

Mr John Quigley; Dr Kim Hames; Mr Sean L'Estrange; Mr Chris Hatton; Ms Lisa Baker; Mr Jan Norberger; Mr Paul Papalia

Division 37: Attorney General, \$354 478 000 —

[Resumed from an earlier stage of the sitting.]

The CHAIRMAN: It is my understanding that division 37 was adjourned, so we will recommence division 37. The member for Butler.

Mr J.R. QUIGLEY: I want to go back to the second dot point on page 434, which deals with Sunday courts. It states that Sunday courts will deal only with bail and remand decisions, which are very short matters. I take it from the director general's previous answer that she does not know how many go through on a Saturday. Does she know what the workload will be on a Sunday for a court?

Dr K.D. HAMES: The director general will answer.

Ms C.M. Gwilliam: With the work we did with police, the estimate is 30.

Mr J.R. QUIGLEY: But these will not be hearings; these will be only applications to remand people or admit them to bail. Is that correct?

The CHAIRMAN: Direct your questions to the minister, member.

Mr J.R. QUIGLEY: Yes.

Dr K.D. HAMES: The answer is yes.

Mr J.R. QUIGLEY: I have a further question. It is \$4.3 million, I think the director general said, over three years to allow the Sunday court to operate, just to accelerate a person's application for bail by 24 hours. Would the money not be better spent on supplying a Supreme Court judge for an overworked Supreme Court? We have heard Mr Justice McKechnie say that he is under pressure on a serious sex offender application in the middle of a homicide trial. Would the money not be better spent on properly resourcing the Supreme Court, not on accelerating bail applications by 24 hours?

Dr K.D. HAMES: The director general will answer.

Ms C.M. Gwilliam: I think the focus is certainly on assisting police with front-line duties by not having people retained over the weekend, and it is also about the importance of safety for the offenders.

Mr S.K. L'ESTRANGE: I refer to page 432 of budget paper No 2, volume 2, with regard to spending changes. Down the list on that page, the minister will see the line item "Mental Health Court Diversion and Support Program Pilot". I was wondering whether the minister could outline how many offenders have participated in the program and its success or otherwise.

Dr K.D. HAMES: The director general will answer.

Ms C.M. Gwilliam: This funding provides a further one-year extension to the pilot. It has adults through the Magistrates Court and children through the Children's Court. As at March 2014, about 360 individuals had appeared at the Magistrates Court, and for the Children's Court, about 140 or so.

Mr S.K. L'ESTRANGE: And what has been the success of the program?

The CHAIRMAN: Does the member have a further question?

Mr S.K. L'ESTRANGE: I will just re-clarify my question, Mr Chair. What has been the success or otherwise of the program from the minister's perspective?

Dr K.D. HAMES: The director general.

Ms C.M. Gwilliam: The staff are very positive about the program and how it assists people with mental health issues. The program will be evaluated at the end of 2014–15.

Mr C.D. HATTON: I refer to the first dot point on page 434 of budget paper No 2, volume 2, which refers to the department developing, coordinating and implementing legislation supporting the reform agenda. In relation to the Prohibited Behaviour Orders Act 2010, how many orders have been made since the introduction of the legislation and how many of those are in place now?

Ms C.M. Gwilliam: My understanding is that approximately 70 orders have been made and that currently about 10, I think, have expired. But, if the minister agrees, I might ask the State Solicitor whether he has any additional data.

Mr P.D. Evans: Member, the current status, as of yesterday, is that 76 prohibited behaviour orders have been granted, 56 of which were granted with immediate effect and 20 of which were granted contingently upon the respondent being released from custody; and, of those, three have been cancelled subsequently.

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Mr C.D. HATTON: How many are males and how many are females?

Mr P.D. Evans: I am afraid I do not have that information before me.

Dr K.D. HAMES: Does the member require it as supplementary information?

Mr C.D. HATTON: No. I just have a further question. Are there disproportionate numbers of males and females that the minister knows of?

Dr K.D. HAMES: The director general has the answer, so we will go to the director general.

Ms C.M. Gwilliam: My data is not as recent as that of the State Solicitor, but in terms of my understanding of the 70 or so orders that I looked at, approximately 60 were males.

Mr J.R. QUIGLEY: I refer to the Attorney General's website, which was —

The CHAIRMAN: Member, you need to reference a section in the budget papers.

Mr J.R. QUIGLEY: I am sorry. I will come back to that one. I will just get the reference. I have a further question to what was being asked on prohibited behaviour orders.

The CHAIRMAN: No, we have moved on from that. While the member finds his reference, we will go to the member for Maylands.

Ms L.L. BAKER: Under the expenses on page 445 are grants to charitable and other public bodies, and it says that these are grants paid from the confiscation proceeds account. I note that the actual expenditure in 2012 was nearly \$3 million. Does the minister want me to hang on for a minute while he finds the page? It is page 445.

Dr K.D. HAMES: No, we have got it. The figure is \$2.928 million.

Ms L.L. BAKER: Yes. Even though the budget was \$4 million, the department spent only \$3 million in that year. Then it thought twice about it, so it put \$1.9 million in the budget, and it looks like that is what has been spent. Now we end up with \$1.9 million into the out years. Given that the department obviously has the budget to put \$4 million into charitable organisations from the confiscation of the proceeds of crime fund, why has the department slashed the amount by over \$1 million?

[4.20 pm]

Dr K.D. HAMES: That sounds very uncharitable, but I am sure we will have an excellent answer. I will refer it to the chief financial officer, Mr Andersson.

Mr A. Andersson: The budget has not been cut, but this just reflects what is actually happening in the program. The \$2.9 million in 2012–13 reflects what the payments were from the program, but the whole budget has not been cut. It is evaluated every single year for what money is paid out from the confiscation account.

Dr K.D. HAMES: Further to that question: I note that \$4 million was allocated, so the department expected to spend \$4 million. Why did the department increase the amount from \$2.9 million to \$4 million, and why did it subsequently spend only \$1.9 million?

The CHAIRMAN: I think the minister has just asked a further question.

Dr K.D. HAMES: I would like to refer that to the chief financial officer.

Mr A. Andersson: What was that? I did not quite catch that.

Dr K.D. HAMES: If we look at that line, as the member for Maylands said, \$2.9 million was in the 2012–13 actual spend, so that is how much was spent. It was proposed to increase to \$4 million, so what led the department to increase the amount it proposed to spend to \$4 million, and why did it subsequently not spend that? Why did it come down to \$1.9 million?

Mr A. Andersson: These are decisions made by the Attorney General, not by the department as such. Each year the amount that comes from the confiscation account is evaluated and proposals are put to the Attorney General as to what amount will actually be paid from the confiscation account.

Ms L.L. BAKER: What has the Attorney General done with the money? If he made the decision to spend \$4 million a few years ago but has now slashed that amount to \$1.9 million, there must be some reasoning behind that, and I would like to know what it is.

Mr J. NORBERGER: I may be able to answer the member's question.

Dr K.D. HAMES: Can I just hear the other question? Then I will provide an answer.

Mr J. NORBERGER: We are working very collaboratively here.

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The CHAIRMAN: The member for Joondalup is asking a further question, potentially for clarification.

Mr J. NORBERGER: If I read this correctly, the top of page 445 of the *Budget Statements* shows that \$7.5 million was raised from the confiscation of assets. Out of that \$7.5 million we budgeted that \$4 million was to be given in grants. A little further down we see that it was budgeted that the confiscation expenses in order to process that \$7.5 million were going to be \$3.5 million. That \$3.5 million plus \$4 million equals a budget of \$7.5 million. The actual cost of confiscating that \$7.5 million in assets came in at \$5.6 million, which obviously directly impacted on our ability to pay grants, hence only \$1.9 million of grants was paid. I suppose probably the real question is: why was it so expensive to process \$7.5 million worth of confiscated —

Ms L.L. BAKER: Hear, hear!

The CHAIRMAN: I am certainly sensing the bipartisan feeling in the chamber.

Dr K.D. HAMES: That was good analysis, but the member is forgetting that the 2012-13 cost was \$6.3 million for a \$2.9 million grant. Then it was proposed that it go down to \$3.5 million, so the unusual figure is in fact the \$3.5 million, rather than it now being \$5.6 million. Member for Maylands, I propose that the Attorney General will provide a supplementary answer to this question so that we can all find out what he is doing. He will provide the details on the changes in funding for both the grants paid to charitable organisations, and the reflection of the changes in costs for the provision of that service—the confiscation expenses—and the money subsequently available for grants.

[*Supplementary Information No A50.*]

Mr P. PAPALIA: I place on the record my apologies to the director general for being so impolite earlier on; I spoke to her privately, but I think she deserves a public apology. I am grumpy with the government, not her, as I said.

I refer to the third line item in the table on page 432, “2014–15 Tariffs, Fees and Charges”. The *Budget Statements* show an allocation of \$829 000 in 2016–17 and \$3 million-plus in 2017–18. Could the director general explain what those tariffs, fees and charges comprise?

Ms C.M. Gwilliam: The tariffs and fees are principally for Public Trustee estate fees, but the fees are pluses and minuses—some fees have come down and some fees have gone up—and this is the net impact. The principal reason is they comprise Public Trustee fees and charges.

Mr P. PAPALIA: Is that not related to the court security charging of —

Ms C.M. Gwilliam: No.

Mr J. NORBERGER: I refer to the first bullet point on page 434 of the *Budget Statements* and the various legislation that the department is involved in. I know that some changes were made to the Juries Act in 2011 and I am really keen to know what has happened since those changes were made. I believe those changes resulted in fewer people being summoned for each trial, and fewer people being drawn from the electoral roll for jury duty. Has that resulted in a saving to government? Also, is that causing less inconvenience to the public? I have previously known of a number of tradespeople and small business owners who were called for jury duty, and it was quite an inconvenience for them. It would be interesting to know whether the change to that legislation has made any impact.

Ms C.M. Gwilliam: The answer is yes and yes. It has had a significant impact on the number of people called, and it has also had an advantage in savings to the department. When the legislation was introduced, we used to call roughly 76 000 people; in the last 12 months we were down to about 41 000. The number of people summoned per trial has been reduced from approximately 130 per trial to about 70. As the member said, the excusal rate, including tradespeople, for example, has dropped from around 70 per cent, as I recall, to about 20 per cent.

Mr J. NORBERGER: Was there a drop in the excusal rate?

Ms C.M. Gwilliam: Yes, because people can now book —

Mr J. NORBERGER: My logic would say that a drop in the excusal rate is bad. Am I am reading it wrong?

Dr K.D. HAMES: No. Lots of people used to send in excuses for why they could not attend, and the number of people who do that has dropped significantly. That means that a lot more people who are asked to serve jury duty actually do it.

[4.30 pm]

Mr J.R. QUIGLEY: I refer to the second dot point on page 434 and the government’s decision to allocate \$4.3 million for Sunday courts, which will hear only bail applications or remand-in-custody applications. Those bail decisions can be made under part A, schedule 1 of the Bail Act 1982—that is, by an authorised police

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officer. Why has the decision been made to abandon the decision-making process in part A of schedule 1 for initial appearances and to go down a course that will take \$4.3 million of taxpayers' money, when we cannot afford enough money to properly remunerate Corruption and Crime Commissioners and Supreme Court judges?

Ms C.M. Gwilliam: The money I referred to is the money that has been allocated to the agency for this election commitment. As I indicated, what is being delivered is not a night court, it is in fact Sunday court, so what we are anticipated to spend is not that amount of money. The expenditure figure that we anticipate is more like \$900 000 per year.

Mr J.R. QUIGLEY: Per year? Why cannot bail decisions for offences requiring an appearance before a Court of Petty Sessions be made in accordance with part A, schedule 1 of the Bail Act? Why do we have to spend nearly \$1 million for that when decisions on all those antisocial, petty offences could be made under part A, schedule 1 of the Bail Act?

Dr K.D. HAMES: Mr Warnes, the executive director of court and tribunal services, might have that answer.

Mr R. Warnes: In part, the matters being dealt with are the same matters that get dealt with on a Saturday night. They include antisocial behaviours that might happen at nightclubs or out on the streets; members are fairly aware of those sorts of matters that Saturday court deals with. Sunday court is meant to deal with those ones that occur on a Saturday evening, to allow the police to clear out their lockup. The police expect that there will still be some people held in the lockup for Monday court, but it will clear out and remove a lot of risk for the police. As we said, that is about 30 or 35 people, from police feedback.

Mr J.R. QUIGLEY: Why cannot the decision on whether to deny or grant bail for those people be made under part A, schedule 1 of the Bail Act—that is, by an authorised police officer?

Mr R. Warnes: I am not sure I can answer that.

Dr K.D. HAMES: Does the State Solicitor know the answer?

Mr P.D. Evans: I am afraid I cannot answer that, either.

Dr K.D. HAMES: We need the police minister!

Mr J.R. QUIGLEY: We are spending \$900 000!

Dr K.D. HAMES: It is not an unreasonable question, and I think we should get an answer, so we will provide that as supplementary information. The member will have to provide the relevant legislation again. He wants to know why the police are not able to make determinations of bail applications, under part A, schedule 1 of the Bail Act.

[Supplementary Information No A51.]

Mr S.K. L'ESTRANGE: I refer to the fourth dot point on page 434, which states, in part —

The Department continues to work towards reducing the over-representation of Aboriginal people in the justice system.

What strategies are being used to do that and what measures of success can the minister provide us with?

Ms C.M. Gwilliam: I am thinking about what additional information I can provide further to the discussion I had with the member earlier. It is probably useful if I just summarise the results of the Aboriginal justice program. I mentioned how we assist Indigenous people through the open days, but I did not refer to the data. In the period to the end of April, we have worked with Aboriginal people to convert outstanding fines of more than \$400 000; we have worked with about 65 people to have their driver's licence suspensions lifted; we have assisted 37 drivers to get licence renewals; we have assisted 38 drivers to have their driver's licences reissued; we have assisted 67 people to go through driving tests via the funding that we provide under royalties for regions; we are assisting 48 people with driving assessments; and—I may not already have mentioned this—the focus of our Registry of Births, Deaths and Marriages is important. A number of people do not have birth certificates, and that is important for Centrelink and school registration. We have assisted 182 people to have their births registered, and we have also assisted 402 people with applications for certificates.

Mr P. PAPALIA: With reference to assisting people to get their drivers' licences using royalties for regions funding, is that provided through the Department of the Attorney General or another department?

Dr K.D. HAMES: Those things work by a joint application for funding being put in by the Department of Regional Development and the department that proposes to provide a service. It is signed off by both ministers, goes to cabinet, and is normally done—certainly in this case—as a grant to the agency. In the Department of Health, for example, I get lots of grants through royalties for regions. In this case, the department gets the grant and manages the program.

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Mr P. PAPALIA: The reason I ask is that the Department of Corrective Services had a youth justice service line and the royalties for regions funding was cut for the fourth year of the out years—three years from now. I was wondering whether that was a similar source of funding to that which is being employed for this program, or whether this goes all the way through the out years.

Ms C.M. Gwilliam: Our funding goes to 2014–15.

Mr J.R. QUIGLEY: I refer to the fourth dot point on page 434, which states, in part —

The Department continues to work towards reducing the over-representation of Aboriginal people in the justice system.

I also refer to a statement attributed to the President of the Children's Court, Judge Reynolds, at an eminent speakers' conference at Notre Dame University last weekend. He said that the proposed changes to mandatory sentencing for home burglaries would inevitably lead to a significant increase in the number of children in detention. In view of the proposed amendments to the sentencing regime for juveniles convicted of home burglaries, how is the government ever going to reduce the over-representation of Aboriginal people in the criminal justice system?

Ms C.M. Gwilliam: A lot of the research into offending indicates that if we can work with offenders before their third offence, we have a much greater chance of reducing reoffending. As an agency—along with a number of other agencies, including the Department of Sport and Recreation and the Department for Child Protection and Family Support—we are working with troubled people early on to support them to avoid being offenders for a third or fourth time.

Dr K.D. HAMES: Mr Chairman, I have a question of my own for the opposition. I gather the understanding is that at 5.00 pm we will move to the Department of Aboriginal Affairs division. We have two sections left in this division—the Information Commissioner and the Parliamentary Inspector of the Corruption and Crime Commission. We do not have to go to those if the opposition does not want to—we can pass them just before the end—but if the opposition wants to discuss them, I point out that there is only 20 minutes left. Does the opposition want to go to those?

[4.40 pm]

Mr J.R. QUIGLEY: I want to finish this area first.

I hear what the minister is saying and understand the logic of what the director general says, but given the changes to sentencing of juvenile offenders, is it not true that they can be subject to mandatory sentencing on their first court appearance date if they have been charged with three offences, even before the considerations by the director general kick in? I can understand if it related to appearance dates so we could intercede early on, but is it not true that under the proposals, if a 16-year-old is charged with three offences, even the first time they go to court, he or she will go to jail as a mandatory requirement? How do we reduce the overrepresentation in those circumstances?

Dr K.D. HAMES: I refer to the State Solicitor, Paul Evans.

Mr P.D. Evans: It is not a matter that we have considered closely. We would have to refer it back to the department. Maybe it is a question that needs to be taken on notice.

Dr K.D. HAMES: I do not exactly understand what the question is.

Mr J.R. QUIGLEY: I can reframe the question. The previous answer, which related to the reduction in the overrepresentation of Indigenous children, was that if we can intervene early in their offending pattern, we can reduce the number who are incarcerated. My question is: how does that work when the person will face mandatory imprisonment on their first court appearance?

Dr K.D. HAMES: The director general would rather respond to this in a supplementary answer.

The CHAIRMAN: Could the minister clarify exactly what information will be provided?

Dr K.D. HAMES: The member asked: if we are trying to work to reduce the incarceration rate of Aboriginal children, how can we do that under our mandatory sentencing laws that require incarceration on the first appearance?

[*Supplementary Information No A52.*]

Mr P. PAPALIA: I refer to the fourth dot point under “Significant Issues Impacting the Agency” on page 434, again focusing on the Aboriginal incarceration rate. Did the Department of the Attorney General consult the Department of Corrective Services on the anticipated increased numbers in the prison system as a consequence of the changes to aggravated burglary laws?

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Ms C.M. Gwilliam: Yes.

Mr P. PAPALIA: This morning the Commissioner of Corrective Services indicated its modelling suggests that by year four, an additional 206 adults and 60 juveniles would be incarcerated as a consequence of these laws. This is above and beyond normal growth, which we are not seeing at the moment; we are actually seeing extraordinary growth. Were those figures determined in conjunction with the Department of the Attorney General?

Ms C.M. Gwilliam: Yes. Officers from WA Police, the Department of the Attorney General and the Department of Corrective Services arrived at those numbers.

Mr J.R. QUIGLEY: I refer to the amount appropriated to deliver services. Part of those services are prohibited behaviour orders. I am referring to page 431. At last year's estimates hearing we were informed that the State Solicitor's Office had a little team working on prohibited behaviour orders. I notice that there are 43 current prohibited behaviour orders since the legislation was introduced in 2010. That is less than 10 a year. What is the cost to the state of getting one of these prohibited behaviour orders? There are only 43 listed.

Dr K.D. HAMES: We are hoping that the State Solicitor's Office might know the answer to this.

Mr P.D. Evans: I cannot break it down into a cost per prohibited behaviour order. The more complete picture is not to look at the number granted but the number being considered. In the slightly less than two years to 22 May 2014, the office has processed a total of 413 applications, which have been evaluated. Some 189 have been concluded, resulting in 56 granted and 20 granted contingently, subject to the offender being released from custody, not becoming effective until that time. Four applications have been refused, 35 withdrawn in the course of the application, three cancelled and 71 not progressed after filing. There are currently some 41 applications listed for mention or listed for hearing, and we have 183 applications at various stages of preparation.

Mr J.R. QUIGLEY: There are only 43 listed on the Department of the Attorney General's website.

Dr K.D. HAMES: I suggest that the website might need updating.

Mr J.R. QUIGLEY: Are we to take it that what is on the website of the Department of the Attorney General is not the number of current prohibited behaviour orders?

Dr K.D. HAMES: I would suggest that given that the figures are different, the website would need updating. The director general says that she has a good answer to this.

Ms C.M. Gwilliam: I am confident that the website is accurate in terms of current PBOs. There are others who are still in jail and not released that the State Solicitor's Office is working on with the police. There are others who have expired. A number of PBOs have expired. In terms of currency, I am happy to check that but I would be confident that the website is accurate.

Dr K.D. HAMES: Given that there still seems to be a slight variation in numbers—because I think the member said 40 and the State Solicitor said 56—we will ask the director general to look at that site, liaise with the State Solicitor and make sure that it is up to date.

Mr J.R. QUIGLEY: The other part of the question was: what has it cost to get these prohibited behaviour orders; what is it costing the State Solicitor's Office?

Ms C.M. Gwilliam: In terms of our budget for 2014–15, there is no additional cost for doing this work; it is absorbed within the current staff that we have, both within police and within the Department of the Attorney General.

The appropriation was recommended.

[4.50 pm]