** That is correct.

**Mr P.A. KATSAMBANIS:** What will the money in the public prosecutions service expenditure—quite a significant increase—be applied to?

**Mr J.R. QUIGLEY:** This is a really good story. I direct members to the top table on page 403 of the budget papers under "Criminal Prosecutions". Back in 2017–18, there were 229 full-time equivalents at the Office of the Director of Public Prosecutions. Under the job replacement policy of the previous government, that was due to be stripped down to 213 full-time equivalents. When we extrapolate that to the following year, 2018–19, it goes down to 211 full-time equivalents. We can see, however, that there are 50 more, 261, because this was the first year that we applied what is called a cost demand module. We had to work out what the base cost was and then work out what the population would be. That has seen the full-time equivalents for this year to be 50 more than they would have been under the arrangements of the previous government.

I turn to the out years. Those figures to which the member refers are the cost demand module expenses going forward. The office of the DPP now is not running on empty all the time. As the director looks at the out years, she and the office can forward plan. If there is a population increase, we will need more prosecutors over the years, so under the cost demand module, the spending changes dramatically. We, as the Labor government, are pleased to announce that over the out years, an additional \$21.397 million will be spent, which will provide 28 extra full-time employees. If we consider where we are at the moment, there are 261 FTE for the estimated actual—that is, full-time employees for the actual for this year—and we have to add to that over the forward years another 28,

which will take us up to 290 employees. This is a completely different trajectory from what the office was on before this government came in, when the office was subject to what the previous government called its workforce replacement policy. The member would recall that well. If the office lost a prosecutor, it could employ one on only 60 per cent of the wages of the prosecutor it lost. Prosecutors were becoming disheartened. Senior prosecutors were taking judicial appointments and they could be replaced by someone on only 60 per cent of the wage, so the office was being squeezed. The figures on page 403 to which the member refers, the changes in the expenditure, are the cost demand module provisions going forward. They are big changes in the expenditure. This office is not called “Crown Law” or anything like that; it is the Office of the Director of Public Prosecutions. It is the people’s prosecutor. We are funding the public’s prosecutor to a good and adequate level that the public would expect, which was not happening before.

[5.50 pm]

**Mr P.A. KATSAMBANIS:** Given this extraordinary funding increase that the Attorney General referred to, and promotes very heavily, with 50 more prosecutors this year than the glide projection predicted, I seek an explanation of why we saw a report in yesterday’s newspaper about the prosecution of an alleged paedophile collapsing because of gross errors by the Office of the Director of Public Prosecutions and police. The judge in that matter —

**The CHAIR:** Member, this question is not dealing with a budget item.

**Mr P.A. KATSAMBANIS:** It is; the Attorney General is bragging about extra resources and we had this scathing issue yesterday that has offended —

**The CHAIR:** What is the correlation, member?

**Mr P.A. KATSAMBANIS:** I want an explanation of how this happened with all these extra resources.

**Mr J.R. QUIGLEY:** Parliament resumes the week after next week and the member can ask me then. This hearing is to examine expenditure, not a particular judicial officer’s comments on a particular case.

**Mr P.A. KATSAMBANIS:** It is to do with resources and that is what the story talks about.

**Mr J.R. QUIGLEY:** We are not hiding from this.

**Mr P.A. KATSAMBANIS:** You are! The government is running away from it.

**Mr J.R. QUIGLEY:** No, we are not. We have 10 minutes to examine the whole of this division. This question is not related to a particular item of expenditure.

**Mr P.A. KATSAMBANIS:** When the government says it has added so much money to this area, it is cold comfort to the victim who has missed out on this.

**The CHAIR:** Member for Swan Hills.

**Ms J.J. SHAW:** I refer to the significant issues on page 401 of budget paper No 2. I note that Operation Fledermaus is not a line item in this year’s budget. Could the Attorney General advise why it is no longer a line item?

**Mr J.R. QUIGLEY:** That is a very good question. As the member would know, Operation Fledermaus was a line item in the two previous budgets, because there was a huge police operation in the west Pilbara. Some really good news has come out about the public prosecution of those offenders. I would like to defer to the director to tell the member that news.

**Miss A.L. Forrester:** The original funding for Operation Fledermaus was staged over three financial years, gradually increasing with the predicted trajectory of those matters going to trial. In the first two years of that funding, the office of the DPP dedicated the resources it was able to as a result of the funding that was provided. As a result of that, the large majority of the matters of which we were aware that were part of that operation were resolved appropriately, with many fewer trials, much less imposition on the victims, much less expert evidence and need for interpreters, and associated travel of court, prosecution and defence staff. Therefore, we did not need the additional special project funding for the third year. Front-ending that funding and dedicating a serious amount of resourcing to that particular operation paid off.

**Mr P.A. KATSAMBANIS:** I refer to page 402 of budget paper No 2 and the “Outcomes and Key Effectiveness Indicators” table. The heading is —

**Outcome: That the people of Western Australia are provided with a fair and just criminal prosecution service:**

The first line item reads —

Early advice to court on charges—indictment filed within three months of committal

The target for this financial year is 85 per cent, yet the estimated actual is 70 per cent. Particularly given the additional resources that the Attorney General keeps talking about, why has this target not been met and why is it so low?

**Mr J.R. QUIGLEY:** I defer to the director.

**Miss A.L. Forrester:** First of all, the Office of the Director of Public Prosecutions, as a result of the workforce renewal project, lost a lot of very senior talent, and they are not easily replaced and cannot be replaced at the same level. Instead, we have hired a lot of juniors, which is one of the reasons why the FTEs are so much higher. We have hired a lot more juniors to replace senior staff.

As trials have become more complex, it has become more difficult for the Western Australia Police Force to comply with its disclosure obligations in a timely fashion, and that has meant delays in presenting an indictment in the 42 days post committal that is required. That is what that figure covers—that we have presented the indictment within 42 days. An indictment is still presented; it just may not be presented within 42 days. That 70 per cent means that it was not presented within 42 days; it could have been presented within 43 or 44 or 45 days. Indictments are still largely presented prior to the trial listing hearing at which the person first appears in the superior court.

**Mr P.A. KATSAMBANIS:** The first note states, “indictment filed within three months of committal”, not 42 days, but the office might have a different internal measure. I will move on because we do not have a lot of time. Another matter listed there that concerns me —

**The CHAIR:** Is it a further question?

**Mr P.A. KATSAMBANIS:** It is a further question on “Outcomes and Key Effectiveness Indicators”. I refer to the line item —

Application for a declaration of confiscations filed within four months of the drug trafficker declaration

This is very, very important because we need to get to those assets. The Attorney General has talked about breaking the business model of the “Mr Bigs” and so forth, and he has bipartisan support on that. The budgeted actual for filing within four months is 60 per cent. That is critical because these people can move their assets around and despite significant clawback provisions, they can move them into jurisdictions where we cannot access them. The target is 60 per cent, but the estimated actual is five per cent. How does the Attorney General explain that gross failure to pursue these “Mr Bigs” of drug trafficking within the allocated time frame?

**The CHAIR:** Member, I will get the Attorney General to answer the question based on the figures.

**Mr J.R. QUIGLEY:** I defer to the director.

**Miss A.L. Forrester:** The assets are frozen at the time of charge, so people cannot deal with those assets; they cannot be moved and nothing can happen. The target of the application for confiscation is to file that application within four months post declaration of drug trafficker. Unfortunately, a great deal of effort is required by the proceeds of crime division of the WA Police Force to provide us with the necessary information in order to file the application for confiscation. Unfortunately, I am told that most of the time the reason the applications are delayed is that we do not have the information necessary to file the application at four months, but they are filed and the assets are protected; they are frozen and cannot be dealt with in any way pending that application.

**Mr P.A. KATSAMBANIS:** As I understand it, some of the assets are known at the time of conviction, but a process continues afterwards to identify other assets. That process concerns me because delays allow the assets unknown to the prosecution and authorities to be moved outside the jurisdiction. That is why I raise the question. What steps are being taken to reduce the number of filings that take place outside the four months? Again, I note that five per cent was also the figure achieved in 2017–18.

**Mr J.R. QUIGLEY:** I defer to the director.

**Miss A.L. Forrester:** Any delay is actually of assistance in identifying assets. Simply making an application does not mean that it will capture unknown assets. We have to know what the assets are when we file the application. If there is a delay, it is quite often because they are trying to identify or get better information about the available assets to take. I note there are also national confiscation laws to deal with some of the issues to which the member is referring. We are working with proceeds of crime all the time to improve the rate of applications.

**Mrs J.M.C. STOJKOVSKI:** I refer to the asset investment program on page 404 of budget paper No 2, and specifically the line item “Total Cost of Asset Investment Program”. Can the Attorney General explain why that figure is so high and what it is going towards?

**Mr J.R. QUIGLEY:** This is the other good news story out of the budget for the Office of the Director of Public Prosecutions. The government has made the decision to commit to upgrading IT within the office of the DPP. We know that the office of the DPP is now dealing with a large number of photographs and video recordings et cetera. There has to be a proper database for those. The office is looking at a police database that it can use in that regard.

**Extract from *Hansard***

[ASSEMBLY ESTIMATES COMMITTEE A — Thursday, 23 May 2019]

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Chair; Mr Peter Katsambanis; Mr John Quigley; Ms Jessica Shaw; Mrs Jessica Stojkovski

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Also, there are thousands and thousands of pages of evidence in each particular case, like in the Edwards case, and we need new databases to manage all that electronically.

**The appropriation was recommended.**

*Meeting suspended from 6.00 to 7.00 pm*