

# **STANDING COMMITTEE ON ESTIMATES AND FINANCIAL OPERATIONS**

**2022–23 BUDGET ESTIMATES**



**TRANSCRIPT OF EVIDENCE  
TAKEN AT PERTH  
MONDAY, 20 JUNE 2022**

**SESSION ONE**

**DEPARTMENT OF JUSTICE  
STATE SOLICITOR'S OFFICE  
OFFICE OF THE STATE CORONER**

**Members  
Hon Peter Collier (Chair)  
Hon Samantha Rowe (Deputy Chair)  
Hon Jackie Jarvis  
Hon Nick Goiran  
Hon Dr Brad Pettitt**

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**Hearing commenced at 10.00 am**

**Hon MATTHEW SWINBOURN**

**Parliamentary Secretary to the Attorney General, examined:**

**Dr ADAM TOMISON**

**Director General, examined:**

**Ms JOANNE STAMPALIA**

**Executive Director, Court and Tribunal Services, examined:**

**Ms KYLIE MAJ**

**Executive Director, Strategic Reform, examined:**

**Mr RODOLFO MONTILVA**

**Acting Chief Finance Officer, examined:**

**Ms CATHERINE HEWITT**

**Acting Manager, Advisory Services, examined:**

**Ms ANGELA KOMNINOS**

**Acting State Solicitor, State Solicitor's Office, examined:**

**Mr AARON PANZICH**

**Acting Chief Finance Officer, State Solicitor's Office, examined:**

**Dr JOHN BYRNE**

**Commissioner for Equal Opportunity, examined:**

**Ms KATI KRASZLAN**

**Commissioner for Victims of Crime, examined:**

**Ms PAULINE BAGDONAVICIUS**

**Public Advocate, examined:**

**Mr GARY BUDGE**

**Acting Commissioner of Corrective Services, examined:**

**Dr GRAHAM HILL**

**Director, Legal Aid Commission of Western Australia, examined:**

**Mr MIRKO AMIDZIC**

**Office Manager, Coroner's Court of Western Australia, examined:**

**Mr BRENDAN McSHANAG**

**Principal Policy Adviser, Office of the Minister for Corrective Services, examined:**

**Mr DANIEL EMERSON**

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**Policy Adviser, Office of the Attorney General, examined:**

**The CHAIR:** Welcome to today's estimates hearing. The committee acknowledges and honours the traditional owners of the ancestral lands upon which we meet today, the Whadjuk Noongar people, and pays its respects to their elders past and present.

Can witnesses please indicate—a nod of the head will do—that they have read, understood and signed the document titled "Information for Witnesses".

[Witnesses nodded.]

**The CHAIR:** Duly noted.

Your testimony before the committee must be complete and truthful to the best of your knowledge. This hearing is being recorded by Hansard and broadcast live on the Parliament's website. The committee will place the uncorrected transcript of your evidence on the internet a few days after the hearing. When the transcript is finalised, the uncorrected version will be replaced by the finalised version. This is a public hearing, but the committee can elect to hear evidence in private. If for some reason you wish to make a confidential statement, you should request that the evidence be taken in closed session before answering the question.

Members before asking a question, I ask that you provide the relevant page and paragraph number where possible.

Would the parliamentary secretary like to make an opening statement?

**Hon MATTHEW SWINBOURN:** I think there is an issue that I have to address at the outset, chair, if you do not mind. The committee asked for the office of the State Coroner to be present at today's hearing. Although we do have a representative from the State Coroner in Mr Amidzic—apologies for the pronunciation; I will probably screw that up a lot as we go along—the coroner herself is not attending. Perhaps if I can take the committee to the reasons for the coroner's non-attendance today.

As we all know, under the Westminster system, which embraces the doctrine of the separation of powers between the three branches of government—the judiciary, the executive and the legislature, which is made up of the executive government, of course. Sorry; did I say the executive, the judiciary and the legislature—otherwise known as the Parliament to the rest of us? The executive being made up of the Governor, the Premier and ministers, and also on the very, very extreme, parliamentary secretaries. The role of Parliament is to make the laws. The executive government carries out and enforces the law, and the judiciary applies the laws in individual cases.

It is a central pillar of our constitutional system in Australia, and Western Australia, that the judiciary is independent of the other arms of government. The operation of the courts and tribunals in Western Australia is free from executive interference. The executive branch, via the administrative support role that the Department of Justice performs, cannot control how a chief judicial officer or head of jurisdiction oversees the day-to-day operations of a court or tribunal in Western Australia. Under the doctrine of the separation of powers, the judiciary must remain independent from the other two branches of government. This independence is seen as a vital safeguard and continues to be seen as a cornerstone of democracy. While the functions of the Parliament and the executive overlap by necessity, the judicial branch remains independent of both the Parliament and the executive.

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It is important for the committee to recognise that the office of the State Coroner is not responsible for reporting on estimates of expenditure or financial operations and this is consistent with all heads of jurisdiction. The Coroner's Court of Western Australia and the office supporting the court does not receive a separate appropriation. Its funding is incorporated into the Department of Justice appropriation and the Coroner's Court key performance indicator is contained in the Department of Justice annual report. The State Coroner is, however, responsible under section 27(1) of the Coroners Act 1996 to provide the Attorney General with an annual report on the deaths that have been investigated in each year, including a specific report on the death of each person held in care. Having said that, we do have a representative, who I identified previously, who can report on the financial aspects of the Coroner's Court and we also have Ms Jo Stampalia who is the head of court and tribunal services, who can also talk to the appropriations that are relevant to the Coroner's Court.

**The CHAIR:** Thanks for that, parliamentary secretary; I appreciate the explanation. I will say in response to that that I appreciate the comments that you have made and those of the coroner. The committee has expressed its disappointment with the fact that the coroner did not appear before the committee previously and I have tabled a report to that effect, as you would be aware. There is precedence of a previous coroner appearing before the estimates committee. Having said that, the coroner has made her position quite clear, so we will just have to accept that.

**Hon MATTHEW SWINBOURN:** If I can just add to that, chair, and I am aware of the report that the committee has tabled in relation to that. The issue here is that we are not saying that the coroner cannot come before the committee; what we saying is that it is completely up to the coroner to decide and both the department and the Attorney General have no capacity to either direct or compel the coroner to attend before the committee.

**The CHAIR:** Thanks for that. We are very conscious of that and we retain our disappointment.

I assume that everyone in attendance would like to ask questions. I will share the love and give everyone as much time as I possibly can. The shadow will get a little extra time, but I imagine we will not have too much of a problem with time today. Let us go to the committee first and Hon Samantha Rowe.

**Hon SAMANTHA ROWE:** Through the parliamentary secretary, I have a question for the Commissioner for Equal Opportunity. I refer to budget paper No 2, volume 2, page 439, service 7, "Equal Opportunity Commission Services". The EOC provides an avenue of redress for unlawful discrimination through investigating complaints that fall within the jurisdiction. I want to ask a question in relation to COVID-19. How many COVID-19 pandemic-related complaints did you receive? How were those complaints managed? Out of those complaints, how many were resolved?

**Hon MATTHEW SWINBOURN:** I will ask Dr Byrne, the equal opportunity commissioner, to answer those questions.

[10.10 am]

**Mr BYRNE:** Thank you. First, I would like everybody to know that I am profoundly deaf. I do appreciate the accommodations made for me today. Thank you.

For the 2020–21 financial year to date, 127 COVID-19–pandemic-related complaints have been received. In addition, 316 COVID-19 pandemic-related inquiries have been received. Both complaints and inquiries tended to peak each time there was an increase in mandated control measures. Most complaints and inquiries have been resolved by an explanation of the scope of the Equal Opportunity Act. Vaccination status is not a valid ground under the act, and directions made pursuant to the Public Health Act 2016 and the Emergency Management Act 2005 override the act

to the extent that they are incompatible. Complaints of religious discrimination and political discrimination were received about employers who required employees to be vaccinated. However, the employer has a defence that the discrimination is reasonable in the circumstances. Complaints of impairment discrimination have been received from people with a mask exemption that has not been accepted by a supplier of goods and services. These complaints have tended to be resolved when the service provider realised it must accept a medical exemption and has apologised. A complainant who is not satisfied that the Equal Opportunity Commission has resolved their complaint may refer the complaint to the State Administrative Tribunal, which considers the matter afresh. For the financial year to date, there have been four COVID-19-related complaints that have been referred to the tribunal. Three of these related to religious discrimination in employment and one claimed political discrimination in employment.

**The CHAIR:** Just before I give the call to Hon Samantha Rowe, in order to facilitate Dr Byrne, we will ask if there are any other questions for him.

**Hon JACKIE JARVIS:** I just have one.

**The CHAIR:** Is that the only one? After that, Dr Byrne can leave.

**Hon JACKIE JARVIS:** Through the parliamentary secretary for the Equal Opportunity Commissioner, I note that on page 439 of budget paper No 2 there is a notation that says the Equal Opportunity Commission moved from a standalone agency into the Department of Justice proper. I know we mentioned that at last year's estimates. Can you provide an update on if that transition is now complete? Is the commission now fully relocated within the Department of Justice?

**Mr BYRNE:** Yes, we are now fully relocated into the Department of Justice. I note, though, that the Commissioner for Equal Opportunity is an independent statutory office, established under the Equal Opportunity Act. The commissioner's powers and functions under the act are supported by the Equal Opportunity Commission. When first established on 6 May 1985, the commission was part of a larger agency. The EOC later became an independent agency. In 2020, as current commissioner, I personally initiated a small machinery-of-government change—to revert the EOC to being part of a larger agency. I obtained the approval and support of the Public Sector Commission, the Department of the Premier and Cabinet, the Under Treasurer and the director general of the Department of Justice for the EOC to transition to the Department of Justice. I am very grateful to those organisations for supporting the change. The transfer has benefited the Equal Opportunity Commission, as it was difficult for a small agency to provide adequate human resource services to its staff, and to comply with the various requirements of an independent agency that apply irrespective of the size of the agency. As a small agency, the EOC had high but unmanageable risks in regard to information technology, security and the protection of privacy of data, which require skills that are best provided through economies of scale by being part of a larger agency. I note that in other states equal opportunity commissions are part of the Department of Justice, or equivalent, in their states, while maintaining full independence in performing their statutory functions. We successfully transitioned to the Department of Justice on 1 December 2020. All administrative arrangements for the transition to the Department of Justice have been successfully completed. The commissioner is no longer responsible for the provision of corporate services, information technology, security requirements for a small independent agency and now focuses on the statutory functions under the Equal Opportunity Act. I particularly express my appreciation to the director general of the Department of Justice for agreeing to accommodate us that in that way.

**Hon JACKIE JARVIS:** Thank you.

**The CHAIR:** Are there any further questions for Dr Byrne? Thank you very much for being with us today, Dr Byrne.

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**Hon MATTHEW SWINBOURN:** Thank you, chair. I thank you for accommodating Dr Byrne.

**The CHAIR:** Pleasure. Thank you. We will go back to Hon Samantha Rowe.

**Hon SAMANTHA ROWE:** Thank you, chair. Through the parliamentary secretary, still on COVID-19, on page 430, number 1, and also on page 432, point 26, under “Significant Issues”—this is budget paper No 2, volume 2—what is the government doing to mitigate the impact of COVID-19 on justice services, including disruptions to frontline services and the increasing demand for justice services for those that have been impacted most by the pandemic?

**Hon MATTHEW SWINBOURN:** I think I will ask the director general to answer that one.

**Dr TOMISON:** Thank you, parliamentary secretary. There are probably two elements to my answer. The first is on the Department of Justice more broadly and then I will talk more specifically about corrective services and the specific arrangements put in place there, given that is where the highest risk is and given that is the area where we have people in our custody 24/7 and they cannot really—usually—get out, so they are stuck with us.

In terms of the general department, a number of things were put in place, going back to March 2020. Firstly, we set up an emergency response group for the department. That was established in March 2020 and reactivated in, I guess, a more serious sense, in February 2022, to coordinate the department’s response to the COVID-19 pandemic. The ERG identified the strategic priorities and directed responses to the COVID-19 pandemic to ensure the health of safety of staff, clients and the community. It provided daily advice to myself and also the heads of the divisions of the Department of Justice regarding the number of reported positive cases of COVID, the number of staff isolating due to close contact arrangements, and the operational impact on business areas, particularly since March this year when we started seeing increased numbers in the community. Essentially, the ERG has been responsible for assisting the department’s areas beyond corrective services, so the Court and Tribunal Services particularly, but also births, deaths and marriages, and any of the branches of the department beyond the corrective services.

I can give you some figures as of today. The figures obviously change day by day. As of today, for the whole of the department, approximately 300 staff are either positive or in isolation. The majority of those are in corrective services, which I will get acting commissioner Budge to talk to it in a minute. We also have about 750-odd prisoners in isolation and 220, roughly, are positive in corrective services inside jails, as of today. That is down a little bit from what it was a couple of weeks ago, but it does fluctuate quite a bit. We have done quite a lot to actually reduce the risks there.

The department was also involved in doing significant work on legislative change, which was undertaken by the strategic reform division and Parliamentary Counsel’s Office. That extended the pandemic-related legislative changes, and also the COVID-19 Response and Economic Recovery Omnibus Act and the COVID-19 Response Legislation Amendment (Extension of Expiring Provisions) Act—we have done that a couple of times.

We also saw, as part of the COVID response, an increase in demand for legal assistance. As you may know, a lot of criminal behaviour decreased over the last two years, for various reasons. However, what did increase was mental health concerns but also an increase in the support required to assist victims of family and domestic violence, and that also translated into a request for legal assistance from the community legal sector, Legal Aid and other services. That was, again, in the area of family and domestic violence, employment law and financial hardship problems. There were increases of elder abuse and consumer protection and mortgage hardship cases as well. The legal assistance

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sector responded by providing additional services, as required, which meant providers adjusting regular service delivery models to allow for the use of electronic technology.

In 2022–23, the state government will provide a further \$4.5 million to the legal assistance sector in WA to respond to increased demand for services arising from the impact of COVID-19. This funding is time limited and ceases as at 30 June 2023.

In terms of the impacts on additional, or specific services, we are working with the heads of jurisdiction, Court and Tribunal Services with what we saw as the primary risk outside of corrections. I will talk about them in a minute. A lot of work went into keeping the courts operating as much as possible: the use of, obviously, social distancing and, where possible, the use of masks, and obviously checking for vaccination status and those sorts of things.

[10.20 am]

We also made changes to the physical layout of the courts, including putting in screens and other things to try to keep jurors and other members of the court who are attending as safe as possible. At varying points we also saw reductions in the number of people able to observe the court, and alternatives were put in place, including videoing of court operations in another jurisdiction, or another part of the court; people can go in there and actually view the hearings, but not actually be in the court itself. Overall, apart from some minor impacts, and at some points over the last two years some delays in trials, that has worked pretty well. We have actually managed to keep the courts going, which I was not sure we would be, but we have done that very well.

We also saw at different points things like the Public Trustee, the Office of the Public Advocate, and Births, Deaths and Marriages closing front counter work or adjusting their work habits to actually allow work to continue, but being less face to face, so using electronic means, more phone calls and more videoconferences, like the rest of the public service and community. That worked very well as well, to allow us to keep services going. There have also been some benefits in things like the electronic lodgement of documents, which will hopefully continue in the court system, which will allow us to, if you like, take advantage of the efficiencies that were introduced during the COVID-19 pandemic.

Turning to corrective services, where a lot of the risk was, a specific committee was set up, an incident management team, just to focus on corrective services and the needs of corrective services during the COVID pandemic. This task force has been set up since, again, February–March 2020. It has had varying levels of operation, depending on the level of risk in the community at the time, but, generally speaking, that area has been working very hard for two years now to try to mitigate the COVID-19 risks and also, more recently in the last few months, to tackle significant outbreaks. All up, we have had over 2 000—probably closer to 2 300—prisoners who have been positive since March this year in our system, and probably another 5 000 to 6 000 at different points because of the rotating nature of prisons, particularly remandee prisoners who have actually been isolating when they have been introduced into jail or potentially exposed to COVID. To this date, no prisoner has actually been sent to hospital because their symptoms became so significant as to require that. No-one has died from COVID in our system. There has been a really strong effort, and I give credit to my staff. They have done a really fantastic job throughout the COVID experience.

I might hand over to Acting Commissioner Budge to talk in detail about what they have done in corrections.

**Mr BUDGE:** From March 2020, we were focused quite heavily on preparation and prevention to minimise the introduction of the virus into the prison estate. As you can well imagine, the close living arrangements within prisons and some of the infrastructure of some prisons created some

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challenges for us. It is of note that in March 2020 we had a prisoner population of 7 168; currently it is 6 226, which is a reduction of 13 per cent in prisoner numbers. That equates to 932 prisoners less than just over two years ago. That has been of some benefit to us because with some of the infrastructure, we have been able to have areas that were double-bunked that we can spread out a little bit, so that has helped us in managing the prison estate. We also had a public health direction for entering custodial facilities, so everyone entering was mandated that they had to be vaccinated. That included prison staff, contractors, program and support groups and visitors, but not prisoners or detainees.

Thankfully, prisoners have been very good in fronting up and being vaccinated, and we currently have 89.6 per cent of the total prisoner population who have had at least one dose of vaccine, and 84 per cent have had two doses or more, and we are actively working through the prisoners at the moment, giving continual updates and further vaccinations. I am pleased to say that, after a reasonably slow start—many of our Aboriginal prisoners, who are some of our most vulnerable—in having vaccinations, there was a lot of work done by the department to encourage our Aboriginal prisoners and detainees to have vaccinations. I am pleased to say that their vaccination rates are actually now higher than the general population within the prisons, so our Aboriginal prisoner population has 90.6 per cent vaccination at the moment, and 82.9 per cent who are fully vaccinated or vaccinated with two or more doses. We have challenges at Banksia Hill Detention Centre with getting approvals for some of the detainees there to have vaccinations and also agreement from the detainees themselves to have a vaccination, so the rates are far lower, at 69 per cent.

Some of the other preparations we have put in place were that we were able to use rapid antigen testing to test all staff entering custodial sites prior to commencing work, which has been beneficial in minimising the risk coming into prisons. We have had a strong focus on messaging around masks and hygiene. We actually mandated through prison directions that mask wearing was a requirement within the prison estate.

Prior to the infection arriving within prisons, we engaged an occupational hygienist to conduct airflow testing of our prisons, so we could work out where the best areas were for the housing of COVID-positive prisoners and those who needed to isolate from the rest of the general population within the prison. We engaged a private company to undertake fit testing for P2/N95 masks, so that we added safety within the prison for our staff, so it was not passed from our staff onto prisoners.

There is now an ongoing review of our outbreak management plans and containment and emergency plans, and our compliance teams are undertaking audits of our facilities to ensure compliance with all of our COVID procedures to ensure minimisation.

We have been working very closely with the Department of Health. When there have been outbreaks, we have been working with them in respect of cohorting of positive prisoners and separating them from close contacts and further separating them from the general population. As of yesterday, there are 130 positive cases of COVID in public prisons and 81 cases in our only private prison, which is Acacia. At Banksia Hill Detention Centre, there are two positives, so in total, overall, there are 213 positive cases in our prisons and detention centres at the moment, and 755 are isolating. They are undertaking a program of rapid antigen testing on a regular basis.

**The CHAIR:** Just picking up on that, I am not sure if you will be able to answer this, but I have been getting quite a bit of commentary from the shadow Minister for Corrective Services that prisoners have been given significantly less time out of cell. One, is that criticism justified; and two, if yes, is it exclusively to do with COVID?

**Mr BUDGE:** Yes, there are times when prisoners have had a lot less time out of their cells, purely because of the COVID-19 requirement for them to isolate and not further pass the virus around the

prison estate. You can imagine that with wings and units, there are quite large numbers cohorted together, so there are times when they need to do their seven or 10 days' isolation, although they do get time out of cell on each day. It is not a matter of their being isolated in their cells for the whole time. All of them get time out of cell to make phone calls and have some recreation, but it is purely to do with COVID.

**Hon JACKIE JARVIS:** I refer to page 431 with regard to the over-representation of Aboriginal people in the criminal justice system. At the top of page 431, significant issue 9 notes that there are two measures, including the department's reconciliation plan and the establishment of an Aboriginal justice advisory committee. I could not see those particular items mentioned in an actual budget line item, but I am just interested in understanding how the department is implementing these two initiatives.

**Hon MATTHEW SWINBOURN:** I might ask the director general to address this one.

[10.30 am]

**Dr TOMISON:** Thank you, parliamentary secretary. I can turn to the Aboriginal Advisory Committee first; that might be easy. In 2021, we established that committee following a selection process at community level to try and get Aboriginal people who were representative of their communities to join us, to provide advice to the department on a range of justice-related matters. The intention is that members will provide their cultural expertise and advice to myself, but also to our Aboriginal justice area, to sort of inform our work and ensure we are actually working in a culturally sensitive way, and also picking up on issues where we might be able to improve our services, essentially. That committee has met, I think, three times. We were actually meant to meet relatively infrequently, but the committee is quite keen to engage with us, and we were keen to have that, as well, so we have actually arranged, even with COVID, for Teams meetings and other things to get them more actively engaged. They usually meet for two days at a time, and they are actually meeting again this Wednesday and Thursday, which I will be attending. I chair the committee, and the members are essentially in the process of setting up an agenda, I guess you could say, of where they want to start focusing their attention.

A lot of what we have been doing to date has been identifying presentations that they can have around what the work of the department is, some site visits, they have met with the heads of jurisdiction, and I think they went to the Central Law Courts. They will be going to Banksia Hill, I think, this next visit. The intention is to try to get them a familiarity so we can actually then start looking at the work that they want to focus on. I mean, some of the areas that they are already interested in, I think, would be our Aboriginal empowerment and employment of staff in the department, how we can actually develop our staff and improve their career pathways. They are also interested in Aboriginal service procurement, so the tendering processes, contracting processes, and ensuring Aboriginal services and Aboriginal community-controlled agencies get, if not, at the very least, a level playing field, but also potentially get, as part of government's broader Department of Finance-led procurement strategies to actually ensure that we do favour Aboriginal services, to grow those services and get that cultural sensitivity and security we need in our service delivery. Those are some of the things they are interested in.

That committee has got representatives from virtually all the regions of WA. There is one, the APY Lands, where we are still trying to find a representative who is suitable. It has met three times, and that is basically where that one is up to. So that is the first measure. Could you —

**Hon JACKIE JARVIS:** And then the reconciliation plan, so does that just tie in?

**Dr TOMISON:** Yes. I am going to hand to Ms Maj, if that is okay.

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**Hon MATTHEW SWINBOURN:** Yes, thank you.

**Ms MAJ:** Thank you. As the director general mentioned, the Aboriginal Justice Advisory Committee was a deliverable under the department's previous reconciliation action plan, but we have had a new innovate RAP, which was launched in early 2022, and that is the department's second RAP, which obviously represents a continuing dedication to advancing reconciliation and improving outcomes for Aboriginal communities. Our RAP is very closely aligned with the broader work we are doing on Closing the Gap. It includes a number of deliverables to improve justice outcomes, including supporting driver education and training; including, as an option under our work and development permit schemes, supporting Aboriginal community-controlled organisations to register as sponsors for the scheme, enabling more Aboriginal people to obtain identity documents and address outstanding fines matters through our open days program, and improving support to Aboriginal clients by promoting culturally appropriate case management. There are a range of other RAP deliverables, such as more internally focused, like the development of an Aboriginal cultural capability training strategy, which also indirectly contributes to Closing the Gap, and through improved culturally responsible services in the department. We have a RAP steering committee that meets regularly, and it is focusing at the moment on identifying a small number of high impact priority deliverables, which will be reported on a bimonthly basis to the department's corporate executive committee, and ensure that those deliverables remain a key focus for the department throughout the RAP's life cycle.

**Hon JACKIE JARVIS:** Thank you.

**Hon Dr BRAD PETTITT:** My question for the parliamentary secretary refers to page 443, budget paper No 2, volume 2, around the asset investment program. Does the funding for the asset investment program include funding for the annual maintenance budget, including funding for the Department of Justice around the cost of installation for air-conditioning at Roebourne prison?

**Hon MATTHEW SWINBOURN:** I will ask the director general to answer the question.

**Dr TOMISON:** At the moment, the department has been scoping out a range of ventilation air-conditioning-type solutions at Roebourne prison. The moneys that we have used so far have been within the department's asset investment program, so it is existing moneys. The next stage of that plan, whatever we decide to do, will require us to put a budget bid. So, at the moment, the work that we have done, that we have been doing, has been through our own budget.

**Hon Dr BRAD PETTITT:** So it is not funded through the asset investment program for this year or the annual maintenance budget for this year, is that correct, for the installation of this?

**Hon MATTHEW SWINBOURN:** Mr Montilva, please.

**Mr MONTILVA:** Thank you, member, for your question. The Department of Justice is funded by both capital funds and recurrent funds for maintenance. We get another appropriation for replacement of assets, which is a drawdown from our holding account, which comes in through capital. It is relatively small because most of our maintenance expenditure is coming from recurrent appropriations. We have allocated around \$16 million across the whole state for maintenance. We have a directorate called infrastructure services and they prioritise the different types of maintenance. That includes the air-conditioning at Roebourne. I do not have the exact number of how much money is going to be spent next year, but it is included in that overall allocation, and every year it gets reviewed and escalated. We also have—it is not part of the budget, but there is a strategic asset plan, and the strategic asset plan is forward looking over 10 years, and it is meant to identify different areas of priority for building maintenance, and that obviously will include the air-conditioning equipment, not just for the prison, but at court sites and all owned buildings.

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**Hon Dr BRAD PETTITT:** I have a follow-up question on that one, just so I am clear. I guess what I am trying to get to the heart of is: will the department actually install installation prior to the summer for people incarcerated at Roebourne prison? The reason I ask this is obviously we have a fair bit of concern—Aboriginal Legal Services, for example—around the inmate treatment around that prison. I cannot find it in here, and I cannot quite be clear around is it likely that air-conditioning will be installed before this summer? That is the question.

**Hon MATTHEW SWINBOURN:** In the current budget, there is no allocation for it, but I think the point that the DG and Mr Montilva are trying to make is that in the department's ongoing schedule, it makes consideration for these things on an ongoing basis. But there is no current allocation specifically for that thing in these budget papers.

**Hon Dr BRAD PETTITT:** That is not quite answering my question, which is around —

**Hon MATTHEW SWINBOURN:** Well, that is the answer I am giving you, member.

**Hon Dr BRAD PETTITT:** Yes, okay. Let me ask the question in a different way, then. Given there is no allocation, am I to understand that it is unlikely for the air-conditioning to be installed at Roebourne prison for the next specific allocation? If so, if it is not here, I am assuming it will not be in this financial year. Is that correct?

**Hon MATTHEW SWINBOURN:** Thank you, chair. First of all, member, I am not going to speculate about the future outside of what is in the budget papers. That is what we are here to deal with today. The department is doing scoping work in relation to that sort of thing, but, as I have indicated, there is no current budget allocation for that at this time.

**Hon Dr BRAD PETTITT:** I understand that, and I will be corrected: therefore, it will not be installed before this summer? That is my understanding of your answer. If you think there is a mistake in that, I would like to be corrected.

**Hon MATTHEW SWINBOURN:** As I have indicated, the department is doing scoping work in relation to Roebourne prison. If the member wishes to characterise that as the government is doing nothing, he is entitled to do as he chooses, but the government through the department is undertaking scoping work with respect to these things. There is no specific budget allocation in these budget papers for the work that he has described.

**The CHAIR:** That is right, so I think you can safely assume there will not be air-conditioning this summer.

**Hon Dr BRAD PETTITT:** That is my understanding. I think scoping work does not—

**The CHAIR:** Scoping work, they said.

**Hon Dr BRAD PETTITT:** As good as that is, that certainly will not help prisoners who are going to be suffering those extreme conditions, which is the point.

**Hon MATTHEW SWINBOURN:** Is that a question or is it a commentary?

**Hon Dr BRAD PETTITT:** It is a question, through you, chair, for which I would like an answer, and if you do not give the answer, then obviously—

**Hon MATTHEW SWINBOURN:** I have given you an answer, member, and so the answer has been given.

**Hon Dr BRAD PETTITT:** And I am just making sure I understand the answer.

**The CHAIR:** Look, I have listened to the debate. I think that scoping work is being done, but the air-conditioning will not be installed by summer.

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**Hon Dr BRAD PETTITT:** That is my understanding, as well. Thank you.

Moving on to a different issue, chair, thank you. I would like to refer to budget paper No 2, volume 2, other significant works, point 11, on pages 431 and 444. This is in relation to Banksia Hill Detention Centre upgrades and urgent works. How many cells are currently out of action at the Banksia Hill Detention Centre?

[10.40 am]

**Dr TOMISON:** The actual number of cells out of action varies day to day. At the moment, in the last week or so, about a hundred cells have been out of action to varying extents. Some have been extensively damaged by young people; others have been superficially damaged. We have a significant program of contractors going in each day to rectify that cell damage as quickly as possible and bring the cells online, but it does vary day to day.

**The CHAIR:** Did you say a hundred —

**Dr TOMISON:** Roughly a hundred.

**The CHAIR:** That is of about 350, is it not?

**Dr TOMISON:** 250.

**The CHAIR:** 250?

**Dr TOMISON:** In terms of actual numbers of young people in Banksia at the moment, it is 120 as of today.

**The CHAIR:** It has a capacity of, what, 250?

**Dr TOMISON:** Yes.

**The CHAIR:** And there are a hundred cells —

**Dr TOMISON:** Roughly a hundred. We can ask Mr Budge for more precise figures, but, roughly, it is a hundred at the moment.

**The CHAIR:** Is that unusual? That seems to me exorbitant.

**Dr TOMISON:** It is unusual, but it is not unusual in the last, let us say, couple of months. There have been a number of issues at Banksia Hill going since late last year, with a particularly difficult cohort. This is a cohort which police refer to in media—for example, targeting their vehicles for ramraids and things. Those young people who have quite complex needs have ended up in Banksia—a proportion of them—and those young people have been engaging in a whole range of behaviours, which has made operating Banksia quite difficult. One element of that is cell damage, and it becomes almost like a competition where older young people or young people who have been in Banksia teach others what they might do to put a cell out of action.

**The CHAIR:** What would they do to put a cell out of action?

**Dr TOMISON:** They can break the toilet. They can play with communications elements in the cell—the comms thing which allows them to contact an officer. There are a whole range of things. They can smash their bedding, or try to smash their bedding—things like that, even to the extent that sometimes some individuals have actually managed to take apart part of the wall between cells. It is quite significant, and at the moment, while other areas of concern for us have reduced, cell damage is quite a significant one.

**Hon Dr BRAD PETTITT:** Last one from me, in relation to the same budget paper but on a different page. I did put a question, prior, to the department around a more detailed breakdown of the \$25 million, and I got a pretty limited breakdown. Can I get some clarification on that? Does the \$7.5

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million allocated to the crisis care unit also cover the structural improvements to the intensive supervision unit, and, if not, how much is allocated to this?

**Hon MATTHEW SWINBOURN:** Just to clarify, member, you put a question on notice before today

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**Hon Dr BRAD PETTITT:** It was a question prior, yes—to the department.

**Hon MATTHEW SWINBOURN:** And you have received an answer to that.

**Hon Dr BRAD PETTITT:** Yes, but it was not very detailed.

**Hon MATTHEW SWINBOURN:** And you are asking that question again?

**Hon Dr BRAD PETTITT:** No. I am just asking for more detail.

**Hon MATTHEW SWINBOURN:** Well, the question has been answered, and that is the answer that we have given.

**Hon Dr BRAD PETTITT:** But the question that I am asking for some clarity on was: Does the \$7.5 million allocated to the crisis care unit also cover the structural improvements to the intensive care unit? If not, how much is allocated?

**The CHAIR:** If this is in addition to the information that has already been provided, you might like to take it on notice, if you cannot take it now.

**Hon MATTHEW SWINBOURN:** I think the issue here is that we are struggling to get the details, so I think—subject to the committee, of course—we might put that on notice.

*[Supplementary Information No A1.]*

**Hon NICK GOIRAN:** Can I take you to budget paper No 2, volume 2, page 455. You will see at the bottom of the page “Legal costs on behalf of the state”. The estimated actual for the current financial year is \$1.85 million. Let us start with the high profile case of Crawford v Quail. Last year in budget estimates, in October, you indicated that the cost to the taxpayer for President Quail’s costs at the time was \$274 725.87. Recently in Parliament you advised that the total cost that the taxpayer has now paid to reimburse President Quail for his defence is \$489 551. When you answered the question in budget estimates last year, it was 21 October. The civil trial had already been held and settled. You might recall that the trial was aborted and that the party settled the matter on 11 and 12 October. Some nine or 10 days after the trial was aborted and settled, you informed budget estimates that the figure was \$274 000. Now it is \$489 000. What is the substance of the extra \$214 000 of costs that have been incurred?

**Hon MATTHEW SWINBOURN:** Chair, I might ask the acting state solicitor, Ms Komninos, if she can address that, noting that Ms Komninos has only been acting in the role for a limited period of time and so some of this might have to be taken on notice.

**Ms KOMNINOS:** As just stated, I have only been in the role for a few weeks. However, I would imagine—that is why we will take it on notice—that additional bills and additional legal work may have been incurred in terms of the final settlement. I am not sure whether there was taxation of costs in that matter, which would have increased those costs. The number that was provided would have been the actuals that had been paid on account of invoices already received, and there would have been some lag in the receipt of all the additional invoices and any taxation of costs, I imagine. If it did go to a taxation, I am not sure. As I said, I am not aware of the detail, but we can come back on that to explain the additional numbers if that is required.

*[Supplementary Information No A2.]*

**Hon NICK GOIRAN:** Who approved the reimbursement of the costs?

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**Ms KOMNINOS:** We will take that on notice in terms of whether or not it was part of the convention of indemnity or whether or not it went to cabinet. I am not aware. We can come back to you on whether or not there was an approval process which was specific to this matter.

[*Supplementary Information No A3.*]

**Hon NICK GOIRAN:** So the approval process with respect to the reimbursement of these costs was dealt with entirely by the State Solicitor's Office and does not involve the Department of Justice?

**Ms KOMNINOS:** Sorry; can you repeat that?

**Hon NICK GOIRAN:** Was the approval process for the reimbursement of these costs dealt with exclusively by the State Solicitor's Office and not the Department of Justice?

**Ms KOMNINOS:** I do not know the answer to that. I can take that on notice.

**Hon NICK GOIRAN:** Perhaps the director general can assist.

**Hon MATTHEW SWINBOURN:** We will decide how we answer the questions, but I can confirm that the Department of Justice was not involved—noting that the State Solicitor's Office did transition into a sub-department and that is now how that works.

**The CHAIR:** That should be confirmed through A3 anyway, once we get a response to A3, I would imagine.

**Hon NICK GOIRAN:** Mr Chairman, I suspect these questions will need to be taken on notice, through you to the parliamentary secretary, at first instance. Can we have an indication as to how many invoices were received with respect to this matter? Were itemised accounts received? Will the government table the invoices? Were any of the invoices reissued following review? I thank the acting state solicitor for drawing this to my attention. The final question in respect of this matter is: was a taxation of costs requested?

[10.50 am]

**Hon MATTHEW SWINBOURN:** To the extent that those questions fall within what we are doing here, we will take them on notice.

**Hon NICK GOIRAN:** Before we do that, because we do not get an opportunity to come back, if the parliamentary secretary has a concern about any of these questions, it would be better if we were to clarify that now. All of this has been paid for by the taxpayer of Western Australia. It seems remarkable that the amount has nearly doubled since the case was settled. If there was a taxation of costs, I think we could put this to bed, but if somebody has just authorised a bill without reviewing it in detail, they need to be accountable for that.

**The CHAIR:** To clarify, what was the line of questioning that was not contained in the previous question that you wanted?

**Hon NICK GOIRAN:** The reason that I have provided an itemised list of questions is that I do not want a vague answer coming back after today's hearing. The questions are: How many invoices were received? Were they itemised? Will the government table the invoices? Were any reissued following review? Was a taxation of costs requested? If the answers to all those things can be provided to the committee, that will be useful.

[*Supplementary Information No A4.*]

**Hon NICK GOIRAN:** Still on the same item, \$1.85 million is estimated to be expended by taxpayers for legal costs on behalf of the state. We know that approximately \$400 000 of that relates to the Crawford v Quail matter. What does the other \$1.45 million relate to?

**Hon MATTHEW SWINBOURN:** Just as a matter of clarity, can the member take us to the line item again so that we can be certain?

**Hon NICK GOIRAN:** It is page 455 and it is legal costs on behalf of the state. Essentially, it is the last itemised line item on that page.

**Hon MATTHEW SWINBOURN:** So your question, member, is: what does the other, by your calculation, \$1.4 million relate to?

**Hon NICK GOIRAN:** Yes, because you kindly informed the house on 14 June that out of the \$489 000 of President Quail's costs, \$87 000 is recorded in the 2020–21 actuals. You will see there that \$382 000 was expended. The balance is some \$402 000, which is in the \$1.85 million.

**Hon MATTHEW SWINBOURN:** I thank the member. Ms Komninos can answer that.

**Ms KOMNINOS:** Thank you, parliamentary secretary. The matters that that item refers to are still incomplete and are still before the court. The position that we have taken is that until those matters are settled, it is inappropriate for us to break down what those numbers represent because it could prejudice a settlement of legal costs with the parties involved in those matters.

**Hon NICK GOIRAN:** Okay. I disagree with you, but I accept that that is the answer that you have provided. Can you indicate what those matters are without necessarily providing the costs of those matters? I presume, for example, that one of them is the Clive Palmer litigation.

**Hon MATTHEW SWINBOURN:** To Ms Komninos, please.

**Ms KOMNINOS:** I can confirm that they are Palmer matters.

**Hon NICK GOIRAN:** Right. Approximately \$400 000 of legal costs on behalf of the state have been expended to refund President Quail his costs, and there is another approximately \$1.4 million of legal costs paid by the taxpayer on behalf of the state in respect of what can be broadly described as Palmer matters, plural. The point is that there no other matters captured by this line item.

**Ms KOMNINOS:** I am not aware that there are other matters captured by the line item.

**Hon MATTHEW SWINBOURN:** If on further analysis there is, we will correct that.

**The CHAIR:** Can we just take that on notice if there is? Can we have that identified if there are other matters?

**Hon MATTHEW SWINBOURN:** Yes. We will put that on notice if there is.

*[Supplementary Information No A5.]*

**Hon NICK GOIRAN:** At page 452, under "COVID-19 Response", there is a reference to 17 matters having been lodged in various legal jurisdictions, including the Supreme Court. I take it that those 17 matters are captured in some other line item, other than the item we have just been discussing at page 455.

**Hon MATTHEW SWINBOURN:** In a general sense, for the 17 matters referred to there, including in the Supreme Court and seven appeals lodged with the Public Service Appeal Board, the State Solicitor's role would be to represent other agencies, and those agencies will either incur those costs or it is related to the core work of the State Solicitor's Office so it is not separately accounted for outside the State Solicitor's normal appropriation for its ongoing work.

**Hon NICK GOIRAN:** If I could ask the parliamentary secretary to turn, on this same item, to page 457, he will see there it talks at the bottom, under "Net appropriation determination" and "Sale of goods and services", about the State Solicitor's fees and the recouping of legal costs. Are those 17 matters contained in that element of the budget?

**Hon MATTHEW SWINBOURN:** I am advised that that amount does not relate to the COVID matters that were referred to in that other area.

**Hon NICK GOIRAN:** Perhaps on notice, could we be informed what these 17 matters are?

**Hon MATTHEW SWINBOURN:** We could take you through some of those matters, obviously with the rider that where there are issues, because the matters might be ongoing, that could affect the state's position, we will not provide details in relation to that. If I can ask Ms Komninos to address that.

**Hon NICK GOIRAN:** All I am really looking for is what are the 17 matters.

**Hon MATTHEW SWINBOURN:** The 17 matters?

**Hon NICK GOIRAN:** The 17 matters.

**Hon MATTHEW SWINBOURN:** Right. I thought you were talking about the amount that says "Recoup of Legal Costs".

**Hon NICK GOIRAN:** No; you have already indicated that the 17 matters are not covered in that item.

**Hon MATTHEW SWINBOURN:** Yes, okay; sorry.

**Hon NICK GOIRAN:** I am just saying, on notice, can you tell us what the 17 matters are?

[11.00 am]

**Hon MATTHEW SWINBOURN:** What the 17 matters are?

**Hon NICK GOIRAN:** Yes.

**Hon MATTHEW SWINBOURN:** Just let me take some advice. I think our consideration of this is taking some time, and we do not want to waste the committee's time.

**The CHAIR:** Take that on notice?

**Hon MATTHEW SWINBOURN:** To the extent that we can answer anything without disclosing any legal professional privilege in those riders, we will try and provide the details of those 17 matters.

[*Supplementary Information No A6.*]

**Hon NICK GOIRAN:** There is something very interesting about the Palmer case because, as I understand it, the Attorney General, who obviously has responsibility for not only the Department of Justice but the state solicitor, is a witness, or was a witness in the Palmer case. It was reported that he needed to go back to the Sydney court to redo his evidence or to give his evidence for a second time. Whose budget does that airfare come out of? Is it the Department of Justice or the State Solicitor's Office, given he was a witness?

**Hon MATTHEW SWINBOURN:** I am going to be consistent with the position put by the Attorney in the other place, member, and as you know, I am here in a representative capacity. I will quote from the corrected *Hansard* of Thursday, 26 May. The Attorney General said —

As I say, I am not prepared to discuss any costs related to that case. No doubt, once it is finalised, there will be further questions put to us, but I do not want to discuss the costs in that matter prior to the finalisation of the case. I am so instructed by the State Solicitor. We do not want to compromise the state's position.

I am the parliamentary secretary; I am here in a representative capacity. I do not think I want to go beyond the position that was put—noting of course this house is not subject to what happens in the other house, but I am only here representing the Attorney General; I am not the Attorney General.

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**Hon NICK GOIRAN:** The Department of Justice would know if they are ordinarily shelling out for airfares for witnesses. I do not think that there is anything sensitive about that. I have not even asked what the amount is. I find it outrageous that the taxpayer has to pay a second time for Mr Quigley to go give his evidence in Sydney. I am not even asking about that. I am just saying: which department in due course is accounting for this? There is nothing sensitive about it. The director general must know if he signed off on a cheque for an airfare for Mr Quigley.

**Hon MATTHEW SWINBOURN:** Neither of these agencies was involved in incurring any costs in relation to the Attorney General.

**Hon NICK GOIRAN:** Are these helpful? We will follow it up with the Department of Premier and Cabinet later this afternoon.

**The CHAIR:** I think I heard that. So neither department was involved?

**Hon Matthew Swinbourn:** The sub-department.

**The CHAIR:** The sub-department, sorry. One more to Hon Nick Goiran.

**Hon NICK GOIRAN:** I will take up that offer.

**The CHAIR:** We will probably get another round but I just need to move on and give everyone a go.

**Hon NICK GOIRAN:** It will be on a different topic though, that is the only problem. Is there a way of identifying the amount of costs that have been incurred over the Attorney General's decision to intervene in the Public Service Appeal Board matter involving the former electorate officer of the member for Kwinana? As I understand it, the State Solicitor's Office represented the Attorney General in that matter. I thank the very hardworking Mr Emerson for providing you with the information. I realise already what the Attorney General has said in the other place. I am simply asking: is there a way of identifying what those costs were? I am not asking how much they were.

**Hon MATTHEW SWINBOURN:** The first rider is those matters are still before the Public Service Appeal Board, and I think the member acknowledges that. Secondly, it was a very limited intervention in the sense that it was providing a submission to the Public Service Appeal Board, in fact, about its powers. As to whether or not a cost could be calculated—because you are asking a hypothetical, in one sense, about could a cost be calculated and is it possible to do such a thing. In a general sense it probably is.

**Hon NICK GOIRAN:** The State Solicitor's Office did do it in the CCC matter involving the Attorney General, so I would have thought that that would also have a timesheet with respect to this intervention. If there is no timesheet for the State Solicitor's Office, and they have just done this pro bono and kept no record of the amount of time, then so be it. The record can reflect that, but I would have thought they would have kept —

**Hon MATTHEW SWINBOURN:** I am just trying to give you a proper answer, member. It is something that can be done. It has not yet been done in that regard. The matter is still ongoing.

**Hon NICK GOIRAN:** Is the intervention ongoing?

**Hon MATTHEW SWINBOURN:** No.

**Hon NICK GOIRAN:** So it is finished?

**Hon MATTHEW SWINBOURN:** No. As I think was indicated at the time, it was related to a very specific issue, which was the power of the Public Service Appeal Board to summons witnesses. That was all that the intervention involved. It did not go to the merits of the matter in any way; it only went to the proper construction of the law.

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**Hon NICK GOIRAN:** Notwithstanding the fact the intervention is finished, the position of government is that it will not release the amount of costs involved in that matter until the substantive matter is concluded?

**Hon MATTHEW SWINBOURN:** Yes; because the matter is currently before the Public Service Appeal Board, which is not a court, but I think it is a matter of being appropriately judicious not to disclose those matters on an ongoing basis.

**The CHAIR:** I am going to move on for a bit.

**Hon NEIL THOMSON:** My question relates to pages 431 and 444 on the issue of the Broome prison. On page 431 it states, "Planning continues for the replacement of Broome Regional Prison". It talks about consulting with traditional owners. I do have several questions that flow from this, so, parliamentary secretary, if you want, I could just list them and you could respond, or we could do it tick-tack; it depends how you would like to do that.

**Hon MATTHEW SWINBOURN:** I am in the hands of the chair. It depends on your questions.

**Hon NEIL THOMSON:** I will ask the question then. Of the \$302 000 that is on page 444 that is allocated to regional prison planning, how much of that is being allocated to the Broome Regional Prison?

**Hon MATTHEW SWINBOURN:** I will get the director general to answer that. From my understanding your question was: of the \$302 000, how much of that is in relation to the Broome Regional Prison? Is that correct?

**Hon NEIL THOMSON:** Correct.

**Dr TOMISON:** I think all of it. That \$302 000 will be around the Broome Regional Prison and further work on planning that.

**Hon NEIL THOMSON:** Just in terms of the division of that, because we talked about the consultation with traditional owners, is there a proportion of that allocated to further consultation to the residents of the Kimberley as a whole?

[11.10 am]

**Hon MATTHEW SWINBOURN:** The director general.

**Dr TOMISON:** As the member may be aware, essentially we have been working with Nyamba Buru Yawuru, NBY, as the Aboriginal community controlled agency, the traditional owners of the lands. Over a period of time, they have identified a number of sites around Broome that potentially could be appropriate for a new prison site. That has been the main body in terms of Aboriginal community controlled groups that we have been dealing with. There has not been a whole-of-Kimberley consultation; it has been focused around Broome and around what sites the traditional owners might identify that might be suitable. Initially, we had three sites; two of those were around the Twelve Mile community, which you would probably be aware of. Consultation took place there and based on that consultation, the Minister for Corrective Services undertook to explore a whole range of other sites around Broome that involved the Broome shire council in that process. I think we had all up about 29 sites that were considered and a further site was identified outside of Twelve Mile in an industrial area close to Broome that might be suitable. Following that, a planning application was put through the Broome shire council and outcomes of that have occurred. We expect to still go on with the Broome industrial—site 29 as we call it—and as part of that, we will continue to consult with NBY—it is their land—as well as the shire and community members who may be affected by us using that site, but it is still a work in progress.

**The CHAIR:** Is the shire supportive of that site?

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**Dr TOMISON:** It was happy to help us identify the site; however, they have also indicated they think more work is required before they approve us using that site. Just recently—I cannot give you the precise date—in the last month, they have indicated that they are not recommending approval yet. They want us to defer the work on that site over the next year. That would be around further consultation, recognising it is part of a general industry zone and, obviously, a corrective services institution requires residential elements, which they think may be incompatible with the delivery of the general industry and so they want us to defer the work around planning and then come back for a planning amendment. That is essentially where it is up to at the moment.

**The CHAIR:** That reflects my understanding of the issue.

**Hon NEIL THOMSON:** Thank you, and thank you for confirming the focus has been on NBY. We know that there are over two dozen different people groups in the Kimberley. It just seems the concern. Are you aware of the work of the Kimberley Aboriginal reference group from the early 2000s, which recommended an East Kimberley site?

**The CHAIR:** Early 2000s did you say?

**Hon NEIL THOMSON:** Between 2000 and 2004 that group was operating.

**Hon MATTHEW SWINBOURN:** I think I will give it to the director general if that is all right with you, chair.

**Dr TOMISON:** I was not aware of that particular group. I am aware of, and still currently, views from communities in the East Kimberley that they would like a prison potentially somewhere in the east.

**Hon NEIL THOMSON:** Given the location of the West Kimberley prison in Derby, there were, further to that point, five guiding principles outlined by the Kimberley Aboriginal reference group, which, in summary—I am happy to provide those separately—focus on the custodial proximity to land and family, and I think that is something that is obviously of concern in the community. The question is whether there would be any scope within the further planning that is underway to do a further assessment of the requirement, noting that we seem to have focused in on a location. Would there be any scope at all for further consideration within the broader principles of the Kimberley and the requirements of the broader Kimberley community for an assessment of the options going forward that might better fit the broader needs of the Aboriginal community in the Kimberley?

**Hon MATTHEW SWINBOURN:** I think I will ask the director general to answer that, please.

**Dr TOMISON:** Thank you, parliamentary secretary; thank you, member. I am aware of that Aboriginal reference group now that you gave me that extra information. I think Peter Yu and others sat on it. I am aware of some of their conditions around how they might want a prison—it was around West Kimberley in particular—to be run and some of those principles we are trying to employ with a new Broome prison as well to reactivate those to be really culturally secure and provide a better rehabilitation journey for Aboriginal prisoners, in particular, in the Kimberley. The focus on Broome is essentially because the existing Broome prison—Broome is pretty much a hub for the Kimberley in terms of transport and logistics—it was pretty evident going back before my time that when an attempt was made to decommission the Broome prison, even after West Kimberley was established, there was a need still to have a presence of significance in Broome. In terms of our long-term custodial planning, at the moment what we are focusing on is a new Broome prison. The department does what is called a prison network analysis quite regularly to try and work out where prisoners are coming from, whether they are able to stay close to home. They are not always able to for various reasons, but we do try and prioritise prisoners being close to lands when they are Aboriginal people; that is important, and we all accept that. We have not actually ruled out

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the East Kimberley, but it is not our priority right now. That does not mean though that like any other area of the state, that it is not under active consideration; it just means that is not the focus.

**Hon NEIL THOMSON:** On a different matter, I refer to page 434 and “Youth” at the bottom of the table of “Outcomes and Key Effectiveness Indicators”. It talks about the rate of return to detention and the successful completion of community-based orders in particular. I am focusing on the community-based orders KPI. I note that in 2021–22, the successful completion of community-based orders is significantly lower than the budget target and also lower than the actual. I ask for some clarification on this. Firstly, in broad terms, without being absolutely specific, how many youths are we actually referring to when we talk about this percentage? I am focusing on the impact on this in terms of the number of youth that are not completing their community-based orders.

**Hon MATTHEW SWINBOURN:** I will refer this to the director general. I think, just as a precursor, member, your question started on a particular point and you did move to second one. I think perhaps if we allow the DG some latitude to give you a broad answer, it might cover those two particular points that you have raised.

**Dr TOMISON:** Thank you, parliamentary secretary. I will go to the numbers first if that is okay. At the moment, as of today, there are pretty much 1 340 young people on community corrections orders of some sort and 119 actually in Banksia, which, I know, is different to what you are asking. I am just giving you both those figures though. Essentially, around 10 per cent of young people today are in Banksia but the rest are on community corrections orders so 1 300 roughly. Now, that is a decrease. Over the COVID period of the last two years, you would be aware that criminal behaviour and surveillance criminal behaviour actually dropped and we actually saw a decrease in criminal activity generally. Whilst youth offending in the last year or so has come back, if you like, and has increased particularly over the summer period we have just gone through at the start this year, adult offending has not come back yet. We are still seeing a significant decrease in prisoners and those in community corrections. I guess that is the first point. In terms of why our successful completion decreased, I cannot give you a specific answer. The reality is that it reflects that we have a number of individuals, more than we would like, breaching orders due to reoffending. When they do not comply with those orders and they pose a risk to the community, the reality is that we have to have breach action and that can then mean they maybe end up in a period of time in Banksia Hill or that they refer the sanctions before the court. That is what it refers to. We have not reduced own programming. Certainly in COVID in more remote areas in particular, it has been more difficult to access and provide services to young people because some communities were restricted. We had issues around how we get staff out to them, so those sort of factors, I think, probably played a part in what has happened but, beyond that, what it essentially refers to is that we have not met our target basically. I cannot give you a more precise answer than that I am afraid.

[11.20 am]

**Hon NEIL THOMSON:** Thank you, and I thank the parliamentary secretary for allowing the latitude to respond.

**Hon MATTHEW SWINBOURN:** You have to thank the chair; he allows the latitude.

**Hon NEIL THOMSON:** You highlighted the two questions.

**The CHAIR:** I get the accolades!

**Hon NEIL THOMSON:** I will be specific, but before that, the perception with people in the community, particularly in regional areas, is that kids are having these community-based orders and there is an increase in reoffending occurring because they are not complying with the orders that may be impacting on them. Also, which is unrelated to this, are bail issues, which are also a concern

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for the community. By way of background, people are concerned that some of the bail conditions are also being breached. I assume that is not part of this KPI and has nothing to do with it. I see you are nodding, so that is fair. Has this reduction in successful completion of community-based orders resulted in increased youth reoffending?

**Dr TOMISON:** Some of it will be increased new offending, if I can say that, and some will be about breach of conditions under the orders that they are on. For example, if one condition is “do not associate with these individuals”, but the young person continues to do that, then the department will breach that young person and may bring them back before the court. It just depends; it is a mix of things. I cannot give you a precise breakdown, but it will be a mix of things—some new offending, some breach of conditions.

**Hon NEIL THOMSON:** Given the variance this year, what do you think is the main driver of this variance?

**Hon MATTHEW SWINBOURN:** Sorry, the main driver of what?

**Hon NEIL THOMSON:** The variance in the number. We have gone from 63 per cent to 57 per cent. What is driving that?

**Hon MATTHEW SWINBOURN:** It does ask for a degree of speculation, noting, of course, that the Department of Justice is often the receiving end of these actions and it is the police that deal with the on-the-ground policing, so that is a different agency. They might be in a better position to answer your question.

**Hon NEIL THOMSON:** You do administer it.

**Hon MATTHEW SWINBOURN:** They administer it. They receive these children, if I can put it this way, and, yes, they do manage them post-sentence. But you are asking a front-end question rather than necessarily a back-end question. I will ask the director general, because he seems confident to have an answer.

**Dr TOMISON:** Thank you, parliamentary secretary. I certainly support what you are saying that we receive young people who then commit offences and become part of the court system and then the corrective services system. That is absolutely true.

It is speculation. You certainly will have been aware of media reports late last year, over the Christmas period, as I mentioned earlier in this hearing, about some young people who were engaging in quite dangerous behaviour, ramming police cars. That is a new thing that we have not really seen that much. It is called the TikTok challenge, or something like that. We have seen a version of that with young people coming into our care, either on community-based orders or also in Banksia Hill, which is quite dangerous. We have the same cohort.

The reality is that most young people will test the boundaries at certain points, and most will then desist from offending. The kids that concern us usually come from a complex set of family issues. They may have mental health concerns, learning disabilities, they are not going to school, the FASD stuff. They have experienced violence in their own upbringing, in their family constellation, and they are very difficult to keep on the right path or assist to rehabilitate back on the right path. They come in with a lot of issues. These are not average middle-class kids; these are kids who are coming in with a whole range of factors. Part of that acting out will be impulse control. They get with the wrong cohort of people, they then go on to commit all sorts of antisocial behaviour, potentially, and/or criminal activity.

As I said, the rate of this activity changes over time. In the first year or so of COVID, we saw a big drop—we only had 80 people in Banksia, which was unheard of since I have been here. When I first

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came in in late 2016, early 2017, it was closer to the 200 mark, so we have seen that drop. In the last year or so, we have seen increases and decreases—waves, if you like—of young people coming into Banksia. For me, it is a good yardstick of what is actually happening, because that is also reflecting what is going on in the community. There has certainly been some increase, seasonally, in offending in some parts of the northern, western and middle parts of WA, but that is also balanced by other areas which seem to have had less crime in the last few months.

Last year is not a good benchmark because crime was low generally, but if we go back even a couple of years, you can still see that there has been an increase in certain types of offending, certainly in the Pilbara and the Kimberley, but it is not all over; it is scattergun. Some areas have had a better time and others have not. As I said, member, at the end of the day it is pretty much a mix of things. When we get the young people, our role is to try—with the courts' support, setting orders—to keep the young people from reoffending and to get them to obey their conditions. It can be difficult at times. It can be difficult in Perth and it can certainly be difficult in more remote areas. This particular year, our figures are down for the reasons I have talked about, but we continue to work to try to get all kids to obey their conditions, come through the other end and, essentially, go on to desist from crime and get on with things.

**The CHAIR:** Can I just say, before I have a break for a minute, I know it well. Back in 2015–16, in the good old days when my mob were in power—I remember it well, mate—I was looking at Oombulgurri as a re-engagement centre for youth. It had the full support of the local Aboriginal community and the shire at the time. That is something I think the government should look at. To be perfectly honest, I do not know what is at Oombulgurri now; it is probably still nothing, I would imagine. It is a shame. It had all the training facilities; everything was available there. It was a perfect facility for a re-engagement centre for disengaged youth. Anyhow, that is the gospel according to Pete—and then we got smashed.

Because the parliamentary secretary has been a good boy, I will have a five-minute comfort break. Perhaps at 11.30, I will ring the bells for two minutes.

#### **Hearing suspended from 11.26 to 11.32 am**

**The CHAIR:** Welcome back. We will move on to Hon Shelley Payne.

**Hon SHELLEY PAYNE:** I wanted to ask a question about the Office of the Public Advocate. That is page 432, significant issue 23, where it talks about the government approving additional funding for the Office of the Public Advocate as a result of things like the ageing population and the implementation of the National Disability Insurance Scheme. I just wanted to know about this additional funding and how it was going to be used.

**Hon MATTHEW SWINBOURN:** I refer that to the Public Advocate, Ms Bagdonavicius.

**Mr BAGDONAVICIUS:** The demand for our services, as you have highlighted, has been exacerbated by the transition to the commonwealth National Disability Insurance Scheme, and it has really been so since 2017–18. The growth in our funding—last year we had an increase to take us to 85 FTE, which gave us an additional 12.5. But we also have seen that we still required more resources to address the increase in demand, so we engaged the Nous Group to do some work with us so that we could put it to Treasury and work with Treasury around a further increase to our office, which has been successful. That has resulted in us having an additional \$1.8 million this year, giving us an increase further in terms of our FTE. That takes us to a budget allocation of \$13.9 million. The way we are addressing the demand, principally, the demand is coming through appointments of the State Administrative Tribunal. The impact of NDIS on our office is that it is happening because NDIS is a more contract system than what we had previously around the funding for disability services. It

is actually volume intensive in terms of work required of guardians as well as the increasing numbers of people for whom we are being appointed. It is a complex scheme at times for families to negotiate, so we may be appointed. Sometimes we are appointed to work and provide consent services while a family member might be appointed to make decisions in a represented person's life in other ways such as around treatment or accommodation.

The increase in funding has been used to increase the number of our staff across the teams but we are also looking at trying to replace our outdated IT case management system, which also makes it difficult and cumbersome for us doing work and identifying the work that we are doing around NDIS. We are hoping towards moving and sharing more information with the NDIA to actually provide better information for both our service and also with the NDIA. We are looking at developing and have been doing work again around developing a new case management system as part of how we will use additional resourcing. We are also going to be establishing a new NDIS position—a policy-type position—which will have a focus of providing support to staff in operational ways around some of the difficult issues that arise on a day-to-day basis around NDIS and what it means for our represented persons as well as also doing some work to assist me with our intergovernmental work across government at a state level around data-sharing information—for instance, in terms of formalising agreements and putting them in place with both NDIA and hopefully the NDIS Quality and Safeguards Commission.

**Hon SHELLEY PAYNE:** That is great. Thanks. It is great to hear that collaboration happening.

I have a different question on a different matter. In relation to page 430, there is significant issue 4. We already talked about the pandemic this morning but this talks about demand for legal assistance, which is continuing to increase, in both family violence and civil law areas such as credit, debt and employment law. I just wondered how this growing demand as a result of COVID is being addressed.

**Hon MATTHEW SWINBOURN:** I will give that to the director general to address.

**Dr TOMISON:** As the member has suggested, the pandemic does continue to give rise to many new legal problems. There has been a surge in demand for services to support family and domestic violence legal assistance, employment law, financial hardship problems, partner visa issues and credit and debt inquiries. These have all increased. The legal assistance sector was able to provide additional services through 2021–22 due to the state COVID-19 funding, which provided a total of \$3.995 million for the period. In addition to that, the department will spend \$4.5 million in 2022–23 to maintain funding and service delivery in the community legal sector at the current levels and to continue to address demand for legal assistance services stemming from the COVID-19 pandemic. That is essentially the answer.

**Hon ROSIE SAHANNA:** My question relates to issue 10 of the Kimberley juvenile justice strategy. What community levy initiatives have been progressed under the banner of the Kimberley juvenile justice strategy?

**Hon MATTHEW SWINBOURN:** Once again, I ask the hardworking director general to address that.

[11.40 am]

**Dr TOMISON:** The Kimberley juvenile justice strategy originated in September 2018 when the WA Premier, Hon Mark McGowan, MLA, met with ministers and agency heads from the communities, education, health, justice and police portfolios to discuss an interagency response to address the issue of youth crime in the Kimberley region, which my department was then asked to lead. In 2019–20, a total of \$900 000 was allocated to the KJJS over three years. The first year of funding, \$300 000 was utilised to engage the services of Kimberley Aboriginal Law and Cultural Centre to undertake consultation process across the Kimberley, which was key to informing future initiatives in the

region. This was a really important exercise in that it went to a large number of communities and they had a large number of community meetings to engage not just with elders, but also young to try to determine what it was that the communities not just the ACCOs would like to see in terms of addressing some of the issues around the prevention of youth crime and diversion from youth crime going forward.

In March 2020, the state government announced further KJS funding of \$6.2 million as part of its commitment to Aboriginal youth wellbeing. Of that, we utilised almost \$5 million to deliver place-based initiatives across the Kimberley region, which consisted of structured activities and night patrols to keep young people engaged after school and on weekends in Halls Creek, Broome, Kununurra, Wyndham, Derby and Fitzroy Crossing. And \$1.2 million was utilised to deliver a TAFE-based education industry skills program through North Regional TAFE, which is based in both Broome and Kununurra. Then in 2021–22, there was an additional \$7.8 million allocated over the forward estimates to continue the KJS projects and to establish a new night patrol program at Fitzroy Crossing.

What I can give you, if you like, is an actual breakdown of the actual grants, if that would be helpful.

**Hon MATTHEW SWINBOURN:** Member, is that what you want?

**Hon ROSIE SAHANNA:** Sorry?

**Hon MATTHEW SWINBOURN:** The director general is asking if you would like a breakdown of the grants that related to this.

**Hon ROSIE SAHANNA:** Yes.

**Dr TOMISON:** The first one I will mention is at Broome, and it is to the TAFE and its alternative learning program, but it operates in Kununurra as well. Just as an example of some of the benefits there, we have seen, in the last 12 months, 39 participants in the Broome program and 25 participants in the Kununurra program. Also at Broome we have the Aboriginal Legal Service of Western Australia providing a youth engagement program. That is essentially a program when young people get in trouble and come before the courts to ensure they actually meet the conditionals of their bail and also attend court. They also assist them with an ongoing relationship when they start getting to community corrections orders, if that is what actually happens with those young people. That has been going since 2020 and will continue until 2024. There was also a grant to Broome Youth and Families Hub, which is a diversionary program to try to give activities to young people to keep them doing something productive with their time. That grant has finished but we are in the process of renewing that grant at the moment.

At Derby, Emama Nguda Aboriginal Corporation has been funded to provide a night patrol. That started earlier this year and will continue through for the rest of this year. We have also been working with the Shire of Derby–West Kimberley, doing a juvenile justice youth services program, which again is about activities after school and on weekends to keep young people productively engaged. That program has lapsed but we are looking to reconsider and renew that program at the moment.

At Fitzroy Crossing, the Marra Worra Aboriginal Corporation is running a night patrol, which has been happening this year since February and will continue until late 2024. The Shire of Derby–West Kimberley at Fitzroy Crossing also provided some activity programs. That program has lapsed but is being considered for renewal. It has been going since 2020. At Fitzroy Crossing, the Kimberley Aboriginal Law and Cultural Centre—KALACC—has been given money to fund the Yiriman project, which is a cultural camps project. There was \$100 000 given from April to November this year. It is a new grant that we have just signed up to.

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At Halls Creek, the Shire of Halls Creek has been given money for a youth engagement night patrol done by Olabud Doogethu, which is the Aboriginal corporation there. That is the justice reinvestment model that has been set up in Halls. They have been funded until September this year and that will likely be extended. The Shire of Halls Creek has also been funded for On Track, which is another part of the Olabud Doogethu corporation. That has been funded through royalties for regions. It is being signed off as we speak and is designed to extend the work that the night patrol and the Aboriginal corporations can do with young people in Halls Creek.

I mentioned the Kununurra program for TAFE. We also have Kununurra-Waringarri Aboriginal Corporation running a back to country healing trip and structured activities. There is a new grant progressing there. The previous grant operated from February last year to February this year.

There is also the Wyndham Youth Aboriginal Corporation diversionary program “new way, right way”, which has been funded since December 2020. That is about to be renewed. There is another grant going forward.

That is essentially the grants that we have been operating. I have mentioned the numbers for the Broome TAFE and the Kununurra TAFE. The Aboriginal Legal Service’s youth engagement program is the bail-based program running out of Broome and Derby and supports an average of 26 participants a month. Monday night basketball supports an average of 29 participants a month. The school holiday program supports an average of 40 participants a month. The Emama Nguda night patrol in Derby supports an average of 287 participants a month. Olabud Doogethu in Halls Creek together with the youth engagement officer patrols seven days a week, with an average of 530 interactions a month.

**Hon KLARA ANDRIC:** On page 430 of the budget papers under significant issues, paragraphs 7 and 8 both note the priority bills that the department is progressing and the work of the Parliamentary Counsel’s Office to progress the government’s legislative priorities, but the government is yet to deliver on its priority to draft legislation to progress the reform of the mentally impaired accused legislation and associated service delivery. When will this reform be delivered.

**Hon MATTHEW SWINBOURN:** I will take this one. The department is progressing the criminal law mentally impaired bill 2021, which will give effect to this reform. The bill will deliver on our 2017 election commitment to reform the current Criminal Law (Mentally Impaired Accused) Act 1996. This is first time in 25 years that this area of the Western Australian law has been reformed. As a consequence, it is a very complex body of work and it is taking time to ensure that it is done correctly and thoroughly. Work on the drafting of the legislation is ongoing. Alongside these extensive legislative reforms is a body of work to ensure that the government is ready for the implementation and to make sure that WA’s new criminal law mental impairment framework will operate effectively. I think we would all agree that this is an area that needs continuing work, and we committed to that and we are working our way towards the delivery of that bill.

**Hon MARTIN PRITCHARD:** I have a couple of questions but I note that time is running out fairly quickly.

**The CHAIR:** No. You are fine.

**Hon MARTIN PRITCHARD:** I will ask one. If you have time at the end, come back to me.

I turn the parliamentary secretary’s attention to budget paper No 2, page 431 and significant issues —

18. Criminal and civil time to trial in the Magistrates Court is higher than the target. This reflects a sustained high proportion of matters listed for trial, a significant increase
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in the seriousness of cases finalised by trial and an increase in the proportion of multi-day criminal trials.

Basically, when will more criminal courts and other courts become available?

**Hon MATTHEW SWINBOURN:** I think this is a question for the head of the courts and tribunal services, Ms Joanne Stampalia. I would like to congratulate Ms Stampalia publicly for the awarding of her Public Service Medal at the recent Queen's honours.

**The CHAIR:** Duly noted and applauded.

**Ms STAMPALIA:** Thank you, parliamentary secretary. In relation to the court rooms themselves, for some time we had been experiencing a lot of pressure across the central business district and the utilisation of criminal courts so last budget year we were given an amount of \$500 000 to do some planning. We have used that planning money to actually pull together a feasibility study that we are currently finalising, and we will be using that information to build a business case for the 2023 budget process.

Positively, though, we should reflect on the across jurisdiction cooperation that has occurred. We are very fortunate that our heads of jurisdiction work together across all our buildings that can accommodate criminal work, particularly in relation to jury trials and also the utilisation of the custody centres.

We have been able to share a number of facilities amongst the Supreme, District and Magistrates Courts. I do have to emphasise that is causing a lot of pressure around listings, but we are fairly positive that we have come up with a good option for the government to consider as part of next year's budget process, which will be the building of 12 criminal jury trial courtrooms somewhere. We are hopeful that we will get a positive result in relation to that.

[11.50 am]

**Hon MARTIN PRITCHARD:** If I may, just to follow up, through the parliamentary secretary, the planning has been done, but it is still yet awaiting approval for further courts to be built, but in the meantime, there is a multiplicity of sharing of courts to try and get through the workload. Am I correct in saying that?

**Hon MATTHEW SWINBOURN:** We are building a new court—the Armadale justice centre. There is a new Magistrates Court that is under construction there which will provide further accommodation. It does replace the existing Armadale Magistrates Court, but it will provide greater accommodation there so that there will be an opportunity for expansion. But for a more detailed answer, I might refer back to Ms Stampalia.

**Ms STAMPALIA:** Yes, the feasibility study is being finalised, which really looked at a number of options across the central business district. One of the options we looked at was whether we could actually do anything to existing facilities in the city. That sounded like a good option to examine. As we are pursuing some of those elements, it is a bit of a challenge because you would actually disrupt court operations if you decided that you could actually do some work in one of our existing buildings. So we are fine-tuning the feasibility study. We are looking at how we turn that into a business case for next year's budget process, going into consideration as part of that.

**Hon MARTIN PRITCHARD:** Thank you. I have some more questions, but I will wait to the end.

**The CHAIR:** I have just a couple of quick ones. Parliamentary secretary, can I just take you to budget paper No 2, volume 2, page 455? What is the number of FTEs in the out years? Do you have any idea?

**Hon MATTHEW SWINBOURN:** Is that for SSO?

**The CHAIR:** Yes.

**Hon MATTHEW SWINBOURN:** I might ask Ms Komninios and if she needs assistance from Aaron, she can seek it.

**The CHAIR:** I do not know whether we can take it on notice, whichever is convenient.

**Ms KOMNINIOS:** Is the question about the out years, as in the projection going forward, or are you —

**The CHAIR:** Yes, the FTEs.

**Ms KOMNINIOS:** Okay. That is a hard one to answer in terms of what we expect, but we are currently sitting at around 277, plus a few temporary contractors. The papers will show that we do not have recurrent funding for some FTEs who are in what we call the TIAC—the historical institutional abuse. We do not have recurrent funding for our TIAC team, which is the historical abuse in institutional care workforce, but we do —

**The CHAIR:** Sorry, you do not have funding for that?

**Ms KOMNINIOS:** We do not have recurrent funding. So you will see that the numbers are projected for only this year's budget and next year's budget, but we do not have recurrent funding for those FTEs, which we are —

**The CHAIR:** I hope that is forthcoming, parliamentary secretary.

**Hon MATTHEW SWINBOURN:** I think that in relation to that particular one, the reason for that is that we do not know the size of the work, because that depends on how many of those claims come through. So it is not something that you can necessarily account for and, as you might recall, that work is a product of the removing the statute of limitations. It is not because the government does not support the State Solicitor's Office—entirely the opposite—it is just the nature of the work that is being undertaken within that particular area.

**Ms KOMNINIOS:** Absolutely. And, as we said, the numbers are increasing in terms of the work flow and we are trying to understand the future projections of the amount of claims coming in and the complexity of the claims as well. So it is very much a work in progress in that area.

**The CHAIR:** I appreciate the difficulty in getting any clarity behind the FTEs in those out years. If you go then to budget paper No 2, volume 2, page 455—the same page—"Income Statement", "Expenses", "Employee benefits", which are expected to increase by \$4 million in 2021–22 to 2022–23, the number of FTEs is only expected to rise by two in the same period. Now, on the assumption that they are not going to be the highest paid public servants in the world, what will the additional \$4 million be spent on?

**Hon MATTHEW SWINBOURN:** Page 455 again, and which budget line item was it, sorry?

**The CHAIR:** "Income Statement", "Expenses" and "Employee benefits". They are expected to increase by \$4 million, yet the FTEs is only expected to rise by two. I am just wondering where the \$4 million comes from. I do not want to take up too much time, so if there is some difficulty, then take it on notice.

**Ms KOMNINIOS:** I will take it on notice, but my understanding from my chief financial officer is that we have recently changed our structure and because of the growth of the organisation we have restructured it so that we have additional positions in the Deputy State Solicitors and the advisers, so additional salaries and allowances positions.

**The CHAIR:** But \$4 million is a lot of money, though. Can we just take that on notice, if you do not mind?

**Ms KOMNINIOS:** Yes, we will take it on notice.

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[*Supplementary Information No A7.*]

**Hon SAMANTHA ROWE:** To the parliamentary secretary, on page 431 under “Other Significant Issues”, items 17 and 18, the budget papers refer to the increasing time to trial in WA’s courts. What is the department doing to address the increasing time to trial in the Magistrates, District and Supreme Courts, and why is time to trial increasing?

**Hon MATTHEW SWINBOURN:** Thank you, chair. I think this is, again, a question for Ms Stampalia.

**Ms STAMPALIA:** Thank you, parliamentary secretary. What we are doing at the moment is working with heads of jurisdiction in relation to coping with the impact of the increasing complexity in matters that are coming into all the courts, so the Magistrates, District and Supreme Courts. The issue has arisen that we have a lot of matters with multi-accused. We also have items that have been impacted by COVID from March 2020. In the District Court in particular, there were a number of jury trials that could not proceed, given what happened in March 2020, for a few months. Compounding that is what we talked about earlier, which is the availability of criminal jury trial courtrooms, and not just jury trial courtrooms, but those courtrooms that will accommodate large numbers of multi-accused and allow social distancing as well.

What has happened more recently with the justice pipeline model—the pipeline model is a model that was developed by the Department of Treasury to assist us in estimating the numbers of judicial officers that would be required when a number of police officers came on board some time ago. So we actually now have a model that allows us to look at judicial numbers. Part of the addressing of the workload, or the backlog in those jurisdictions, has been the ability to put on additional judicial officers. In the Supreme Court, from 1 July we put on an additional Supreme Court judge and in the District Court we are also putting on an additional District Court judge from 1 July, and we have two magistrates starting in the Magistrates Courts from July as well. So there are a number of things that we are doing to address that. Though, in support of the judiciary, we actually have the judiciary looking at how they circuit, so they have also doubled the number of circuits in the regions, particularly in the Kimberley and the Pilbara, to actually assist with addressing the backlog. They also have an over-listing practice up to about 40 per cent, particularly in the District Court. That allows matters to come on board when other matters cease because an accused may have pled guilty or things happened to not allow that trial to proceed. That also has been a significant benefit as well. We are also using a lot of our facilities, as I mentioned earlier. We have a jury trial courtroom in Fremantle. We have our higher courts—the district in particular and the supreme—using the Fremantle jury trial courtroom, so that supports that as well.

The other element we have been able to do, because of the pipeline model, we have also been able to, when we hear of the retirement of a judicial officer, we have actually been overlapping. So when a judicial officer is retiring—we do have an example where a judge is retiring in December—we have actually taken on board the replacement in the courts, as a state, six months prior to their retirement. We also have an auxiliary judge working in the District Court and we have also taken on a commissioner, as a state, in the District Court. So we have a degree of flexibility that that justice pipeline model presents us with, so that is helping, but it still is not necessarily bringing the time to trial down to the levels that the courts would prefer to see, but it will start to have an impact in the next six to 12 months.

[12 noon]

**Hon SAMANTHA ROWE:** Can I ask a question about the Armadale Courthouse? If you need a line item —

**The CHAIR:** No, we have already had a question on that, or some discussion on it, so go for it.

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**Hon SAMANTHA ROWE:** On page 429 it talks about \$352 000 that has been earmarked for the courthouse. Are you able to advise us when that is likely to become operational?

**Hon MATTHEW SWINBOURN:** Thank you, member, for the question. I note that it is in our East Metropolitan Region electorate and it is an important development there at the Armadale Courthouse. I would like to share with the committee that I have visited the site, which is obviously still a construction site. It would be fair to say that it is a massive improvement on the existing courthouse in Armadale. If anyone has ever been unlucky enough to either appear or spend time in Armadale Courthouse, they will know that the architects of the 1960s and 70s probably were not much cop when it came to the design of public buildings. But the new building is progressing, and when I visited it, it was a hive of activity. In terms of your specific question about the \$352 000, because it is a venture that is in conjunction with WA Police as well as Justice, it is not just—the new Armadale Police Station will also be co-located at that site. I will ask Ms Stampalia to address that part of the question.

**Ms STAMPALIA:** That amount just relates to the additional costs required around running a building. We are going from a very small footprint to having a complex that has four criminal courtrooms and one civil courtroom, and a number of chambers for judicial officers and staff. That small amount of money is an amount that we were not provided with previously to cover those operating costs day-to-day.

**Hon JACKIE JARVIS:** My question relates to the Criminal Injuries Compensation Act. I note on page 429 of budget paper No 2 that the 2021–22 budget was around \$31 million, and then for the same year, 2021–22, this current year, the actual is closer to \$90 million. The difference is accounted for on page 430, under “Spending Changes”, the additional \$58 million. Also, in the out years, the budget figure goes up by about \$9.9 million each year. Is that increase all due to amounts paid out to victims of crime? I am just wondering why there is this significant increase in the current year.

**Hon MATTHEW SWINBOURN:** This is again a question for Ms Stampalia.

**Ms STAMPALIA:** Yes, it is. Historically, we have been dealing with a considerable amount of backlog in the criminal injuries compensation area. That amount relates to awards made. We hope that the backlog, to a large degree, has been addressed, which is why the out years look slightly different. As a state, we appointed a fourth assessor into that jurisdiction some time ago, and did some improvements around e-functionality and the case management system, which has made a real difference in relation to what they have been able to do in catching up on the backlog.

**Hon JACKIE JARVIS:** Just to follow up on that, obviously you cannot predict how much people will claim. The budget in the out years, the \$41 million, is that just based on the usual workload, the usual claim amounts that would come through on an annual basis?

**Ms STAMPALIA:** It is based on our best assessment of the average. We have been able to work with the Department of Treasury as well with providing them some data around what we have been doing over the last year. We have actually run some numbers with Treasury and others to show that it looks like we will taper off in the numbers that we were dealing with in terms of numbers awarded. The average award to a victim has not really altered that much. It has probably gone from about \$16 500 down to about \$14 900. But as I said, it is our best estimation at the moment of what will happen in the out years with the numbers we have been running.

**Hon JACKIE JARVIS:** Another question, if I may. My other question is with regard to alcohol and drug rehabilitation services. I refer to page 431 and significant issue 16. It talks about two dedicated rehabilitation facilities. I am just interested in what services are offered in the prison system, whether it is just through those two rehabilitation facilities, or if there are other services offered to

prisoners. My secondary question is—I notice the planning has commenced for a new alcohol and drug unit at the Bunbury Regional Prison, in my electorate. I am interested in what services are available across the prison system. What happens at the two dedicated rehab facilities, and what is the time line on the Bunbury facility?

**Hon MATTHEW SWINBOURN:** I will ask the director general to address this question.

**Dr TOMISON:** Thank you, member, for the question. We have two dedicated alcohol and other drugs rehabilitation facilities: Wandoo Rehabilitation Prison for women and the Mallee Rehabilitation Centre for men, which is located inside Casuarina Prison, one of our maximum security prisons. They are a key part of the state government's methamphetamine action plan, and I will talk about how they operate in a minute. We also run other programs for prisoners across other parts of the state in terms of the custodial estate, including rehab programs called Pathways and other programs. You do not have to go to these units to be rehabilitated and be offered support to get off drugs and keep off drugs, but these centres really specialise in that. They are intense and very difficult programs to work through. As a result, people have to be really motivated to sort of apply for them. The benefit of that is to get there and to go through that process—people who are really motivated to get off drugs or alcohol or whatever they are on.

The Wandoo prison has been going now for around two years. It can hold up to 75 women at any one time and is a partnership between the department and Cyrenian House, which is an NGO service provider that has done a really good job. To date, well over 200 women have actually graduated from that program, and most of those have got out and back into the wider community. I cannot give you the precise figures; they are not with me at the moment, but I can say that the vast majority of those women have not reoffended in a way that has led them to come back into custody. There have certainly been some parole breaches and certainly some instances where people have gone off the wagon and used either drugs or alcohol and been found by Corrective Services to have done that, and they are penalised for that. But in terms of actually committing further crime beyond that, the rates have been very low—way below what we would expect—so that has been a really great success. The office of crime statistics and research within the department is currently doing an outcome evaluation of that program.

The Mallee unit has only been going for about 18 months. Again, it operates in a similar way, but with Wungening Aboriginal Corporation and Palmerston AOD service to provide the NGO therapeutic support and the cultural security for the project. I actually spent a night in that unit last year as part of the CEO Sleepout, which was pretty good, actually. I actually enjoyed it. I got to speak to the guys and got an understanding of what they were experiencing. That was the first group to actually graduate from the program. They were incredibly keen. Our Corrective Services staff work well with the prisoners and the NGO staff to create quite a strong therapeutic environment. Many of the people who go through the project end up on our prison farms and subsequently getting jobs and getting out into the real world. The data on how they are going is available at present, but again, that project is also being evaluated by the office of crime statistics and research.

To extend the work of those two units and also make better use of the network of our prisons, the Bunbury Regional Prison is being given a 24-bed AOD reintegration service unit. The intention there is firstly to offer a step down from the Mallee unit for men, because it is a men's service. But it is also to take prisoners who have been doing rehabilitation work to other parts of the corrective services environment and to also provide them with a more intense, but not quite as intense, service, so that when they get out in the Bunbury region—that is where a lot of them come from—when they get into section 95 activities, so they are going out and working in the community, they are less likely to give into temptation and get on a positive pathway. That is the next step for this

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unit, and it is being scoped out right now as to how we are going to operate that unit in Bunbury. We expect that within the next year it will be operational.

[12.10 pm]

**Hon JACKIE JARVIS:** I will just follow up, if I may. So the operation next year, will there be an NGO involved in partnering with that one, as well?

**Dr TOMISON:** That is certainly the intent.

**Hon JACKIE JARVIS:** Okay; excellent. Thank you so much.

**Hon Dr BRAD PETTITT:** I am referring to page 442 of budget paper No 2, volume 2, which looks at the cost of keeping a young person in detention. I note that in the budget for 2022–23, the budget target for that is \$1 352 per day, which is a pretty extraordinary figure. Has there been any work done around the financial implications of raising the age of criminal responsibility, be it to 12 or 14, and what that might mean for this budget line?

**The CHAIR:** Interesting question. Parliamentary secretary.

**Hon MATTHEW SWINBOURN:** Thank you, chair. I think I will ask the director general to address this, although noting that the age of criminal responsibility is a future policy issue, and a degree of speculation will have to be inherent in the question. But I think the DG is in a position to answer that.

**Dr TOMISON:** Thank you, parliamentary secretary. As you know, it is quite expensive to keep a young person in detention. They require a lot of services, as you would expect, more so than what you provide for an adult prisoner, and so, obviously, the more you keep out, the cheaper it is going to be. Some work has been done just generally around who we have inside Banksia Hill, as you would expect, in terms of numbers. In terms of particularly between the age of 10 and 12, I think last year, there was one young person who was actually in custody for a period of time in Banksia and no others. That person was remanded. There were no people who were sentenced to detention for the last year. In terms of 13 and 14-year-olds, obviously, there was a higher number. I think I have the figures here somewhere. It is, as you would expect, not the majority of the young people who come into Banksia, and again, as you would also note probably, Dr Pettitt, a lot of people are actually remanded into Banksia for a short period of time. They are not actually sentenced to Banksia. About 70 per cent of all people inside Banksia are remanded—that is, for short periods. I think I have this here; just give me a moment to find the data and I will be able to tell you how many there are.

Okay, I think this data was actually provided out of session as a question on notice, as well, parliamentary secretary. For the financial year 2021–22 to 30 April 2022, based on commencements and receptions into custody, there was one distinct young person with a detention reception at the age of 10, six at the age of 11, 39 at the age of 12, and 63 at the age of 13. So, as young people get older, you are more likely, if you are committing offences, to actually not be diverted and to end up for a period of time inside Banksia. As the young people get older, if they have not desisted from crime, the numbers actually increase, and the majority of our population are 14 and up.

In terms of any assessment or calculation on raising the age, that would take into account how many potentially would be diverted into some alternative pathway. Those numbers are what we would use to actually calculate that. That is based on what I just told you.

**Hon Dr BRAD PETTITT:** Thank you. Further to that, on the same page, 442, it indicates the cost per day of managing a person through community supervision, in contrast to \$1 352 a day, is only \$159 a day. My assumption—this is a question—is if there is such a huge gap there, there is probably a range in between for a more intensive supervision order, for lack of a better phrase, that would be

required if we were to go down the route of changing that age of criminal responsibility. Has that work been done? I am kind of interested in where that might sit, because you have such a gap there between \$159 and \$1 352.

**Hon MATTHEW SWINBOURN:** Thank you, chair. First of all, let us just remember that, in terms of budget line items, that was Justice's line item, that if we were to raise—it is speculative—the age of criminal responsibility to any age, the costs are not necessarily the average costs that we incur for a prisoner or a person on remand every day versus what it currently costs Justice. You have indicated that figure of—I think you said \$139.

**Hon Dr BRAD PETTITT:** It is \$159.

**Hon MATTHEW SWINBOURN:** That is not a one-for-one exchange. You know, the question becomes if you raise the age of criminal responsibility, the problematic behaviours that we are dealing with there do not disappear, and society still has to deal with those people. So the model for raising the age for criminal responsibility is one in which you have to take into account where you provide services to children, because that is what they are, who are demonstrating sometimes extremely problematic behaviours, and how as a society we respond to that. It is not actually a one in, one out kind of thing. However, the DG has further information he would like to provide in relation to that.

**Dr TOMISON:** I think you have covered it, parliamentary secretary.

**Hon MATTHEW SWINBOURN:** Okay.

**The CHAIR:** Unless you have something to value-add, we might keep moving.

**Hon Dr BRAD PETTITT:** I will move on to a different one, if that is okay. I think Hon Neil Thomson covered this, but I kind of left it a bit more confused after that. I refer to one of the rates of return for detention, on page 434 of budget paper No 2, volume 2, where the rate of return in 2020–21 was 44.3 per cent, and you have a target of 50 per cent. I am assuming that—my reading of that—that was a good outcome. That was one where you had exceeded the target. Am I misreading that? That was where we have less people coming back into detention, or is it actually around—is my question making sense at this point? With the 44.3 per cent that is referred to on page 434, are we actually exceeding the target or are we not meeting the target?

**The CHAIR:** I do not think that is the same as what Hon Neil Thomson was asking.

**Hon Dr BRAD PETTITT:** Good, that is why I was slightly —

**The CHAIR:** But I will ask the director general to respond, yes.

**Hon MATTHEW SWINBOURN:** Yes, the director general would like to address that.

**Dr TOMISON:** Thank you, parliamentary secretary. In terms of rate of return to detention, we were pretty much where we expected to be, at around the 50 per cent. That needs to be a lot better, but that is where we are at.

**Hon Dr BRAD PETTITT:** Yes, so you are actually doing better than that 44.3, was my reading of page 434. If you want to be exact where that is on there, it is right down the bottom, the second from the bottom, rate of return to detention for youth, on page 434. You are actually exceeding your own target.

**Dr TOMISON:** In terms of the previous year, 44 per cent is absolutely better. Yes, there is an issue.

**Hon Dr BRAD PETTITT:** So just a question, then, on that, given that you are actually doing better than you expected. Is there a reason we are not, in terms of continuous improvement, actually raising the target for the following year, that actually seeks to continually drive that target down, given you have exceeded the 50 per cent?

**Hon MATTHEW SWINBOURN:** Thank you. Member, I think we just need to be clear what is happening here. If we look at page 434, you are looking at “Youth”, and then “Rate of return to detention”.

**Hon Dr BRAD PETTITT:** That is correct.

**Hon MATTHEW SWINBOURN:** The first figure there is 44.3 per cent, which is the 2020–21 actual.

**Hon Dr BRAD PETTITT:** Yes.

**Hon MATTHEW SWINBOURN:** Then if we go across to the estimated actual for 2021–22, which is the budget year that we are dealing with now, it is 50.8 per cent, and the budget target is 50 per cent. So we are slightly above that for the estimated actual.

**Hon Dr BRAD PETTITT:** Yes, understood.

**Hon MATTHEW SWINBOURN:** I do not want to misrepresent here. I mean, you were complimenting us for doing better than we expected, but I think, in that previous actual year, the amount was lower, and then it has returned to a more normal rate in terms of the estimate.

**Hon Dr BRAD PETTITT:** I guess I was just noting that given in that year you had done better, which was my point, and we clearly can, is there a way of actually driving that down? I think we all want a youth detention centre that does not see people return at a rate of 50 per cent. As the director general indicated, it is not a great target. But given we have done better, how do we drive that down? I guess that is what I was trying to tease out a little bit.

**Hon MATTHEW SWINBOURN:** The DG, yes.

**Dr TOMISON:** Thank you, parliamentary secretary. Look, these are relatively small numbers, so a few young people doing the right thing or the wrong thing can change them relatively easily. I think we have to bear that in mind. This is also an element of the Closing the Gap targets, in the sense of reducing over-representation of Aboriginal young people in the youth justice system. We are obviously going to be involved with that, as the rest of the states and territories are, as well, and try to identify ways that we can reduce that rate of detention, essentially, and reduce that sort of first instance of coming into Banksia, in our state.

[12.20 pm]

I guess that is our agenda. How you do that, that is quite a complicated thing.

As the parliamentary secretary said before, we essentially get the young people and the adults who come into the system because they have committed offences. The courts have essentially assigned them to us, either on a community-based order or a period of detention or remand, which is more common these days. You have got to actually work pretty hard to get into Banksia. As I said before, the young people usually have quite complex needs, which makes it hard to change that behaviour, particularly given the vast majority are in Banksia for only very short periods. So, where we have the opportunity is the transition period. We have a child protection transition manager from the Department of Communities, we now have one from Education as well, and our intention is to make the most of the Banksia experience—which can be positive or negative depending on what is going on for the young person and what is happening at Banksia at the time—so when they come out, they are better linked in to services.

I have seen some really good examples where, I have to say, the department staff, and departments as well, have worked really hard to get a young person—I am thinking of one particular young man who I know quite well. They have done a great job in getting him set up with a really good alternative education program and therapeutic supports, the family is engaged, but, unfortunately, he has an impulse control problem and that person has been back multiple times since that program was put

in place. It is quite hard to achieve with some of these young people. As I said, to get to Banksia, the young people, typically, especially if they are going more than once, have a range of issues which really are not amenable to easy fixes. It does not mean we are not going to work at that, but in some ways we have to also focus on the community corrections end for young people where we have a better chance in some ways to help those young people to desist and not get to Banksia in the first place. We do not want kids in Banksia if we can avoid it.

**The CHAIR:** Just picking up on that one, going back to the discussions we had earlier about Broome and the issues with Broome—the crime spiral, for want of a better term, in Broome over the last six or 12 months—you did mention the fact of the damage that has been done to a number of the cells or the rooms at Banksia. You alluded to this issue with regard to the cohort of juveniles that were actually chasing police cars et cetera. How many of them have come from Broome or have come from the Kimberley to Banksia? Do you have any idea? That is not a specific—I just mean generally. Is it larger than normal?

**Dr TOMISON:** Chair, it varies. It varies all the time, so around the February–March period, we saw an influx from the Kimberley and the Pilbara—South Hedland, I think. That then dissipated and the numbers dropped in Banksia again back to the normal, which for us at the moment is about the 100 mark. In the last three weeks, we have seen an increase of 20. I cannot tell you where those young people have come from without taking it on notice. It does vary. I think it is well known that the Kimberley is quite over-represented in the number of young people who end up in Banksia compared with other jurisdictions.

**The CHAIR:** I am actually really interested in this, so can we get as much detail as we can with regard to the number of adolescents who go to Banksia from the Kimberley, say? I just want to see if there is a pattern or a trend. What is easiest for you?

**Hon MATTHEW SWINBOURN:** Can we clarify the time frame?

**The CHAIR:** I am trying to work out with the director general what would be easiest, whether it would be annual or month to month—whatever is easiest for you.

**Hon MATTHEW SWINBOURN:** There is obviously an issue about too fine a detail because it might mean somebody is identified.

**The CHAIR:** I do not want to do that.

**Hon MATTHEW SWINBOURN:** No, I appreciate that. I think the DG said monthly would be appropriate.

**The CHAIR:** That would be great.

**Hon MATTHEW SWINBOURN:** But if there is an issue with that being too clear because you have one person from one area in a month, it is possible that that person might be identifiable. I am not trying to be evasive. I am trying to be careful in advance. In terms of the time period for the past 12 months —

**The CHAIR:** Each month for the last two years, that would be great. I still think you should look at Oombulgurri.

*[Supplementary Information No A8.]*

**Hon NICK GOIRAN:** Parliamentary secretary, page 433 of budget paper No 2, volume 2, deals with the service summary. It is the first service, court and tribunal services, that I would like us to take a look at, at the moment. There are 14 services that make up that particular line item, and the Coroner's Court is one of them. You indicated that for the 2020–21 period, the Coroner's Court, the

actual expenditure was just over \$23.6 million. Now, as at 30 June last year, we know that there was a backlog of 810 cases. What is the current backlog?

**Hon MATTHEW SWINBOURN:** I might ask Ms Stampalia to answer that question, please.

**Ms STAMPALIA:** As at 31 May, the current backlog is 1 350. That backlog relates to a number of items, so what we have is 320 of those items are court-controlled; 975 are not court-controlled. By “not court-controlled”, I mean those where we are awaiting a final police investigation report to come into the Coroner’s Court or waiting for final toxicology, forensic pathology or neuropathology reports. There are other miscellaneous items as well, which are a very low number, that make up the 1 350.

**Hon NICK GOIRAN:** As at 30 June, that backlog was 810. You are indicating it is now 1 350 or at least as at 31 May. At 30 June, 627 of the backlog cases were said to be because the Coroner’s Court was awaiting completion of investigation by external entities. Is that what you are referring to then as not court-controlled?

**Ms STAMPALIA:** That is correct.

**Hon NICK GOIRAN:** What is the list of external entities that are creating that delay, police obviously being one?

**Ms STAMPALIA:** Really, at the end of the day, the majority of those relate to reports that would come through from the WA Police Force, and the other elements would be depending on who is doing the particular reporting. So, you have PathWest, but it may be there are other reports from professionals or specialists that are part of that, and the ChemCentre is in that as well.

**Hon NICK GOIRAN:** Now, the Coroner’s Court, at least in the annual report, has previously said that there is a factor that may result in the prioritisation of whether a matter connected—I will rephrase. The coroner has previously indicated that it will be a factor as to whether a matter receives prioritisation, so whether a death is an issue of concern in public health and safety. Do we have data as to how many of those prioritisations have occurred in the current financial year?

**Ms STAMPALIA:** I do not have that data. That is not something I, as the head of court and tribunal services, monitor in relation to the Coroner’s Court.

**Hon MATTHEW SWINBOURN:** That is a matter that goes to the coroner’s exercise of their jurisdiction.

**Hon NICK GOIRAN:** So we have got no witness available today that can assist us with that answer.

**Hon MATTHEW SWINBOURN:** Member, I think we have made it clear to you that we are not in a position to answer that because it is a matter that goes to the coroner’s jurisdiction.

**Hon NICK GOIRAN:** I understood one of the witnesses was the office manager of the Coroner’s Court of WA.

**The CHAIR:** That is Mr Amidzic.

**Hon MATTHEW SWINBOURN:** Sorry, I was just confirming his role, but it is not his role in relation to those matters. I might ask Ms Stampalia to address that, please.

**Ms STAMPALIA:** I can explain the role of the office manager. At all of our court jurisdictions, we have a very senior public servant who supports the administrative groups that provide those services to the judiciary. So, Mr Amidzic provides that support. He is a public servant in the court and tribunal services division of the Department of Justice and he provides that support through to the office of the State Coroner, which includes managing the public service staff in that office.

**Hon NICK GOIRAN:** Have there been any complaints issued by staff?

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**Hon MATTHEW SWINBOURN:** I am just asking that he go through me.

**Hon NICK GOIRAN:** I do not mind. It does not seem like anyone here is able to answer questions in regard to Coroner's Court. I am simply asking, through you, Mr Chairman, to whichever witness thinks they can answer it: how many complaints have been received by staff members in the Coroner's Court with respect to workload issues?

**Hon MATTHEW SWINBOURN:** I will ask Ms Stampalia to answer that question.

**Ms STAMPALIA:** The answer is consistent with our preliminary response, which was that we have not received complaints from staff in a formal capacity.

[12.30 pm]

**Hon NICK GOIRAN:** "We" being whom?

**Ms STAMPALIA:** The Department of Justice. In providing the administrative support and looking after the public service staff in the Coroner's Court, we have not received formal complaints around workflow.

**Hon NICK GOIRAN:** So if a staff member was fed up with respect to the backlog in the Coroner's Court, the appropriate course of action for that staff member would be to lodge a complaint with the Department of Justice?

**Hon MATTHEW SWINBOURN:** If Ms Stampalia could perhaps address that question, noting the impertinent nature of it.

**Ms STAMPALIA:** A staff member in the public service of WA supporting the Coroner's Court would not complain around the backlog itself in a formal capacity. What we do in terms of resourcing is that we look at the resources in the Coroner's Court. Given that the backlog is comprised of a number of elements, it is not something that our staff would express a complaint about, but what we have done as a department is we have supported the State Coroner in escalating her concerns. We have been able to meet with the police force and Pathwest —

**Hon NICK GOIRAN:** The coroner has concerns, has she?

**Ms STAMPALIA:** In relation to the number of reports we are waiting for as a state, coming in from those other agencies. The director general, myself and a number of others met with the WA Police Force and Pathwest and we actually talked about that. We have really been able to make some inroads just very recently, where a number of strategies are going to be put in place around police being able to speed up what happens in relation to their reports, and Pathwest has also indicated that they will be able to do some things to actually speed up what is coming in from their areas as well.

**Hon NICK GOIRAN:** Parliamentary secretary, does this line item on court and tribunal services, which comprises some \$23 million for the Coroner's Court, include the salary for the coroner?

**Hon MATTHEW SWINBOURN:** Again, Ms Stampalia.

**Ms STAMPALIA:** Sorry; to Mr Montilva.

**Hon MATTHEW SWINBOURN:** To Mr Montilva, sorry.

**Mr MONTILVA:** The coroner's salary is determined by the Salaries and Allowances Tribunal. Her remuneration is part of a special act of Parliament and is covered under estimates. The salaries of all members of the judiciary are covered under current estimates.

**Hon MATTHEW SWINBOURN:** More specifically, he has asked if the amount that is listed there includes the salary.

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**Mr MONTILVA:** Which line item, sorry?

**Hon NICK GOIRAN:** The answer is that it does not, and I understand why. Now the question is: given that the coroner's salary is not included in this line item, what is the number of FTE working in the Coroner's Court that contribute to this \$23 million paid by taxpayers?

**The CHAIR:** So, the staffing number.

**Hon MATTHEW SWINBOURN:** Yes. Ms Stampalia?

**Ms STAMPALIA:** It is 25.

**Hon NICK GOIRAN:** So there are 25 Western Australians being paid by other taxpayers. Do they report to the State Coroner or the office manager?

**Ms STAMPALIA:** To the office manager.

**Hon NICK GOIRAN:** Right. And the office manager has received no complaints from any of those staff members?

**Hon MATTHEW SWINBOURN:** Ms Stampalia, again.

**Ms STAMPALIA:** Are you specifically referring to the backlog, in terms of the backlog numbers?

**Hon NICK GOIRAN:** We can, but if there are other complaints, we would be interested to hear about them, too.

**Ms STAMPALIA:** From a public service perspective, sometimes there are lots of complaints around air conditioning or other things, but in relation to the backlog, we are not aware that any of our staff are complaining about the backlog.

**The CHAIR:** Can I cut across that for one sec? Did we get the salary for the coroner or is that not available?

**Hon MATTHEW SWINBOURN:** I think that is part of what is determined in the Salaries and Allowances Tribunal. As to what the salary is—is that what you are asking?

**The CHAIR:** Yes.

**Hon MATTHEW SWINBOURN:** I think we can possibly ask Mr Montilva, if you would like that.

**The CHAIR:** What is the salary of the coroner?

**Mr MONTILVA:** I do not have it off the top of my head, but it should be around \$400 000 or so.

**Hon MATTHEW SWINBOURN:** It is in the determination.

**Mr MONTILVA:** The latest determination by the Salaries and Allowances Tribunal was published in March. For every member of the judiciary, their remuneration is set in there.

**The CHAIR:** So it is about a DG's salary.

**Mr MONTILVA:** No; judges, magistrates, coroners.

**Hon MATTHEW SWINBOURN:** The WA Coroner is a magistrate and is the head of jurisdiction. I stand to be corrected on examination of SAT's determination, but as head of jurisdiction, they will receive more than the average magistrate receives because the coroner is responsible for her court. It is a matter of public record.

**Hon NICK GOIRAN:** Back to the earlier question on the prioritisation, I think we have concluded that there is no witness here who can assist on that matter. It is not part of the office manager's job; he simply received zero complaints from 25 other officers. The only person who can assist the committee with regard to these prioritisations and the backlog is the State Coroner. As the

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parliamentary secretary has previously indicated, it is not a matter for the executive to direct the State Coroner to be accountable.

**Hon MATTHEW SWINBOURN:** I did make that statement at the beginning and, yes, it is a matter for the coroner. I am not going to rehash the discussion about the Westminster system and the separation of powers doctrine; I am sure you are very familiar with that.

**Hon NICK GOIRAN:** To be clear, the opposition is not critical of the government in this respect but highly critical of the State Coroner. That said, in last year's budget estimates, the parliamentary secretary was able to indicate that this backlog of 810 cases—remember, the backlog has now increased to 1 350—did not include the cases of 27 unnatural deaths of babies born alive after a failed abortion procedure. We now know in Parliament that that number has increased from 27 to 31. Are any of the 31 cases in the backlog of 1 350?

**Hon MATTHEW SWINBOURN:** I am advised, no, they are not included.

**Hon NICK GOIRAN:** If they are not included, does that mean that they are cases that are finalised? If they are not in the backlog, then one would say that it would follow that they have been finalised.

**Hon MATTHEW SWINBOURN:** I will ask Ms Stampalia to address this.

**Ms STAMPALIA:** We cannot necessarily say they have been finalised, because we are currently fine-tuning the implementation of the case management system in the Coroner's Court. There are a number of things that we are looking at in terms of what is counted. We are very clear on what is in the number we are talking about today, but in terms of the 27 that you have referred to from last year, I would have to get further information in relation to that and how that is included in the number for this year.

**Hon NICK GOIRAN:** Right, but you are sufficiently clear that it is not part of the 1 350 considered to be in the backlog?

**Ms STAMPALIA:** I would need to check that myself, because I am not 100 per cent certain.

**Hon MATTHEW SWINBOURN:** Given that position, perhaps if we can take that with some notice, just so that we can be certain about the answer that is being given.

*[Supplementary Information No A9.]*

**Hon NICK GOIRAN:** Perhaps to clarify, because this will be recorded, to assist those who will be answering the question, it is understood that it is not part of the backlog, at least in respect to previous answers. If it is now part of the backlog so be it, but if it is not part of the backlog and if it is not a finalised case, what is it? It must be categorised in some fashion; that is what we are trying to get to the bottom of.

**Hon MATTHEW SWINBOURN:** To the extent that we can answer that question, we will answer it. The term "finalised case" obviously from the coroner's point of view will have a particular meaning, and from an administrative point of view it may have a separate meaning. To the extent that we can answer that question, we will answer it.

**The CHAIR:** That will be captured in A9.

**Hon NICK GOIRAN:** Hopefully, the hardworking office manager will get to the bottom of this.

**The CHAIR:** Have you got another quick one? I will then move on.

**Hon NICK GOIRAN:** I would not want to mislead the chairman by saying it is a quick one! On this issue that some other members have been taking up with regard to time to trial, I notice that there is no time to trial listed with respect to Family Court matters. Why is that?

**Hon MATTHEW SWINBOURN:** Again, I will ask Ms Stampalia to address that, please.

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**Ms STAMPALIA:** It is a very good question. When the key performance indicators were derived for the department many years ago, there were a number of jurisdictions where assessment was made around where the bulk of the activity was. For the Family Court, we as a state derived the one that is time to finalise non-trial matters. I cannot 100 per cent tell you why we do not have a key performance indicator for time to trial, but certainly it is something that the Chief Judge of the Family Court would be aware of in terms of time to trial numbers.

[12.40 pm]

**Hon NICK GOIRAN:** So, who moved in Justice—is this something for the Attorney General and the director general? Is this perhaps the re-categorisation of a KPI? Is that something that the AG or the DG sits around the table with the head of jurisdiction to discuss to have some input on? I am trying to find out what the mechanism might be to at least have a conversation with the Chief Judge of the Family Court about this.

**Hon MATTHEW SWINBOURN:** I might defer to the director general.

**Dr TOMISON:** Thank you, parliamentary secretary. There is a review of KPIs that is undertaken usually with Treasury involvement at varying times, sometimes because of machinery-of-government changes, which we have had in the last few years, and sometimes for other reasons. A head of jurisdiction or another area of the business may decide or propose an alternative to their KPIs that they currently have and those discussions would end up with the department writing to the Attorney General and seeking his views and also then working with Treasury and putting a submission up to change a KPI or leave them as they are on a case-by-case basis.

**The CHAIR:** We are going to have to move on. Just before we go to Hon Neil Thomson, we cannot seem to find the coroner's salary and the SAT determination. Can we take that on notice?  
[*Supplementary Information No A10.*]

**Hon NEIL THOMSON:** Thank you for the comprehensive response, parliamentary secretary, in relation to the Kimberley juvenile justice strategy in terms of grants being provided. When will the Kimberley juvenile justice strategy be made public? I am referring to page 431.

**Hon MATTHEW SWINBOURN:** I will leave that to the director general to answer.

**Dr TOMISON:** Thank you, parliamentary secretary. As I explained in that longer answer I gave before, when the strategy was first developed, it came about through a meeting the Premier called of ministers and departments. What came out of that meeting was essentially a series of targets or objectives—projects, if you like. The ones I have talked to you about pretty much cover off on most of those projects. It is not sort of a strategy as in like a large document with promotional material; it is more about working on particular tasks.

**Hon NEIL THOMSON:** To clarify, I am not looking for promotional material. I mean, there is a PowerPoint presentation by KALACC which was produced. How are the priorities being set without an overarching strategy?

**Dr TOMISON:** Again, we were given guidance as to where government wanted us to focus initially. Since then, we have made further submissions through the ERC process—the budget process—taking into account the KALACC report, which you have just referred to, and the summary document that came out of that process, which is quite extensive. We also take into account other proposals, ideas et cetera that come up. Again, what the department does each year is to create a suite of responses, if you like, to this complex social issue, and we will actually make submissions to government to seek their approval and funding for a range of other initiatives going forward.

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**Hon NEIL THOMSON:** Thank you for the clarification. The KALACC report—if we call it that; a PowerPoint presentation online—did mention remand sentencing options being provided. What has been progressed on that?

**Dr TOMISON:** I cannot recall off the top of my head the remand and sentencing options that were provided as part of that report. I will have to take that on notice.

[*Supplementary Information No A11.*]

**Hon NEIL THOMSON:** I have one last question on this, chair. What analysis has been done to identify the effectiveness and efficiency of the myriad grant programs that have been funded now—the sort of collection of things which seem to be the collective strategy—to ensure outcomes?

**Hon MATTHEW SWINBOURN:** Again, the director general.

**Dr TOMISON:** I mentioned before the Western Australian Office of Crime Statistics and Research, which is a specialist unit within the department. That unit has been going fully for a couple of years now. One of the first things I have tasked that unit with is to improve our evaluation evidence not just for Kimberley juvenile justice strategy projects, but just generally across the board for projects that we are running, particularly those that are contracted out at some millions of dollars. As part of that, WACSAR has been working with our grant providers and the service providers to create a set of fairly simple measures that we can use to evaluate those projects going forward. It will not just be as simple as the number who turn up on the night to play basketball. But it can be quite difficult to work out longer term strategies, because unless you start lining up young people and getting their names and sort of tracking them—I do not mean tracking in an electronic monitoring sense; I mean tracking in a sense of are they coming regularly, are they going to school et cetera—and going across agencies to find data on them, it can be hard to identify the benefits.

There are other programs like the youth engagement program by the ALS WA, which has been operating in Perth for some time but also now in Broome and Derby. It is an easier project where we have set some evaluation measures to actually show how many young people are you seeing, are you engaging with their families, are they turning up for their hearings, are they doing the right thing by their bail conditions et cetera. So we are actually improving the quality of the information we are collecting on programs like these. Some are easier than others to collect on. Another one would be Olabud Doogethu, which is the Halls Creek justice reinvestment project. They have got some good data which shows desistance of crime and reduced criminal activity or antisocial behaviour since Olabud came about. It comes in waves. It is that sort of thing we are trying to build on to create better information.

**Hon NEIL THOMSON:** This is my last question on that. When will those evaluations be made public?

**Hon MATTHEW SWINBOURN:** I cannot give you an answer to that, member, in any specific way. The director general identified a suite of programs are assessed on an ongoing basis, and that is part of the internal grant processes that often happen. DG, did you have anything further that you wanted to add to that?

**Dr TOMISON:** I think you pretty much nailed it. They are not sort of secret, but at the same time, we have not got them to the state where I would release them at the moment; they are still draft. As time goes on, I would expect we will build a portfolio and we will obviously talk to the service provider and release some of that information.

**Hon MATTHEW SWINBOURN:** Chair, just before you proceed further, we do have more information regarding the remuneration of the coroner, so I can answer that question now if you like.

**The CHAIR:** We will remove A10 if we can get a suitable answer.

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**Hon MATTHEW SWINBOURN:** The salary of the coroner is \$408 895, and that is the equivalent of the Chief Magistrate and that comes by virtue of section 6(3) of the Coroners Act, which provides that the salary of the coroner will be the equivalent of that of the Chief Magistrate. That is not why it is not specifically listed in the SAT determination, but it is the same as the Chief Magistrate's salary.

**Hon NICK GOIRAN:** Chair, before you eliminate that question taken on notice, I will just note that there is the equivalent of 4.6 full-time equivalent coroners in Western Australia and there may be a distinction between the salary paid to the State Coroner and some of the other coroners, so maybe we are still leaving it on notice.

**The CHAIR:** Just to clarify in that instance, we want all status of coroners. How do you word it?

**Hon MATTHEW SWINBOURN:** All magistrates—we covered this on an earlier date—can perform the function of a coroner within the ambit of their appointment by the Governor. My answer relates to the State Coroner having an equivalent wage to the Chief Magistrate. That is what the answer is here. If the committee wishes to seek further information, obviously we are more than able to provide these matters of public record.

**Hon NICK GOIRAN:** It can always be put on notice by an interested member.

**The CHAIR:** We will leave A10 as redundant.

**Hon MARTIN PRITCHARD:** I refer to budget paper No 2, page 432, and significant issue 21. How many applications have been received for WA? Can I also ask the commissioner, as they obviously administer the National Redress Scheme, what other assistance or functions they might give to the department and also the victims?

[12.50 pm]

**Hon MATTHEW SWINBOURN:** Can I ask the Commissioner for Victims of Crime, Ms Kraszlan, to answer this question?

**Ms KRASZLAN:** In terms of the number of applications received for the National Redress Scheme, there have been 2 105 applications received referring to government institutions in the state—so they are the ones that are received from the office of the commissioner. In terms of the commonwealth statistics it will say that there have been 2 794 applications received for the whole of Western Australia, so that will include non-government institutions and government.

**Hon MARTIN PRITCHARD:** Just to follow up there—the commissioner obviously administers the scheme, what other functions do they do for the department and victims?

**Ms KRASZLAN:** The Office of the Commissioner for Victims of Crimes has two key functions; one is that it now is responsible for the victim offender mediation unit and the victim notification registry for the state. That occurred as a merger between our office and them for this financial year. In that case, we are responsible for assisting victims in terms of exclusion zones for parolees or for people on community orders. We also manage the victim notification registry, which is informing victims of what is happening to various offenders during the course of their sentence. The office has the National Redress Scheme as we discussed, it also has a policy in legislative function which at the moment is focusing very much on the coercion and control debate—of which we have received over 250 submissions from people in the community. Finally, we have what is called a victim engagement team who are the people that deal day-to-day when someone contacts the office because either they are dissatisfied with the conduct of the case, or they would want further information or a referral. That particular area has received over 500 contact calls this financial year.

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**Hon MARTIN PRITCHARD:** Just with regard to the same page, 432, I noticed the last—25, 26 and 27—of the significant issues deals with legal aid. I am just wondering how legal aid is coping with the increased demand that is reported?

**Hon MATTHEW SWINBOURN:** Noting that we have not got much time—Dr Hill, if you are able to address that.

**Dr HILL:** The primary way we have been addressing increased demand is—legal aid funding is 15 per cent higher today than it was in 2016–2017. You can see looking at the forward estimates that it will be about 36 per cent higher by 2024. We have more resources to apply to increased demand, but we are also, of course, trying to be nimble and agile and we are trying to target our services to those people who need them most.

**Hon KLARA ANDRIC:** My question was answered pretty much just through that question then.

**Hon MARTIN PRITCHARD:** What's the criteria and how are you targeting it?

**Dr HILL:** We target through means and merit, and through guidelines. To be eligible for legal aid a person must satisfy our means test about what assets they have and what income that they have. This is for a grant of aid I should say—legal aid has an entire range of services and many of those services are available to everybody—but a grant of aid where we pay for a lawyer to act for that person would be subject to a means test. It would have to come within our guidelines and primarily that is for criminal matters, family law matters involving children and care and protection matters. The proceeding would also have to have merit—there would have to be reasonable prospects of success or an achievable outcome before it would attract legal aid funding.

**Hon NICK GOIRAN:** With respect to the Salaries and Allowances Tribunal, an interesting thing just recently came to my attention. When it comes to the assessment of costs, apparently, when you apply for an assessment of costs with the Salaries and Allowances Tribunal you pay a fee of \$376 plus 2.5 per cent of costs claimed. What is the proportion in the budget that captures this —

**Hon MATTHEW SWINBOURN:** Sorry member, are you speaking about the Salaries and Allowances Tribunal or the State Administrative Tribunal?

**Hon NICK GOIRAN:** Sorry, thank you—State Administrative Tribunal, I apologise.

**Hon MATTHEW SWINBOURN:** Can you start again? All I am thinking is Salaries and Allowances Tribunal.

**Hon NICK GOIRAN:** Fair enough, we were talking about the other SAT earlier. The State Administrative Tribunal—apparently, if you apply for an assessment of costs, you must file a lodgement fee of \$376 plus 2.5 per cent of the costs claimed. Is that then something that the department budgets for—2.5 per cent of costs claimed? It would be a difficult beast, I would imagine, to try to quantify but perhaps there are some average figures that the department uses for that purpose?

**Ms STAMPALIA:** I would have to look into that and provide information in relation to that question. [*Supplementary Information No A12.*]

**Hon NICK GOIRAN:** To the extent that this can also be answered, parliamentary secretary, is that process where we file a lodgement fee plus the state claims a portion, a percentage of the costs assessed; is that consistent with any other tribunal court service in Western Australia or is that something just the State Administrative Tribunal does?

**Hon MATTHEW SWINBOURN:** Again, Ms Stampalia, are you able to address that?

**Ms STAMPALIA:** I would have to look for that information but I am not familiar with seeing that approach across the other jurisdictions, it is more a lodgement fee that we equate that to. I will have to look into it before I can provide the definitive answer.

*[Supplementary Information No A13.]*

**Hon NICK GOIRAN:** If there is further time—

**Hon MATTHEW SWINBOURN:** The member could let me go, it is my wife's birthday.

**Hon NICK GOIRAN:** I understand that Hon Justice Susan Duncanson is due to retire in December this year. What is the current status of appointing a replacement?

**Ms STAMPALIA:** I am also not 100 per cent certain of the process for the replacement of Judge Duncanson. I am aware of the appointment of the recent sixth judge in the Family Court, but there is not normally a lag time in terms of replacement for retirement in the Family Court. It is a process that the Chief Judge, the Solicitor General and others make sure happens.

**Hon NICK GOIRAN:** Yes, but you mentioned earlier that we normally get somebody in six months beforehand.

**Ms STAMPALIA:** In certain jurisdictions, yes we certainly do that. I have myself spoken to the Chief Judge of the Family Court to see whether that would be of benefit to the Family Court as well.

**The CHAIR:** Now I'd like to work through lunch, but the parliamentary secretary has got to take his wife out for her birthday.

**Hon MATTHEW SWINBOURN:** I am taking her to the dining room actually. She is waiting for me outside.

**The CHAIR:** Thank you for your attendance today members. You may submit any remaining questions through the electronic lodgement system, which will close at 5.00 pm on 1 July 2022. Witnesses, the committee will forward the uncorrected transcript of evidence with questions taken on notice highlighted as soon as possible after the hearing. Responses to questions on notice are due by 5.00 pm on 20 July 2022. Should you be unable to meet the due date, please advise the committee in writing as soon as possible before the due date. The advice is to include specific reasons why the due date cannot be met. Once again I thank you all for your attendance today.

**Hearing concluded at 1.00 pm**

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