

Ms Margaret Quirk; Mrs Liza Harvey; Mr John Quigley; Mr Paul Papalia; Ms Janine Freeman; Mr Vincent Catania; Mr Peter Watson; Mr Paul Miles; Chairman

Division 38: Attorney General (including Native Title Policy), \$348 826 000 —

Mr N.W. Morton, Chairman.

Mrs L.M. Harvey, Minister for Police representing the Attorney General.

Ms P. Bagdonavicius, Acting Director General.

Miss J.M. Stampalia, Acting Executive Director, Court and Tribunal Services.

Mr M. Hainsworth, Manager, Advisory Services.

Ms D. Separovic, Acting Executive Director, Corporate Services.

Mr R. Montilva, Manager, Business Planning and Budgeting.

Mr A. Marshall, Acting Director, Policy and Aboriginal Services.

Ms J. Hoffman, Commissioner for Victims of Crime.

Mr P.D. Evans, State Solicitor.

Mr B. Roche, Public Trustee.

Mr G. Turnbull, Director, Legal Aid Western Australia.

Mr M. Bradshaw, Director, Business Services, Legal Aid Western Australia.

Mr A. Murphy, Acting Executive Director, Land, Approvals and Native Title Unit, Department of the Premier and Cabinet.

Mr M. Connolly, Chief of Staff, Office of the Attorney General.

The CHAIRMAN: 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. It will greatly assist Hansard if members can give these details in preface to their question.

The minister 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 minister to clearly indicate what supplementary information she agrees to provide and I will then allocate a reference number. If supplementary information is to be provided, I seek the minister's cooperation in ensuring that it is delivered to the principal clerk by Friday, 3 June 2016. 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 with the Clerk's office.

[Witnesses introduced.]

The CHAIRMAN: We are dealing with division 38. The minister has requested that if members have any questions about the native title unit, we deal with those first. My understanding is that there are no questions about that unit. That means that the minister can release the adviser.

I give the call to the member for Girrawheen.

Ms M.M. QUIRK: I refer to delivery of services at page 451. The Chief Justice of Western Australia has been very open publicly about the fact that the remand population in Western Australia is very high, and that is because of the need for additional judges to be appointed to the Supreme Court. There is no provision in this budget for the appointment of additional judges. What is the reason for that? Surely, given the cost of keeping people on remand, the appointment of additional judges would probably be cost neutral, if not result in a saving.

Mrs L.M. HARVEY: I will ask Ms Bagdonavicius to answer.

The CHAIRMAN: I might just refer to Ms Bagdonavicius as the acting director general, if that is okay!

Ms P. Bagdonavicius: That is fine!

Yes; the Chief Justice has been raising the issue of whether there is a sufficient number of judges in the Supreme Court, and the Attorney General has been making appointments expeditiously in relation to that issue. The key performance indicator for the median time to go to trial is expected to be around 36 weeks for this current financial year. In 2007–08, the target median time was 38 weeks, the median time to trial KPI has reduced. The current target is 28 weeks. We are conscious of the increasing volume and complexity of matters before the Supreme Court. However, at the same time, the Productivity Commission's 2016 "Report on

Government Services” has shown that Western Australia has the lowest proportion of cases in backlog. In Western Australia, there are 1.1 Supreme Court judicial officers per 100 000 people, which is the highest of the comparable states, and there are 9.8 judicial officers per 1 000 finalisations, which is also the highest of the comparable states, although South Australia is close. The information shows that the Supreme Court of Western Australia appears to be resourced adequately on a per capita basis; however, the Attorney General is monitoring this closely and has asked the Department of the Attorney General to develop a detailed business case in this respect.

Ms M.M. QUIRK: The answer to this question might need to be provided by way of supplementary information. Can the minister provide a list of dates for the last year on which the Attorney General has met with the Chief Justice?

Mrs L.M. HARVEY: I am sure that can be provided by way of supplementary information. I will provide the dates on which the Attorney General has met with the Chief Justice, and probably any phone conversations, if that is possible, that have occurred in lieu of meetings.

[*Supplementary Information No B86.*]

Mr J.R. QUIGLEY: On that same topic of judicial appointments, the Chief Justice, in his foreword to the “Supreme Court of Western Australia Annual Review 2015”, said the following —

Last year, I reported comprehensively on the pressure the Court was experiencing in dealing with sustained growth in our criminal jurisdiction which had caused criminal trial delay to deteriorate.

He said also —

Incoming criminal cases were at similar levels to 2014 which resulted in the median delay to trial deteriorating further from 30 weeks in 2014 to 37 weeks in 2015.

Three years ago, in estimates committees, we were given a similar answer to the one just given by the minister; that is, the Attorney General is keeping a close eye on the situation and the pressure is just the result of a spike in the number of murder trials. Does the minister agree with the concern of the Chief Justice that the deteriorating situation in time to trial is occasioned by the lack of judges for the Supreme Court?

The CHAIRMAN: Member, shorter questions, if we can. The minister.

Mrs L.M. HARVEY: More factors are involved with respect to the time to trial than just the availability of the judiciary. It was stated previously that in 2007–08, the median time to criminal trial target was 38 weeks. The median time was subsequently reduced to a target of 28 weeks, and we are currently moved back up to around 36 weeks. As has previously been stated, the Productivity Commission’s report on government services shows that the number of judicial officers per 100 000 people is 1.1, which is the highest number of other comparable states. The Attorney General is keeping a close eye on that. The appointment of Robert Mitchell, SC, as a Supreme Court judge was announced in October 2014 in advance of the scheduled retirement of Justice Eric Heenan in June 2015. There was also the appointment in March 2015 of Judge Peter Martino, Paul Tottle was appointed in July 2015, and Bruno Fiannaca was appointed in August 2015. There has been a steady rollover and replacement of appointments. With respect to those homicide trials, I believe that in 2014–15 there was a spike of 59 homicide trials, which placed some pressure on the court, but I believe that it is catching up. As we have said, the Attorney General has said that he is keeping a close eye on it. The KPI that has been set is 28 weeks. We are currently at 35 weeks. The Attorney General is looking at all the factors that are leading to the delay in time to trial, and not just appointments of the judiciary.

[2.10 pm]

Mr J.R. QUIGLEY: I have two further questions, the first of which comes from those comments. The Chief Justice goes on to note, despite the minister’s comments, that —

... the Court fails to meet national standards to deliver judgments within three months with only around 63% of Court of Appeal decisions and 73% of General Division civil decisions complying with this standard ...

Does this not evidence that we are short of at least a judge on the Supreme Court? We are failing to meet the national standards.

Mrs L.M. HARVEY: As we have said previously, the Attorney General is monitoring that scenario. Obviously, the Chief Justice will always be advocating for additional resources; that is generally what heads of departments will do. The responsibility of the Attorney General is to keep the allocation of resources on track with what would be expected with respect to our benchmarks against other states and in consideration of the actual workload being experienced. I know that the Chief Justice regularly communicates with the Attorney General on these matters. At present, the Attorney General does not, as I understand it, have plans to appoint extra judges. It

is one of the conversations that he is having with the Chief Justice in looking at the backlog and time to trial and trying to bring that back to the benchmark that the government set after we came to government, which was 28 weeks.

Mr J.R. QUIGLEY: The minister said in her reply that there is a conversation or communications between the Chief Justice and the Attorney General. The Chief Justice notes that he has been advised that the court will not receive a replacement for a judge who retires in 2016—that is this year—and that he, the Chief Justice, has made representations to the government about that decision. If that is implemented, the criminal trial delay will continue to deteriorate at a greater rate, which is not acceptable to the court or to the community. Is the minister able to confirm that the judge who is scheduled to retire in 2016 will not be replaced?

Mrs L.M. HARVEY: I cannot confirm that. I can confirm that the Attorney General has requested that a business case be developed with respect to the concerns of the Chief Justice, and that business case will then be forwarded by the Attorney General to government for consideration. In the absence of that business case being presented, really, the government has nothing to consider. We need the Chief Justice to make the case with respect to workload and other matters. If that case is made in the form of a business case for the government to consider, the Attorney General has given a reassurance that that business case will be brought to cabinet for consideration.

Mr J.R. QUIGLEY: My question relates not to a business case for an increase in the number of judges who sit on the Supreme Court bench, but, rather, to the Chief Justice having already been informed by government that the judge who retires in 2016 will not be replaced, even further diminishing the number of judges on the Supreme Court bench. Why is the government doing this? Why is it diminishing the number of judges?

Mrs L.M. HARVEY: To be very clear, the Attorney General has not said at any point in time that the position being vacated by the judge who is retiring will not be filled. The Attorney General has not said that. What the Attorney General has asked the Department of the Attorney General to do in conjunction with the Chief Justice is to prepare a business case for the expansion of the judiciary. I think the member was listening earlier when I mentioned that there have been a number of retirements for various reasons. Each one of those judges has been replaced in a timely fashion, so there is no reason, and certainly no precedent, to have anybody expect that a retiring judge would not be replaced. As to the expansion of the existing positions, the Attorney General has been very clear that the business case needs to be developed. The Department of the Attorney General is working on the development of that business case. When that case is put to government, the government will consider it on its merits, as it does with every submission.

Mr J.R. QUIGLEY: Perhaps the minister has misunderstood my question or I have badly framed it. I wish to quote again from the Chief Justice; it is from a document that he has signed. He states —

The Court has been advised that it will not receive a replacement for a judge who retires in June 2016.

Is what the Chief Justice is saying true or false?

Mrs L.M. HARVEY: I believe that the words the Attorney General used were that he did not propose to appoint a new judge at that time, but that is not to say that he is not going to appoint a replacement at any time. As I have said a number of times, the Department of the Attorney General, in conjunction with the Chief Justice, has been asked to put a business case forward for the government to consider, and government will consider it.

Mr J.R. QUIGLEY: The minister said in a previous answer that in respect of an increase to the number of judges on the Supreme Court bench, the government has been waiting upon a business case to be presented by the court. The minister also previously said that in respect of retiring judges, the government always replaces them and rolls them over. I asked a question, which I will repeat. The court has been advised that it will not receive a replacement for a judge who retires in June 2016. Is that true or false?

Mrs L.M. HARVEY: Just to clarify, the Department of the Attorney General has been asked to prepare a business case in conjunction with the Chief Justice around the expansion of the judiciary. With respect to the replacement, I do not know what document the member for Butler is quoting from. If I can just clarify, I read out a number of replacement appointments, starting from 11 March 2015, for judges who were retiring or resigning for various different reasons. Vacancies have been filled. To my knowledge, no vacancies have been left unfilled. That is the position we are in.

Mr J.R. QUIGLEY: I am sorry; I could not hear the minister and I could not see her.

[2.20 pm]

Mrs L.M. HARVEY: That is the position that we are in and, as I have said, government needs a business case. As I have said previously, the Attorney General's office is working with the Chief Justice on a business case. With respect to any vacancies due to a resignation or retirement or whatever it might be, the advice I have is that

all of those have been filled to date, and my expectation is that those positions will be filled. Obviously, though, government needs that business case to be presented in order to consider it.

The CHAIRMAN: Member for Butler, you are down to ask the next substantive question.

Mr J.R. QUIGLEY: I have one more on this.

The CHAIRMAN: Sure. I will just caution that we have had a very similar question and a very similar answer for the last three or four exchanges, so if it is going to be the same, we will move on, but I will allow a further question.

Mr J.R. QUIGLEY: Does the minister understand that I am not talking about an increase to the bench? We are talking about the Chief Justice saying that he has been informed by government that the judge retiring in June this year will not be replaced and that will lead to a further deterioration in the criminal list.

Mrs L.M. HARVEY: On 20 August 2015, Bruno Fiannaca, SC, was appointed. That appointment was made in advance of a future vacancy and commenced on 31 August 2015. That appointment brought the Supreme Court to a temporary complement of 21 judges. On 2 November 2015, Justice Simmonds gave notice of his intention to resign, effective 1 July 2016. The Attorney General advised the Chief Justice on 18 December 2015 that given Justice Fiannaca's appointment, he did not propose to appoint a new judge following Justice Simmonds' resignation at that time, because the full complement of the Supreme Court of that time was 20 judges and it was running with 21 with the appointment of Mr Bruno Fiannaca. On 10 February 2016, Justice McClure, who is President of the Court of Appeal, gave notice of her intention to resign, effective in July this year, and the Attorney General has indicated that Justice McClure will be replaced and the court will have a full complement of 20 judges. Therefore, my understanding is that the court has a full complement of 20 judges. With respect to the expansion and the addition to the judiciary and that complement, a business case needs to be developed and presented to government to consider. That is the position we are in. Every vacancy has been filled and at one point an additional judge was operating in advance of the retirement of Justice Simmonds. I think everybody involved in this is very clear about what the next steps are with respect to the expansion of the judicial capacity, but in the absence of a business case, the government is not in a position to consider it at this point. Once the business case is presented, the Attorney General will present it to cabinet and cabinet will consider it.

Mr J.R. QUIGLEY: In the Supreme Court's annual report the Chief Justice points out that time to trial —

The CHAIRMAN: What page in the budget papers is the member referring to?

Mr J.R. QUIGLEY: I refer to the second line item under "Outcomes and Key Effectiveness Indicators" on page 454 of budget paper No 2. In the annual report the Chief Justice points out that the number of criminal trials has increased by 10 this year—that is, from 68 to 78—and there has been a deterioration of the time of the trial, but more importantly, he says it is about when the starting point of time to trial is measured and the trial commences. When are the two end points? When is the starting point? The Chief Justice says that if that is measured from the time a person is committed to the Supreme Court to the beginning of the trial proper, it is considerably longer. What are the two positions measured in time to trial?

Mrs L.M. HARVEY: Looking at the criminal trial workload of the Supreme Court, the committals for trial increased by 74 per cent between 2010–11 and 2014–15. That growth in committals for trial is reflected in the number of trials heard in 2014–15, which have more than tripled since 2010–11. The committal trials for homicide offences in 2015–16 are expected to exceed those of the previous year. The impact on that increase in the number of homicide-related cases is twofold. The accused in homicide cases are more likely to plead not guilty and go to trial as they seek verdicts for lesser offences and lesser sentences—for example, manslaughter in lieu of murder—and homicide trials tend to be longer, with a duration of two to three weeks being common, as opposed to two to three days for arson and robbery cases. The criminal trial median time is estimated to be 35 weeks by June 2016, which exceeds our budget target by 25 per cent. The indicator that referred to represents the median time to trial on the day of the committal—that is, when the matter enters the court to when the first trial hearing date is held.

Mr J.R. QUIGLEY: There is the time from the committal date to when trial commences, but that end point date is the commencement of the trial in terms of the presentation, indictment and any directions hearings or status conferences, which are not the taking of the evidence, but part of the trial. That is the end point, is it not? In other words, the two positions that are being measured to work out the median time for trial are the date of the committal and the start of the trial, but it is not start of the trial proper, is it? It is the first status conference or the first directions hearing.

Mrs L.M. HARVEY: I said to the date when the first trial or hearing is held.

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Mr J.R. QUIGLEY: What is the minister defining as the first hearing date? Is it a directions hearing for the admissibility of evidence?

Mrs L.M. HARVEY: My advice is that it is the scheduled trial date.

Mr J.R. QUIGLEY: In pointing out this problem, the Chief Justice cites just one example of the arrest of a person for murder in September 2013, his appearance at the Stirling Gardens court on 25 September and his committal for trial on 27 August 2014, but it was not disposed of until the time for trial in June 2015. That is referred to on page 7 of the Supreme Court's annual report. That is a considerably longer time than is indicated in this budget. The Chief Justice is citing an example of the time it takes to get matters to trial. It is on page 7 of the Supreme Court annual report.

Mrs L.M. HARVEY: With respect to a specific case like that, I suggest the member puts that question on notice to the Attorney General. I do not have the information about the specific case in front of me. I can say that the key performance indicator target for median criminal time to trial was successfully reduced by the government from 38 weeks in 2007–08 to 35 weeks in 2008–09 and is currently at an aspirational target of 28 weeks, which we set in 2009–10. That is what we are working to achieve and the Attorney General is monitoring resources that the government may need to look at to help us achieve that target. There are a number of reasons that there may be a longer time to trial. There might be delays in obtaining counsel, for example, or there might be issues with the Director of Public Prosecutions getting the case ready; there could be all sorts of reasons that some times to trial are longer than others, which is why we work on a median.

[2.30 pm]

Mr J.R. QUIGLEY: The Chief Justice is painting a very clear picture in the Supreme Court's annual report of a deterioration in the circumstances at the court and in bringing people to trial. I quote —

The delay in in obtaining trial dates significantly exceeds our targets, which the Court regards as unacceptable. Trial delay magnifies the harm to victims by delaying vindication and closure ...

Does this statement of the Chief Justice not bear witness to the minister's government's failure to achieve speedy justice, as outlined in the policy it took to the last election?

Mrs L.M. HARVEY: As I said, in this situation, the Western Australian Supreme Court has 9.8 judicial officers per 1 000 finalisations, and that is the highest of comparable states—although South Australia is probably the closest with 8.8 judicial officers per 1 000 finalisations. The “Report on Government Services 2016” shows that we are on par with comparable jurisdictions with our complement of Supreme Court judges. The Attorney General has said that he will monitor the situation. He has asked the Department of the Attorney General and the Chief Justice to collaborate on a business case for an expansion. Obviously, the workload of the judiciary and other matters that may be leading to that time to trial increasing to a median of 35 weeks will be part of the consideration when that business case is put to government. Delays in time to trial are not necessarily always a result of judicial resources, and that will also be a part of the consideration of that business case when it is presented to government.

Mr P. PAPALIA: During the Department of Corrective Services division on Tuesday, we were told that the number of prisoners on remand in our prison system over the past four years has gone from 17 per cent to just under 30 per cent. In that time, the prison population has grown by 25 per cent. If the Attorney General does not agree with the Chief Justice that the lack of additional resources in the courts is contributing to this growth in prisoners on remand, to what does the Attorney General attribute this incredible growth over the last four years?

Mrs L.M. HARVEY: To which line item in the budget is the member referring? I do not have the Department of Corrective Services budget in front of me.

Mr P. PAPALIA: This is a further question on resources. This is a further question to the shadow Attorney General's question regarding resources and observations made by the Chief Justice about —

The CHAIRMAN: It is a further question to the general theme of trial times, I think, minister.

Mr P. PAPALIA: To what does the Attorney General attribute the massive growth in the ratio of remandees, as opposed to sentenced prisoners, in our prisons from 17 per cent to just under 30 per cent in four years, whilst we have had a 25 per cent growth in the prison muster? If lack of resourcing to the courts is not contributing, to what does the Attorney General contribute that growth?

Mrs L.M. HARVEY: The member is asking me for an opinion of the Attorney General and he will need to put that question on notice to the Attorney General.

Mr P. PAPALIA: I am asking the Attorney General, whom the minister represents. Someone sitting next to the minister might be able to answer.

Mrs L.M. HARVEY: The member would need to put that question on notice to the Attorney General.

Mr P. PAPALIA: No.

Mrs L.M. HARVEY: I am here as his representative and the member is asking for an opinion.

Mr P. PAPALIA: Ask the advisers. They are the ones who are answering for —

The CHAIRMAN: Member for Warnbro! I do not want to have to call members to order in estimates sessions. Several members interjected.

Mr P. PAPALIA: I have a further question.

The CHAIRMAN: Hang on! Wait a second. I am chairing. I will allow further questions; that is not a problem. I will hear questions and I will hear answers, and I will not hear interruptions or interjections. You can ask further questions; that is not a problem. But I will allow the minister to answer and the way she answers is the way she answers—that is her prerogative. You can ask questions how you want to ask questions, and that is the member's prerogative. But we will not have interjections across the chamber.

Mrs L.M. HARVEY: I have a response. The advice from my advisers is that they do not have the information at hand to give the member a response to that question. The member needs to put the question on notice to the Attorney General if he wants that response.

Mr P. PAPALIA: Through the minister, what is the department doing to identify the cause of the massive growth in the number of people on remand in our prison system over the past four years—or is it none of your business?

Mrs L.M. HARVEY: The short answer is that those matters are not under our control.

Mr P. PAPALIA: You are kidding!

The CHAIRMAN: Members!

Mr P. PAPALIA: This is the Department of the Attorney General—you are kidding!

Mrs L.M. HARVEY: That is the advice I have received from my advisers. I am representing the Attorney General and I am reliant on the advice I receive.

Several members interjected.

The CHAIRMAN: Member for Warnbro! Member for Albany! I am about to call members to order. As I have stated already, I will happily allow as many further questions as people feel they need to ask, so long as it is not repetitive, but we are not going to have you ask a question and then interject on the minister as she is trying to answer it.

Mrs L.M. HARVEY: Just to further explain, the Attorney General does not have control over the decisions of the judiciary to hold prisoners in remand. Those are independent decisions of the court. I do not know whether the member is asking the Attorney General to give a directive of some sort to the judiciary and place their independence at risk, but the advice I have received is that there has been a national trend to place accused prisoners in remand. Some of that is following the Martin Place siege; there is now a more precautionary approach. If the member wants a more fulsome answer on the Attorney General's views on these matters, I request that the member, in fairness, puts that on notice to the Attorney General. The advisers tell me that they do not have responsibility for that, and that that is not part of their remit.

Ms M.M. QUIRK interjected.

The CHAIRMAN: Member!

Mrs L.M. HARVEY: I can act only on the advice that I receive.

Mr P. PAPALIA: In respect of that advice, does the Department of the Attorney General view itself as a department that has any responsibility for analysing the massive growth in both our prison muster and the proportion of those prisoners on remand?

Mrs L.M. HARVEY: I think —

Mr P. PAPALIA: It is just a question—yes or no? If it does not, that is fine.

Mrs L.M. HARVEY: I have been pretty clear, I think. Really, if the member looks at the trend with this government and the stance that it has taken, our focus is always on victims of crime and probably less so on

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offenders. If the judiciary make decisions to hold offenders in remand, that is its decision. I do not know whether the Commissioner for Victims of Crime might care to comment on some of these matters, but the government's position has always been to err on the side of victims and have the justice system skewed towards victims.

Mr P. PAPALIA: Is that a no?

Mrs L.M. HARVEY: If Ms Hoffman would care to comment —

Mr P. PAPALIA: It is \$1 billion a year recurrent.

The CHAIRMAN: Member, please! Through the minister, Ms Hoffman.

Ms J. Hoffman: I must say that I am interested in this discussion in that we are seeing early anecdotal blips around a trend towards remand when there is evidence of victim risk. From my point of view, that is a really positive thing. It is certainly something that we are hugely encouraging of, particularly in the magistracy, but also in the District Court, where it has probably been more common to remand anyway. We certainly have been anecdotally getting evidence that there seems to be a greater sensitivity towards erring on the side of remand when there might be victim risk. We take that to be a successful thing.

Ms M.M. QUIRK: The Commissioner for Victims of Crime made a couple of points that I would like to quickly pursue before we move on. I think she used the word “blips”; I did not actually hear what she said, but I want to ask her how is it in a victim's interest, who might have to give evidence in trial, to have to wait a significantly longer time than is optimal before they can give evidence and move on with their lives?

[2.40 pm]

Mrs L.M. HARVEY: Ms Hoffman.

Ms J. Hoffman: I can only go with data from the “Report on Government Services”. I am a public servant so I am very convinced by evidence. The evidence tells me what we have already heard today, so I do not think there is any point in me traversing this. However, can I say unashamedly that things like the Family Violence Court list that we are trying to develop is a pretty innovative model in national terms. One of the key things that we are trying to do is increase awareness of risk by information sharing between service delivery people. I do not really understand how that would be a downside for victims.

Ms M.M. QUIRK: Minister, that answer was not responsive. Longer remand times has an impact on victims. It appears that the commissioner has not been taking that into account.

Mrs L.M. HARVEY: I will take that as a comment.

Mr P. PAPALIA: What evidence is the commissioner referring to with respect to the evidence that suggests that it is better for victims of crime in some way to have a larger number of people on remand in prison?

Ms J. Hoffman: I prefaced my comments very carefully to say that I wanted to offer the committee evidence of the fact that this is an anecdotal observation. We are very close to the coalface of the court system and spend a lot of time, for instance, developing new listing approaches. I really just wanted to offer that perspective. From my point of view, of course we will be monitoring that, because if we get evidence that there are things that are working, we want to know more about it. I was offering an anecdotal observation and I carefully couched it in those terms.

Mr J.R. QUIGLEY: The Chief Justice said, and I quote —

Trial delay magnifies the harm to victims by delaying vindication and closure, and protracting their engagement with the criminal justice system.

Does the minister agree with the Chief Justice's statement?

Mrs L.M. HARVEY: My position here, in representing the Attorney General on this estimates committee, is to facilitate the examination of the budget in front of us. It is not to offer an opinion on the Chief Justice's report or comments that the Chief Justice might make in the media, or indeed the member's quoting of comments of the Chief Justice. I will not be offering an opinion on the Chief Justice's opinion. I am here to facilitate responses to the budget that is in front of us, with the assistance of the advisers from the Attorney General's office.

Mr J.R. QUIGLEY: Yes, but —

The CHAIRMAN: Member, the minister is right in saying that. We need to make sure that we are still referencing the budget papers. A number of further questions have been asked on this issue. I will allow a final further question but then we will move on.

Mr J.R. QUIGLEY: The minister just proffered to this committee, through the Commissioner for Victims of Crime, anecdotal evidence—as the commissioner said—that it was better for the victims of crime that the remand situation increase. The Chief Justice is at odds with what has been offered to this committee. Can the minister reconcile the two positions between what the Chief Justice has to say and what the minister has said through the Commissioner for Victims of Crime?

Mrs L.M. HARVEY: All I can say is when the judiciary make a decision to hold an offender in remand, they do that in consideration of a number of factors. Community safety is always paramount, as well as flight risk and all those other things. If that is what the judiciary do with respect to remand, those are their decisions. As I have said previously, this estimates committee is about an examination of the budget; it is not about me presenting an opinion on an opinion. I will not be doing that.

Ms J.M. FREEMAN: I would like to ask the minister questions about the sixth service, “Legal Aid Assistance”, on page 453 of budget paper No 2. The commonwealth has significantly cut funding to community legal centres by 32.2 per cent and there were also funding cuts to community legal centres in last year’s state budget. Will the minister identify from this year’s budget the specific amounts of state government funding to community legal centres? Did community legal centres get any of the increase that the federal government gave them?

Mrs L.M. HARVEY: I will deflect this question to Mr George Turnbull, please.

Mr G. Turnbull: First of all, I am not quite sure what the member means by additional funding from the commonwealth, but in relation to state funding, community legal centres received a 4.5 per cent cut to their overall budget for this financial year. My understanding is there will be no further cuts in the forward estimates. In relation to the commonwealth funding, the member is absolutely correct: in the next financial year, 2017–18, as things stand, the centres are facing the prospect of a 32 per cent cut. So far as the state budget is concerned, we are not aware of any further cuts.

Ms J.M. FREEMAN: Was the 4.5 per cent cut in the 2015–16 budget or in the 2016–17 budget?

Mr G. Turnbull: It is in the current financial year, 2015–16.

Ms J.M. FREEMAN: The state government cut funding to community legal centres by 4.5 per cent in 2015–16 and I understand that federal funding will be cut by 32 per cent in 2017–18. I understand also that in the 2015 national partnership agreement, Legal Aid in Western Australia received an increase in commonwealth funding of 14 per cent. Why will the state government not therefore allocate that 4.5 per cent back to community legal centres, which do vital and important work in our community? That would bring them back up to previous funding for state legal centres.

Mrs L.M. HARVEY: I will ask Mr Turnbull to answer, but it is most unfortunate when the commonwealth withdraws funding from some of these resources. The expectation always tends to be that the state will automatically step in to pick up the slack. Legal Aid has experienced a significant increase in demand and also for Legal Aid services, and that is a service that the state government is responsible for funding. I would ask Mr Turnbull to add further to that answer.

Mr G. Turnbull: The member is correct: the national partnership agreement that commenced in the current financial year—the first year of its operation—increased the level of funding by 14 per cent. We view that as simply a corrective adjustment. I think that just brings us to about the national average, if it is looked at on a per capita basis. Western Australia comes from a position where we would say it was seriously underfunded by the commonwealth to a position where it is now perhaps about the national average. Of course we believe that the commonwealth should have gone a lot further because, as we know, the cost of delivering justice services in this state is the highest of all the states. Nonetheless, it is a welcome addition to our budget. I assume the member is suggesting that the state government should somehow increase funding to community legal centres. That is really a matter for the state, not for me. I would have thought that it is the commonwealth that needs to come to the party rather than the state, quite frankly.

[2.50 pm]

Ms J.M. FREEMAN: In particular in the last round of funding, the Attorney General took over the funding of the Employment Law Centre by defunding the Environmental Defenders Office. I need to know whether there is any funding for the Employment Law Centre. Again I ask: is it possible that a comprehensive summary of all the state community legal centre funding is outlined perhaps by supplementary information?

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The CHAIRMAN: I thought we were asking questions about legal aid.

Mrs L.M. HARVEY: The Employment Law Centres were an initiative of the Department of Commerce. With respect to funding or otherwise flowing to that office, the member needs to put that question to the Minister for Commerce. I know there is a small crossover with some of the work of the Employment Law Centres, but the bulk of the legal aid work is really criminal work. Legal Aid has also picked up a significant proportion of work that previously flowed to the Aboriginal Legal Service. The ALS has also suffered from progressive defunding from the commonwealth. Mr Turnbull, can you please comment on the overlap of the Employment Law Centre?

Mr G. Turnbull: It is true that the Environmental Defenders Office has been defunded. The funds were then provided for a one-year, one-off basis to the Employment Law Centre, but as far as I am aware, there are no plans to continue that funding. Although there have been suggestions that it might appropriately be brought under the legal aid umbrella, the reality is that under the national partnership agreement, there is a clear set of priorities for the sorts of people whom we provide assistance to. The law centre would probably not be considered to be one of our priority clients. Our priority clients are, if you like, people who are very poor, and that is where we concentrate our efforts.

Ms J.M. FREEMAN: I was asking for that summary. Is it possible?

Mr G. Turnbull: It is indeed, yes.

Mrs L.M. HARVEY: Pardon?

Ms J.M. FREEMAN: I want the summary of funding for the line item “Legal Aid Assistance” to the state legal funding centres for all the centres that are funded.

Mrs L.M. HARVEY: I am not —

Ms J.M. FREEMAN: It is all right; the minister’s adviser knows what I am asking for.

Mrs L.M. HARVEY: Yes, but I need to articulate what it is. Is the member asking how much funding is flowing from legal aid assistance to the community law centres?

Ms J.M. FREEMAN: Yes.

Mrs L.M. HARVEY: I will provide that by way of supplementary information.

[Supplementary Information No B87.]

Ms M.M. QUIRK: Minister, when Midland and Fremantle legal aid offices were closed, there were assurances that additional measures would be put in place. What additional measures have been put in place?

Mr G. Turnbull: The staff who previously occupied the Midland and Fremantle offices are now located in our central office. When we did the analysis prior to the decision to close both offices, we discovered that the vast majority of services we were providing out of both those offices were court-based services. From our perspective, that meant it was almost as easy to provide the services previously provided in Fremantle and Midland from our central office. It is true, of course, that there would be some benefit in having a locally based office but due to what it was costing us and based on our judgement that we could effectively compensate for those services, we took the decision to close those offices and, as I say, relocate staff to our head office.

Ms M.M. QUIRK: Minister, I am not sure what is meant by the term “court-based services”. Does this mean duty lawyers? If so, that is not an additional measure; that was already in place.

Mr G. Turnbull: They are primarily duty lawyer services, yes.

Ms M.M. QUIRK: Can the minister advise how many days duty lawyers do in each of the Fremantle, Midland and Mandurah locations?

Mr G. Turnbull: I think we need to provide that on notice.

Mrs L.M. HARVEY: I will not be providing that by way of supplementary information—if we can have the question placed on notice.

Ms M.M. QUIRK: No. I need to know whether there has been a reduction in hours, and that directly relates to the budget. I cannot see why it cannot be provided by supplementary. It is a simple question; it is not an onerous one.

Mr G. Turnbull: I might ask my business director to answer that question.

Mr M. Bradshaw: I confirm that the member is seeking information on the number of duty lawyer days at Fremantle, Midland and Mandurah. It is my understanding, but I will confirm this by way of supplementary information, that Fremantle is at least three days a week, Midland is at least three days a week and Mandurah is

at least two days a week. I fully expect that Fremantle and Midland are more than that—probably four—but both of those locations do at least three days. I understand from my experience that Mandurah does at least two days each week.

Ms M.M. QUIRK: Given there are now a number of serious traffic offences that can automatically relate to confiscation of property and imprisonment, is legal aid still doing traffic matters?

Mr G. Turnbull: It is true that we are still doing traffic matters, although in some traffic lists, we have determined that as a matter of priority, we cannot always be available. That is simply as a result of the increasing demand on our duty lawyer services.

Ms M.M. QUIRK: Can the minister or Mr Turnbull confirm whether private lawyers are still being briefed to do magistrate's work?

Mr G. Turnbull: The answer is yes, although we have restricted our guidelines in relation to grants of aid in the Magistrates Court, but the answer is yes.

Ms M.M. QUIRK: What is the nature of those restrictions?

Mr G. Turnbull: Essentially, we need to be satisfied about two aspects, apart from, of course, that the person must satisfy a means test. In addition to that, the charges need to be either serious or complex and/or there are special circumstances with the defendant. By that, I mean the person may have some impairment that would make it difficult for them to self-represent. It is in those circumstances we grant aid, but that is really the extent of it.

Mr V.A. CATANIA: I thank the minister for our police and justice complex in Carnarvon. What a fantastic building—even better is that it flies the Aboriginal flag, unlike the Shire of Carnarvon, which refuses to fly a flag for Aboriginal people.

Note 3 under “Explanation of Significant Movements” on page 454 states —

Magistrates Court—Criminal and Civil—time to trial 2015–16 Estimated Actual is expected to increase due to a higher number of lodgements in some regional and outer metropolitan Courts.

Obviously the burden on magistrates in regional areas is quite high. What are some of the ways the government will use to try to reduce that burden on magistrates?

[3.00 pm]

Mrs L.M. HARVEY: I will ask Ms Bagdonavicius to answer.

Ms P. Bagdonavicius: Can I suggest that Joanne Stampalia, the executive director of court and tribunal services, responds to this question?

Miss J.M. Stampalia: The Magistrates Court looks at the workload across the state and opportunities to allocate magistrates, whether that is through supporting a magistrate to go to a location for a number of days per week or flying a magistrate from Perth to assist with the workload at that location. Mr Heath takes charge of working through the allocations and what locations need to be supported.

Mr V.A. CATANIA: Further to that question, the other states have moved to increase the age of magistrates from 65 to 70, so why has Western Australia not progressed to changing the age of magistrates from 65 to 70 years old, given that there will be a potential increase in workload and a potential lack of magistrates who are able to fill those roles? Is there anything in the pipeline to suggest that we are going to change the age from 65 to 70 years like all other states?

Mrs L.M. HARVEY: I can answer that. My understanding, member for North West Central, is that it is currently under consideration by the Attorney General.

The CHAIRMAN: Member for Albany.

Mr P.B. WATSON: At last! I refer to the explanation of significant movements on page 454 of budget paper No 2. The fourth point states that time to trial for the Coroner's Court will be higher in 2015–16. However, in my electorate, the family of Wendy Bearfoot, the Department of Environment and Conservation firefighter, has waited for an inquest since 2012, which is finally scheduled for late October. Looking further up page 454, we can see the time to trial is 128 weeks. If we multiply four years by 50 weeks, that is over 200 weeks, which is an absolute disgrace for the family. They are still grieving—the husband is still grieving—and they have continually been onto the Attorney General's office to find out what is happening. It is now over four years ago. Does the minister think this is a disgrace and why has this happened?

Extract from *Hansard*

[ASSEMBLY ESTIMATES COMMITTEE B — Thursday, 26 May 2016]

p559b-580a

Ms Margaret Quirk; Mrs Liza Harvey; Mr John Quigley; Mr Paul Papalia; Ms Janine Freeman; Mr Vincent Catania; Mr Peter Watson; Mr Paul Miles; Chairman

Mrs L.M. HARVEY: I can provide the member with more general information about the Coroner's Court but, for specific information about that case, the member needs to put the question on notice. There has been a significant reduction in the backlog of cases through the Coroner's Court. The backlog was up at 916 cases in December 2011 and at the end of March 2016, it was 457 cases. Of the 457 current backlog cases —

Mr P.B. WATSON: I asked the minister whether she thought it was proper that the case should take four years for a family who are still suffering with it over their heads. The minister can give all the statistics she likes, but taking four years for a coronial inquiry is an absolute disgrace. Does the minister agree with me or not?

Mrs L.M. HARVEY: As I have said previously —

Mr P.B. WATSON: Not the gobbledegook—yes or no?

[Ms L.L. Baker took the chair.]

The CHAIRMAN: Member, you need to let the minister answer.

Mrs L.M. HARVEY: As I said previously, I will not give an opinion on an opinion.

The CHAIRMAN: Member for Butler.

Mr P.B. WATSON: Is that it?

Mrs L.M. HARVEY: The member did not want the answer about the Coroner's Court.

Mr P.B. WATSON: Can I have a further question about why that has taken so long, Chair?

The CHAIRMAN: Yes you may, member for Albany.

Mrs L.M. HARVEY: What am I being asked, exactly?

Mr P.B. WATSON: The minister said there was further information. I wondered whether the minister could tell me why it has taken four years for a coronial inquiry, and the minister said she could get more information.

Mrs L.M. HARVEY: No, I was interrupted. I was saying I could give the member further information generally about the Coroner's Court—for example, on what proportion of those cases are waiting and why they are being held up. Some of them are being held up because they are waiting on medical reports from doctors or investigation reports.

Mr P.B. WATSON: For four years?

Mrs L.M. HARVEY: Regarding that individual case, the member needs to write to the Attorney General or put the question on notice.

Mr P.B. WATSON: We have; we cannot get an answer.

Mrs L.M. HARVEY: I cannot answer about an individual case during budget estimates.

Mr P.B. WATSON: I have a further question. Can the department tell me the longest period of time someone has had to wait for a coronial inquiry? How many cases are in that category of four years, which the Bearfoot family has had to go through?

Mrs L.M. HARVEY: I am advised, no, because a variety of factors might feed into delays for the Coroner's Court to consider these issues. As I said, member, in fairness to the Bearfoot family about a specific case, the member needs to write directly to the Attorney General or put the question on notice.

Mr P.B. WATSON: We have, minister, and we have not got an answer.

Mrs L.M. HARVEY: That is the right thing to do.

Mr P.B. WATSON: I do not want to know the causes. Surely the department has statistics that show how long the coronial inquiries have taken. I am not concerned about the reasons but surely there is a pattern that if a coronial inquiry takes four years, there is something wrong with the system.

The CHAIRMAN: What is the question, member? I am not clear what the question is.

Mr P.B. WATSON: It was a further question. I asked the minister whether she could give me a list of how long coronial inquiries take and she said it depends on the circumstances. If we had a list of how long they take, we could see that the longest could be five or six years, which would be even worse. Surely, there is nothing in that period that could make it go out to four years. There was inquiry two years ago and it has taken this long for the coronial inquiry.

Mrs L.M. HARVEY: As at 30 April 2016, 451 cases were older than 12 months; a total of 2 138 cases were pending on hand; there were 156 inquest cases, of which 112 are backlog inquest cases; and there were 46 inquest closed cases. I do not know whether that provides the member with some information. I do not have

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information on hand on the longest time it has taken for a coronial inquiry to commence. However, those are the figures that I have to offer in response to that question.

Mr J.R. QUIGLEY: I refer to the delivery of services by the department to the government.

Mrs L.M. HARVEY: On which page?

Mr J.R. QUIGLEY: The delivery of services is under item 73 on page 451. The budget for the estimated actual delivery of services in 2015–16 was \$252 million. I want to move from the gloomy subject of what the government cannot afford to the perhaps brighter subject of what the government can afford. Relating to the Bell Group finalisation bill, the subsequent litigation, and the government's demands to be represented in the High Court, how much did it cost the government—what monetary value was ascribed—for the litigation ensuing from the Bell Group finalisation bill, including state government solicitors' costings and the Solicitor-General's costings? How much has it cost the government in apportioned funds? The Premier said on the radio this morning it was in excess of \$1 million. Does the minister know how much it cost?

[3.10 pm]

Mrs L.M. HARVEY: I will ask the State Solicitor, Mr Paul Evans, to respond if he is able.

Mr P.D. Evans: We do not have at this time a detailed costing of the litigation. In any event, were that to be requested as supplementary information for detail, the position taken by the Attorney General last year in answer to similar questions on related themes—a position I endorse—was that the costs of active matters are not reported because of their tactical relevance to our opponents in the litigation.

Ms M.M. QUIRK: I cannot hear.

Mr P.D. Evans: We do not report the cost of active matters; we report the cost of closed matters because of the tactical relevance of current costings to opponents in litigation.

Mr J.R. QUIGLEY: Was the Premier on the money when he said on 6PR this morning that it was \$1 million or more? Are we talking in that order, minister?

Mrs L.M. HARVEY: I think the State Solicitor was pretty clear in that the Attorney General has previously not been prepared to give the full amount of an active matter under consideration, and I think we will leave it at that.

Mr J.R. QUIGLEY: In relation to the response that it is an active matter, what parts of it are active—just the taxation of the costs, or are there other matters of that litigation still active? I am talking now about the case stated to the High Court.

Mrs L.M. HARVEY: I will ask the State Solicitor, Mr Paul Evans, to respond as much as he is able, given that it is an active matter.

Mr P.D. Evans: The taxation is not yet an active matter because no taxation process has been initiated in relation to the costs of those proceedings. However, we do not view the High Court proceedings in isolation as a matter separate and distinct from the group of matters that are currently active in relation to the distribution disputes. It is a phase in the distribution disputes that commenced in 2013 and, on current projections, will run to somewhere between 2021 and 2031.

Mr J.R. QUIGLEY: I am sorry, I missed that last bit because of the noise.

Mr P.D. Evans: The High Court proceedings are a phase in the distribution disputes and it is currently predicted that the distribution disputes will run until sometime between 2021 and 2031.

Mr J.R. QUIGLEY: Do I understand from that answer that the public of Western Australia will have to wait until somewhere between 2021 and 2031 before it is told how much of its taxes went into the Treasurer's flight of fancy that he could just seize the liquidator's assets? We are not going to know until 2021 or 2031, and the taxpayers will not know how much this expedition cost them.

Mrs L.M. HARVEY: The entire Bell matter became something of a blight on the government of the day when the circumstances arose that resulted in this particular scenario. Is Mr Evans able to respond?

Mr P.D. Evans: I can only suggest to the member that he puts the question on notice and we will see what position the Attorney General takes; I merely foreshadow the position he might take on the basis of the position he took last year in relation to three related questions.

Ms M.M. QUIRK: I have a further question on the question of costs, and the minister may well have to provide this as supplementary information. Although the State Solicitor says that he will not give answers in relation to the costs of a matter that is still active, I would like to ask, by way of supplementary information, how many

billable hours the State Solicitor's Office has clocked up in the Supreme Court proceedings of Wang Nominees Pty Ltd v the Metropolitan Redevelopment Authority.

Mrs L.M. HARVEY: Mr Evans?

Mr P.D. Evans: I am not personally familiar with that matter; I am not sure whether it is still an active matter. If it is an active matter —

Ms M.M. QUIRK: It is an active matter. I am not asking for fees, I am just asking for the number of hours that the State Solicitor's Office has recorded. There has been a previous question on notice about this matter. It is still in the Supreme Court, but I would like some estimate of how much time has been expended.

Mr P.D. Evans: Again, we are going to have to provide that as supplementary information. However, I would comment that as we have a published fee schedule that is reasonably widely available, hours would give the member fees; fees are simply a proxy for hours. If we disclose hours, we disclose fees.

Ms M.M. QUIRK: Is it the Attorney General's position that the amount the state spends on litigation is not a matter of public interest and will not be disclosed?

Mrs L.M. HARVEY: My understanding from the position that the Attorney General has taken in previous years is that while a matter is still in train and still under active consideration, it is not in the interests of the public to disclose those costs in that they might disadvantage the state's case. If the member would like to put the question on notice to the Attorney General, I am sure he can seek the necessary advice.

Ms M.M. QUIRK: I have already put a question on notice, minister. That is what I said. I am asking for additional information, which is what these proceedings are about. It is unacceptable, for example, for the public to not be able to assess whether a matter should settle or not, and one of the salient issues is how much it has cost the state to date in litigation.

The CHAIRMAN: Is there a question?

Ms M.M. QUIRK: Yes, there is a question: I would like to be provided supplementary information as to the billable hours recorded by the State Solicitor's Office in the Supreme Court matter of Wang Nominees Pty Ltd v the Metropolitan Redevelopment Authority.

Mrs L.M. HARVEY: As I said previously, the member can put the question on notice.

Ms M.M. QUIRK: Because? I have already done that, minister!

Mrs L.M. HARVEY: Then an answer should be forthcoming.

Ms M.M. QUIRK: It is not; that is the whole point. I can read it out to the minister, if she likes.

The CHAIRMAN: Thank you, members.

Mr P.T. MILES: My question is somewhat similar with regard to the State Solicitor. I want to know how many solicitors there are in the State Solicitor's Office. The other part of my question is: if an agency of government—something like the Western Australian Planning Commission—makes a ruling and it goes to the State Administrative Tribunal, does the State Solicitor just go in and defend that action regardless, or does the State Solicitor advise the agency first on whether it is going to win or lose?

Mrs L.M. HARVEY: Is Mr Evans able to respond?

Mr P.D. Evans: On a slight level of generality, because the figures are a little flexible from day to day, my recollection is that I have 151 lawyers on the books, of whom approximately 130 are physically present in the office or on embedment or placement from our office into client departments and agencies. That represents something in the order of around 110 full-time equivalent staff effectively on duty, the balance being on various forms of leave, whether it be study leave, maternity leave, long service leave, personal leave or other. That, in roundish numbers, is the approximate complement.

In relation to our general position on advice, we will always provide advice in relation to merits because we subscribe to the general principle that one should not defend claims that one properly assesses to be indefensible, and one should prosecute claims that one properly assesses to be prosecutable, having regard to, for example, if it is a prosecutions matter, the Director of Public Prosecution's prosecution guidelines; and, if it is a civil matter, an assessment of the resources that will be required to deal with the matter and its importance to the department or the state, including questions of whole-of-government importance. As a result of a dialogue with a client department we will provide a recommendation to the client as to whether to proceed or not, but it is not reflexive. Our normal expectation would be that for matters relating to the Department of Planning, we would act on a planning matter, although the department has its own limited internal legal resources. We may not always do so in circumstances in which, for example, a development assessment panel is involved; we may face

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a choice between a DAP and the department, depending on the way in which the matter has developed and the way in which we have previously engaged with it.

[3.20 pm]

Mr J.R. QUIGLEY: I refer to the judgement in the Bell litigation before the High Court, in which the High Court unanimously struck down the Bell Group Companies (Finalisation of Matters and Distribution of Proceeds) Bill as unconstitutional. Under that judgement, is interest payable on the funds that were transferred to the authority between the operative date of the bill and the date of judgement on 16 May this year; and, if so, at what rate does the court assess the interest?

Mrs L.M. HARVEY: I will ask Mr Evans to respond if he is able.

Mr P.D. Evans: Member, the judgement is not a money judgement; therefore, no interest is payable on the judgement.

Mr J.R. QUIGLEY: In the opinion of the State Solicitor, is interest payable by the government on the funds that the government had between the transfer date and the date on which that judgement was handed down?

Mrs L.M. HARVEY: I will ask Mr Evans to respond, but obviously he is not to provide an opinion—just a factual answer, if that is available.

Mr P.D. Evans: The fact is that the funds were at all times on medium to long-term deposits with banking institutions. The names on the accounts were changed to the authority, and the names on the accounts were changed back to the authority on the day following the judgement. A couple of minor expense issues have yet to be resolved, but fundamentally the interest accruals have reverted to the liquidator, with the funds.

Ms J.M. FREEMAN: I refer to the outcomes and key effectiveness indicators on page 454, and in particular the outcome “Equitable access to legal services and information”. I am interested in the figures for the percentage of callers who are successfully accessing the infoline service. I have gone through previous budgets. In the 2012–13 budget, the target was 88 per cent, and the agency was able to achieve an estimated actual of 89 per cent. In the 2015–16 budget, the target was 81 per cent, but the estimated actual was only 74 per cent. In the 2016–17 budget, the target has dropped to 67 per cent. How can this target and level of service be justified when the agency has recently received a 14 per cent increase in funding as part of the national partnership agreement?

Mrs L.M. HARVEY: I will ask Mr Turnbull to respond, please.

Mr G. Turnbull: The target for the infoline service is the result of an increase in demand. I should qualify that by saying that even though there is a 33 per cent abandoned call rate—which is when people ring the infoline, hold for a while and then hang up—a call-back facility is built into the system. People can leave their telephone number and other details, and they will invariably be contacted. Therefore, that figure is not quite as bad as it looks. However, it is true that over the last year, demand for the infoline service has increased by 15 per cent, and that is a major factor in the increase in the number of abandoned calls. There was also a system upgrade last year, and that created a few problems for us. That is just the reality. That is a judgement call that we make. There are competing demands on our services, and we have to do the best we can with the funds that are available to us.

Ms J.M. FREEMAN: In 2012–13, 89 per cent of callers were able to successfully access the infoline. I assume that during that time, there was also the capacity to leave a message. The budget target is now 67 per cent, at a time when there has been a 15 per cent increase in demand for this service. Does the minister agree that this is just a judgement call? This is not just a judgement call; this is about providing equitable access to legal services and information, yet people are not able to access the infoline service. Is this because of a staff cut? How will the target be brought back up to around what it was in 2012–13?

Mrs L.M. HARVEY: Just to give the member some information, during 2015–16, there has been an increase in demand, with a 15 per cent increase in the number of calls to the infoline to date over the previous year; therefore, there was a higher abandoned call rate. In January and February this year, there was a 19 per cent increase in the number of calls to the infoline compared with the previous year. My understanding is that in early 2016–17, there will be a review of the intake, assessment and referral processes for the infoline, particularly for family law matters, to identify process improvements that will mitigate that issue. Obviously, this needs to be monitored. In the context of the federal government cutbacks to community law centres and other organisations, Legal Aid will obviously come under some pressure. The expectation of the commonwealth is that the state government will step in to fund the activities that the commonwealth is defunding, and the state will need to consider its position in that context.

Ms J.M. FREEMAN: I ask the minister to outline the demand for the infoline service for each of the financial years from 2012–13 to 2015–16, to demonstrate that the substantial percentage increase in demand justifies the substantial decrease in the government’s own target from 89 per cent in 2012–13 to 67 per cent in 2016–17. The

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minister has told me what the demand has been for this year. In each of the financial years 2012–13, 2013–14, 2014–15 and 2015–16, how many people successfully called the infoline line, and how many calls were abandoned? The target for last financial year was around 80 per cent, and it came in at 74 per cent. The agency has now just put up its hand and said, “Barleys; we can’t do it, so we’re going to budget for 67 per cent”, and, next thing we know, one in two calls to the infoline will not be answered, when that service is supposed to enable the community to access legal services.

Mrs L.M. HARVEY: In actual fact, the number of calls answered between July and February has increased, from 40 230 in 2014–15 to 41 239 in 2015–16, so some efficiencies have resulted from the business process improvements. We can provide by way of supplementary information the number of calls to the infoline and the number of calls that were abandoned from 2012–13 to the current financial year.

[*Supplementary Information No B88.*]

Ms M.M. QUIRK: I refer to page 452. The second dot point under “Significant Issues Impacting the Agency” states —

The Department continues to support the outcomes of the Premier’s Taskforce on Aboriginal Deaths in Custody ...

What is the nature of that support; and what initiatives have occurred so far, and what initiatives are planned?

Mrs L.M. HARVEY: I will defer to Mr Andrew Marshall.

Mr A. Marshall: The department is involved in a number of issues with this task force. We are looking at enhancing WDOs —

Ms M.M. QUIRK: For the benefit of *Hansard*, I think that is work and development orders.

Mr A. Marshall: Yes; sorry. As the member would be aware, the number of WDOs has recently declined. We are trying to increase and enhance the use of WDOs, because they are the step prior to imprisonment for fine default. That is one initiative. Another initiative is our open day program, which is run through our Aboriginal justice program, at which we offer related services to Indigenous communities, such as assisting people to get a driver’s licence, pay off their fines, and register births. We have found that a lot of people in remote communities do not have birth certificates and if they do not have a birth certificate, there are a lot of things they cannot do. All of these things together form one of our initiatives. We have expanded them recently as part of the task force to the metropolitan area, and something like 50 of these open days are going to be operated in the metropolitan area.

[3.30 pm]

Ms M.M. QUIRK: Who else is on the committee?

Mr A. Marshall: Is the member talking about the Premier’s task force? Maybe the minister might be able to answer, because there is a ministers’ group that heads this whole strategy.

Mrs L.M. HARVEY: The Aboriginal Affairs Cabinet Sub-committee is the committee considering deaths in custody, and represented on that are the Minister for Aboriginal Affairs, me as Minister for Police, the Attorney General, the Minister for Health, the Minister for Child Protection and the Minister for Corrective Services. I think representatives from Treasury come to some those meetings as well and, obviously, the respective agencies that those ministers are responsible for.

Ms M.M. QUIRK: So, there is no Premier’s task force, there is a cabinet subcommittee; is that correct?

Mrs L.M. HARVEY: There is a committee looking at the issue. We can call it a task force or a subcommittee. There is a grouping of senior ministers and their respective agencies working on a range of initiatives and we will be reporting at some point in the near future on some of the achievements, outcomes and future project work the committee will take on.

Ms M.M. QUIRK: Is the Premier on that cabinet subcommittee?

Mrs L.M. HARVEY: No; we report to the Premier.

Ms M.M. QUIRK: In terms of the initiatives Mr Marshall mentioned, what are the time frames for getting in place work development orders, who will be notified and how will people know these open days are occurring?

Mrs L.M. HARVEY: As I said, we will be reporting on some of those initiatives in the near future. There have been a number of achievements by that committee to date, though, with some of the initiatives we have put in place, particularly in the area of drivers’ licences—for example, looking at opportunities for people to pay their fines so they can clear them. There has been over \$500 000 in cash in EFT transactions that have taken place during the open days, allowing those offenders who have an outstanding fine to pay it so they will not be subject

to further action within the judicial system. There have been 550 fine-related driver's licence suspensions lifted as a result of that work. There were 70 drivers' licences renewed and 56 drivers' licences have been reissued that had either been cancelled or had lapsed. There have been 176 driver's licence theory tests conducted and 123 practical driver's licence assessments conducted. Importantly, one of the big issues for Aboriginal people in remote communities is that they are not necessarily registered in the system, so 304 births have been registered and 750 applications for birth certificates have been lodged. Arrangements to pay for \$2.61 million worth of fines have been entered into. That has happened since July 2012. A lot of effort has been put in to date, particularly in that driver's licence space. A driver's licence is something of an essential item in a regional and remote community and we are trying to ensure that we do not see people inadvertently drawn to the justice system; and, if they are, we have actions in place to enable them to have those suspensions lifted, to reapply for their drivers' licences and to sit the necessary tests. It has been a good project, particularly the open days. Since July 2012, there have been 2 431 applications for birth certificates lodged—that is, from the inception of the program—and 1 001 births registered. A significant body of work has been undertaken and it is making a difference in those communities. There is still a lot of work to do.

Ms M.M. QUIRK: The minister said that there would be an impending announcement. What is the reason for the delay of that announcement? Is the government waiting for the findings of the Dhu coronial inquest before the announcement is made?

Mrs L.M. HARVEY: The committee is pulling together the information and the actions it has initiated and some of the information I have just read out will form part of that report, as well as some other initiatives we are examining to try to divert Aboriginal people from the justice system and provide alternatives to custody options. We will be reporting on that in the near future. That report is not linked to the coronial inquests that are occurring but, obviously, the committee is watching those coronial inquests with interest. The coroner's recommendations will form part of the consideration of that committee once they have been handed down.

Ms M.M. QUIRK: What is the reason for the delay?

Mrs L.M. HARVEY: The delay in what?

Ms M.M. QUIRK: The delay in issuing this report.

Mrs L.M. HARVEY: There is not a delay. The committee has been in operation for a time and we determined that it was an appropriate time to report on the actions and the outcomes of the committee.

Ms M.M. QUIRK: What is the appropriate time? The minister says it is pending, that there is no delay and that it is appropriate to report. What is the time frame in which the minister anticipates she will be reporting?

Mrs L.M. HARVEY: It will be in the very near future. I do not have a definitive date, but it is imminent.

Mr P. PAPALIA: In the time frame to which the minister referred—since July 2012—the number of Aboriginal people in the prison system has increased by 25 per cent. Noting that the other objective of the cabinet subcommittee, task force or whatever the minister wants to call it was to analyse whether there were ways of reducing the number of Aboriginal people in prison for minor offences, what criteria will be used to measure success or failure other than the number of things and stuff that the government is doing? What measurement criteria will be used to determine whether the subcommittee has failed or succeeded in this objective?

Mrs L.M. HARVEY: Whether something has failed or succeeded is obviously an opinion and everyone will have an opinion and, no doubt, no matter what we report on, there will be an opinion about whether it is a failure or a success. When we look at the Aboriginal justice program and the open days, I would put it that 1 001 births registered and a large number of people entering into time-to-pay arrangements for outstanding fines is a success. Ultimately, the community will judge whether we have been a failure or a success, but I think it is important that the activity of that committee is reported and that is what I referred to in respect of the report we are pulling together about different agency initiatives to try to reverse the trend of Aboriginal people in custody.

Mr P. PAPALIA: Is it not true that there is only one measure of failure or success in reducing the number of Aboriginal people in prison and that is whether the number of Aboriginal people in prison increases or reduces?

[3.40 pm]

Mrs L.M. HARVEY: That is dependent on so many factors. We can have a long debate about this, but, for example, look at the number of people being sent to jail for fine default, which is a contentious area. Most people believe that if the court wants to sentence someone to a custodial sentence, it should have the authority to that. If a fine is the result of the judgement and people fail to pay it, they will often find themselves in custody. The number of people being sent to jail for fine default declined from around 1 300 in 2012–13 to 1 100 in 2013–14, and it was down to 603 in 2014–15. That is because of that active effort around the enhanced fines enforcement scheme, whereby we have put in place initiatives to make sure that arrangements to pay are available to those

people who find themselves at that point in the fine default schedule at which they could be looking at a custodial arrangement. There are initiatives that work and there are initiatives that do not. We are working on a range of initiatives. I think that in the driver's licence and fine default space we are starting to see some success. In other areas success will be slower, but it does not in any way diminish the government's resolve to reverse the Aboriginal incarceration rate. Obviously, if people are offending, they will find themselves in custody. That is how our system works.

Mr P. PAPALIA: The minister just used a measure or criterion by which she determined that she had succeeded because a year ago the number of people incarcerated solely for fine default had reduced. The minister did not tell us whether it has reduced in the past 12 months because I assume the minister does not have the statistics, or they do not suit the narrative.

Mrs L.M. HARVEY: We do not have the statistics.

Mr P. PAPALIA: That aside, a legitimate measure to determine whether an initiative is succeeding is the number of incarcerations diminishing. Why can the minister not apply the same type of measure to the overall number of Aboriginal people incarcerated? The Aboriginal population in Western Australia did not increase by 25 per cent in the last four years, yet the number of Aboriginal people that this government has incarcerated did, which would suggest that the government's body, whatever it is called, is failing.

Mrs L.M. HARVEY: That is the member's opinion. The work of this committee is about not only prison and incarceration rates, but also contacts with and diversions from the justice system. A significant number of Aboriginal people have been diverted from the custodial system and avoided incarceration by virtue of the payment arrangements put in place as a result of that committee's work.

Mr J.R. QUIGLEY: On this topic, the Premier stood on the steps of this Parliament and said that he would take personal responsibility for seeing a reduction in the incarceration rate of Indigenous people. I note that the incarceration rate of Indigenous people in Western Australia is 40 per cent of all prisoners, unchanged, and the national average is 26 per cent of the prison population. Would the minister agree that the government has achieved nothing in reducing the percentage of Indigenous persons incarcerated in Western Australia—absolutely nothing—and that it is a circumstance of national shame?

Mrs L.M. HARVEY: Of course I am not going to concede that, member. No.

Mr J.R. QUIGLEY: The minister is not going to concede that. How does the minister explain that 40 per cent of Western Australia's prison population is made up of Indigenous people and that the national average for the prison population is 26 per cent? How can it be that under this government we are 50 per cent higher than the national average for Indigenous incarceration, or does the minister wear that as a badge of honour?

Mrs L.M. HARVEY: I would like to know the budget line item to which the member is referring. The advisers here are specifically answering to the budget under examination by this estimates committee.

The CHAIRMAN: My understanding, minister, is that it is a further question to the member for Girrawheen's question. Member for Girrawheen, can you cite the reference that you gave for the original question you asked? We are still on a further question about it.

Ms M.M. QUIRK: It was the second bullet point on page 452.

Mrs L.M. HARVEY: With respect, just to clarify the Premier's comments, they were not about just incarceration rates. He was talking about the over-representation of Indigenous people in the justice system. Not every Aboriginal person who comes into contact with the justice system ends up being incarcerated. It is a complex piece of work. I think the member will agree that the complexities that lead to Aboriginal incarceration are significant. This government will not achieve it in one term. It is a long-term piece of work.

Mr J.R. QUIGLEY: I put to the minister that on the steps of this Parliament, the Premier addressed a demonstration following the death of Ms Dhu and he referred to the Indigenous incarceration rate. I wish to quote now from the report on *theguardian.com/australia*. A protest outside this Parliament concerned the tragic circumstances surrounding the death of Ms Dhu and *theguardian.com/australia* reported —

Premier Colin Barnett went out to address the protesters in Perth and was mobbed on the steps of parliament. His security team was overcome by the crowd who pushed towards him.

Barnett made a "personal commitment" to work with ministers in reducing the number of Aboriginal people in the state's jail system and deaths in custody.

He said that on 23 October 2015. He did not mean contact with the justice system. He made a personal commitment to work with ministers to reduce the number of Indigenous people in prison. Under this government it stands as a national disgrace that 40 per cent of the prison population is Indigenous and that figure has not

budgeted. Does the minister agree that that figure evidences this government's absolute failure to deliver on Mr Barnett's aspiration and promise to the community?

Mrs L.M. HARVEY: If we go back to the dot point under consideration on page 452, we see that it states —

- The Department continues to support the outcomes of the Premier's Taskforce on Aboriginal Deaths in Custody and over-representation in the justice system through the introduction of a range of initiatives including the development of a central database on deaths in custody, enhancing the use of work and development orders and expansion of the Aboriginal Justice Open Days Program.

Mr J.R. QUIGLEY: The minister read that 100 per cent accurately! Where does that take us?

Mrs L.M. HARVEY: That is what is under consideration by this estimates committee and that is what I can respond to. I have given the member some statistical information on those points. If the member would like a further debate on what has been reported in the media and what the Premier said or did not say, it can be appropriately addressed in a different forum.

Mr J.R. QUIGLEY: The member for Scarborough is one of the ministers to whom the Premier was referring. He said that he would work with his ministers and the Attorney General to reduce the Indigenous incarceration rate. Does the minister concede that there has been no per centum reduction in the Indigenous incarceration rate and that it stands as a national shame that Western Australia's rate is 50 per cent higher than the national average?

Mrs L.M. HARVEY: As a result of the work in the last year alone, from 1 July 2015 to 20 May 2016, 70 drivers' licences were renewed and 56 drivers' licences were reissued—these licences had previously been cancelled or lapsed. That is 126 people who could potentially be in prison for driver's licence offences. We had 176 driver's licence theory tests and 123 practical driver's licence assessments conducted. From 1 July 2012 to the present, offenders have entered into a time-to-pay arrangement for \$2.6 million worth of fines. Some work has been done. Obviously, we will not be able to achieve every single thing that we would like to in a very short time. The government remains committed to this project. As I have said previously, the causes of offending are very complex. Entrenched intergenerational issues of dysfunction need to be addressed, and we are not going to turn that around even in one generation.

[3.50 pm]

Ms M.M. QUIRK: The second bullet point on page 452 not only refers to over-representation in the justice system, but also Aboriginal deaths in custody. Mr Marshall did not talk about any of those deaths in custody initiatives as opposed to the over-representation.

Mrs L.M. HARVEY: I do not believe that any of these departments have responsibility for Aboriginal deaths in custody. The Coroner's Court keeps a database on deaths in custody. I am not quite sure what the member is asking me, though.

Ms M.M. QUIRK: All right. I will read out this section in the budget —

The Department continues to —

Mrs L.M. HARVEY: What page, sorry?

Ms M.M. QUIRK: For the third time, I refer to the second bullet point on page 452. It states —

The Department continues to support the outcomes of the Premier's Taskforce on Aboriginal Deaths in Custody and over-representation in the justice system ...

To the extent that the Attorney General supports those outcomes, we have heard evidence about over-representation only. Is it the approach of this task force that if there are fewer Aboriginal people in custody, there will be a trickle-down effect—that is, fewer deaths in custody—or are there positive, affirmative initiatives?

Mrs L.M. HARVEY: As I have previously said, a range of initiatives are being considered. That report will be released in due course.

Ms M.M. QUIRK: Is the minister unable to tell us at present what issues the committee is addressing related to Aboriginal deaths in custody?

Mrs L.M. HARVEY: Not at this time, no.

Ms M.M. QUIRK: Are there any?

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Mrs L.M. HARVEY: The dot point the member read out articulates the areas we are looking at. With respect to progress on those, as I have said a number of times, the committee will be reporting on the status of those initiatives in the near future.

Ms M.M. QUIRK: The Premier's task force on Aboriginal deaths in custody and over-representation is really not a Premier's task force on Aboriginal deaths in custody and over-representation, but, from what the minister said—I want her to confirm this—it is in fact a cabinet subcommittee on which the Premier does not participate and it is solely concerned with over-representation in the justice system.

Mrs L.M. HARVEY: No, that is not the case.

Mr J.R. QUIGLEY: I will go to a new topic.

The CHAIRMAN: Yes, I understand it is a new question, member for Butler.

Mr J.R. QUIGLEY: I refer to the first dot point under "Significant Issues Impacting the Agency" on page 452 of the *Budget Statements*. I would like to ask questions about three areas. I do not know whether the further ones can be asked as further questions or whether I have to stack up further —

The CHAIRMAN: Why do we not ask the minister and see what she thinks?

Mr J.R. QUIGLEY: I will deal with them one at a time. Three areas are specified in the first bullet point. The first one is —

The Department will continue to support the Government's streamlining justice initiative and its law reform agenda including priorities to introduce family violence restraining orders ...

Firstly, what sort of a priority does the minister give this? Given that the Law Reform Commission of Western Australia published its report on this in June 2014, to which the Attorney General responded in the Legislative Council in late 2014 that there would be a legislative response—that is, legislation would be introduced—here we are, 18 months after the Attorney General said that he would be introducing legislation, with no legislation before Parliament. What priority is the minister giving family violence restraining orders legislation?

Mrs L.M. HARVEY: I will ask the Commissioner for Victims of Crime, Ms Hoffman, to respond to that. She has been intimately involved in this project.

Ms J. Hoffman: I am happy, obviously, to give a fairly comprehensive answer, if I can —

Mr J.R. QUIGLEY: When will legislation be introduced?

Ms J. Hoffman: I understand very soon.

Mrs L.M. HARVEY: With respect, I know that it is customary for members to interject on each other, but when we have public servants answering I think it would be polite to allow them to get their response out.

The CHAIRMAN: I understand, minister, and I agree. One word of warning: the purpose of the Chair is to keep answers brief and to the point. This is not a time for voluminous answers. Would Ms Hoffman like to answer now, please?

Ms J. Hoffman: I think the member asked about priorities; is that right?

Mr J.R. QUIGLEY: When will legislation be introduced?

Ms J. Hoffman: I understand the legislation will be introduced quite shortly. In terms of the context for that comment, a very detailed drafting options paper that went to the detail of the clauses of that bill went to about 17 stakeholders between September and December last year. We came to the conclusion that in order to tackle this well, we needed a lot of stakeholder buy-in on it. There has been drafting through that, given the responses from 17 government and non-government stakeholders. That drafting has been occurring during the first half of this year.

Mr J.R. QUIGLEY: Is the drafting complete?

Mrs L.M. HARVEY: The drafting is nearing completion and we expect the introduction of the bill in the very near future.

Mr J.R. QUIGLEY: Will the bill be introduced in this session of Parliament?

Mrs L.M. HARVEY: I understand that that is the Attorney General's intention. If it is not introduced in this session of Parliament, it will be introduced fairly close to the first sitting after the break—in the spring session.

Mr J.R. QUIGLEY: My further question relating to that dot point is that the department noted as a priority improvements to sentencing legislation. I recall former Attorney General Hon Christian Porter saying in

mid-2009 that amendments to the Sentencing Act were a priority—that was seven years ago. What is the government's priority now in introducing amendments to the sentencing legislation, and have they been drafted?

Mrs L.M. HARVEY: I will get Mr Andrew Marshall to respond. The Attorney General made a decision to amalgamate a number of legislative projects that made amendments to the sentencing legislation. That sentencing legislation amendment bill will be introduced and will implement reforms to paroles, post-sentence supervision orders, and also incorporate some of the reforms that were recommended out of the statutory review of the Sentencing Act 1995. I am pretty sure Mr Marshall would have information to add about that legislation.

Mr A. Marshall: The drafting on that is complete. It is just going through the processes of getting through to cabinet and therefore approval to print and introduce into the house. It is pretty far advanced.

Mr J.R. QUIGLEY: I asked the minister: given that the family violence restraining orders bill will be introduced this session, or the first week of the next session, when will the amendment bill to the Sentencing Act be introduced?

Mrs L.M. HARVEY: As I said, in the very near future. We look forward to the member's cooperation when that is introduced, in bringing it through Parliament.

Mr J.R. QUIGLEY: I am worried about when it will be introduced. Will it be introduced in this session?

Mrs L.M. HARVEY: I understand it is the Attorney General's intention to introduce it early in the next session of Parliament.

[4.00 pm]

Mr J.R. QUIGLEY: The budget papers reveal that post-sentence supervision orders are a priority. Can the minister explain to us what the post-sentencing supervision orders regime will entail? It is not mentioned anywhere in the budget papers. What sorts of offences will attract post-sentence supervision orders and what sorts of sentences will they attract?

Mrs L.M. HARVEY: More broadly, this is one of the other pieces of legislation that the Attorney General was trying to bring through for the consideration of Parliament in the spring session. Amendments to the Sentence Administration Act 2003 provide that section 13 applies to prisoners serving life or an indefinite term who were sentenced prior to 4 November 1996. The amendments are looking at retrospectively validating parole orders granted to prisoners serving life or an indefinite term. A range of amendments to the Sentence Administration Act 2003 will be introduced as part of that tranche of work early in the spring session of this Parliament.

Mr J.R. QUIGLEY: The minister identified that it will apply only to offences that carry a life sentence.

Mrs L.M. HARVEY: Not necessarily, member. As I said, that legislation will be introduced early in the spring session of Parliament. There was also some consideration, I understand, about that for the GPS tracking of arsonists, violent offenders and potentially some domestic violence offenders. The drafting of it is complex but we hope to introduce it very early in the spring session.

Mr J.R. QUIGLEY: This will be for—what did the minister say?—arsonists, violent offences, and who else?

Mrs L.M. HARVEY: It will be for violent offenders, serious arsonists and some serious domestic violence offenders and we are looking at providing post-sentence supervision orders for offenders and the potential for GPS tracking to apply to a different tranche of offenders. I understand the member is curious about what will be incorporated into that legislation but, as I said, it will be introduced early in the spring session. I will ensure the Attorney General gives the member a full briefing on it prior to its debate in Parliament.

Mr J.R. QUIGLEY: Certainly. Both the Supreme Court's annual report and the DPP's annual report refer to the extra load that has been put on their resources by the serious dangerous sex offender legislation and supervision orders. Where in this budget paper has provision been made for the extra resources that will be required for post-sentencing supervision? Where can I go in division 38 to find the additional resources for the Office of the Director of Public Prosecutions, for the Supreme Court and for the Legal Aid Commission of WA to deal with this raft of new post-sentencing supervision orders? Where is the provision in the budget to deal with this?

Mrs L.M. HARVEY: With respect to the dangerous sexual offenders legislation, there should be a relief for some of the court processes because the appeal provisions are being increased from 12 to 24 months for those held on an indefinite supervision order. Rather than appeals being heard by offenders every 12 months, they will be heard every two years and there will certainly be some consideration by the Prisoners Review Board about the merits of those cases. We will not find a line item there but, obviously, some of our legislative reforms are around reducing the impact on the court and the DPP, and that is certainly what is proposed with the DSO legislation.

Mr J.R. QUIGLEY: Post-sentencing supervision orders will increase the court's workload, will they not? The adviser at the back behind the minister is shaking his head violently. You might want to turn around.

The CHAIRMAN: Member, through the Chair.

Mr J.R. QUIGLEY: Through the Chair, the adviser behind the minister is shaking his head violently and wants to dissent.

The CHAIRMAN: Thanks, member!

Mrs L.M. HARVEY: Post-sentencing supervision orders are administered by the Prisoners Review Board. My adviser might care to answer. Can Mr Marshall elaborate?

Mr A. Marshall: These will be administered by the Prisoners Review Board. If a person coming up for parole is considered to be a danger to the community and they fit that group of offences we have spoken about, the board itself can put on an extra two-year supervision, which can include GPS tracking.

Mr J.R. QUIGLEY: Do I understand that, without judicial warrant, the bureaucrats can extend the period of supervision after the exploration of the head sentence?

Mr A. Marshall: Correct.

The CHAIRMAN: Through the minister.

Mrs L.M. HARVEY: I do not know whether judicial officers can be called bureaucrats.

Mr J.R. QUIGLEY: They are not judicial officers.

Mrs L.M. HARVEY: Yes; I understand the Prisoners Review Board is chaired by a judge.

The CHAIRMAN: Let us not have a general discussion. Through the minister.

Mr J.R. QUIGLEY: Does the minister agree that the Prisoners Review Board does not pass judgements; the Prisoners Review Board is not a court?

Mrs L.M. HARVEY: I suggest, member for Butler, that these are issues for debate when the legislation is passing through the Legislative Assembly and are perhaps not necessarily linked to the budget papers we are discussing at present.

Mr J.R. QUIGLEY: I am trying to identify within the budget, the state's capacity to finance this new regime of post-sentence supervision. GPS tracking, reporting to officers and supervising prisoners whose head sentence has expired obviously costs money and I am trying to find out where in the budget there is provision for this scheme.

Mrs L.M. HARVEY: We can discuss the line items in the budget; however, the provision for GPS tracking rests with the Department of Corrective Services, which currently runs that program. Other agencies are involved. As I said, I think these matters are more appropriately debated when the legislation is being debated as it goes through the Legislative Assembly. No doubt we can have a forthright examination of those issues at that time.

Ms M.M. QUIRK: The first dot point on page 452 relates to a press release by Attorney General Porter in 2012 on the introduction of foetal homicide laws. That seems to have fallen off the agenda altogether. The second matter in the law reform agenda, which the acting director general will be familiar with, is the need for law reform in the area of enduring powers of attorney.

Mrs L.M. HARVEY: I will ask Ms Hoffman to respond.

Ms J. Hoffman: In terms of the foetal homicide query, I understand that the legislative package being brought forward around family violence will contemplate a range of anti-violence issues and the Attorney General has made some comments to that effect.

[4.10 pm]

Ms M.M. QUIRK: Where can I find those comments?

Ms J. Hoffman: I understand that they were media comments.

Ms M.M. QUIRK: The other question was about the enduring power of attorney laws, which need to be revised given the increased demand. The director general should know.

Mrs L.M. HARVEY: I will ask Pauline to respond.

Ms P. Bagdonavicius: In terms of the review of the Guardianship and Administration Act and the implementation relating to that review that was tabled in Parliament on 2 December last year, work is still being progressed in the department on preparing drafting instructions for those amendments, but there also were a number of recommendations that required further discussions with other agencies. I am aware that those

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discussions have been occurring with police and St John Ambulance. Two recommendations have been referred to the Chief Justice, and I am aware that he has just now responded to the Attorney General. Landgate is being consulted as well on matters relating to the enduring powers of attorney. It is a work in progress and that will be progressed later in the year for the Attorney General.

Mr J.R. QUIGLEY: I want to again read the first dot point —

The Department will continue to support the Government's streamlining justice initiative ... and the introduction of post sentence supervision orders.

I refer to the advice to this chamber through the minister from her adviser that these would extend beyond the head sentence by an order made by a board. In supporting the government in streamlining this, has the department taken top-flight constitutional advice on whether these orders that do not involve a court would be constitutionally sound?

Mrs L.M. HARVEY: That is something that is more appropriately debated as the legislation comes to Parliament.

Mr J.R. QUIGLEY: It is just a yes or no. The department will continue to support the government. Is the department supporting the government with constitutional advice on this issue?

Mrs L.M. HARVEY: The Attorney General is a very thorough person and I would expect that he would —

Mr J.R. QUIGLEY: He was not on the Bell litigation.

Mrs L.M. HARVEY: Okay; so that is what the member wanted to say. The legislation will be debated when it comes to Parliament.

The CHAIRMAN: Members! One at a time for Hansard, please. I know you do not care about what the Chair is doing, but Hansard is a worker in this organisation and deserves to be treated with due respect.

Mrs L.M. HARVEY: As I have said previously, these nuances and these issues can be debated when the legislation comes through Parliament. Obviously, the legislation is not defined in the budget papers. There is a reference to it, but as to the intricacies of the legislation, the document would be somewhat larger if the legislation had been included. That is more appropriately debated when it comes to the chamber.

Mr J.R. QUIGLEY: Is the answer that the minister does not know whether the government has taken constitutional advice on that proposal?

Mrs L.M. HARVEY: I think Ms Hoffman was quite clear, and certainly Mr Marshall was quite clear, that there has been a lengthy consultation process. Some of the amendments to the legislation have been done in response to a statutory review of the legislative instrument, and the Attorney General has looked to combine some of those aspects when they are interrelated to bring them to Parliament. I believe that the consultation process has been very thorough and that there is still ongoing consultation on some aspects of this legislation around the domestic violence package and family and domestic violence orders.

Mr J.R. QUIGLEY: I was talking about the post-sentence supervision orders.

Mr P. PAPALIA: Further on that dot point, when does the minister intend to action recommendations from the review of the Criminal Law (Mentally Impaired Accused) Act and when will those reforms come to Parliament?

Mrs L.M. HARVEY: I will ask Ms Bagdonavicius to answer.

Ms P. Bagdonavicius: Since the report was released in April, the department has been working on drafting instructions, which are in the process of being prepared for the Attorney General's consideration for cabinet. That is where it is up to at the moment. There were 24 recommendations that required some work around drafting. It is continuing to progress in the department.

Mr P. PAPALIA: Will that be introduced in Parliament in this session or the spring session or not in this term of government?

Ms P. Bagdonavicius: When cabinet has approved the drafting, as the member probably knows, a drafting priority then has to be assigned. That process takes place after cabinet has considered it. Cabinet has not yet got the documents.

Mr P. PAPALIA: There is not much hope then.

The appropriation was recommended.