

Division 28: Justice — Services 1 to 8, Attorney General, \$619 448 000 —

Ms K.E. Giddens, Chair.

Mr J.R. Quigley, Attorney General.

Dr A. Tomison, Director General.

Mr J. Deery, Director, Finance.

Mr M. Hainsworth, Director, Advisory Services.

Mr A. Kerr, Executive Director, Corporate Services.

Ms K. Maj, Executive Director, Strategic Reform.

Ms J. Stampalia, Executive Director, Court and Tribunal Services.

Ms P.M. Bagdonavicius, Public Advocate.

Ms K. Kraszlan, Commissioner for Victims of Crime.

Dr J. Byrne, Commissioner for Equal Opportunity.

Dr G.R. Hill, Director, Legal Aid WA.

Mr J. Lee, Principal Policy Adviser.

Mr D. Emerson, Senior Policy Adviser.

[Witnesses introduced.]

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

The Attorney General may agree to provide supplementary information to the committee, rather than asking that the question be put on notice for the next sitting week. I ask the Attorney General to clearly indicate what supplementary information he agrees to provide and I will then allocate a reference number. If supplementary information is to be provided, I seek the Attorney General's cooperation in ensuring that it is delivered to the principal clerk by close of business Friday, 1 October 2021. I caution members that if the Attorney General asks that a matter be put on notice, it is up to the member to lodge the question on notice through the online questions system.

I give the call to the Leader of the Opposition.

Ms M.J. DAVIES: I refer to page 435 in budget paper No 2, volume 2 and the transition of the Equal Opportunity Commission into the Department of Justice. I have a general question about how that transition has gone.

Mr J.R. QUIGLEY: I have the answer but I would rather defer to Dr Byrne because he can give an exact reply.

Ms M.J. DAVIES: I am happy to be enlightened by Dr Byrne.

Dr J. Byrne: Thank you. Firstly, I would like to thank the committee for accommodating me with my disability. I am profoundly deaf.

I requested the transition because it is very difficult as the Commissioner for Equal Opportunity to manage a very small agency with 20 people. In fact, three-quarters of the problems that worried me and kept me awake at night were about how to make sure that people were paid correctly and about governance and compliance, so I requested that transition. I would like to thank the Attorney General and the director general of the Department of Justice for agreeing to the transition. It has gone very well. We are getting things done quite quickly. I am a statutory officer—the Commissioner for Equal Opportunity—and I am given statutory powers and statutory functions. I am completely independent in performing various things and I cannot be directed by anybody. I report to Parliament. But that fact that I have a statutory function does not mean that I should be managing a very small agency of 20 people. It is really impossible to do that. The transition has gone very well indeed. The smooth transition of the payroll and financial systems are well underway. The integration of the information technology is going well, including Joanne Stampalia's integrated court management system that we are going to use to record our complaints, so we do not have a problem with information technology. Basically, the transition has been very successful. I am very pleased and I have no regrets.

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Ms M.J. DAVIES: My next question is about the role of the Equal Opportunity Commission. In its annual report it states that there has been positive progress in employing more women in senior management roles in Western Australia. I am talking particularly about departments. In the annual report, the Commissioner for Equal Opportunity mentioned that greater effectiveness could be obtained by amending the Public Sector Management Act 1994 to require that all agencies move towards or implement that framework. Can the Attorney General advise which departments have already adopted the framework and give an explanation of what amendments to the Public Sector Management Act would be required to achieve that?

Mr J.R. QUIGLEY: I am looking for the line item in the budget. I cannot see that that question relates to the budget, Leader of the Opposition.

Ms M.J. DAVIES: I will find the Attorney General a line item. I refer to page 435 and Equal Opportunity Commission services, which relates to the delivery of the commission's functions. One of the functions that the commissioner has reported on is that greater effectiveness in the government's policy framework for substantive equality could be obtained by amending the Public Sector Management Act. What amendments could be contemplated to actually achieve that outcome?

[2.10 pm]

Mr J.R. QUIGLEY: The question related to the number of agencies that are achieving this, or aspiring to achieve this. From my agency, I could not reply, I am sorry. It would have to be from the Public Sector Commissioner. I am not across whether those agencies have achieved that benchmark or not. I am sorry.

Ms M.J. DAVIES: That was the first part of the question, Attorney General. As part of the Equal Opportunity Commission's function, a comment in its annual report states —

Greater effectiveness could be obtained by amending the *Public Sector Management Act* ... to require that all agencies strive to achieve substantive equity in the delivery of their services.

I am seeking an explanation about how that might be achieved through the role of the Commissioner for Equal Opportunity. What would be required?

Mr J.R. QUIGLEY: The role of the Commissioner for Equal Opportunity in this aspect is to make recommendations or comments to government, and Dr Byrne has done that in his annual report, but it is up to the Premier, who is responsible for the Public Sector Management Act, to deal with any contemplated amendments to that act. I do not have that within my remit.

Ms M.J. DAVIES: So, it is not within the remit of the Equal Opportunity Commission. It is within the remit of the Equal Opportunity Commission to make the comment in the annual report, but the Attorney General is unable to provide detail on what that might look like.

Mr J.R. QUIGLEY: That question would have to be directed to the Premier because he is responsible for the Public Sector Management Act 1994; I am not. I am not trying to be obtuse here.

Ms M.J. DAVIES: I am feeling like it is a bit obtuse, AG.

Mr J.R. QUIGLEY: I cannot sit here and foreclose upon the Premier's thinking in this regard. I strive personally, as the Leader of the Opposition is probably aware, to achieve greater than 40 per cent in the areas in which I make appointments. I am very pleased to say that we are sitting at having 50 per cent of our judges in the District Court now female.

Ms M.J. DAVIES: I will make a comment off the books that sitting across from the Attorney General's senior executive here is probably the most gender balance I have seen in the budget estimates that I have participated in to date. There has been a distinct lack of gender balance thus far.

I am not trying to be difficult; I am interested in the role and how this might be progressed, given the issue has been raised by the Equal Opportunity Commission. Does the commission simply make a comment on it and then it goes no further?

Mr J.R. QUIGLEY: No. May I suggest that the Leader of the Opposition puts that on notice to the Premier. I cannot sit here and tell the Leader of the Opposition what is in the Premier's mind in responding to this particular comment of the Commissioner for Equal Opportunity. The commissioner has put forward a suggestion that it could be obtained by this method. I do not know whether the Premier has any other way of achieving this. I do know that when we make cabinet appointments we always strive to better the gender balance. I am pleased to say that of the seven court jurisdictions in Perth—including the Coroner's Court, District Court, Supreme Court, Family Court and Magistrates Court—four now have a woman as head of jurisdiction. This was unheard of before. All were appointed on merit.

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Mr V.A. CATANIA: Based on the Commissioner for Equal Opportunity’s recommendations in his report, has the Attorney General recommended to the Premier, who is in charge of the public sector, that he carry out the gender diversity plans?

Mr J.R. QUIGLEY: I have not drawn this paragraph to the Premier’s attention, nor sought his response to same.

Mr V.A. CATANIA: The Attorney General has not?

Mr J.R. QUIGLEY: I have not specifically drawn this paragraph that the Leader of the Opposition has directed me to, beginning with the words “greater effectiveness”, to the Premier. I have a number of conversations with the Premier from time to time about gender balance because I am always trying to achieve it, but I have not taken that particular paragraph to the Premier, no—but I will. I have no problem with that.

Ms M.J. DAVIES: My question still relates to Equal Opportunity Commission services on page 435. Has there been any significant change in the number of complaints that have been dealt with?

Mr J.R. QUIGLEY: I ask Mr Byrne to reply to that, please.

Dr J. Byrne: Yes, there has been a significant increase in the number of complaints in the last year. COVID has been one of those factors. We have had over 100 complaints and inquiries related to COVID, about the wearing of masks and about whether vaccination can be enforced et cetera. There has been a significant increase in the number of complaints. There has been about a 38 per cent increase on the previous year.

Ms M.J. DAVIES: Is it possible to get an understanding of where there has been an increase? My understanding is that the Equal Opportunity Commission does not deal just with complaints relating to government departments; it is across the board—is that correct?

Mr J.R. QUIGLEY: I believe that is so.

Dr J. Byrne: Yes, it is across the board. Only a minority of complaints are about government departments; they are about the private sector also—private sector employers and provision of goods and services by the private sector.

Ms M.J. DAVIES: Has there been an increase in complaints in relation to government departments?

Mr J.R. QUIGLEY: I have got the breakdown of total complaints; I have not got whether it is government departments or not. Perhaps Dr Byrne could respond.

Dr J. Byrne: Could I invite that as a supplementary question? I do not have that information to hand. I think most of the increase was in the private sector, but I do not have that precise data.

Ms M.J. DAVIES: I did not quite catch that. There has been an increase. Is data available for the private sector but not for the government?

Dr J. Byrne: Sorry; my speech is not always as clear as it should be. I do not have the data available about the breakdown between the government and the private sector. My impression is that the increase is in the private sector, but I can provide that as supplementary information.

Ms M.J. DAVIES: Attorney General, could that be provided as supplementary information?

The CHAIR: Are you happy to provide that breakdown as supplementary information?

Mr J.R. QUIGLEY: I am happy to provide the breakdown. To be clear: I am happy to provide the data on the breakdown of complaints resting with the public sector and the private sector.

[*Supplementary Information No B8.*]

Ms M.J. DAVIES: Further to this question that we were asking about the increase in the number of complaints, in the annual report there was reference to regional versus metro, and I could find the breakdown for that. The numbers in the metropolitan area seem to be much more significant than the regional numbers. I am wondering whether that is just a population-based factor. Further to that, the question then becomes: what sort of outreach does the commission do to ensure that people in regional WA understand the role of the Commissioner for Equal Opportunity?

[2.20 pm]

Mr J.R. QUIGLEY: I will defer to the commissioner to give the details of his outreach programs.

Dr J. Byrne: The metropolitan population is much greater than the regional population. We have a very significant number of complaints. The regional areas have extensive outreach programs. We try to reach four regions each year with visits. We do that in conjunction with other government agencies; for example, the Ombudsman and the Health and Disability Services Complaints Office. We go in a group to a region; most recently we visited the Kimberley. The member referred to the annual report. There is quite extensive reporting of our outreach in the regional areas in the annual report.

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Ms M.J. DAVIES: Attorney General, has the commission considered partnering with the community resource centres networks to do some of that work given that it is a government agency or organisation that is based throughout the regions? Has the commission contemplated partnerships to deliver some of that information to regional communities?

Mr J.R. QUIGLEY: I will ask Dr Byrne.

Dr J. Byrne: Our partnerships are mainly with other government agencies that manage complaints, such as the Information Commissioner, the Ombudsman and the Health and Disability Services Complaints Office. We also liaise with community organisations—Reconciliation WA, for example, and the Ethnic Disability Advocacy Centre, which was renamed Kin. We do a lot of liaising with them but we do not do outreach with them. We do training in conjunction with some of these organisations.

Ms M.J. DAVIES: Attorney General, this is only a comment. The CRC network is really valuable so that might be something that the commission can use to leverage information dissemination into the regions.

Mr J.R. QUIGLEY: I am sure that Dr Byrne will take that on board. Dr Byrne, will you take on board the comment about levering off these other organisations?

Dr J. Byrne: Absolutely.

Mr V.A. CATANIA: I refer to page 426, budget paper No 2, volume 2, and the significant issues impacting the agency. The fourth significant issue states that the department continues to prioritise its efforts to address the over-representation of Aboriginal people in the criminal justice system, with a focus on achieving Closing the Gap outcomes to reduce the incarceration rate of Aboriginal adults and youth. Can the Attorney General outline how the department is achieving its target of a reduction in the number of Aboriginal youth in jails across Western Australia?

Mr J.R. QUIGLEY: We are committed to addressing the over-representation of Aboriginal people in the criminal justice system and improving outcomes for Aboriginal communities when their members intersect with the criminal justice system. This commitment aligns with the targets that the state agreed to under the National Agreement on Closing the Gap. We work to promote the achievement of these targets and their progress through a number of ongoing initiatives and reforms. The National Agreement on Closing the Gap commenced in July 2020. The agreement commits the commonwealth and the state and territory governments to improve the lives of Aboriginal and Torres Strait Islander people, respectfully referred to as Aboriginal in the paper, and reduce the disparity and life outcomes between Aboriginal and non-Aboriginal people. The national agreement identifies four areas of priority reforms and currently has 17 outcome areas relating to the improvement of socio-economic factors. This includes two Justice-related targets to reduce the rate of incarcerated Aboriginals by at least 15 per cent by 2031 and to reduce the rate of young people in detention by at least 30 per cent in 2031. The work that the department is undertaking to progress these targets includes, amongst other things, the establishment of an Aboriginal justice advisory committee, which plans to have its inaugural meeting in November 2021. The appointment of people to the committee is going through the cabinet process.

We are also participating in shaping a national justice policy partnership to promote formal partnerships and shared decision-making between governments and Aboriginal communities. We have the continued development of community-based programs, such as the Kimberley juvenile justice strategy and the Western Desert justice program. The member might be aware that the Kimberley juvenile justice strategy is a priority of the McGowan government. A number of place-based initiatives are continuing across the Kimberley, including night patrols, structured activities for young people and education and skills programs. The co-design element of the JJS is being progressed through a broader Kimberley Aboriginal youth wellbeing steering committee, a partnership of the Aboriginal community-controlled organisation and a range of agencies. The member will note that there is funding in the budget for the existing structured activities, such as safe place structured activities for young people after school and on weekends in Broome, Derby, Fitzroy Crossing, Halls Creek, Wyndham and Kununurra. It will be funded \$2.1 million in 2023. There is also funding of \$1.7 million for a co-design process, which is what I was talking about before. We need a co-designed program with Indigenous peoples because clearly the system is not working in terms of reducing incarceration rates; we now have to sit down with our Indigenous citizens and their organisations to co-design programs. A new co-designed program is the Fitzroy Crossing night patrol, which will be funded \$1 million in 2021–22. The sum of \$150 000 has been committed to the delivery of a process and outcome evaluation in 2022–23, which will enable a better understanding of what success looks like in this space and how it will be measured. The Department of Training and Workforce Development and the TAFE learning program will continue to deliver industry and workplace skills training for young people through North Regional TAFE in Broome and Kununurra, with DTWD internal funding of \$2.6 million. Future phases of the Kimberley juvenile justice strategy will be progressed through the broader KAYWSC, a partnership of the Aboriginal community-controlled organisation and a range of agencies beyond the Department of Justice, including the Mental Health Commission, the Department of Communities and the Department of Education. Some of these programs will include the design of—we have not reached this stage—a facility in the Kimberley for on-country living for youth so that youths will

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not be remanded in Banksia Hill Detention Centre. This will not require legislative change. It will mean that courts will have the capacity to release people on bail with a residential condition that they live in an on-country facility. There is \$2 million set aside for an on-country facility out of the department's existing budgetary allocations. Of course, there was the huge fines enforcements reform, of which I have the details here.

[2.30 pm]

Mr V.A. CATANIA: I think I understand what the Attorney General is saying. We are all up against time here.

Mr J.R. QUIGLEY: I am sorry; I am in your hands, member.

The CHAIR: You are in mine, actually. Would you like a further question, member for North West Central?

Mr V.A. CATANIA: Yes, I have a further question. Has the Attorney General been made aware that there is a directive from the Commissioner of Police to police officers not to charge youth under the age of 15? Has the Attorney General heard any rumours or is he aware that that is fact?

Mr J.R. QUIGLEY: No, I am not aware of that, but I am aware of youths under 15 being charged. The member has to be more specific about which offences. I am aware of people under the age of 15 having been charged.

Mr V.A. CATANIA: In terms of trying to reduce the incarceration rate of Aboriginal youth, the Attorney General has spoken all about the Kimberley, but the Kimberley is one part of Western Australia. There seem to be no juvenile justice strategies outside the Kimberley. The police seem to have a reluctance to charge juveniles under the age of 15. In places such as Carnarvon, where crime has escalated dramatically, Meekatharra, Northam and other places around Western Australia, we are not seeing these youths charged. Perhaps that is to meet the targets of 15 per cent and 31 per cent in 2031. It would be interesting to see whether this is a policy of the government to reduce Aboriginal incarceration rates, which I understand and accept, but when there is no diversionary funding or strategies available for anything outside the Kimberley region, we have an escalation of crime. I cite Carnarvon as an example of a town that needs respite because no programs are in place to deal with those juvenile offenders. They are not being charged or put into jail and, therefore, are building up these offences, which offers no respite for the community. Businesses there are broken into five times in four days and home invasions are occurring—I have experienced one myself. What plans are in place outside the Kimberley region to deal with this escalating problem of youths under 15 who know they are not going to be charged? The evidence I have from police on the ground is that there is a directive by the police commissioner not to charge youths under the age of 15. What does the Attorney General say to that?

Mr J.R. QUIGLEY: There are several things I would like to say to that in my response, and the first is to duck it. Whether the commissioner has issued such a directive or not is beyond me. I have never heard of such a direction. The member asked whether I had heard a rumour or whether I knew of a direction. I know of no rumour, I know of no direction, and I know that there are youths under 15 currently in Banksia Hill Detention Centre. With respect, to get to the bottom of whether there is any direction, which I suspect there is not, given that people under that age are being charged, the question should be directed to the Minister for Police. It is certainly not within my knowledge, and I will add to that in a moment. My knowledge is that people under 15 are being charged.

Secondly, as to youth justice strategies, that fits in with the Department of Corrective Services and not within the Attorney General's department. When the member asks what strategies we have for different diversion programs, as the state Attorney General, I moved at the Meeting of Attorneys-General, which is known as MAG, formerly CAG—the acronyms change faster than I can keep up; they all sound like a COVID cough—that the Australian Attorneys examine the proposition as to whether the age of criminal responsibility should be raised, given that the Don Dale royal commission recommended that it be 12 and there be no imprisonment for those under 14. Having raised that, I recognised immediately that there must be massive other programs to deal with these children. We cannot just withdraw the police and let the kids have the streets, as it were. Solid programs must be in place. I am working in consultation with other Attorneys General around the country and with the department to look at a cross-agency response to youth justice, especially for those under the age of 12. We have to look after these children. I know the member visits schools for graduations. We are talking about grades 5 and 6 here; they are very young children. The member said there are no programs. We have to have a cross-agency look at the best way of doing this around Australia, and we will.

Mr V.A. CATANIA: No programs exist to deal with juveniles under the age of 15 in the Gascoyne–Murchison and other parts of the north west. Often a 14 or 15-year-old, an older teenager, will be influencing the younger kids who are often eight, nine or 10.

Mr J.R. QUIGLEY: Who are not being charged at the moment.

Mr V.A. CATANIA: They are not being charged at the moment and they are committing crimes on behalf of the older kids and being taught by them. We have a significant problem when it comes to children—they are children; it is a taught behaviour—but it is a reality when it comes to the pressures that a community feels. Also, there are reasons children do not go home. It is a very complex issue and I am not trying to diminish that fact, but there is a huge crime issue and no diversionary tactics, policies or funding to assist with what the Attorney General is trying

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to say. The only way to get respite is to charge these prolific offenders—I am not talking about one to four charges, but 10, 20, 30, 40 or 100 charges against them—who are causing huge problems in the community. It is respite not just for the community, but for those children who need to break away from who they are hanging around. I am firmly against moving the age of criminal responsibility from 10 to 14, or 10 to 12, simply because the majority of that criminal behaviour is being conducted by kids eight to 10 years of age.

[2.40 pm]

Mr J.R. QUIGLEY: As I said, the proposition was just being examined by the Attorneys General around Australia. The good that might come from that will not necessarily be to move the age but to provide a sharper concentration of alternative programs. We have to remember that after the machinery-of-government changes, Corrective Services is in Justice as well, and Corrective Services has responsibility for youth justice. All the programs that the member would like me to detail, Mr Johnston could detail in the Corrective Services division because it delivers those programs.

The working group of Attorneys General produced a working paper and sought submissions. The Commissioner of Police put in a submission saying that the age should be raised to 12.

Mr V.A. CATANIA: Does the Attorney General support the age moving from 10 to 12?

Mr J.R. QUIGLEY: I am waiting until I see the alternatives. The work has to be done. We have to examine the issue and see the alternatives.

If I can prioritise the issues that the member raised when he held his hand down and said that little children are involved as well, the first and foremost responsibility I have is to the victims of crime. When their house is invaded, they do not know the age of the invader, and nor do they care. Their privacy, security and everything has been breached by an offender. Just to prioritise it, the first responsibility is the safeguarding of the community and the protection of the member's constituents. The act governing children puts the welfare of the child as the first priority when looking at the sentencing of children. It does not outweigh all the other priorities that have to be taken into account. The first priority is what is best for the child. Obviously, Banksia Hill Detention Centre is a learning ground for criminals. They are placed there at a very young age and mix with the sort of people that the member described earlier—older people in there. They make all these new contacts in there. If we can keep them away from Banksia Hill and keep them out of the web of the criminal justice system and deal with them firmly in another manner, all the better.

Mr V.A. CATANIA: I support that, but the issue is that they have no other opportunities in places such as Carnarvon or Meekatharra. If a juvenile breaks into a house and they are caught by the police, the first port of call is for the police to take them to a parent or guardian. They are often dropped off and off they go again to commit a crime and they are back in detention.

Mr J.R. QUIGLEY: That is what we want to avoid.

Mr V.A. CATANIA: Then they go to the juvenile justice teams, which work with them time and again until they probably get to the point when that juvenile has committed 100 offences, when enough is enough and the magistrate will sentence them. The issue is that there are no support services for that juvenile, whether they are aged 10 or 15. The issue is that in places such as Carnarvon, which I use as a good example, there are no strategies or funding to assist those juveniles. I keep on saying that respite is needed for the community because if no agencies are working with those youths and, more importantly, they are not working with those parents, we have this revolving door of juveniles going into the police lock-up and getting out without being charged. The community needs respite. The only avenue that I have as a member and that my constituents have is to say we should put these youths in jail, which does not help because they come out better at offending. It is a big problem. When youths under the age of 15 know that they will not be charged, we see crime get out of control. Carnarvon is a classic example of the policy failure set out by the Commissioner of Police that is having a huge impact on our communities right around Western Australia.

Mr J.R. QUIGLEY: I wish to take issue with the member that there is a policy that youths under the age of 15 will not be charged. We only have to go to the Children's Court to find out how many are charged. In the last year, to my best recollection, the President of the Children's Court informed me that 70 different children aged 10 and 11 came before the court. That is not the older ones. As soon as they get to the age of 12 and 13 and the testosterone turns on, the rate of offending lifts, which is not unexpected.

I take the member's point about the dysfunctionality of many of the homes from which these youths come, both Indigenous and non-Indigenous. I am concerned about the rate of Indigenous incarceration and realise that the breakpoint for this line of questioning from the member for North West Central is what we are doing to reduce the level of Indigenous incarceration. One of the things we need to do to reduce it is get in early in their lives for the very reason that, as the member pointed out, they come under the influence of older children. We have to replace that.

Mr V.A. CATANIA: Why is the government not doing it then? I hear a lot about the Kimberley but I have not heard anything about any other part of the state.

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Mr J.R. QUIGLEY: We are doing things. The youth justice area is within the portfolio of the Department of Justice, not within mine. I am not seeking to wash my hands of it; I will have a go at trying to fix as much as I can. I defer to the director general to give a further answer to the assertion that there are no programs.

Dr A. Tomison: I do not have all the facts in front of me because this is not the corrective services portfolio; that is in my other file. I can say that beyond the Kimberley juvenile justice strategy, there may not be a formal strategy in name, such as the Carnarvon strategy or whatever, but each region of the state has youth justice moneys attached to them, which are designed to case manage individuals who have come before the courts after committing an offence. That is also used to purchase services when they are available. One of the issues in more rural areas is the availability of those services. They can be hard to get. I understand what the member is saying.

To reiterate what the Attorney said, I am not aware of any policy by the police to not charge kids under the age of 15. We have kids in Banksia today who are under the age of 15 and kids before the Children's Court who are under the age of 15. That said, diversion where possible is absolutely a policy of the police and also Justice. As the member recognised, Banksia may be a circuit-breaker but it will not help fix the problem of why these kids are committing offences. Many kids will take risks and test the boundaries. As the member said, those individuals go on to commit 10, 20 or 30 offences. We have to focus on how we manage that and the individuals. Services are available. The issue will be around whether demand can be met using the moneys available and the services that are available in areas such as Carnarvon. About a year ago, I thought the local police and community youth centre was very effective at engaging kids after school, and the rate of burglaries and vandalism et cetera dropped quite significantly. I do not know why that changed again but these things come in cycles. At that point, Carnarvon was doing very well. I do not know what has changed but these things happen.

As the Attorney General also said, this is not just a justice problem; the underlying causes that lead to kids committing offences require a range of other responses. For example, the Department of Communities has a program called Target 120, which deals with at-risk kids and families to circuit-break and not have them come into the criminal justice system. That is beyond my remit but we participate in that and we think it is an effective way to help circuit-break.

Mr V.A. CATANIA: I have a further question, and then I will end this line of questioning because I think other members wish to ask questions.

The CHAIR: Member for North West Central, I have not given you the call yet. Please wait for the call. The member for North West Central.

Mr V.A. CATANIA: Oh, my god.

The CHAIR: Member for North West Central —

Mr V.A. CATANIA: What the Attorney is saying —

The CHAIR: I am sorry; member for North West Central. I will give you the call without any further commentary or reaction. The member for North West Central has the call.

[2.50 pm]

Mr V.A. CATANIA: The Attorney General's department has a clear policy position —

A safe, secure and decent corrective services which contributes to community safety and reduces offenders' involvement in the justice system.

Mr J.R. QUIGLEY: Sorry, what are you reading from, member?

Mr V.A. CATANIA: That is on page 428 of budget paper No 2, in the table "Relationship to Government Goals". I understand the target of 120, but that is to do with first-time offenders. In regional WA, we are not dealing with first-time offenders; we are dealing with offenders who have been in the system up to 100 times and for whom that program just does not work. The program cannot be rolled out because we do not have first-time offenders. I will end on this point: the government's strategies are admirable, and we all want to reduce the number of children in the system. But in the absence of programs and good, sound policy that actually deals with the serious issues, the Attorney General can understand the feeling in the community. These communities are often powder kegs, ready to go, because there is no respite for the children, the parents and the community. The Attorney General can understand that the only avenue we have is to lock them up, unless the government is prepared to back up these very good, sound strategic directions and policies. That is clearly not the case, which is why we have a revolving door and the attitude amongst youth that they are not going to be charged. I put it on the record again that the Commissioner of Police has directed police officers in this state to reduce the number of charges against youths under the age of 15 years, to meet these targets set out by the government.

Mr J.R. QUIGLEY: I reject that last assertion. I take the member to the same table on page 428 of budget paper No 2. Under the heading "Government Goal" it states —

Safe, Strong and Fair Communities:

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From his questioning, that is also the member's aspiration—a safe, strong and fair community. When we look at how we want to achieve that, the outcomes are listed in the middle column of that table, including good court and tribunal services, and trustee and guardianship services. All of those fit within my portfolio. The last one is the one the member referred to —

A safe, secure and decent corrective services which contributes to community safety and reduces offenders' involvement in the justice system.

That is exactly relevant to what the member is talking about, and he will see that the services for delivering that desired outcome, services 9 and 10, are the two services that are not in my portfolio: adult corrective services and youth justice services.

I am not trying to avoid the member, but I dispute his assertion that there is a commissioner's directive to not charge people under the age of 15 years. I also dispute that there are no programs in place for dealing with youth crime and youth justice. The government is going to radically improve this area, but the member will have to ask —

Mr V.A. CATANIA: How? There is nothing in the budget. The Attorney General keeps talking about the Kimberley; where are all the other programs? Where are they being delivered? Where is the funding?

Mr J.R. QUIGLEY: We plan to improve this, and I have already said that I have been working with the Attorneys General from other jurisdictions to determine the optimal programs for diverting these people into. We cannot not charge people and not have sound, strong programs in place. This whole discussion started with the rate of Indigenous incarceration, which stands at about 45 per cent of the adult prison estate and, tragically, about 85 per cent of the youth prison estate. It can be seen that one leads to the other, if we look at how many people there are in Hakea Prison who have spent time in Banksia Hill Detention Centre. It is tragic, and we plan to do something about it, but we cannot get ahead of the community or the member's constituents. We are planning to put much stronger alternative programs out there.

Mr V.A. CATANIA: One of the other issues is that the Department for Child Protection and Family Support is nine-to-five, but children are roaming the streets from 10.00 pm until five in the morning. That has a huge effect on school attendance. I want to make it quite clear: this is not about being racist.

Mr T.J. HEALY: Nothing good comes after that.

Mr V.A. CATANIA: This is about the reality of what is happening in my electorate. Over the last month, youth crime has been 100 per cent Aboriginal, and that has come from the police. There is a significant issue that needs to be dealt with. I understand where the Attorney General is coming from, and I am not questioning his integrity or will. The issue is that it is all very good to say these words, but the reality of what is happening is completely different, and we need help.

Mr J.R. QUIGLEY: That is what we plan to give the member; it is not a line item in the budget. First of all, we have to come up with the programs. I do not want to see 10 and 11-year-old kids in Banksia Hill—not because I feel sorry for them, but because I feel sorry for the community. They will only come out of there more hardened in their recalcitrant ways. It is not a case of sympathy for the children; it is a case of: what can we do to best protect the community from further offending from these children? When we see a child aged 10 or 12 years who has committed an offence, it is a pretty good predictor that, throughout their teenage years, they are going to be trouble and a cost to our community. There has to be a cross-agency response.

Ms M.J. DAVIES: I refer to page 432 of budget paper No 2 and service 2, "Advocacy, Guardianship and Administration Services", and the costs that are associated with these services. Does the increase in the net cost of these services include the changes to the Guardianship and Administration Act 1990 that were promised by the McGowan government some time ago?

Mr J.R. QUIGLEY: I will defer to the Public Advocate in a moment. With regard to further amendments to the Guardianship and Administration Act, instructions have been settled, but they are with the Parliamentary Counsel's Office. I keep trying to push in front of all the other ministers to get mine done, and they all abuse me because I am the Attorney General and it fits within my portfolio! But there already are instructions with Parliamentary Counsel to carry out significant reforms. We have done some Guardianship and Administration Act reforms, and they went to people who cannot give consent to medical trials. I had to pull that out of the block of amendments at Parliamentary Counsel's Office and deal with it as a discrete item because of COVID and any possible trial treatments. I would like to turn to the Public Advocate to perhaps answer that question if I may, thank you, Mrs Bagdonavicius.

[3.00 pm]

Ms P.M. Bagdonavicius: In answer to the member's question, there have not been any changes that have impacted on the Office of the Public Advocate or the advocacy of guardianship and administration services. There was an amendment last year in amending legislation around medical research. However, at this stage, this is not causing

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a major flow-on of work into my office. The demand for appointments with the Public Advocate and an increase in applications to the State Administrative Tribunal are, in fact, being driven by changes in other legislative areas such as the introduction of the National Disability Insurance Scheme as well as the changes around restrictive practices that are happening now in aged care as a result of changes to the aged care legislation.

Ms M.J. DAVIES: Were the amendments to the Guardianship and Administration Act the changes that the Attorney General was alluding to in relation to elder abuse?

Mr J.R. QUIGLEY: Yes.

Ms M.J. DAVIES: Is there no impact across the forward estimates anticipated for that being introduced and being required to be managed or administered?

Mr J.R. QUIGLEY: No. Our pressure point in the outgoing years of the budget is the dramatic increase in guardianship applications. This is brought about for a number of reasons: one is an ageing population and more people seeking guardianship of those suffering dementia of some form; the other big increase in the agency's work has been the number of people who require guardianship under the NDIS. All this has resulted in quite a steep increase in the public advocate's workload.

Ms M.J. DAVIES: Thank you, Attorney General. I understand what the known impacts are across the forward estimates. I am trying to understand when these changes to the Guardianship and Administration Act in relation to elder abuse reforms come into play, what impact they will have across the forward estimates and whether that has been accounted for across the service.

Mr J.R. QUIGLEY: I do not know; I will have to ask the Public Advocate. It has not become law yet, so I do not know that it has been costed out.

Ms P.M. Bagdonavicius: No, it has not. The work that is happening at a national level around, for instance, elder abuse, and a major national reform, is the introduction of the national register. The impact of that on the state is yet to be costed because it is still being worked through with the working group for proposing back to Attorneys General a model that will operate across Australia. It is very difficult with different legislation around enduring powers of attorney operating in different jurisdictions, and having a point of lodgement with a national register. All of that is yet to be worked through.

Ms M.J. DAVIES: When does the Attorney General anticipate having those reforms in front of the Parliament?

Mr J.R. QUIGLEY: Next year. It will not be this year; Parliamentary Counsel has a full book.

Ms M.J. DAVIES: That seems quite a long time after the Attorney General made the commitment to introduce those reforms.

Mr J.R. QUIGLEY: It is. One gets these big reports and we have to send them down there. The other one has been outstanding since Mr Mischin was Attorney General and they were referred to the Coroner's Court, which are down there. As soon as we can get them done, we will get them in.

Ms C.M. TONKIN: I refer to the first item under "Significant Issues Impacting the Agency" on page 425. What is the government doing to progress reform to the mentally impaired accused legislation and associated service redesign?

Mr J.R. QUIGLEY: Thank you, member. The Criminal Law (Mentally Impaired Accused) Bill 2021, which will give great effect to this reform, is well progressed. It will deliver the government's 2017 election commitment to reform the current Criminal Law (Mentally Impaired Accused) Act 1996. This is the first time in 25 years that this law has been reformed. The changes are complex and the necessary time and care is therefore being taken to get it right. The Department of Justice is currently working with stakeholders, including at least seven other agencies and statutory bodies, to prepare for the implementation of the reforms to be provided by the bill.

The additional \$1.5 million will support the continuation of this critical policy work over the coming financial year. I remind the member that the complexity of this bill encompasses the new notion in Western Australia of special hearings for mental impairment, special verdicts, and a range of dispositions for offences other than the binary choice between discharge into the community or imprisonment. We are working on this critical area of reform to be delivered to Parliament.

Mr V.A. CATANIA: I refer to page 428, under the heading "Service Summary".

Mr J.R. QUIGLEY: I will turn to my budget paper. Can the member please reframe that question?

Mr V.A. CATANIA: I refer to page 428, under the heading "Service Summary", in volume 2 of budget paper No 2. Why is the 2021 estimated actual cost of \$15.660 million for the National Redress Scheme greater than the 2020–21 budget cost?

[3.10 pm]

Mr J.R. QUIGLEY: There are a couple of reasons. First of all, the commonwealth government presaged the states to agree to an increase of the maxima from \$100 000 to \$150 000. There has also been a significant increase in the number of applications brought. We do not get to fix the amount of redress given. The commonwealth office does that, so it is out of our hands. I can say that our role in it is somewhat limited. It is to do with helping people make their applications. As at 17 June 2021, 1 476 applications were received this year with 2 900 requests for information sent to government agencies. There have been 978 determinations, and 870 applicants were offered redress with responsibility for Western Australian government institutions. Of those 862, 799 accepted the offer.

Now, with the uplifting of the maximum, the average payment for abuse, with responsibility for the state government, is \$68 400. The average payment to the applicant may be higher because there might have been joint responsibility between the state and private institutions whom the state pays for a child in care. But in 2020–21, the total cost of redress payments was \$42 million. This figure includes the cost of redress payments, counselling costs, and commonwealth and Department of Justice administrative costs. We have had more applications this year than anticipated. That might be because victims who see other victims successfully go the course, if I can put it that way, with an application might be encouraged to bring an application. There has certainly been an uplift in the number of applications.

Ms M.J. DAVIES: I refer to page 425 of budget paper No 2, volume 2, and election commitments in the table under “Spending Changes”. My question relates to the Broome Aboriginal-led specialist family violence court. From my reading, it says a total of \$2.8 million is allocated in 2021–22 and the forward estimates for the establishment of the facility. Why is there a difference between that amount and what the government publicly committed to spend, which to my understanding is \$5.6 million?

Mr J.R. QUIGLEY: Capital and recurrent costs are involved. The department has allocated \$2.8 million for recurrent funding, including depreciation over the forward estimates, to establish the specialist family violence court in Broome. In addition, the department has also allocated capital funding of the same sum—\$2.8 million—over 2021–22 and 2022–23. Based on a similar specialist family violence court, the Barndimalgu Court in Geraldton, the Broome Aboriginal-led specialist family violence court will be co-designed with involvement from the community. The member will remember that when we brought family protection laws into Parliament, we introduced this whole concept of shuttle conferencing for restraining order cases to try to take the stress off people. The court will incorporate a restraining orders conferencing pilot—because there will be a pilot—and shuttle conferencing from the same facility. The space may be used for other court purposes when not in use.

Consultation on the infrastructure and development to construct the custom-made transportable building in Broome has commenced to establish the specialist court. The initiative cannot commence until the custom-made transportable building is installed. This is not expected to be completed until the 2022–23 budget year. Council building approval, current construction shortages and consultation with the local community are all impacting on that time line.

I draw the Leader of the Opposition’s attention to page 440 of the budget paper No 2, new works and the line item “Broome Aboriginal-Led Specialist Family Violence Court”. There she will find \$28 million has been allocated—sorry.

Ms M.J. DAVIES: That is a lot of money for a transportable!

Mr J.R. QUIGLEY: I have had a lot of trouble with zeros in the past 12 months. I dropped a couple off Clive’s claim at one point.

Mr V.A. CATANIA: It is like when your head is spinning in the helicopter.

Mr J.R. QUIGLEY: An amount of \$2.8 million has been allocated for the capital works to proceed on the Broome Aboriginal-led specialist family violence court. It will be \$5.6 million.

Ms M.J. DAVIES: I have a further question. Just so that I am clear in my mind, the recurrent and capital commitment of \$5.6 million is in the forward estimates, as laid out under spending changes on page 440?

Mr J.R. QUIGLEY: Across the out years, \$5.6 million is the total, because you have the recurrent.

Mr S.A. MILLMAN: I have a further question on shuttle conferencing, which the Attorney General raised in answer to the Leader of the Opposition. On page 426, shuttle conferencing for family violence restraining orders is currently operating at the Perth Magistrates Court. Can the Attorney General advise when it is expected to expand to other metropolitan sites such as Joondalup and Fremantle, and whether it is expected to go to any regional centres?

Mr J.R. QUIGLEY: I can. Family violence restraining orders conferencing will commence at Fremantle and Joondalup courts during the second quarter of 2021–22—that is, late this year it will commence in Fremantle and Joondalup. Further expansion into the Armadale court is expected towards the end of next year and a regional expansion into Bunbury and Broome courts during the 2022–23 financial year will be dependent upon the completion of that structure that I referred the member to earlier.

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Mr V.A. CATANIA: I refer to page 431 of budget paper No 2, volume 2, and the 2020–21 estimated costs for Coroner’s Court cases. The cost per case is significantly higher than what was budgeted for. What is the reason for this cost increase? I note that paragraph 8 on page 432 refers to “higher costs in forensic pathology services and an increase in body removals”. What are the reasons for these higher costs?

Mr J.R. QUIGLEY: The estimated costs are higher than the 2020–21 budget for the Coroner’s Court by 20 per cent and higher than the 2021–22 budget target by 10 per cent. This is primarily due to the higher costs in forensic pathology services and an increase in body removals, which the Coroner has to undertake. They were the estimated versus actual costs and the difficulty there. In the Coroner’s Court, 3 400 cases were budgeted for finalisation in 2020–2021. The actual estimated came in spot on; I think it fell short by only 18 cases. The member can see the cost uplift there. In 2019–20, the total cost was \$22 250 174. The cost per case did not alter through to 2020–21. In fact, it went up by \$31.

[3.20 pm]

Ms M.J. DAVIES: I refer to page 426, which states —

The Western Australian Office of Crime Statistics and Research ... which was established in 2020 provides a cross-agency, evidence-based approach to criminal justice decision-making and policy development.

How much of the total appropriations for the Department of Justice has been allocated to WACSAR?

Mr J.R. QUIGLEY: A sum of \$3 million per annum, which includes the reallocation of existing resources. When I say “reallocation of existing resources”, I refer to about 18 full-time equivalents, but they were people who were writing annual reports, key performance indicators and associated matters that dealt with criminal outcomes. A large quantum of the reallocation of existing resources has gone into this, plus two new specialists who will be able to analyse the data and tell us which programs are succeeding and which ones are not.

Ms M.J. DAVIES: Is the Attorney General referring to the work to establish the non-statutory advisory board or does that come within the work of WACSAR? The budget paper further states —

... comprising representatives from the justice sector and university partners to provide strategic advice to WACSAR and support the administration of a new research grant fund.

How many people are on that non-statutory advisory board?

Mr J.R. QUIGLEY: I defer to the director general, Dr Tomison.

Dr A. Tomison: The office is now fully established and the inaugural director, Dr Shona Hyde, was appointed last year. There is a complement of 18 FTEs, most of which have been sourced internally and, as the Attorney General said, have been reallocated to the function to bring our analytical functions together. The cost is about \$3 million per annum. The non-statutory advisory board is made up of four ex officio members—me, as the chair, the Chief Justice of Western Australia, the Commissioner of Police and the deputy director of the Australian Institute of Criminology—and three representatives from local universities. The cost for doing that will be negligible. The most one would expect to pay is some sitting fees for the three university representatives. It is most likely that they will not be paid for that role.

Ms M.J. DAVIES: How will the \$300 000 yearly allocation to WACSAR for those grants be administered?

Mr J.R. QUIGLEY: I defer to the director general again, please.

Dr A. Tomison: Essentially, this money is going to be used as a research grant modelled off the criminology research grants that the Australian Institute of Criminology has run for 20-plus years, but they will be focused in Western Australia and will look to get research done that directly benefits the Western Australian justice system and associated areas. The advisory board will oversee the allocation of those grants. Each year there will be a grants round asking for particular topics that may interest the board, but also other research that universities and other researchers may wish to put forward. They will be ranked, the applications will go through a process of review and the \$300 000 will be allocated according to priorities, best grants et cetera and then monitored going forward. The board will make that decision.

Ms M.J. DAVIES: Excuse my ignorance, but can I be given an example of the sorts of things that will be researched?

Dr A. Tomison: In the last year, the office has focused particularly on evaluating our internal programs such as what works in rehabilitation in the prison system. We are doing that internally, but we can also call on academics to work with us. The intention of these grants is to do more primary research for which we may not have the expertise or capacity, or we cannot grow that expertise, and we want to work productively with those who are already experts in the field to perhaps undertake new analyses that will give us greater insights. An example of that which is not part of the office at the moment, but has been a useful exercise in the past, was when Telethon Kids Institute did some work at Banksia Hill Detention Centre that looked at the prevalence of cognitive impairment in kids inside Banksia. That has had far-reaching coverage and also implications for the department and how we manage those children

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effectively. We will be looking to get applications from universities in the areas of criminology, psychology and medicine, with projects that we think could improve or enhance our courts system or Corrective Services and any of our functions that relate to justice.

Ms M.J. DAVIES: Was that \$300 000 a year?

Mr J.R. QUIGLEY: Yes.

Ms M.J. DAVIES: How much would the average grant be worth, or is that dependent on the application?

Dr A. Tomison: The criminology research grants have operated on \$330 000 a year nationally for 20-plus years. I am the chair of that committee at the moment and I used to be the director at the Australian Institute of Criminology, so I know this program pretty well. The grants vary. They are usually much less than \$100 000—often only a tenth of that. The applicants will also source additional funding and make a contribution to the projects so that we get more value out of them. I cannot tell the member directly, because it depends on who applies and how much they ask for, but I expect that we would be taking a similar approach whereby we try to get the most substantial benefits from a relatively small amount of money by asking people to bring additional funding and we would part-fund the applications. I think that most grants would be less than \$70 000, just off the top of my head.

Ms M.J. DAVIES: I might have missed this bit, but when will those grants be available?

Dr A. Tomison: The money has been allocated in this current budget and we are currently working out a process to, first, set up the board and have the first board meeting, and then we can start to run the grants program. One of the issues is the timing of when these grants should be run because we do not want to compete with the criminology research grants program, which typically goes out around June or July and makes a decision in November of the same year. It is a matter of working through that, but I expect that, certainly within the first year, the \$300 000 for this year will have been hopefully allocated through the grants round.

Mr V.A. CATANIA: I refer to page 429, the outcomes and key effectiveness indicators table and the line item “Coroner’s Court—time to trial”. What factors have contributed to the “Coroner’s Court—time to trial” blowout from 86 weeks in 2019–20 to 140 weeks in 2020–21, and what is the estimated actual time frame?

[3.30 pm]

Mr J.R. QUIGLEY: I will defer to Miss Stampalia, who will be able to tell us more about the Coroner’s Court.

Miss J. Stampalia: In 2019–20, we appointed a part-time coroner to deal with a number of matters, including 44 long-term missing person cases. That result impacted this year. Obviously, finalising so many matters last year reduced the time to 86 weeks. That part-time resource has completed the effort involved with those cases and now we are back to a result of about 140 weeks. A number of factors contribute to that. Sometimes it relates to the complexity of the matter being dealt with and some take a long time to finalise in readiness for inquest. That could involve the police report, or reports from specialists as well.

Mr V.A. CATANIA: Many constituents who have lost a loved one and have come in to see me have said that they are waiting on the coroner’s report to set a date for the funeral. We are talking 54 weeks’ difference; that is a significant difference between the figure in 2019–20 and the 2020–21 estimated actual of 140 weeks. Surely the government could find in its big budget surplus some funds to go towards putting on perhaps a part-time coroner to assist in reducing that figure. It does have a huge impact on loved ones who are left behind having to wait for a coroner’s report to be able to conduct what should be done in a very effective and quick manner—that is, to be able to hold a funeral service in a timely manner.

Mr J.R. QUIGLEY: There are two issues. The member talked about the length of time for a resolution of the whole case being 140 weeks. The other part of the question, which I think Miss Stampalia addressed to a degree, concerned the release of the body so that the family could hold a funeral.

Mr V.A. CATANIA: Sorry, what was that?

Mr J.R. QUIGLEY: The member said that it can take up to four weeks before a funeral can be conducted. The question was: what can we do to reduce the delay? The coroner cannot release the body until the cause of death has been examined. The coroner is very, very sensitive to the issue the member raised—that is, that grieving relatives cannot grieve properly or achieve closure without a funeral. It happened in my family. The cause of death, which was not known until four weeks down the track, was determined to be a brain embolism. For four weeks, the whole family was walking around in a state of grief and wonderment—not wonderment; concern—about what caused the sudden death of a young man. The hold-up, in my family’s case, was the same as the hold-up in most of these cases. There are two sticking points that hold things up; one is pathology—the amount of time that PathWest takes to do its toxicology tests—and the other is that there has to be a full police investigation of any sudden death. Those two factors restrain the coroner from an early release of the body. She does not want to hold on to these bodies, I can

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assure the member, and she wants to see families get on with the grim process of burying their loved one, but she is constrained by the fact that she has to wait for toxicology and police reports. Not that I tried in any way to hurry things up, but I just watched closely, in my family's situation, on the progress of the matter because it was an instant case. I was observing intensely. It was four or five weeks before they were able to say that it was a brain embolism and release the body. It was an awful period.

Mr V.A. CATANIA: In terms of advocating for further resources in the areas outlined, has the Attorney General brought that up with the Treasurer to provide further funding to reduce the time? There is a difference of 54 weeks; it is not a week or two, it is a significant amount of time.

Mr J.R. QUIGLEY: I do, and have, but pathology is within the remit of the Minister for Health and police is within the remit of the Minister for Police. Where I can, I do what I can. That is why, on taking office, I moved as quickly as I could to get a CT scanner installed down at the mortuary, so that post-mortems could happen or causes of death could be determined quicker. I think that cost us about \$2.5 million. Within my area, I have been working hard to try to address this, but a body cannot be released before toxicology results have come back. Someone could be buried before someone alleges foul play, and toxicology might not have been done. We have seen this in other jurisdictions; famously, in the case of Marilyn Monroe, as I recall. There were questions about her toxicology results never having been properly completed before she was interred, and then people wanted to exhume the remains to try to do toxicology 40 years later!

Ms M.J. DAVIES: There is too much there to even start unpacking! The case of Marilyn Monroe—politics and power!

I refer to page 431 in volume 2 of budget paper No 2. Note 3, under “Explanation of Significant Movements”, states —

The 2020–21 Estimated Actual is higher than the 2020–21 Budget due to a decrease in civil and criminal appeal finalisations.

What is the reason for this reduction in appeal finalisations? Further to that, has there been any stakeholder feedback regarding this reduction?

Mr J.R. QUIGLEY: The manager of court services watches this intently, so I will ask Miss Stampalia whether she can enlighten us.

Miss J. Stampalia: The finalisations for the Court of Appeal have varied a little from the previous year as well. Because there is such a small number of finalisations in that jurisdiction, any simple reduction in the finalisations can actually impact the cost per case.

Ms M.J. DAVIES: The second part of my question was: has there been any stakeholder feedback regarding this reduction?

Mr J.R. QUIGLEY: In the Court of Appeal?

Ms M.J. DAVIES: Or is it considered insignificant or not relevant?

Mr J.R. QUIGLEY: Has there been any stakeholder feedback?

Ms M.J. DAVIES: Yes, regarding the reduction.

Mr J.R. QUIGLEY: No.

Ms M.J. DAVIES: I do not think it is a trick question!

Mr J.R. QUIGLEY: I have not had any stakeholder feedback. The only feedback I get from the Court of Appeal is that it is terribly overworked. The President of the Court of Appeal is known to be a very, very hard worker and makes all the other judges keep up. The problem down there is one of workload and stress.

Ms M.J. DAVIES: We will get to that, Attorney General.

[3.40 pm]

Mr V.A. CATANIA: I refer to page 425, budget paper No 2, volume 2, and the spending changes associated with the COVID-19 response, and specifically the \$3 995 000 for community legal services demand. What is the reason for the increase in demand?

Mr J.R. QUIGLEY: I will ask the director general to assist us with this answer.

Dr A. Tomison: The department will spend an additional \$3.995 million to address the ongoing demand for legal assistance resulting from the COVID-19 pandemic. Funding for the previous agreement, which was the commonwealth's project agreement for COVID-19 legal assistance, ended in 2021, with the state agreeing to match the funding allocation from 2020–21 and 2021–22. COVID-19 is expected to continue to create ongoing need for legal assistance services. Following the announcement in the state budget on 9 September, the department has commenced

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consultations with the legal assistance sector to determine the funding distribution. The member would be aware that one of the outcomes of COVID-19 over the last year or so has been the growth in family violence matters, particularly, and also elements of clients seeking advice around tenancies and an increase in court applications for eviction and termination. That is pretty much what I can tell the member at the moment. We are consulting with the sector and then we will allocate the funding accordingly. Those are the key areas we are looking at.

Mr V.A. CATANIA: Does the department expect this demand to ease over the forward estimates, because there is no funding after 2021–22? Does the department expect to ask for further funds in future budgets?

Mr J.R. QUIGLEY: The director general, please.

Dr A. Tomison: It is hard to know, frankly, because it depends on what happens in terms of the COVID-19 pandemic and the restrictions that may or may not come into force in the state of Western Australia. We know from last year's restrictions—this is a national and probably an international problem—that there has been growth in the areas that I just mentioned. If we continue to have COVID restrictions as a result of outbreaks of the Delta strain or something else, I expect that there will continue to be new demands or higher demands in the areas of family violence, tenancies and other matters. I cannot really predict it, so we may actually go back to the government, depending on what happens, to seek further funding. It is a maybe.

Mr V.A. CATANIA: Out of the just under \$4 million for community legal services demand, how many more FTEs will that employ? What makes up that nearly \$4 million that was asked for? Will it be used to employ lawyers and advocates? Can the Attorney General explain the \$4 million spend?

Mr J.R. QUIGLEY: Mr Hainsworth, please.

Mr M. Hainsworth: Basically, the \$4 million will be distributed to the Aboriginal Legal Service of WA, Aboriginal family violence prevention legal services and community legal centres. The expectation is that the money will be there to provide legal services, so it will most likely be used to employ a combination of lawyers and paralegals.

Mr V.A. CATANIA: Is the Attorney General able to provide a breakdown of the \$4 million going to the Aboriginal Legal Service or family domestic violence services? Can the Attorney General provide a background on how that \$4 million will be distributed through those groups?

Mr J.R. QUIGLEY: I will ask Mr Hainsworth to answer.

Mr M. Hainsworth: As the director general said, we are still in negotiation with the legal assistance sector, but very broadly, the ALS gets slightly less than \$1 million at the moment, Aboriginal family violence prevention legal services get slightly over \$1 million and community legal centres will receive approximately \$2 million, but we are still in the negotiation phase with those particular providers.

Mr V.A. CATANIA: Why has the Aboriginal Legal Service had its funding cut—it gets very little of the pie—given its workload and the difficulty it has in retaining lawyers, because they are often poached by community legal services or others? Has any thought been given to addressing the slide in the Aboriginal Legal Service, which is absolutely critical, especially in regional Western Australia, where it seems to lack the funding to properly represent Aboriginal people in remote parts of Western Australia?

Mr J.R. QUIGLEY: Once again, I defer to Mr Hainsworth.

Mr M. Hainsworth: That is just COVID funding. The majority of the Aboriginal Legal Service's funding is provided under the National Legal Assistance Partnership program, which is funded by the commonwealth. That budget provides for a relatively small increase in funding over the forward estimates. For that particular funding, we basically administer the amount of money provided by the commonwealth.

Mr V.A. CATANIA: What funding does the state government put into the Aboriginal Legal Service? Does it receive all its funding from the commonwealth or is there a state contribution?

Mr J.R. QUIGLEY: Mr Hainsworth, please.

Mr M. Hainsworth: The Aboriginal Legal Service obviously gets state money for COVID. There are also a number of other programs for which it receives funding from the state. For example, the state provides some money for the custody notification service. It also provides money for the reducing avoidable remand project and the youth engagement project. A number of projects are state funded and that funding is provided to the Aboriginal Legal Service.

Mr V.A. CATANIA: Has the Aboriginal Legal Service approached the department for further funding given the increase in demand that has occurred because of COVID? Has it approached the department and said that more funding is needed to properly advocate on behalf of Aboriginal people?

Mr J.R. QUIGLEY: The Aboriginal Legal Service has not approached us for extra funding because of COVID.

Mr V.A. CATANIA: What about in general; has it approached the department for further funding?

Chair; Ms Mia Davies; Mr John Quigley; Mr Vincent Catania; Mr Terry Healy; Ms Christine Tonkin; Mr Simon Millman

Mr J.R. QUIGLEY: I refer to Mr Hainsworth.

Mr M. Hainsworth: The Aboriginal Legal Service of WA, along with Legal Aid WA, community legal centres, Aboriginal family violence prevention legal services and Law Access, have joined with the Department of Justice to form a collaborative service planning group, which is required under the National Legal Assistance Partnership. That group has met on a number of occasions as part of the consultation on distributing COVID money, plus some additional funding that has been announced by the commonwealth. The ALS makes its case in those forums, as do the community legal centres and the Aboriginal family violence prevention legal services about their level of unmet demand. I think that collaborative service planning group would broadly acknowledge that, as outlined by the Productivity Commission, there is a reasonable degree of unmet legal need, particularly in regional areas.

Mr S.A. MILLMAN: My question is further to the original question of the member for North West Central before we went off on the tangent of funding of the Aboriginal Legal Service. My question concerns COVID specifically.

Mr V.A. CATANIA: It was not a tangent; it was important.

Mr S.A. MILLMAN: Of course it was important, but it was a new line of questioning. If the member does not know what he is doing, do not worry about it.

In addition to the financial responses that the government has had to implement, what have been some of the legislative responses the government has implemented in response to COVID?

Mr V.A. CATANIA: That is a further question to COVID.

The CHAIR: It is in relation to the COVID-19 response, which was the first question.

Mr S.A. MILLMAN: Correct.

Mr J.R. QUIGLEY: As the member is aware, there has been a range of legislative responses, including amendments to the Criminal Code to deal with a situation in which someone threatens another person by saying that they have COVID, intimidating police by spitting on them et cetera. We then had a range of legislative responses under my previous portfolio of Commerce, including a moratorium on evictions, which ran through to 31 March this year, and the ability to negotiate tenancy reductions, rent reductions and rent holidays. There was also the urgently advanced Protection of Information (Entry Registration Information Relating to COVID-19 and Other Infectious Diseases) Act 2021 to protect the data on the SafeWA app from being used by Western Australian police in the course of investigations. In that regard I note a recent article out of Sydney that says Sydney police have been using the data from the QR entry code and people are calling for the urgent introduction of the Western Australian legislation, being the best in Australia at protecting public data.

[3.50 pm]

Ms M.J. DAVIES: I refer to page 431 and the costs for Children's Court cases. I note that the 2020–21 estimated actual cost for Children's Court cases, which is the cost per case, particularly criminal cases, is significantly higher than what was budgeted. Why is this the case?

Mr J.R. QUIGLEY: Is that \$574 000 to \$1 035 000?

Ms M.J. DAVIES: Yes.

Mr J.R. QUIGLEY: The 2020–21 estimated actual is higher than the 2020–21 budgeted by 80 per cent, the 2019–20 actuals by 56 per cent and the 2021–22 budget target by 61 per cent. The 2021–22 budget target is higher than the 2020–21 budget by 12 per cent. This is primarily due to increased accused costs and the inclusion of WA Police Force security costs as resources received free of charge. The security costs for the court have been factored in as well. Further impacting the results were fewer finalisations, as criminal lodgements declined in theft, burglary, illicit drug and public order offences and property offences as a result of COVID-19 restrictions. Dropping the numbers down increased the overall average.

Ms M.J. DAVIES: Excuse my ignorance, but what are accused costs?

Mr J.R. QUIGLEY: It is the accused person's costs. Costs may be ordered under the Official Prosecutions (Accused's Costs) Act. Accused persons cannot get costs in the indictable jurisdictions; they can in the Magistrates Court and the Children's Court.

Ms M.J. DAVIES: Thank you for explaining that, Attorney General.

The appropriation was recommended.

Meeting suspended from 3.55 to 4.06 pm