

Division 27: Justice — Services 1 to 8, Attorney General, \$687 414 000 —

Ms A.E. Kent, Chair.

Mr J.R. Quigley, Attorney General.

Dr A. Tomison, Director General.

Dr G. Hill, Director, Legal Aid WA.

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

Ms K. Maj, Executive Director, Strategic Reform.

Ms P. Bagdonavicius, Public Advocate.

Dr J. Byrne, Commissioner for Equal Opportunity.

Mr S. Kerr, Executive Director, Corporate Services.

Mr J. Deery, Director, Finance.

Mr M. Hainsworth, Director, Advisory Services.

Mr J. Lee, Principal Policy Adviser.

Mr D. Emerson, Senior Policy Adviser.

[Witnesses introduced.]

The CHAIR: Good morning. The estimates committees will be reported by Hansard. The daily proof *Hansard* will be available online as soon as possible within two business days. The chair will allow as many questions as possible. Questions and answers should be short and to the point. Consideration is restricted to items for which a vote of money is proposed in the consolidated account. Questions must relate to a page number, item or amount related to the current division, and members should preface their questions with these details. Some divisions are the responsibility of more than one minister. Ministers shall only be examined in relation to their portfolio responsibilities.

A minister may agree to provide supplementary information to the committee. I will ask the minister to clearly indicate what information they agree to provide and will then allocate a reference number. Supplementary information should be provided to the principal clerk by close of business Friday, 3 June 2022. If a minister suggests that a matter be put on notice, members should use the online questions on notice system.

There has been an agreed change to the order, and I believe that we are dealing with division 27 first. I give the call to the Leader of the Opposition.

Ms M.J. DAVIES: Thank you, chair. Attorney General, can we start with paragraph 5 on page 430 of budget paper No 2, volume 2, in relation to the Equal Opportunity Commission? It notes that there has been a significant increase in inquiries and complaints related to the COVID-19 pandemic following the mandated compliance requirements. Would it be possible to quantify that increase or the number of complaints that have been received?

Mr J.R. QUIGLEY: There has been a—I may sit down when I am speaking. It is a committee; sorry.

Ms M.J. DAVIES: It is very formal otherwise, Attorney General.

Mr J.R. QUIGLEY: I am like a trained dolphin! I am given the prompt and I stand up.

The Equal Opportunity Commission has received an increase in its inquiries and complaints due to the COVID-19 pandemic, and from July 2021 to April 2022, complaints increased by 31 per cent and inquiries increased by 24 per cent compared with the 2019–20 financial year prior to the pandemic. This increase has not been uniform with both inquiries and complaints tending to peak each time mandated control measures increased. Most of the inquiries were resolved by an explanation of the scope of the Equal Opportunity Act and that vaccination status is not a valid ground for complaint under the act, and directions made pursuant to the Public Health Act 2016 and the Emergency Management Act 2005 override the Equal Opportunity Act to the extent that they are incompatible. The most common complaint that has come in since the pandemic started was from people who said their medical exemption from wearing a mask was not accepted by a supplier of goods and services. The increase in the workload from the increase in complaints had an impact on the time it took to resolve complaints, but 90 per cent of them were still resolved within the target period of 12 months.

Ms M.J. DAVIES: I am fairly sure I understand, but for clarity's sake, with complaints versus inquiries, what changes the dial on it for it to go from an inquiry to a complaint?

Mr J.R. QUIGLEY: As the commissioner triages those, may I call upon Dr Byrne to answer the difference between the complaint and the inquiry?

Dr J. Byrne: Thank you. I would like to express my appreciation to the committee for the accommodations made for my disability. I am profoundly deaf. I am not sure everyone knew that. Inquiries outnumber complaints about four to one. Inquiries are people seeking information on what are their rights and so forth, whereas complaints need to identify a formal ground. For most of the inquiries, I will explain to people that they cannot complain against the government's mandated pandemic requirements and that resolves the inquiry. Complaints must have a genuine ground. The mask complaints relating to people who had a medical exemption can be valid. The other valid-type complaint is against an employer who excludes a person from employment because they are not vaccinated. The mandates apply only to access to places. They do not tell the employer not to employ people. People can potentially complain about that—not about not being vaccinated. Vaccination is not a ground. They can say they have a religious reason not to be vaccinated. We investigate and try to resolve these complaints, but, basically, at the end of the day, the act says it may not be unreasonable to discriminate against a person on the grounds of their religion, so the employer has a defence. Several of those complaints have been referred to the State Administrative Tribunal. Does that answer the member's question?

Ms M.J. DAVIES: Thank you. What advice on the mandates and vaccination, and the increase in those queries, did the Attorney General receive from the Equal Opportunity Commission, if any? Did it provide advice on this matter?

Mr J.R. QUIGLEY: I have not particularly received the actual advice given to those making the inquiries, but I will defer once again to Dr Byrne if I may, Madam Chair.

Dr J. Byrne: Most of the inquiries are by telephone and we have standard information we provide that is appropriate to the circumstances. About two-thirds of the inquiries are by phone and we developed a set of standard words to respond to situations, such as complaints against the government about vaccination. The act is overridden by the mandate. For complaints against the employer, we explain the situation, and for mask complaints we had about five fairly standard letters we modified appropriate to the circumstances. Most people accepted those letters as a satisfactory response to their complaint and, in many cases, their inquiry also.

[9.10 am]

Ms M.J. DAVIES: In the most recent report published by the Auditor General, she advised that there should be a review of COVID management for instructive purposes in terms of how the government has responded in general. Obviously, there has been a huge number of legal issues surrounding some of the mandates, the imposition that government has imposed as a result of responding to the pandemic on behalf of the Western Australian people to make sure that we can get through it. From the perspective of the Equal Opportunity Commission, because there has been quite a significant discussion around personal rights and there has been an increase in complaints, would the Attorney General see it as instructive to have the Office of the Equal Opportunity Commission and the Attorney General to participate in such a review to inform future management?

Mr J.R. QUIGLEY: The discriminatory conduct captured by the Equal Opportunity Act relates only to the protected attributes within the act, so the commission has limited scope to look at the response across government. It is not as though someone with a disease, for example, has a protected attribute. I think these things need looking at in terms of the act, and I will, but we are confined to the attributes protected by the act. If Dr Byrne thinks he has something extra to add, I will defer to him.

Dr J. Byrne: The Australian Human Rights Commissioner, Lorraine Finlay, has made the point that there probably should be post-pandemic a review of how it was handled. But it is basically a federal issue as well as a state issue. In referring to the state issues, generally, when I found an issue that concerned me that was not necessarily unlawful, but I thought was unreasonable, I got in touch with the appropriate authorities. Very early in the process, for example, when people were put into quarantine, they were not getting access to the medical or psychiatric help they needed. I raised that point—not just me, but also others, so I cannot claim credit for this—and that got addressed. There have also been issues whereby people were not vaccinated, not for medical reasons. But for medical reasons a pregnant woman, for example, was advised by a doctor because she had a reaction to the first vaccination not to have the second one. She had the baby prematurely and then was initially refused access to the newborn child. That was resolved very quickly. Generally, it was quite practical and appropriate to approach the relevant authority about an unreasonable situation, and they have been addressed. In terms of the act, it takes quite a long time. There is not a way of solving problems quickly, because we first have to get the information from the complainant. We need to put it to the respondent. We need to conciliate it. That does not solve a problem quickly. The people administering the pandemic regulations et cetera are quite reasonable when issues have been raised with them.

Ms M.J. DAVIES: Going back to my first question, the Attorney General and the commissioner advised that there had been a 31 per cent increase in complaints and I think it was a 24 per cent increase in inquiries. Is it possible to get a breakdown of how many of them related to COVID?

Mr J.R. QUIGLEY: I do not know. I would have to ask the commissioner.

Ms M.J. DAVIES: The Attorney General has given me a percentage. I just wonder about the number of complaints relating to COVID.

Mr J.R. QUIGLEY: I understand, Leader of the Opposition, but I have not got that breakdown. I have to defer to Dr Byrne again for a breakdown between COVID and non-COVID inquiries and complaints.

Ms M.J. DAVIES: How many in number?

Dr J. Byrne: We have about 400 complaints; a one-third increase of that would be about 120. We typically have about 1 500 inquiries, so a 20 per cent increase would be 300 COVID-related inquiries.

Ms L. METTAM: Just further on that point, I understand that the Equal Opportunity Commission is the body that is best able to deal with issues of discrimination. But one of the challenges that has been recognised nationally has been the great effort it takes for somebody to call out discrimination and to actually seek the support or guidance from the Equal Opportunity Commission. I hope that the Attorney General is able to answer this question: what efforts is the government or the commission undertaking to encourage more individuals to be aware of the Equal Opportunity Commission's role, given it does not—correct me if I am wrong, Attorney General—reach out and it is up to an individual to go to the commission?

Mr J.R. QUIGLEY: That is right. But in terms of the way that the commission publicises itself and increases community awareness of the commission's functions, I will once again defer to Dr Byrne.

Dr J. Byrne: We have a very strong and effective training program. Some of that training is fee-for-service to organisations, but a lot of it is free training—no fee charged—to members of the public. It explains about the Equal Opportunity Act and general issues of discrimination and how to lodge complaints. I would like to assure the member that that is not metropolitan based; it can go into the country areas. One of our Aboriginal training officers will be in Geraldton for a week next week providing that training. We also are trying to develop online training so that we can have web-based training. We had a session last week with about 50 people on MS Teams throughout Australia, the Isabelle Lake Memorial Lecture, and that worked well and we are looking to expand that. We are actually going to regional areas to provide training. We want to make sure that we are accessible. Also we have a very good website, in my opinion. It is a very good website. We have information sheets. We have the inquiry line. Generally, outreach, education and training is a very important part of our function. We put significant resources into that function.

Ms L. METTAM: When is the commission coming to Busselton?

The CHAIR: I am wondering where I can link that, member for Vasse.

Ms L. METTAM: That is my final question. All roads lead to Busselton!

Dr J. Byrne: I will personally be there next week to visit my daughter who lives in your electorate. But generally, we will make sure we include Busselton and other country regions.

Mr J.R. QUIGLEY: No doubt, the commissioner will advise the Deputy Leader of the Liberal Party prior to his visit so she can organise for it.

Ms J.J. SHAW: Just very briefly whilst we are talking about the functioning of the Equal Opportunity Commission, I wondered whether the Attorney General could provide an update on the machinery-of-government changes that took effect on 1 December 2020, transferring the EOC to become an agency of the Department of Justice?

[9.20 am]

Mr J.R. QUIGLEY: Sure. The Commissioner for Equal Opportunity is, as the member knows, an independent statutory office established under the Equal Opportunity Act 1984. The commissioner's powers and functions under the act are supported by the Equal Opportunity Commission. When it was first established back in 1985, it was part of a larger agency and then it later became an independent agency. Following the machinery-of-government reforms, the Equal Opportunity Commission has reverted to being supported within the Department of Justice. This transfer has benefited the Equal Opportunity Commission as it was difficult for a small agency to provide adequate human resources and services to its staff to comply with the various requirements of independent agencies that apply irrespective of the size of the agency. This has happened with other little agencies as well. As a small agency, the Equal Opportunity Commission had high but unmanageable risks in information technology, security and protection of privacy data that require skills that are best provided through the economies of scale by being part of a larger agency. This will be evident later in the estimates committee with other small agencies.

I note that in other states the Equal Opportunity Commissions are part of the Department of Justice or its equivalent in those states, whilst maintaining full independence—I stress this—while maintaining full independence in performing their statutory duties. The commission was successfully transitioned back to the Department of Justice on 1 December 2020. All administration arrangements for the transition of the Equal Opportunity Commission to the Department of Justice had been successfully completed. The Commissioner for Equal Opportunity is no longer

responsible for the provision of corporate services, information technology, security and compliance requirements for a small independent agency, and now simply focuses upon its statutory duties unburdened from the administrative tasks.

Ms L. METTAM: Can I just get further clarification? We have finished the section related to the Equal Opportunity Commission, but we have more questions relating to division 27. Will we complete division 27 in its entirety?

The CHAIR: Yes.

Mr J.R. QUIGLEY: Excuse me. Can we excuse Dr Byrne?

Ms L. METTAM: We can excuse Dr Byrne. Thank you.

Mr J.R. QUIGLEY: Thank you, Dr Byrne.

The CHAIR: Thank you.

Mr J.R. QUIGLEY: Could the member take me to a page number?

Ms L. METTAM: Yes. I take the Attorney General to page 430, “Other Significant Issues”. Paragraph 7 refers to the government’s legislative reform agenda. The Attorney General has prioritised such things as electoral reform changes. I am wondering where the bail reform is at, as promised in the lead-up to the 2021 election.

Mr J.R. QUIGLEY: I think that the member might be referring to the bail reforms promised following the tragedy of young Annaliese.

Ms L. METTAM: Annaliese Ugle, that is correct.

Mr J.R. QUIGLEY: Ugle, that is right. I have signed off approval to bring the legislation into the Parliament. That is currently before cabinet.

Ms L. METTAM: I have a further question on Annaliese Ugle and that promise in the lead-up to the 2021 election. Obviously, some other issues have been raised since in relation to the tragedy surrounding Danny Hodgson, who received a significant blow to the head from a perpetrator who was out on bail at that time. There have been other issues around the need for bail reform, not just in relation to sex offenders. Will the bail reform also look at broadening the scope so that it deals with not only those sex offenders who are offending on bail, but also those violent perpetrators?

Mr J.R. QUIGLEY: The bail reforms that I will be bringing into the Assembly will be around bail for those charged with sex offences against minors and the requirement to give very high consideration to the protection of the victim as an overriding consideration. The offender that struck Danny Hodgson—terrible tragedy—was on bail for numerous offences. That will not be addressed in this legislation, but it is being addressed.

If I could just mention what has happened, the young offender, I think, was about 16 years of age and was from Port Hedland. He had not had interaction with the police in South Hedland other than for the most minor matter—nothing that would give any indication of violence. He had not been an abuser of alcohol in South Hedland and was not really known to police. He was a 16-year-old lad who had no experience in life, really, in the city, came down to Perth and went to Yagan Square and was introduced to alcohol. Between January and the time of the assault on Mr Hodgson, I think he had committed dozens of offences. They were a number of assaults, but they were not indictable. They were magistrate hearing-type assaults, such as punching someone. It is just absolutely abhorrent behaviour. Each time he appeared in court, the legal service that was representing him would seek a further remand, so none of these charges was ever definitively dealt with. The tragedy is if he had been dealt with early—the first charge resulted from a January incident that he ultimately pleaded guilty to at the time of the Danny Hodgson matter, so he was guilty—back in January, because he has admitted his guilt, he would have been within the juvenile justice capture and Mr Hodgson would not have suffered what he suffered.

The way that we are dealing with that is the president of the Children’s Court will issue a practice direction about the listing of the matters. These matters were just being put off because people were pleading not guilty and asking for a further remand. This has to stop. When child offenders come before the court on charges that would be indicative of or pointing towards a violence problem, those ones especially have to be dealt with on an early listing. The president of the Children’s Court is working with the practitioners over there to work up a practice direction for all magistrates and counsel. We will get to this later in the estimates, because the Director of Public Prosecutions is in the gallery at the moment; she initiated an early resolution team over at the court. There is \$500 000 for the fit-out for the DPP staff over there. I do not want to use the term “plea bargaining”, but often there is some room to discuss the appropriate charge that is brought. Instead of putting off the whole thing for months for a trial and working out what the appropriate charge is during the trial, we will have DPP staff on board over there so that we can resolve these matters quickly. Therefore, it was not the bail situation that was the problem, because the charges were—I hesitate to use the term “relatively minor”; they are not minor—not indictable. But if they had been dealt with properly, this tragedy would never have happened.

[9.30 am]

Ms L. METTAM: Thank you for that comprehensive response, Attorney General. As the Attorney General says, child sex offences are indictable and very serious. The circumstances that led to that commitment in 2020 ahead of the election meant that it was certainly well supported amongst the community. The government was able to introduce electoral reforms that were not on the agenda very quickly into Parliament —

The CHAIR: Member, stick to the —

Ms L. METTAM: — but when will we see the legislation for the important bail reform before the Parliament? I have asked questions in Parliament about this before. When will we see this important legislation before the Parliament?

Mr J.R. QUIGLEY: Before we get up for winter. As I said, I have this well advanced now. The difficulty has not been that it has been pushed down the queue because of electoral reform or anything else. The bail reform had to be circulated to all the heads of jurisdiction for comments on workability and then come back as reworked. Legal Aid, the Aboriginal Legal Service, and the Western Australian Bar Association put in comments, so then another draft goes out. It is not to appease anyone but to make sure that we have proper working legislation and, at all times, introduce legislation that will offer better protection for child victims.

It is not because something else has been given higher priority, member for Vasse; it is not. It is that we have been working diligently with the courts and the bar to get the legislation right. Just to give the member an idea, when we do these, sometimes we get six or seven—I did not appreciate this in opposition, but the Leader of the Opposition having been a minister would—drafts before we get to the final one. The final draft goes out to the courts and we ask the Chief Justice what they think of it and we wait for a reply. We have this as a priority. Look at what the failing was in that case. The failing was insufficient attention was given to the vulnerability of the child victim. Some attention was given to the offender and where he would appear next and whether it should be over at Narrogin for his safety and whatever.

Mr P.J. RUNDLE: I refer to page 436, service 1, “Court and Tribunal Services”. Attorney General, this matter relates in part to prisoners’ release. How many applications for early release or parole has the Attorney General approved?

Mr J.R. QUIGLEY: I do not receive applications for parole, and I do not know that people actually get the opportunity of applying for parole. The courts themselves set a period during which the person cannot be considered for parole, but in the case of people who receive either a life sentence or an indeterminate sentence, which we used to call the key or the Governor’s pleasure, the Prisoners Review Board makes a recommendation to the Attorney. That is also the case for people who are given a detention order under the Criminal Law (Mentally Impaired Accused) Act.

For both of those, it comes before the executive as to whether it will reject the board’s recommendation in these matters. Before any of these people are considered for parole, they are given what is called an RSP, which is a resocialisation program that normally runs anywhere between 18 months and two years, I believe, with about three stages in it. I cannot describe each stage in detail. The first is within the institution and the second will be out of the institution but in company. The third will be out of the institution but coming back to the institution at the end of the day. So, there is this resocialisation program and the executive has to approve people going onto that. Then, when their minimum term has expired and they have completed a resocialisation program, the Attorney for the executive will receive a full report on how they went on the resocialisation program and the board’s recommendation.

In looking at that, I always look to the comments of the Commissioner for Victims of Crime, who will contact secondary victims; the board will contact secondary victims. The secondary victims are varied in their response. Not unexpectedly, a lot of secondary victims want the person never to have parole. Others say that they are not happy about it, but they realise we cannot keep the offender locked up forever, so they just do not want them anywhere near their suburb, and parole orders are made to secure that. But in terms of the actual numbers, I do not have those by number before me.

Mr P.J. RUNDLE: Would the Attorney General be able to provide those as supplementary information?

Mr J.R. QUIGLEY: To be clear on the actual supplementary information required, could we just stipulate that? Is it how many in the last 12 months since the last estimates?

Mr P.J. RUNDLE: That will be fine. How many has the Attorney General received and how many has he approved?

The CHAIR: Can you clarify exactly what you are going to provide, please, Attorney General.

Mr J.R. QUIGLEY: I will provide, in respect of people who received a life term, how many recommendations I have received from the Prisoners Review Board to admit the prisoner to a parole program, and how many have I approved and how many I have rejected of those.

[*Supplementary Information No B14.*]

Mr J.R. QUIGLEY: Sorry; there is one other category. There is one other category that, fortunately, I do not have to use too often, and that is the serial and mass murderers; I can direct the board not to consider them, which I have used on a couple of occasions.

Mr P.J. RUNDLE: Would the Attorney General be able to also provide that as supplementary?

Mr J.R. QUIGLEY: Fortunately, not a lot of serial and mass killers are coming up for parole, so it would be minimal in number, but I can provide that.

[9.40 am]

Mr P.J. RUNDLE: Is the Attorney General able to include the nature of those crimes as part of that supplementary information?

Mr J.R. QUIGLEY: Sure. I would expect most of them to be murder, and it is not the most pleasant task to have read the full details each month.

Mr P.J. RUNDLE: Is the Attorney General happy to include that as part of the supplementary information?

Mr J.R. QUIGLEY: I am, but just the offence that they were convicted of.

Mr P.J. RUNDLE: Yes; that is it.

Mr J.R. QUIGLEY: As I say, most of them will be murderers and most of them will be pretty grim.

Mr P.J. RUNDLE: No, that is it on that one.

Ms M.J. DAVIES: I refer to the table and the total cost of services on page 429 of budget paper No 2, volume 2. We played this game a little bit last year, so the Attorney General can tell me whether I need to ask him when we get to the State Solicitor's Office if I am not asking it in the right division. But we are just wondering, in relation to the total cost of services for justice, about the final cost of the case that saw Magistrate Crawford suing President Quail. What was the cost to the state in defending President Quail, and was Magistrate Crawford reimbursed for her costs?

Mr J.R. QUIGLEY: Since last year's estimates hearings, the State Solicitor's Office has become a sub-department, and the State Solicitor will be —

Ms M.J. DAVIES: Does the Attorney General want me to ask the question when they are in?

Mr J.R. QUIGLEY: Yes.

Ms M.J. DAVIES: All right. I am happy to do that. I thank the Attorney General for his guidance.

Ms L. METTAM: I go back to page 430 and the section I touched on earlier in relation to the legislative reform agenda, the seventh paragraph. Where is the legislation around our coercive control act? I understand it is being considered by the Law Reform Commission, but what is the time frame and consideration for introducing it?

Mr J.R. QUIGLEY: I do not know about the legislation yet, but the Law Reform Commission is looking at these matters. Of course, coercive control is a form of abuse that undermines the victim-survivor's autonomy and capacity to resist and escape family and domestic violence. It can have a significant and lasting impact. The government announced that the community would be consulted about tackling this, and we announced this only on 29 March this year. Submissions are sought about the current and future legislative responses to coercive control. The consultation process is open for people to write in until 30 July this year. The consultation is being managed by the Office of the Commissioner for Victims of Crime, if any of the member's constituents would like to make a submission, and she could perhaps publish them in her newsletter. There is also a full discussion paper available on the Commissioner for Victims of Crime's website. The discussion paper's focus is on whether the current legislative responses to coercive control in Western Australia are adequate and how they could be improved.

The consultation process has received very strong interest so far from victim-survivors, the public, the legal assistance sector and the family violence sector. A large number of public submissions have already been received. We expect that the Commissioner for Victims of Crime will give us a report in late July of this year and I might be in a position to make a statement soon thereafter.

Ms L. METTAM: Of course, the prospect of introducing legislation will be based on the consultation process, but when might the Attorney General anticipate, at this early stage, that such legislation would be presented to Parliament? What are his views of the challenges associated with the very worthy goal that this proposed legislation seeks to achieve?

Mr J.R. QUIGLEY: I do not want to be rude, but I do not want to answer the member. I would rather wait to comment on the issues around coercive control until all the public submissions are in. If I say now what are the issues around it, I might not be paying proper attention to the submissions. People—victims—may have raised things that

I am not yet fully apprised of. I really want to wait until the commissioner comes back to us on that. She is a wonderful Commissioner for Victims of Crime and I am sure she will do a good report. As to the legislation, I get pushback. The member knows what my legislative record is. I want to get them all in here as quickly as possible. She can rest assured on this one; I will do my best to bring it before the Parliament as soon as we can.

Mr C.J. TALLENTIRE: My question relates to criminal injuries compensation, and I am looking at page 431 and the nineteenth paragraph under “Other Significant Issues”. Can I ask the Attorney: why does the figure of the sum of awards of compensation paid out to victims of crime in 2021–22 differ from the original budget of the payments of awards?

Mr J.R. QUIGLEY: Thank you, member, for asking the question. In 2021–22, it is forecast that \$90 million of criminal injuries compensation payments will be paid out to victims of crime, which will exceed the original budget of \$31.8 million by a total of \$58.2 million. As part of the 2022–23 budget process, the budget has approved additional funding of \$58.2 million, and \$9.9 million in the 2022–23 and out years for criminal injuries compensation payments made on behalf of the state. The number of criminal injuries compensation applications assessed and awards granted has increased significantly from 4 777 in the 2020–21 financial year to 5 984 for the first three quarters of the 2021–22 year. It also notes an increase in the overall number of awards granted under the Criminal Injuries Compensation Act during the previous financial year, and this year’s result is a result of the dedicated effort of reducing the backlog. Although the number of applications received is significant, the total case load has reduced, because we are clearing the backlog, from 4 949 in 2021 to 4 213 at the end of quarter 3 in 2021–22. This is a reduction of 15 per cent by clearing that backlog. As at 31 March 2022, applications lodged have already increased by 25 per cent of the total lodged in 2021. However, the average award amount has decreased from \$16 581 to \$14 758 in March 2022. The increased number of applications assessed is due to the implementation—I think this has increased the applications—of the e-lodgement system, with the introduction of a streamlined process and the appointment of an additional assessor and additional supporting case managers. It should be noted that the amount paid and the amount awarded each year differs because the amount awarded is the award order figure, which may include future payments that are not paid out at the time the award is granted—for example, ongoing medical costs. The future payments can be paid out at a later date for a period up to 10 years from the date of the award, because a person might have ongoing psychological issues or, in some cases of head trauma, neurological supports going forward. We cannot budget that; we just have to support the victim.

[9.50 am]

Mr P.J. RUNDLE: I refer to page 431 and the eighteenth paragraph, just one up from the last one. I think this is a subject that upsets many people in Western Australia—the criminal and civil time to trial in the Magistrates Court. There is a point here that the department is undertaking a feasibility study to address the demand for additional criminal trial facilities. Can the Attorney General just outline the feasibility study, what his expectations are and whether this will lead to broad reform? Let us face it, it is just taking too long for these trials and so forth to go ahead.

Mr J.R. QUIGLEY: Yes, there are a couple of issues and I am presently going to invite the executive director of court services, Ms Jo Stampalia, to respond to the member’s question in detail. But may I preface the director of court services’ response by saying this. Shortly after we came to office in 2017, a pipeline of justice model was developed. That model is a computer model with input points. We put different inputs in and it will tell us what we need to service those inputs. For example, our parties go to the election and they promise extra police. Then we put in the input “extra police” and the number. That then predicts how many extra arrests there will be. That leads to how many extra magistrates we will need, how much extra legal aid we will need and how much more the Director of Public Prosecutions will need. This was never done before we came to office.

The District Court, which handles most of the criminal matters, is still under pressure and the pipeline to justice has been delivering an extra judge a year. For each year that I have been the Attorney, there has been an extra judge—not just replacements—added to the court. We have been serious about attacking these delays. Of course, the time to trial has also been significantly affected by COVID, and having to put trials off and the like. If I may, Madam Chair, I invite Ms Stampalia to give the chamber the accurate figures and the details.

Ms J. Stampalia: The Attorney has covered most things very well in terms of what has been happening. I will probably cover time to trial overall for courts. The challenges with time to trial have existed for a while for a number of reasons. The multi-accused trials are presenting great difficulty in all jurisdictions, including the Magistrates Court and the District Court. The multi-accused trials, in particular, are causing difficulties for the jurisdictions. One of the things that the member talked about was the feasibility study for additional criminal trial courtrooms. One of the challenges is the lack of those courtrooms that allow us to have multi-accused in the courtrooms. We only have a limited number of those courtrooms, and that does affect listing practices. In the Magistrates Court, that same thing happens as well. The judiciary is talking about a number of things relating to how they list those trials and how we share the facilities across the three main buildings in Perth. We have the Magistrates Court in the Central Law Courts; the Stirling Gardens building, which is the old Supreme Court; and then the District Court building. There

are a lot of challenges in looking at that. The feasibility study that the member referred to in the significant issues point relates to some work we are doing about building a business case to put to government in the 2023–24 budget process that will hopefully get some success with building a facility with up to 12 criminal trial jury facility courtrooms in it as well.

COVID also has impacted the jurisdictions, as the member would have heard the Attorney say. That has impacted a lot of things, such as counsel travelling from interstate, the availability of witnesses and the availability of other people who are involved in the court process as well. A lot of things have contributed to that, but the judiciary are very clear around the need to address that, so we are working with them at the moment. As the Attorney said, we are about to bring on additional judges and magistrates through the pipeline model on 1 July.

The CHAIR: Before you continue, Attorney General, we are still on division 27 and we have a lot of divisions to go. I just want you to be mindful of that.

Mr J.R. QUIGLEY: I just want to make this important observation to the member. Our chokepoint is courtrooms, as Ms Stampalia has just pointed out. The difficulty is—it is not the member’s fault; it is not his party’s fault at this point in time—that the previous government built a new Supreme Court centre, the David Malcolm Justice Centre, which is about 35 storeys high. It built an abundance of courtrooms in there. It was a private–public partnership. Unfortunately, a previous administration signed off on this and agreed that there would be no criminals in the building, and therefore no criminal trials in there. It said, “We built a new Supreme Court and we built all these beautiful courtrooms, but you are not allowed to have a criminal trial or a criminal appeal in there.” All the Supreme Court judges who are doing crime trials, such as murder trials, have to go over to the District Court and sit in the District Court’s courtrooms, and displace the District Court. It was just a fatal error in the administration of justice to build a courthouse and say that we cannot have a criminal trial in there. That is why Ms Stampalia is saying we have to do a half a million-dollar business case to try to build a new courthouse, again, to conduct criminal trials. The community has an expectation that when someone does these terrible offences, they will face justice reasonably swiftly and not be put in an interminable queue. It was a failing. It is no good now to go into who was responsible, but we have a huge courthouse and we cannot have a criminal trial in there.

Ms M.J. DAVIES: Attorney General, I refer to page 436 under “Court and Tribunal Services”. This is along the same lines as the question on the Magistrates Court; I am happy to take instruction if there is no-one in this division to answer this question. A number of families within my electorate have been impacted by the length of time the coroner and the Coroner’s Court has taken to resolve issues. Could the Attorney General perhaps make a comment on that?

[10.00 am]

Mr J.R. QUIGLEY: Certainly. I will give the member the figures. The backlog in the Coroner’s Court has increased from 483, as of 30 June 2020, to 810, 12 months later. The overall backlog has increased to 1 325 cases. The number of reportable deaths continues to increase each year, with a record 2 942 reported in 2020–21. By comparison, there were 400 fewer, 2 537, in 2019–20; 2 450 in 2018–19; and it was down to 2 422 in 2016–17. There is a significant backlog because each of these have to be investigated by the coronial inquiry section before the coroner can write them off. A total of 2 737 investigations were finalised in 2019–20, compared with 1 994 in 2020–21. Of those, 1 937 were finalised by an administrative finding, of which 704, that is 36 per cent, were backlog cases; and 57 were finalised by inquest, of which 55, or 96 per cent, were backlog cases. The Coroner’s Court can only progress and complete a coronial investigation upon receiving the final or supplementary post-mortem examination and toxicology reports from PathWest and the ChemCentre, respectively. Once they are provided, the coroner awaits the police investigation report that goes with the file to the coroner. The coroner cannot progress the backlog of investigations that are still with the police or the Department of Health. This is significant, Leader of the Opposition: as at 30 April 2022, of the 1 325 backlog cases, 295 are under the control of the court. The coroner can deal with only 22 per cent of the backlog cases. The backlog cases that cannot be progressed to the court—pending external investigations by, as I said, PathWest, the ChemCentre or police—is 1 030, or 78 per cent of the backlog cases awaiting completion by the coronial inquiry section before they can go to the court.

Ms M.J. DAVIES: I thank the Attorney General. That gives us an understanding of the pipeline that it has to go through to get to the Attorney General’s portfolio responsibility, which is the pointy end, ultimately, and that is where families see the hold-up.

Mr J.R. QUIGLEY: They do.

Ms M.J. DAVIES: There is still a backlog of 295, I think the Attorney General just said, as of this year, regardless. What can be done to reduce that? We are talking about families and individuals who have been through a traumatic event, because to be in that system they have already been through quite a traumatic incident. The individual has obviously moved on but those who surround them have not. Without having that closure, it puts enormous pressure on everyone involved. Is there advocacy for additional resources along that whole pipeline to reduce that being

applied? We have a significant budget surplus this year. These are the sorts of things we would think, whilst probably not sexy in making headlines, actually make a real difference for those in the system.

Mr J.R. QUIGLEY: I appreciate the member's recognition of the fact that before they get to the pointy end of my portfolio, there is a lot that happens before. The director general was anxious to point out to me that the department has met with the police and with PathWest to see whether they could put more resources into accelerating these files. In terms of the Coroner's Court, the member may well remember—I am sure that the member does—that we acquired a CT scanner so that there do not have to be as many post-mortems.

Ms M.J. DAVIES: Yes.

Mr J.R. QUIGLEY: That is really important for our First Nations people too, who do not want the body disturbed in any way. The coroner can now scan it and say, "Yes, we can identify the brain embolism that took the deceased out", so we did that. The member might remember that we also introduced a Coroners Amendment Bill to provide better capacity for coroners and deputy coroners to finalise matters without an inquest in situations in which there has been a sudden death but the coroner can identify fairly early via the CT scan that the elderly person found dead at the bottom of the stairs died of a heart attack, not from a fall down the stairs, and say "Well, there was the myocardial infarction right there." That speeds it up. But it is really that front-end part that we are waiting on. I have to say that a member of my family who was relatively young, in their 30s, unexpectedly died and the family were ringing me. Not that I could or would want to in any way interfere with the coronial process, but I had to explain to my own family that they are going to have to wait on toxicology. They have got to do post-mortem, they have got to take samples, and then they have got to send it off to PathWest and wait for reports to see what caused the sudden death. I know at a personal level how distressing it was. No funeral arrangements could be made; that immediate grieving was just elongated because the family did not know what had happened. What has caused all this?

Ms M.J. DAVIES: I am sorry to hear about that, Attorney General. I have had a similar experience with a very close friend.

Mr J.R. QUIGLEY: The member knows personally.

Ms M.J. DAVIES: It is extraordinarily distressing not to have closure for more than 12 months on something that is relatively simple. The general public do not understand. I just think that with the resources that this government has, additional effort across portfolios could be made so that we do not have to have those conversations with the people whom we love. It should not be about having to know someone to make that advocacy and change that outcome.

The last point that I want to make on this is that I understand that the coroner was invited to speak or was invited to an estimates committee hearing in the Legislative Council and did not appear and gave a reason that was difficult to understand. Does the Attorney General have any advice on why that might have occurred?

Mr J.R. QUIGLEY: No; I gave no direction or advice to the coroner on whether to appear before the Legislative Council or not appear before the Legislative Council. The coroner is a member of the judiciary. I have been punctilious since coming to office to make sure there has been a hard line of demarcation between the executive and judiciary. I gave no advice, not subtly and not by a nod and a wink, not by anything. In fact, I have not spoken to the coroner since that letter of invitation went to the coroner. I just make the note that other members of the judiciary—for example, the Chief Judge, the Chief Justice, the Chief Magistrate—do not appear before estimates because they are part of the judiciary and not part of policy. That is all I can advance. It was no part of the government.

[10.10 am]

Mr P.J. RUNDLE: I refer to page 430 and the line item "Justice Services Expenditure", about four lines from the top. There is an allocation of \$41.149 million in this budget year. Can the Attorney General please outline the spending increase? Does any of this money go towards the electronic monitoring trial for family and domestic violence offenders, which was the trial the Attorney General announced with the Minister for Prevention of Family and Domestic Violence on 18 August 2020?

Mr J.R. QUIGLEY: I am just checking that against my papers. Do I understand the member's question to be: does that increase include electronic monitoring?

Mr P.J. RUNDLE: That is correct.

Mr J.R. QUIGLEY: I am advised by the director general that that is separate. It is not included.

Mr P.J. RUNDLE: Okay. Could the Attorney General point me to the line item for electronic monitoring?

Mr J.R. QUIGLEY: Yes. I wonder if the director general can answer that question, Madam Chair.

Dr A. Tomison: Thank you, Attorney. The point the member was first referring to, the justice services expenditure, is about the entire budget. A lot of that is really corrections-focused, because in terms of size, that is the most part

Extract from Hansard

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Chair; Mr John Quigley; Ms Mia Davies; Ms Libby Mettam; Ms Jessica Shaw; Mr Peter Rundle; Mr Chris Tallentire

of Justice. However, what the member is actually referring to is the point just above, which is the justice reform program. That is where the money for the electronic monitoring of family and domestic violence offenders was actually allocated. It is in that line just above where the member was looking. That covers a whole number of projects, including the bail support service at Perth, Broome and Derby Magistrates Courts; the prison in-reach legal service for prisoners and defendants appearing at the Central Law Courts; a general court intervention program, which is like a therapeutic court; the family and domestic violence GPS tracking trial, which is a metro area; and the parole in-reach program, which is being developed and is operating at Acacia Prison and Wooroloo Prison Farm. Yes; that is essentially where it sits—the line above where the member was looking.

Mr P.J. RUNDLE: Given that it is covered under that particular line item, can the Attorney General detail how many offenders have been registered through the trial and are currently participating in the trial?

Dr A. Tomison: I might get the Attorney General to hand over to Ms Maj.

Mr J.R. QUIGLEY: I wonder if I can hand over to Ms Maj to answer that question.

Ms K. Maj: Yes, the trial is currently operating. I do not have the figures in front of me of how many people are on the trial today, but the last time I looked, around eight offenders are on the trial at any given point in time. It is also currently being evaluated, obviously to inform any decisions around expansion. We have also had funding approval to extend the trial by an additional year. There were some delays around COVID in getting all the justice reform programs up and running, so we have an additional year on the pilots to make sure that we can assess them properly.

Mr P.J. RUNDLE: That is fine regarding the numbers, but can the Attorney General confirm whether any of the monitors have failed or whether any of those have been removed by offenders?

Mr J.R. QUIGLEY: As to whether they have interfered —

Mr P.J. RUNDLE: Whether any of the monitors have failed.

Mr J.R. QUIGLEY: The member will have to save that for the Department of Corrective Services part of estimates.

Mr P.J. RUNDLE: Okay. Thank you.

The appropriation was recommended.