

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

Chairman, Mr I.C. Blayney.

Dr K.D. Hames, Minister for Health representing the Attorney General.

Ms C.M. Gwilliam, Director General.

Mr A. Andersson, Director, Business and Financial Services.

Ms P.M. Bagdonavicius, Public Advocate.

Mr P.D. Evans, State Solicitor.

Mr W. Hewitt, Executive Director, Corporate Services.

Ms J. Hoffman, Commissioner for Victims of Crime.

Mr B.E. Roche, Public Trustee.

Mr R. Warnes, Executive Director, Court and Tribunal Services.

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

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

Mr J. Lee, Principal Policy Adviser.

[Witnesses introduced.]

The CHAIRMAN: Member for Butler.

Mr J.R. QUIGLEY: I turn to page 433 of the *Budget Statements*, which states that the government's goal is —

Greater focus on achieving results in key service delivery areas for the benefit of all Western Australians.

And that the desired outcome is —

An efficient, accessible court and tribunal system.

The government has refused to replace now-retired Justice Narelle Johnson with a new Supreme Court judge, reducing the Supreme Court judge number down to what it was in 2006; that is, taking it back to the judicial number of eight years ago. Given what we have heard from the Director of Public Prosecutions—that dangerous sex offender applications have required him to place on staff 2.5 full-time equivalents to handle those applications, and that the homicide rate is more than just a temporary spike; the DPP is expecting another 50 this year—how can the government expect the Supreme Court to deliver an efficient system while it is reducing the judicial number to what it was in 2006?

Ms C.M. Gwilliam: The government's approach to resourcing, as announced by the Attorney General, is that resourcing for the courts will be assessed on a business case requirement. In the case of the Supreme Court, the Attorney General is not saying there will not be additional resources; he is saying he wants to see the argument. I suppose that reflects the key performance indicators as indicated in the budget, where the Supreme Court criminal time to trial is sitting at its KPI of 28 weeks. In the past—2003, 2006—the KPI was at about 45 weeks. I think the Attorney General's comment is that resourcing will be provided, depending on demand for additional resources.

Mr J.R. QUIGLEY: Is it not true that the time to trial in the criminal division has been reduced by the allocation of four judges sitting there? That is, taking judges out of the general division and putting them in the criminal division, plus an extra judge—taking it to five—when hearing rooms become available. Does that not indicate that the court is under stress already in that it has to take judges out of the general division and put them in the criminal division to deal with people held on remand?

Ms C.M. Gwilliam: I would suggest that reflects very good court management by the Chief Justice. It is about using judicial resources where the demand is. The member is correct in that we have seen an increase in criminal matters, but there has also been a decrease in civil matters.

Mr J.R. QUIGLEY: Is it not true that assessment of the courts' workload cannot be done just on the number of filings, but rather on the complexity of the litigation involved?

Ms C.M. Gwilliam: I would agree with the member, which is why we have a range of KPIs that we utilise. There are KPIs, as the member said, for time to trial, and we also watch the criminal backlog. Western Australia has the lowest criminal backlog of all jurisdictions at approximately five per cent. All indicators are —

Mr J.R. QUIGLEY: I wonder if I could interrupt for a moment. Whoever is controlling the microphones, the adviser keeps on —

Dr K.D. HAMES: Hers is on.

Mr J.R. QUIGLEY: I am just saying, because there might be someone in the control room, that in terms of reproduction, the adviser flips in and flips out, and sometimes I get it. This is for the benefit of the people in the control room.

Dr K.D. HAMES: I can tell the member from the people in the control room that when the director general is speaking, her microphone light is on all the time.

Mr J.R. QUIGLEY: There is a malfunction on this side then.

Dr K.D. HAMES: It must be the member's volume switch.

Ms C.M. Gwilliam: I will summarise. I would agree with the member that the complexity is there and the length of trials is there—I do not deny any of that; the issue is purely about seeing what the indicators are saying to argue the resources. The Attorney General has had the discussion and correspondence with the Chief Justice on that, and the Chief Justice has recently provided the Attorney General with some additional information. The Attorney General is not saying that there will not be resourcing; he is just saying he wants to have demonstrated the need for the resourcing.

Mr J.R. QUIGLEY: The corollary to that is: was the Attorney General's predecessor wrong in maintaining the judiciary at 20 on the Supreme Court?

Ms C.M. Gwilliam: I do not look at it that way; it is about what the resources are giving in terms of outcomes in accordance with the KPIs. In terms of where we are, in about 2007 we used to have a KPI target for criminal time to trial of, I think, 38 weeks. The government has successively lowered the KPI to reflect the increased performance that has come about through many things, including very good court management, technology, and also a change in, as I say, criminal lodgements and civil. That has resulted in different performance outcomes.

Mr J.R. QUIGLEY: The director general said that a number of KPIs drive the appointment of judges to the Supreme Court, and that the Chief Justice has provided supplementary information to the government in support of an extra judge on the Supreme Court.

Dr K.D. HAMES: Is that the member's question?

Mr J.R. QUIGLEY: Can the director general share with us the Chief Justice's supplementary information?

Ms C.M. Gwilliam: I cannot, because the information has gone to the Attorney General. The Chief Justice's letter went to the Attorney General, so I think it is a question for the Attorney General.

Mr J.R. QUIGLEY: We are discussing the Attorney General's division in the budget, minister. Can the minister tell me, if he does not have the letter, what the substance of the Chief Justice's submission for an extra judge is, or is this all a secret in the court, just to be cheeky?

Dr K.D. HAMES: I cannot commit the Attorney General to providing a supplementary answer to a question like that, of which I have no knowledge what the answer might be. I suggest that the member put it on notice to the Attorney General.

Mr J.R. QUIGLEY: Can it not be fairly anticipated that with the activation of the criminal organisation anti-association laws, and Criminal Code home burglary mandatory sentencing, the workload of the court is likely to increase?

[3.20 pm]

Ms C.M. Gwilliam: In terms of mandatory sentencing for burglaries, yes, we would see a small increase in lodgements in the criminal courts, some of which would lead to mandatory sentences, so the member is correct. We look at the total court performance. As I say, we have seen as many as 134 000 criminal matters lodged in 2007–08, down to about 100 000 in 2012–13, so the workload of the court varies. The impact of economic boom times probably has also led to less offending, particularly in respect of lodgements made to the Magistrates Court.

Mr J.R. QUIGLEY: Was there less offending?

Ms C.M. Gwilliam: There were fewer lodgements in the court.

Ms L.L. BAKER: I refer to the procurement savings for 2013–14 and 2014–15 under the line item "Legal Aid" on page 432 under the heading "Spending Changes". Can the minister spell out the details of the cuts or procurement savings under Legal Aid?

Dr K.D. HAMES: I will hand over to Mr George Turnbull, who is the director of Legal Aid.

Mr G. Turnbull: With the minister's permission, I might ask the director, business services, to answer that question.

Mr M.G. Bradshaw: This procurement saving was an amount absorbed from within savings already achieved by the agency. There was no day-to-day impact as a result of this measure being applied.

Ms L.L. BAKER: I understand that Legal Aid decided to shut down its Fremantle and Midland offices; that was made public at Easter. The Fremantle office is to close in 2015 and the Midland office sometime after. Are those closures not related to procurement savings?

Mr G. Turnbull: The decision to close both those offices was not directly related to any issue of budget cuts. We review our operations on a regular basis to ensure that we are delivering services in the most cost-effective and efficient manner. As part of that process, we recently undertook a review of the two suburban offices and as a result of that examination, it became clear that the overwhelming majority of services provided from each of those offices were duty lawyer services. The role of a duty lawyer is court based and is not reliant upon access to a local suburban office. Likewise, the legal representation services that we provide under our grant in aid program are not dependent upon access to a local office. It is true that a number of those people who present for face-to-face advice for legal issues will be inconvenienced by the closure of those offices. However, when we looked closer at the demographics, we discovered that two-thirds of the people who presented at, for example, the Fremantle office, resided beyond a 10-kilometre radius of Fremantle; indeed, only one in six lived within a five-kilometre radius. The simple equation is that the more funds we can save through administrative overheads or reductions in rental, the more capacity we have to provide front-line services. In the end, we weighed up all the factors and came to the conclusion that the business case for closing those offices and, in effect, bringing the staff into our new premises, which we hope to occupy in a little over 12 months, was the sensible thing to do. That is why we have made that decision.

Ms L.L. BAKER: I thank the minister for that information. That answer leads into the subsequent question I was hoping to ask, which is about the relationship between the shutting of those two offices and spending \$2.5 million a year for each of the 2015–16, 2016–17 and 2017–18 financial years on new accommodation. Is the logic of that that Legal Aid wants to bring more people into a central place because it is not as cost-effective to have those suburban offices? Is it a centralisation policy rather than a regional policy?

Dr K.D. HAMES: Can we just say yes, or do we want to answer that?

Mr M.G. Bradshaw: We currently occupy premises at 55 St Georges Terrace, the lease for which was finalised back in 1999 or early 2000. As a result of the deal that was negotiated then, we pay a net rent in the order of \$225 a square metre, which is very good, cheap rent. The current market rate has trebled since that time and our lease was expiring, so last year we renegotiated the lease and we now have a lease that is in the order of \$650 a square metre net at the old May Holman Centre. The funding the member can see in that table is to top us up as a result of that change in market movement. That was clearly the best deal we could get in a very difficult market.

Ms L.L. BAKER: My final question on Legal Aid is about the contractual obligations of Legal Aid to get its funding. Could the minister please outline in general terms what those contractual obligations are between Legal Aid and its funding agency, the Department of the Attorney General?

Mr G. Turnbull: We do not have a funding agreement as such, but we have benchmarks and targets, and we report to government.

Mr J. NORBERGER: I refer to the line item “Coroner’s Court” in the same table on page 432. I see that, over the forward estimates, there is an increase in funding of almost \$1 million a year to the Coroner’s Court. Does that increase in funding now make the Coroner’s Court fully funded?

[3.30 pm]

Ms C.M. Gwilliam: Yes, the reference to the \$1 million per annum is for increases in forensic pathology, toxicology services, body removal and medical reports. That is on top of the \$8.8 million per annum that we are getting at the moment. That is additional; it is a growth factor. We also received significant dollars in last year’s budget—\$8.2 million over four years—which was to fund an additional 12 FTEs for the coroner’s office. That is making what used to be temporary annual funding into permanent recurrent funding. The coroner’s office now has a total of 27 FTEs. It has two additional coroners and two additional counsel assisting so it is now fully resourced. Its backlog has reduced considerably.

Mr P. PAPALIA: I refer the minister to the fourth dot point under “Significant Issues Impacting the Agency” on page 434, which states —

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

That is an interesting observation, noting that we do not seem to be very good at it. It continues —

The three main focus areas of the Department relate to Aboriginal people either in or at risk of entering the justice system or prison because of driver's license offences, or unpaid fines and the provision of victim support services ...

What exactly is being done?

Dr K.D. HAMES: The director.

Ms C.M. Gwilliam: In relation to driver's licences, and also fines enforcement, we are working on two fronts. Firstly, we run a range of open days with a number of agencies, whereby we support people in the community to either get their driver's licence back or undertake driver training. We were successful with royalties for regions and we have additional money to do driver education and training. Secondly, we are delivering services in a number of areas in the Kimberley region—Broome, Derby, Fitzroy Crossing, Halls Creek, Kununurra and Lombadina—and also in Roebourne in the Pilbara region and in Kalgoorlie in the goldfields—Esperance region.

Mr P. PAPALIA: Is that it?

Ms C.M. Gwilliam: I can add more. We are also assisting Indigenous people in court, so we have a series of Aboriginal liaison officers in the courts. We have a series of dedicated staff in our fines enforcement area to work with Indigenous people in fines management so they do not lose their driver's licence and end up in prison. We are working hard to keep people with traffic offences out of prison. In terms of the prison population, 0.4 per cent of the prison population are in prison for fines enforcement matters, and we would like to see that lower still.

Mr P. PAPALIA: I wish to discuss that .04 per cent that was just quoted. Is the minister aware that the Minister for Corrective Services has provided me with information that confirms that since this government took office, of the increase in the prison muster, one in every seven is there for fine default alone?

Ms C.M. Gwilliam: No, I was not aware that he said that.

Mr P. PAPALIA: It is about 14 per cent.

Ms C.M. Gwilliam: It is a matter of how it is counted. I am talking about offenders in any day muster. Remember, fines enforcement offenders are not there for long—one, two or three days. Looking at the number of fines enforcement offenders who are Indigenous out of the total annual population, my understanding is that it is more like 0.4 per cent.

Mr P. PAPALIA: That is a completely deceptive, unhelpful and pretty useless figure. The fact is that of the people entering our prison system since the Barnett government took office, with the increase in the muster, one in seven of them is going there for fine default alone, which would suggest that sending people to prison for fine default alone is ineffective and very costly. Even though they are there for only three or four days—that is true; they go in on a Friday and come out on a Monday—predominantly, they cost us hundreds of millions of dollars. I do not think the department is doing much to try to identify alternatives.

Dr K.D. HAMES: That was not a question; it was a statement.

Mr P. PAPALIA: Is the department doing anything to identify alternatives?

Dr K.D. HAMES: I think the director has answered that question. That was the previous question.

Mr J.R. QUIGLEY: I refer to the second note on page 437 of the *Budget Statements*. Exactly when will the Magistrates Court commence sitting at the new Perth police complex and what additional cost per year will be incurred to have a Magistrates Court convened every Sunday? What date is it starting and at what cost?

Ms C.M. Gwilliam: Sunday court will commence on 6 July, so the first Sunday in July. The budget allocation provided to the department, which was in last year's budget papers, was \$4.3 million over three years.

Mr J.R. QUIGLEY: Does that sum include additional resources for the Legal Aid Commission to have staff at the premises whilst sitting on Sundays?

Ms C.M. Gwilliam: Yes, it does.

Mr J.R. QUIGLEY: Finally, that note does not refer to night courts. Are we to assume now that night courts will not be operating at the Perth police complex?

Ms C.M. Gwilliam: The member is correct.

Mr J.R. QUIGLEY: Part of the government's electoral promise to the community was that there would be Sunday courts and night courts. Has the minister been advised that that part of the government's program has been deleted?

Ms C.M. Gwilliam: Definitely. Noting the work that was done by officers at the Department of the Attorney General with police officers at WA Police and with the Chief Magistrate was that there was no need, given the

numbers, to be doing night court. My sense is that the collective view, led by police, with the Chief Magistrate's support, was for Sunday, so that is what we have implemented.

Mr J.R. QUIGLEY: Just to give us an idea of what the expected workload might be on a Sunday, is the minister able to tell us how many cases are presented on a Saturday to the Magistrates Court?

Ms C.M. Gwilliam: No, I cannot give that answer here but, as the member is aware, we have been sitting every Saturday for as long as is required to clear the overnight muster, but I do not know how many people we have seen.

Dr K.D. HAMES: It would seem that there are a fair few, given the answer just given.

Mr J.R. QUIGLEY: I do not know whether we can make that assumption. In my days of practice, they used to have a magistrate down there, sometimes two people. I want to look at the cost effectiveness of it.

Ms L.L. BAKER: The third dot point on page 434 states —

The State Solicitor's Office will need to respond to the increasing volume of requests associated with the Commonwealth's Royal Commission into Institutional Responses to Child Sexual Abuse.

Can the Deputy Premier give us some examples of the types of requests, the expected increase and the drivers around that?

Dr K.D. HAMES: I will hand over to the State Solicitor, Mr Evans.

Mr P.D. Evans: The royal commission is engaged in a very wide-ranging and complex inquiry. To date, it has issued to state agencies a number of summonses for the production of documents that are maintained by those agencies, seeking historical records, primarily case files in relation to individuals but also policy position papers, records of inquiries and so forth. The summonses we have dealt with to date have been varied in nature and the time frame for response has often been quite short. In one instance, the department had to review something like 200 historical files, going back as many as 20 or 30 years, within a matter of a few days. The royal commission has, as many will be aware, recently been engaged in its initial hearings in Perth, which has informed a number of requests for information that state agencies have had to meet. The department has been responsible for coordinating those responses and compiling the necessary documents for production to the royal commission. We anticipate that workload will continue for some time.

[3.40 pm]

Ms L.L. BAKER: The budget papers state that the State Solicitor's Office will need to respond to the increasing volume of requests. Can the minister give an estimate of how much that increased workload will be? Is it another 15 per cent, 30 per cent or 60 per cent over the next 12 months than the department has been experiencing?

Mr P.D. Evans: The department, frankly, has no idea what the increase will be. Given the level of funding of the royal commission and the scope of its inquiries, the department would anticipate that after the commission has done its preliminary report, which is due shortly, and identified the areas for future exploration, we will have further requests to deal with.

The CHAIRMAN: The committee will take a 10-minute break.

Meeting suspended from 3.43 to 3.56 pm

Dr K.D. HAMES: Mr Chairman, I apologise. We have reached an agreement with the other side, because the Commissioner for Children and Young People needs to fly out somewhere this afternoon. Can we interrupt consideration of division 37 until a later stage?

The CHAIRMAN: After receiving some advice, apparently, the committee can agree to adjourn the division and come back to it at a later stage today.

Division interrupted until a later stage of the sitting.

[Continued on page 56.]