

**STANDING COMMITTEE ON ESTIMATES AND
FINANCIAL OPERATIONS**

2013–14 BUDGET ESTIMATES HEARINGS

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
THURSDAY, 26 SEPTEMBER 2013**

**SESSION TWO
DEPARTMENT OF THE ATTORNEY GENERAL**

Members

**Hon Ken Travers (Chair)
Hon Peter Katsambanis (Deputy Chair)
Hon Martin Aldridge
Hon Alanna Clohesy
Hon Rick Mazza**

Hearing commenced at 1.04 pm

Hon MICHAEL MISCHIN
Attorney General, examined:

Mr MARTIN CONNOLLY
Principal Policy Advisor, examined:

Ms CHERYL GWILLIAM
Director General, examined:

Mr RAY WARNES
Executive Director, Court and Tribunal Services, examined:

Mr ANDREW MARSHALL
Manager, Research and Analysis, examined:

Mr MALCOLM BRADSHAW
Director, Business Services, Legal Aid Western Australia, examined:

Mr GEORGE TURNBULL
Director, Legal Aid Western Australia, examined:

Mr PAUL EVANS
State Solicitor, examined:

Mr ALAN ANDERSSON
Director, Business and Financial Services, examined:

Mr BILL HEWITT
Executive Director, Corporate Services, examined:

Ms PAULINE BAGDONAVICIUS
Public Advocate, examined:

Mr BRIAN ROCHE
Public Trustee, examined:

Ms JENNIFER HOFFMAN
Commissioner for Victims of Crime, examined:

Ms ALLANAH LUCAS
Acting Equal Opportunity Commissioner, examined:

Ms ZARIN MILAMBO
Manager, Corporate Services, Equal Opportunity Commission, examined:

The CHAIR: I will quickly outline how we intend to proceed with today's hearing. Obviously, the Department of the Attorney General and a number of other agencies within the minister's portfolio are represented. We called them all without allocating specific times with the intention of trying to get an indication from members as to which issues they would like to spend more time on. Once I have sworn in all the advisers, I will then invite members to indicate which areas they have questions on so we can try to juggle the allotted time. I intend to swear in all the witnesses now, with the exception of the witnesses from the Director of Public Prosecutions who are not here yet. We will start with questions for the Department of the Attorney General, and then move onto questions for the Office of the State Coroner, and then the Equal Opportunity Commission. I hope that is clear to members.

On behalf of the Legislative Council Standing Committee on Estimates and Financial Operations, I welcome you to today's hearing. Witnesses before the committee are required to read and sign a document headed "Information for Witnesses". Can you confirm for the benefit of Hansard whether you have read and signed a copy of this document?

The Witnesses: Yes.

The CHAIR: For the benefit of Hansard, can you confirm that you understand the document that you have signed?

The Witnesses: Yes.

The CHAIR: Witnesses need to be aware of the severe penalties that apply to persons providing false or misleading testimony to a parliamentary committee. It is essential that all your testimony before the committee is complete and truthful to the best of your knowledge. This hearing is being held in public although there is discretion available to the committee to hear evidence in private either of its own motion or at the witness's request. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session before answering the question.

These proceedings are being recorded by Hansard. A transcript of your evidence will be provided to you. The committee reminds agency representatives to respond to questions in a succinct manner and to limit the extent of personal observations. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing for the record; and please be aware of the microphones and try to talk into them. Ensure that you do not cover them with papers or make noise near them. Members, it will greatly assist Hansard if when referring to the budget statements volumes or the consolidated account estimates, you give the page number, item, program, amount, and so on in preface to your questions.

Government agencies and departments have an important role and duty in assisting Parliament to scrutinise the budget papers on behalf of the people of Western Australia. The committee values your assistance with this.

For the benefit of members and Hansard I ask the Attorney General to introduce his advisers to the committee, and for each adviser to please state their full name and the capacity in which they appear before the committee.

[Witnesses introduced.]

The CHAIR: Can members give me some indication of the areas they want to focus on? From the sounds of it Attorney General, your advisers will help you with the questions regarding the State Coroner. At this stage, we will leave the Equal Opportunities Commission until the end. Do members have many questions for the Equal Opportunities Commission or would you prefer to focus on the Department of the Attorney General, and how many questions do members have for the Director of Public Prosecutions when its representatives arrive?

Hon PETER KATSAMBANIS: It has been indicated to me that Hon Nick Goiran, who is unable to be here at the moment because he is away on other parliamentary business, has some questions for the Equal Opportunity Commission. Perhaps when he comes back, we can deal with that area of questioning.

[1.10 pm]

Hon ADELE FARINA: I have got questions in relation to all of them, but mainly in relation to the Attorney General, the State Coroner and the DPP.

The CHAIR: I guess if we leave half an hour or 45 minutes for the DPP, that should be sufficient?

Hon ADELE FARINA: That should be fine.

Hon PETER KATSAMBANIS: I have questions across all areas.

The CHAIR: I will ask members to indicate if they have questions. I will just make sure we have got them all down.

Hon SUE ELLERY: And Kate.

The CHAIR: And Kate has some. Hon Peter Katsambanis, do you want to lead off?

Hon PETER KATSAMBANIS: Thank you, Chair. Through the minister, I notice that on page 578 of budget paper No 2 is a continuation of “Significant Issues Impacting the Agency”. The first dot point on page 578 is in relation to the overrepresentation of Indigenous people in the justice system and that continuing to be a concern. It is obviously a concern for the department. It is clearly the major concern for me. Do you have any figures or metrics around that representation, possibly either by category of appearance in each court level or by level of crime or particular crimes?

Hon MICHAEL MISCHIN: I thank the member for the question. As I understand it, about 40 per cent of the adult prison population identifies as Aboriginal and about 80 per cent of the juvenile detention population. I cannot be more specific than that. Presumably, that reflects the figures that are passing through the criminal justice system as well, but I do not have the figures with me. We can get a breakdown of those as far as there are records because, of course, some people are not necessarily identified by one category or another as they pass through the system, but we will endeavour to get some figures for you. I understand that on the Department of the Attorney General website, there are some specific figures regarding the representation of Aboriginal people in the criminal justice system.

The CHAIR: Do you want that as supplementary information?

Hon PETER KATSAMBANIS: I would appreciate that just for the completeness, if you like, for the record, especially if it is publicly available. I will access it later, but if we could have that as supplementary information as well, that would be helpful.

[Supplementary Information No B1.]

Hon PETER KATSAMBANIS: On the same dot point—I will continue along this line of questioning, if that is okay, for a little while—it talks about the department increasing funding to provide increased victim support services to Indigenous people in remote areas and driver’s licence training for Indigenous people in contact with the justice system. They are all good initiatives, obviously, but what other programs apart from those two programs does the department have to provide services to Aboriginal people whether in the city or in regional areas?

Hon MICHAEL MISCHIN: The broad outline is that apart from the specific programs you have mentioned, which is the driver training and education for Aboriginal offenders in regional and remote communities—that was recently announced, some \$5.5 million over four years—we have the enhancement of family and domestic violence services being brought into the metropolitan area. The figure for that, I think, was \$3 million over three years. It is an expansion of a program that is currently underway that was federally funded out in regional Western Australia, but was not otherwise available in the metropolitan area where there seems to be a significant need as well, and that has been expanded by the state into the metropolitan area. There was the enhancement for victims of crime, some \$3 million or \$3.5 million over four years. Part of that would be applicable to anyone, but it would also be to assist in the enhancement of services in remote areas for Aboriginal victims. Perhaps the director general can fill you in on other programs that have been established for quite some time, including the Aboriginal open days that are being held out in the regions.

Ms Gwilliam: There is a range of other initiatives that the department undertakes to try to minimise Indigenous involvement with the justice system. We have been running, through the Aboriginal justice program, a number of open days. These open days are aimed at assisting people with drivers’ licences, assisting people to pay their fines and assisting people with birth certificates. Clearly, for

young people, you cannot get Centrelink or enrol in schools if you do not have your birth certificate. Clearly, if you cannot get a driver's licence, that compounds your involvement —

Hon PETER KATSAMBANIS: I am having some difficulty hearing you. If you could speak closer to the microphone, I would appreciate it.

Ms Gwilliam: Is that better?

Hon PETER KATSAMBANIS: Thank you. Yes.

Ms Gwilliam: We also have the Aboriginal mediation service where we assist feuding families particularly. So we offer support there to assist with the resolution of disputes. Through our courts we also have Aboriginal liaison officers who have an important part to play in terms of informing young people about the court processes for those who are actually in court to assist them with resolving issues, whether it is payments of fines, court fines, infringement or other means. We also have through our fines enforcement area dedicated sheriff officers who work with Indigenous people to try to ensure that we can assist them with time-to-pay arrangements, so they are not in breach, and that means they can continue to work, get a job or continue with other opportunities. We have also done, as the Attorney General has referred to, significant expansion in our victims of crime area, where we have enhanced services that impact on Indigenous people.

Hon PETER KATSAMBANIS: I appreciate that information. I will focus for a moment on the figures that the Attorney General outlined earlier in relation to the incarceration rates of people of Aboriginal descent in the criminal justice system. Broadly, we are all aware of them as a society and they are quite galling—40 per cent of adults and 80 per cent of juveniles. I know statistics do not prove anything to us, but they can be a useful tool in working out where we can focus. One question I have—it is a question that I have been asked by many people that I interact with—is whether this incarceration rate in any way reflects a difference in sentencing approach to people of Aboriginal origin as opposed to people of non-Aboriginal origin when they appear before the courts? I am not sure if you have statistics or anecdotal evidence about that, and whether, if there is a difference in sentencing approach, that in turn reflects higher incarceration rates?

[1.20 pm]

Hon MICHAEL MISCHIN: Perhaps I can have a go at that. The principles of sentencing are well established. The Sentencing Act 1995 sets out the essential principles involving sentencing. They are applicable across the board without discrimination, on the basis of race or ethnicity or any other consideration; so they would be equally applicable. One of the more important principles of course is that imprisonment only be imposed as a penalty of last resort; that is, if there is no other appropriate disposition available to the courts that suit the circumstances of the offence, the seriousness of the offending, the gravity of the crime, the prospects of rehabilitation, matters personal to the offender, and so on. On that basis, if one wants to look at the sorts of offences for which people in prison are serving time, it is not on the basis of any different sentencing consideration. In fact, if anything, there are cases that would suggest greater allowance be given to Aboriginal offenders because of certain straitened circumstances and personal circumstances that would disadvantage them and influence their propensity to commit a particular type of offence. Some latitude, if anything, is allowed to them.

It would be difficult to pick up if there were a failure by particular courts to apply that. However, the safety valve to it of course is that there are avenues of appeal. Quite apart from any error that may be disclosed in the magistrate's or judge's reasons for decision that might suggest an offender has been inappropriately dealt with, the tariffs set by the courts would indicate whether a particular punishment was out of kilter with what would be applied in other cases of a similar type. I do not think it would be easy to answer whether there are any adverse influences based on race; I would doubt it. If anything, case law suggests the contrary. If one were to look at the circumstances of each of these offenders, bearing in mind imprisonment is a sentence of last resort, it is because there

is a heightened level of propensity to offend, and that should be the focus of our efforts in the criminal justice system; not so much reducing the level of imprisonment but reducing the level of offending that leads to the imprisonment.

Hon PETER KATSAMBANIS: I think we are on exactly the same pathway there. At the end of the day we want to identify what the causes are and the best area to target our resources to bring down the offending rate and therefore the incarceration rate. If we can eliminate sentencing as an area we need to focus on, we can target our resources as a community better —

Hon MICHAEL MISCHIN: I might add to that: one area that has received a great deal of publicity is the propensity for there to be Aboriginal offending in the area of domestic and family violence. Not only are they offenders at a higher rate than other areas in the community, but also a greater number of victims are of Aboriginal background and Aboriginal families. Plainly, if there is a heightened level of offending in that area of serious offending, in an area that the public is most concerned about and requires or demands condign punishment, you will have a greater level of imprisonment. We need to address the causes for that rather than the effects.

Hon PETER KATSAMBANIS: I will move on from that area. I refer to page 577 of budget paper No 2, again under the heading “Significant Issues Impacting the Agency”. There is discussion at the second dot point about the establishment of a Commissioner for Victims of Crime. Could you outline, firstly, what the rationale for the establishment of that commissioner was; whether the commissioner has been appointed yet; and the role that you envisage this commissioner playing within our criminal justice system and in providing assistance to victims of crime?

Hon MICHAEL MISCHIN: Yes. This was a commitment made by government prior to the last state election. It was announced as part of a wider raft of initiatives involving —

The CHAIR: Attorney General, I remind you about the comments about personal observations. Could you stick to the questions rather than the broader expanse of statements you might want to make.

Hon MICHAEL MISCHIN: It was part of a package of victim measures or victim support measures. The Commissioner for Victims of Crime was recently appointed. The commissioner, Ms Jennifer Hoffman, commenced her role on 23 July. She is available in the chamber. The position is located within the Department of the Attorney General, drawing on the resources of that department as necessary. The broad mission statement, I suppose, is that the commissioner champions the interests of victims of crime across government and ensures that victims receive support, recognition and help to deal with the criminal justice system. It covers a variety of responsibilities. One of them, broadly speaking, is to ensure that government agencies have proper regard to the principles under the Victims of Crime Act 1994; that the victims’ charter is understood and obeyed; that victims have a person who they can turn to in order to assist them to provide advice as to how to navigate their way through the criminal justice system; also someone who can receive complaints about failings in the victim support services available to victims; and to advise me on areas in which victim support services are unsatisfactory and can be enhanced. Part of that brief is to see how services are provided, to find any areas that need to be improved, any gaps in services that can be addressed, and to provide me with advice as to how that might be done.

So far I have been very satisfied about the way the task has been approached. The commissioner has been very busy over the last two months in establishing herself and liaising with the Commissioner of Police, heads of jurisdiction, the Office of the Director of Public Prosecutions and others, in order to understand the way that the system is operating at the moment and to look at ways that it can be improved. I would also like to see part of her job to be seeing how support services provided by many non-government organisations are operating to try to eliminate overlap, if that is creating inefficiencies, and to plug gaps that may exist between services that are available more broadly.

Hon PETER KATSAMBANIS: I take it from your answer —

The CHAIR: Member, I am moving on. I am giving the call to Hon Adele Farina.

Hon ADELE FARINA: I would like to turn to general appropriations and get an understanding —

Hon PETER KATSAMBANIS: Clearly you are here to make up a quorum!

Hon ADELE FARINA: I beg your pardon?

I would like to get an understanding of the funding —

Hon PETER KATSAMBANIS: No-one cares about victims of crime in here!

The CHAIR: Order!

Hon SUE ELLERY: You were asking about an election commitment.

Hon PETER KATSAMBANIS: So do you! You continually ask about election commitments.

The CHAIR: Order, members! I have given the call to Hon Adele Farina.

[1.30 pm]

Hon ADELE FARINA: Thank you, Mr Chairman. I was asking about the funding allocations to the Supreme Court in the current budget. Can you specify how much funding the Supreme Court is getting in the 2013–14 budget and how this compares with the funding allocation for the last financial year?

Hon MICHAEL MISCHIN: At page 577 of budget paper No 2 under “Service Summary” there is an item “Court and Tribunal Services”, which is a global figure relating to all courts and tribunals within the scope of the department’s responsibility. You will see there is a sum of \$374.523 million allocated to services generally, which is an increase on that in the last financial year’s budget. I cannot give you a figure of any specific amount that has been allocated to the Supreme Court. It will take into account, of course, that additional funds have been provided in the last financial year, and a small amount of additional funding in this current financial year to meet extraordinary work such as the Rayney appeal and, of course, the Rayney trial last year. Because of the unusual nature of the resources and the nature of that trial, additional funding was allocated to both the Supreme Court to accommodate the engagement of an interstate judge for trial, Hon Brian Martin, and to cover the appeal expenses—three judges from interstate to deal with the appeal, which I think started in the last financial year, but the decision was delivered early this week. Of course, additional expenditure was also assigned to the Director of Public Prosecutions because, for obvious reasons, the New South Wales DPP was managing that case on behalf of the state. I cannot provide a precise figure for the Supreme Court, but I would not have thought it would be any less than it was for previous years.

Hon ADELE FARINA: Can that be taken as supplementary information so I get the information I have asked for?

[*Supplementary Information No B2.*]

Hon ADELE FARINA: On page 579 of the budget papers it shows the Supreme Court criminal case time to trial numbers. In 2011–12 it was 26 weeks; in 2012–13, 28 weeks; and the estimate for 2013–14 is also 28 weeks, despite the evidence that the Supreme Court is listing criminal cases well into next year. There is also some concern that because of the increase in criminal cases before the Supreme Court, they will not be able to list civil cases in the foreseeable future. I am a bit curious about why that figure remains at 28 weeks when all the evidence seems to suggest that figure will be well in excess of 28 weeks. Can the minister provide the basis on which that assessment was made?

Hon MICHAEL MISCHIN: My understanding is that the figure at page 579 under the 2012–13 estimated actual is, of course, only an estimation. In fact it came in at 26 weeks, so it is consistent with the previous financial year. The median criminal time to trial has varied slightly over the years,

but it has remained at around 26 weeks over the past four financial years. In fact, I am advised that the median time to trial for criminal matters has been very stable for quite some time. I am not aware of a difficulty in listing criminal matters. In fact, the figures demonstrate that they have been decreasing over the past six years. From in 2002–03, the criminal time to trial statewide was in the order of 37 weeks; it went up to 43 or thereabouts in 2003–04; in 2004–05, was about the same; was slightly higher in 2005–06; dropped to about 35 weeks in 2006–07; was about 32 in 2007–08; has been below the target of 28 weeks since 2008–09; dropped in 2009–10 to about 25 in 2010–11; in 2011–12 went up to about 26–28 weeks, and is at 26 weeks this last financial year. Bearing in mind over 2012–13 the number of Supreme Court judges remained the same.

If the member is referring to the recent debate about the need for a further Supreme Court Judge to replace Hon Narelle Johnson, she has not served on that court since March 2012 when she suffered an illness that incapacitated her from not only serving on the Prisoners Review Board but also returning to the Supreme Court. She only retired from service by surrendering her commission in, I think, early December last year. Notwithstanding she had been an absentee as it were from the previous strength on that court, the performance of the court indicates that it is not only coping very well but, on the last figures, remains the most efficient court in Australia. I think its backlog is in the order of five per cent of cases compared to much higher figures in other states. I have seen some comment to the effect that there may be issues with the listing of cases into the future. I have had no evidence to support that. I will, of course, monitor that situation.

If you are referring to the question of an increase in the criminal work in the Supreme Court, a couple of points need to be made about that. Currently, the Supreme Court exercises only criminal jurisdiction in respect of state matters over crimes of homicide—being murder, manslaughter, arson and armed robbery—which is a relatively small proportion of our criminal calendar. There has been an increase in the order of, I think, 14 extra charges laid for murder in the current year. I do not know the reason for that. I am not even sure from the advice I have received from the Director of Public Prosecutions that he is aware of the reason for that increase and whether it is a long-term increase or simply a spike.

[1.40 pm]

If it is a spike, it is something that courts deal with quite frequently in the shifts of work that they have to perform; and I am not particularly alarmed about that unless it turns into a trend. I would be surprised if it is a trend because murder and other homicide offences are generally decreasing across Australia and in Western Australia. It is a bit of an unusual figure—whether it is a backlog of cases that have suddenly come through that the police have investigated, I cannot say, but I will be watching that with interest. As far as the increased burden on the Supreme Court is concerned, in having to accommodate what may be a temporary increase in its workload in the higher level of jurisdiction that it exercises, I have been exploring over the last several weeks—from the time that I announced I would not be appointing another Supreme Court judge in the foreseeable future—the possibility of additional resources for the Supreme Court to accommodate the additional workload that it is facing in the short term. I proposed, in fact—it is coming close to fruition—the appointment of a commissioner from the District Court in order to supplement the Supreme Court's current bench of judges. I think there are 20-odd Supreme Court judges in Western Australia active in that court. We have more Supreme Court judges per head of population than New South Wales, which has a population three times the size of ours. As a result, I am having to ensure that the resources provided to that court are adequate for the work that it is doing, and I am very sensitive to the fact that there may be increases in its workload from time to time that require special measures. I am monitoring the situation.

Hon ADELE FARINA: Minister, can you tell me how many criminal cases and civil matters are currently listed in the Supreme Court?

Hon MICHAEL MISCHIN: Off the top of my head, no. I do not have these figures before me but I can find out.

Hon ADELE FARINA: Can I have that as supplementary information?

[*Supplementary Information No B3.*]

Hon ADELE FARINA: Can you also tell me how those are figures compare with the same time last year and the year before? That could all just be rolled into the one question.

Hon MICHAEL MISCHIN: Civil lodgements have declined from last year—from 3 278 in 2011–12 to 2 880 in 2012–13. This has resulted in the Supreme Court—civil—having a current clearance index of 114 per cent. The longer-term trend is that that index has improved from below 90 per cent in 2007–08. Its clearance index has improved remarkably and it appears to be handling its workload very well; better than it has in the past. I do not have the figure for the number of criminal cases currently before it; all I can say is that there has been an increase of, I think, 14 homicide cases, which is a remarkable increase.

In the 12 months to June 2012 the number of criminal lodgements in the Supreme Court was 257 and that has gone up to 269, a very small increase —

Hon ADELE FARINA: Can I move on to the next question, as it is a supplementary question?

Hon MICHAEL MISCHIN: — and there has been a decline over the past five years of almost six per cent.

Hon ADELE FARINA: My next question is in relation to the Legal Aid Commission of Western Australia. On page 578 of budget paper No 2 it indicates that there has been a significant increase in the number of indictable matters and increasing numbers of complex and lengthy criminal trials dealt with by the Legal Aid Commission. I ask the minister how much additional funding is being provided to Legal Aid to address that increase in workload?

Hon MICHAEL MISCHIN: It is \$1.7 million. I am advised that any additional funding necessary for Legal Aid is provided at the end of every financial year. For the last financial year, 2012–13, supplementary funding of \$1.7 million was provided to meet additional expenses as a result of unavoidable commitments. The amount of supplementary funding that will be provided into the next financial year will be determined at that time.

Hon DAVE GRILLS: I refer to “Works in Progress” on page 584 of budget paper No 2. Can the minister provide an update on works at the Carnarvon police and justice complex; Fitzroy Crossing courthouse; Kalgoorlie courthouse; Kununurra courthouse; Mt Magnet court facility; and any new works planned for regional Western Australia?

Hon MICHAEL MISCHIN: I can answer some of that fairly easily. The Carnarvon police and justice complex is a \$52.5 million project, and \$9.5 million of that is from royalties for regions funding. As I was last advised, it is at a point where the site boundary retaining walls and fencing have been completed. Building retaining walls are now complete, and the floor slabs to all three buildings poured and laid. All in-ground services to the site—hydraulic, civil and electrical—have been laid and are completed. Infrastructure for the power supply, including the removal of power poles on the two street frontages and the location of a new site transformer, has been done. The concrete tilt wall panels have been manufactured in Perth and the first loads have arrived on site. Erection of those, along with the structural steel work should have commenced by now. If it has not, it is imminent because it was due to commence in August. The project is on time and on budget and is scheduled for completion in the latter part of 2014. I went to see the site in the middle of last year. For some reason or another I was there for something, and I happened to look at the site that had been marked out. It will be a great statement at the entry to the town of Carnarvon and much needed, given the deteriorated nature of the courthouse that currently exists on the foreshore. I think it had a leaky roof the last time I was there that destroyed some of the records.

The CHAIR: I think that it was proposed to be replaced about five or six years ago, but then, I think, it had its funding cut, minister.

Hon MICHAEL MISCHIN: Its funding has not been cut —

The CHAIR: Well it was, and then it was reinstated. Anyway, I agree with you.

Hon MICHAEL MISCHIN: There has been a considerable amount of court infrastructure work over the last four years that has needed to be attended to and, unfortunately, it has to be paced at a time—but Carnarvon is one of those projects. The Kununurra courthouse is another one. The existing court complex has been demolished and the replacement courthouse is well underway. It has \$43 million in funding from royalties for regions.

[1.50 pm]

The concrete tilt panel walls are all installed in their locations. Ground and first floor slabs are being poured, structural roof steelworks is progressing, ground floor steel wall framing is installed, air conditioning duct work is being installed and major fire equipment has been located to the pump house, which is yet to be installed but it is happening. A sub-transformer has been delivered to the site, pending installation. We expect that the project will be completed in the latter part of next year. A temporary courthouse has been in operation since October 2012. I had the opportunity to look at that earlier this year as well. It is a pretty sophisticated little building—a very good little courthouse. I might end up having a fight with some of the other ministers about it, but I would like to move it somewhere else so we can use it as temporary court accommodation in another area of need once it is no longer required in Kununurra.

Other regional projects include Kalgoorlie, of course, which is almost complete. It is due to be opened in November this year. I think the member asked about another one—Mt Magnet. We are currently resolving some land issues with the Department of Mines and Petroleum for the site. Architects have been appointed to initiate master planning, including confirming funding requirements. That is a work in progress.

Hon MARTIN ALDRIDGE: Just to follow on from the question asked by Hon Dave Grylls, I notice that some of the regional projects are royalties for regions funded, some are consolidated account funded and some are mixed. How does the department arrive at an appropriate funding model for each of the projects? Is that done in consultation with the Department of Regional Development? I notice, for example, that the Carnarvon Police and Justice Complex had only a small component of royalties for regions funding in it. Can you explain how you arrive at those?

Hon MICHAEL MISCHIN: There is close liaison between the Department of the Attorney General and the Department of Regional Development regarding the funding for projects. Broadly speaking, the priority for the construction of courthouses and justice complexes would be determined on a needs basis and some work would be done on determining where the money will be coming from and prioritising that work. Perhaps the director general can provide more detail on it because she would be intimately involved in the horse trading that is often involved in these things. Justice complexes involve a mixture of several areas of responsibility, not just the Department of the Attorney General and not just the Department of Regional Development. If it is combined with police facilities, there is a need to liaise with WA Police. Some of these projects that you will see in some of these towns involve a number of portfolios. As far as the allocation of resources is concerned, it is a question of what is available in the royalties for regions funding and persuading the relevant minister that a bid should be put in to supplement a project to get it underway where it can be done.

Hon MARTIN ALDRIDGE: I notice that only the Carnarvon and Fitzroy Crossing projects extend into 2014–15 and there are no new works in the out years. Is that because this round of infrastructure funding has addressed the greatest priority or that perhaps the planning has not commenced for the next tier of priorities in terms of court facilities?

Hon MICHAEL MISCHIN: These have been the highest priority projects. Work is being done on a new complex up in Broome on a site next to the Broome Courthouse. I am anxious to get a project in Karratha underway as well because in my view the courthouse there requires serious attention. Bunbury is one of those that we are looking at. Closer to the metropolitan area, courts in particular need are those in Armadale and Midland. We are working on prioritising those and obtaining the necessary funding to proceed with those projects as it becomes available.

The CHAIR: When do you expect that work to be completed?

Hon MICHAEL MISCHIN: Which one?

The CHAIR: You said you were preparing a prioritisation of those other works and scoping them. When do you expect that work to be completed?

Hon MICHAEL MISCHIN: From 2014–15 onwards we are looking at the purchase of land in Armadale for the court complex there. The department is working on getting a plan done for Karratha at the moment so we can put in the appropriate budget bid for it. We know what we need to build, I am told; it is just a matter of getting it progressed.

Hon SUE ELLERY: I wish to pick up on an area Hon Adele Farina was referring to. I refer to page 579 under “Outcomes and Key Effectiveness Indicators”, down the bottom of the table, the last outcome, “Equitable access to legal services and information” and the percentage of persons who are provided with a duty lawyer service. The target last year was 25 per cent but you did not meet that, and the target is reduced to 22 per cent this year, which is what you got last year. What levers do you have to improve that? There is obviously an argument that says—I guess, to vary the old adage—justice delayed is justice denied. Some might say that limited legal representation also leads to justice being denied.

Hon MICHAEL MISCHIN: Perhaps I will ask the Director of Legal Aid to address that.

Mr Turnbull: The major reason for a reduction in the percentage of people dealt with by the duty lawyer is that there has been an increasing proportion of Indigenous clients—Aboriginal clients—who typically require a more intensive service. Unfortunately, over the last two or three years the Aboriginal Legal Service has been withdrawing services from a number of courts around the metropolitan area and in the regions. That has meant that the proportion of clients that our duty lawyers are now seeing has a higher Aboriginal component. Over the last three years there has been an 86 per cent increase in the number of people identifying themselves as Aboriginal who are being dealt with by our duty counsel. That is the main reason why there has been a reduction in the proportion of people they have been able to act for.

Hon SUE ELLERY: That may well be the driver. I do not understand why you would be reducing your targets. Surely you should be aiming to go higher, not to be representing fewer people.

Mr Turnbull: I would agree with that. We obviously have significant competing needs. The duty counsel is just one of many. We are always hopeful that the commonwealth government, which is the sole funder of the Aboriginal Legal Service, will improve the position of that agency, which would provide some relief for ourselves.

[2.00 pm]

Hon SUE ELLERY: On that policy issue of getting more money out of the federal government, might I ask the Attorney General whether he has had any conversation or plans to have any conversation with his new federal colleagues about how they might assist so that WA can in fact have higher targets, not lesser targets?

Hon MICHAEL MISCHIN: I thank the member for that question. I have been writing to my counterpart in the commonwealth government over the last six months protesting without any success at the decline in commonwealth funding for the Aboriginal Legal Service. I will allow Hon George Brandis to settle into his position as Attorney-General before I pester him too much

about a change in the longstanding policy on the part of the commonwealth. But it is one of the issues I certainly will be raising with him, along with a raft of others that affect the state, that have been troubling the state and have been troubling me since I became Attorney General a year ago.

Hon SUE ELLERY: If I may, it just seems to me that we send a terrible message if we set our targets lower. I appreciate that from time to time there are different drivers, but we should be always aiming higher, not aiming lower.

Hon MICHAEL MISCHIN: I take that point. I am not privy to the reason the targets have been reduced, except I suggest that sometimes it is pointless setting an unachievable target that looks as though it will be longstanding unless there is a change in a variable over which one has no control. Plainly, if the Aboriginal Legal Service is not providing a service that has been in place for a considerable time and that has informed government's policy on what is actually achievable, one needs to cut one's cloth accordingly; in the same way as over time various other performance indicators get changed when they are acknowledged as either unrealistically high or unambitionally low. However, I am not aware of the reason it was adjusted or what informed that decision. I will certainly consider that and discuss it.

Hon SUE ELLERY: Thank you, and I will finish on this point. I wonder whether I can be provided with—I am not sure whether the Attorney General has it with him now—statistics on the reason this has changed and that show how the representation sought by Aboriginal clients has shifted over recent years.

Mr Turnbull: First of all, although that target remains at 22 per cent, there has in fact been a 14 per cent increase in activity over the last 18 months; in fact, we have increased our services by 14 per cent. We are in a kind of growing situation. I just wanted to make that point.

Hon SUE ELLERY: Okay. Could you provide me with those statistics that demonstrate the point you made at the beginning; that is, the driver is an increased request for representation from Aboriginal clients.

Mr Turnbull: I can certainly provide you with details on the courts, both regionally and in the metropolitan area, where the Aboriginal Legal Service no longer has a presence.

Hon SUE ELLERY: That is only useful if they then come to you. You are saying that the requests made to you from people identifying as Aboriginal have increased, and those are the statistics I would like to see.

Hon MICHAEL MISCHIN: The information I have been provided with is 87 per cent in the last three years, but we can get more precise figures.

Mr Turnbull: Yes, an 87 per cent increase in the proportion of people identifying themselves as Aboriginal has occurred over the last three years.

Hon SUE ELLERY: An increase of 87 per cent?

Mr Turnbull: An increase of 87 per cent.

The CHAIR: Does the member still want supplementary information or does that answer your question?

Hon SUE ELLERY: Perhaps you could break it down over the last three years or something like that so that I can see how that has happened.

Mr Turnbull: Certainly.

Hon SUE ELLERY: Thanks.

The CHAIR: Is there some more detail you can provide on notice?

Hon MICHAEL MISCHIN: Yes.

[Supplementary Information No B4.]

Hon JIM CHOWN: I have a couple of questions and I would like to lead with a reference to page 576 under “Spending Changes”. If you go down the list, you will see the line item “Rapid Justice Initiative”. I must admit I was piqued by the words “rapid justice” in one sentence. Attorney General, I am just wondering what this initiative is actually about. It has no allocated funds for this financial year but in the forward estimates it has \$1.3 million, \$1.4 million and \$1.4 million.

Hon ADELE FARINA interjected.

Hon JIM CHOWN: Exactly!

Hon MICHAEL MISCHIN: I am sorry, I did not catch the punchline.

Hon KATE DOUST: Neither did I.

Hon MICHAEL MISCHIN: What was the question?

Hon SUE ELLERY: It might be rapid this year!

The CHAIR: Mick Malthouse would have a quote for this, I am sure!

Hon JIM CHOWN: I am sure he would; something about the earth and bullocks, I think!

Hon MICHAEL MISCHIN: On 8 July this year, cabinet approved funding for an expansion of services in Sunday and night courts to enable WA Police to process arrestees in a more timely and efficient fashion. This is to allow police officers to return to their duties, rather than having to be custodians of people clogging up lockups while waiting to be processed at courts. The funding for the rapid justice initiative over three years includes \$3.2 million for the department to provide additional judicial officers and associated support staff for after-hours court services at the new Perth police complex; and \$1.1 million for the Legal Aid Commission of Western Australia to provide duty lawyers for after-hours court services at the police complex. The department has had meetings with the Chief Magistrate and Western Australia Police to discuss how best to implement that strategy. Certain arrangements have been made to date but the best means by which to implement the government’s strategy in that regard are still being developed.

Hon JIM CHOWN: Thank you. My second question relates to page 583 under “Asset Investment Program”, which states —

In 2011–12, \$10 million was provided to progress the eCourts strategy and replace a number of unsupported legacy court systems.

I also note on page 584 the line item “E-Courts—Integrated Courts Management System”. I am wondering how far down the track we are in implementing this new system. I note that the amounts of \$5.7 million, \$3.7 million and \$3.8 million in the forward years, so it is obviously underway. Will this integrated courts management system include the Fines Enforcement Registry; and, if so, will it be fully integrated through the total judicial system?

Hon MICHAEL MISCHIN: The current focus of the e-courts strategy program is to complete the development of the electronic integrated courts management system. The next phase of the system is scheduled for November this year. The integrated courts management system, which will replace a number of out-of-date case management systems operated by various courts in Western Australia, will be implemented in the criminal jurisdictions of the Magistrates Court and the Children’s Court. Planning is underway for the development of the ICMS into the Fines Enforcement Registry. Development of that is expected to commence in early 2014.

Hon ADELE FARINA: Is it possible for the Attorney General to speak up, please, as we are having difficulty—or at least I am—hearing him?

Hon JIM CHOWN: So am I.

Hon MICHAEL MISCHIN: I am sorry about that. I will try again.

Hon ADELE FARINA: Thank you. That is much better.

Hon MICHAEL MISCHIN: The integrated courts management system is intended in due course to replace a variety of out-of-date courts management systems that are operated by different courts in Western Australia. The purpose of it is to integrate all of the case management systems under one system and provide a number of efficiencies that will allow for the processing of cases through the courts, including the e-courts program and the use of paperless courts and the like.

[2.10 pm]

The next stage of the release of the system is scheduled for November this year. It will see it operating in the criminal jurisdictions of the Magistrates Court and the Children's Court, and there is planning that is hoped to be commenced early next year for the extension of the integrated courts management system into the Fines Enforcement Registry. One of the advantages of that will be that, in due course, if a fine is imposed by, say, the Magistrates Court and another one imposed by the District Court, they will all be run through the same fines enforcement process, rather than dispersed. There will also be advantages in due course over bail and other processes. We are looking at the early stages. There has been a fair bit done to date, but the idea is that there will be one integrated court management system for case management throughout Western Australia that will take us into the next generation. I have just been reminded that some of those legacy systems are something like 20 years old.

Hon JIM CHOWN: Would your office, Attorney General, have any idea of the savings that may be made under this system once it is fully introduced and being utilised?

Hon MICHAEL MISCHIN: I do not know about that, but I know that we are looking at —

Hon JIM CHOWN: Or the efficiencies within the system that can be engaged with this system.

Hon MICHAEL MISCHIN: I am told that the efficiencies will be documented. One piece of legislation that I introduced only a little while ago was to help facilitate this process by another stage of law reform to allow the courts to introduce rules of court to be able to achieve a paperless court environment and to save many hundreds of thousands of pages of paperwork that is routinely generated through just the criminal justice system—electronic prosecution notices, electronic bail papers and all that sort of caper. There will be an enormous amount of efficiency just gained from having a one-stop shop where any court can find out what any other court is doing and how cases are proceeding. But in terms of cost, no, I cannot give you the figures at the moment. It will be documented as to what the improvements are. It will be a gradual or a staged process and we will see whether we can work out the figures for you.

Hon RICK MAZZA: I have a couple of brief questions. First, I refer to page 576 of budget paper No 2. There is a note there of program rationalisation of \$1.382 million for the budget estimate and then it has \$2.232 million in the forward estimates. Can you tell me what programs are actually being rationalised?

Hon MICHAEL MISCHIN: Those are currently under discussion with a view to determining what programs are redundant or inefficient or can be mainstreamed into others operated by the Department of the Attorney General or by other departments.

Hon RICK MAZZA: So the rationalisation programs have not been finalised; is that what you are saying?

Hon MICHAEL MISCHIN: No, not at this time.

Hon RICK MAZZA: How has a dollar value been applied?

Hon MICHAEL MISCHIN: It is part of a figure that was provided by Treasury as an efficiency that needed to be achieved, and we are working towards that.

Hon RICK MAZZA: So that really is indeterminable at this point; is that what you are saying?

The CHAIR: When do you expect to have that completed and to have determined what those are?

Hon MICHAEL MISCHIN: It will have to be some time during this current budget.

The CHAIR: I would have thought fairly soon if you have to meet \$1.3 million this year.

Hon MICHAEL MISCHIN: Indeed, and it is under active consideration. I cannot tell you any more than that at the moment.

Hon RICK MAZZA: On page 153 of budget paper No 3, the Law Reform Commission program is being rationalised. I did touch on this with the police this morning. Has the Law Reform Commission been requested to undertake a review of the Firearms Act 1973?

Hon MICHAEL MISCHIN: I do not have that page before me. So far as the firearms review, I indicated in an earlier session today that I was in discussions with the Minister for Police. I have written to her with some draft terms of reference and I am waiting to hear on that and the costings that will be involved in that inquiry.

Hon RICK MAZZA: So it has not been agreed to yet.

Hon MICHAEL MISCHIN: No; it is being developed at the moment. We are pretty close to it, but it has not been determined. There is still some finetuning to go. But that will happen.

Hon RICK MAZZA: Also on page 153, there is the ongoing funding for the Office of the State Coroner. The coroner's office currently conducts an investigation into every death that occurs following a fall in a hospital or aged-care facility. I understand that this policy is a result of a particular desire by the retiring coroner Alastair Hope, but it does equate to hundreds of investigations each year by coronial investigators. What is the cost of this practice?

Hon MICHAEL MISCHIN: I am sorry; I do not have that page in front of me.

The CHAIR: For the benefit of the advisers, I think you might find that the member is referring to page 153 of budget paper No 3, as opposed to budget paper No 2, which lists the general government expense changes.

Hon RICK MAZZA: Sorry; it is budget paper No 3, yes. I refer to the ongoing funding for the Office of the State Coroner.

Hon MICHAEL MISCHIN: What I think you are seeing there is that the temporary resources that have been provided over the last several years to date have now been replaced by recurrent expenditure in the order of \$8.2 million over the next four years. I did not quite get the other part of the question. It was something about a specific inquiry into old folks' homes or something, was it?

Hon RICK MAZZA: Basically, any fall in an aged-care facility is investigated by coronial investigators. I am just wondering what that costs every year and how many of those investigations actually determined suspicious circumstances.

Hon MICHAEL MISCHIN: I cannot give you the answer to that. I would have to get information from the Coroner's Court about that. I understand that a lot of their results are online in any event. The findings from 2012 are on the Coroner's Court website.

Hon RICK MAZZA: I would like that question on notice, please.

Hon MICHAEL MISCHIN: I should say that there are certain inquiries—I cannot recall whether those are included; I suspect they are—that the coroner must perform as part of his function, such as deaths in custody, deaths in government care and that sort of thing. Of course, these might fall within that category, so there is no discretion other than to look into them. As to how much those particular ones cost, I cannot say at the moment but we will find out.

[Supplementary Information No B5.]

Hon NICK GOIRAN: Mr Chairman, by way of clarification, at this point in time are we restricted to just the Attorney General or can we launch into any discussion on the Commissioner for Equal

Opportunity? I should say that I have questions on the Attorney General, but I just wanted to get your clarification.

The CHAIR: Attorney General, you have your advisers here. Are you happy to also take questions on the Commissioner for Equal Opportunity at this stage?

Hon MICHAEL MISCHIN: Yes. If I cannot deal with it, I will defer to the acting commissioner.

Hon NICK GOIRAN: Otherwise, we will be coming back to that?

The CHAIR: I think the Attorney General is indicating, and obviously somewhere between 2.45 pm and 3.00 pm, we will be going to the DPP, so I advise the member that if your priority questions are on the Equal Opportunity Commission —

Hon NICK GOIRAN: Now would be the time?

The CHAIR: Yes.

Hon NICK GOIRAN: In which case, I understand that there is a review of the Equal Opportunity Commission that is either taking place or intended to take place. Can you just indicate when that review will commence, if it has not already?

[2.20 pm]

Hon MICHAEL MISCHIN: The Equal Opportunity Act has been in place for almost 29 years now, and in the last 10 years it has been under the same commissioner. It seemed to me, at the expiration of that commissioner's term, that it was a worthwhile time to have an inquiry into whether the office is meeting the expectations under the Equal Opportunity Act and how the services and principles of the act can be delivered in the best way possible. We have an acting commissioner in place for the time being, and I have discussed with the Public Sector Commissioner the terms of reference. The inquiry into how the office can best deliver the objectives under the Equal Opportunity Act will be a matter for him. I have had some input to ensure that the terms of reference are broad enough to have a proper look at what it is doing and how it can go about its business, the extent to which its function overlaps with other functions that are performed by, for example, the Australian Human Rights Commission and the like. I do not have a time frame on it and I do not recall if there was a time frame set, but, in any event, the matter is in the hands of the Public Sector Commissioner, not mine.

Hon NICK GOIRAN: Further to that, is there an understanding as to when that might be finalised, even if there is not an understanding as to when it might start?

Hon MICHAEL MISCHIN: I do not recall discussion of a date. I expect there was and an estimate was given, but I just cannot think of it off the top of my head, I am afraid. It may be that the acting commissioner can say. I think six months, by the sound of it. So we are hoping to get something sorted out within the next six months.

Hon NICK GOIRAN: Right. Attorney General, is that something that would be proper to put on notice, or is that something that we need to ask the Public Sector Commissioner?

Hon MICHAEL MISCHIN: I can find out for you whether any date has been set as far as he is concerned and get back to the committee on that. If he has not set a date, then it is out of my control, but he is the one that I have asked to be responsible for the inquiry.

Hon NICK GOIRAN: Yes. Mr Chairman, perhaps we could take on notice when it will conclude.

[*Supplementary Information No B6.*]

Hon NICK GOIRAN: Just finally on this point, in terms of the cost of this review, I take it from your answers today that that is really something that needs to be directed to the Public Sector Commissioner, not to you.

Hon MICHAEL MISCHIN: Yes.

The CHAIR: Hon Alanna Clohesy, do you have questions on this point? Is that what you were indicating?

Hon ALANNA CLOHESY: It is about the substantive equality unit within the commission.

The CHAIR: All right. I will come back to you. Hon Kate Doust.

Hon KATE DOUST: Following on from Hon Nick Goiran, I am really interested to find out about the terms of reference for this review. Did you say that they are still being constructed or —

Hon MICHAEL MISCHIN: I had a discussion with the Public Sector Commissioner several weeks ago about the matter to ensure that it was broad enough. I understand a cabinet paper is currently with the Premier.

Hon KATE DOUST: So at some point those terms of reference, I assume, will be made public.

Hon MICHAEL MISCHIN: I expect so, because I expect that the Public Sector Commissioner would be seeking input from a variety of sources.

Hon KATE DOUST: Can you perhaps give an indication of which stakeholders will be invited to participate in that review?

Hon MICHAEL MISCHIN: That would be a matter for the Public Sector Commissioner. As I said, I do not propose to be involved in the inquiry. I am relying on him to conduct a review of that statutory office and to come up with recommendations.

Hon KATE DOUST: Whilst the review is being conducted, the business of the EEO continues on as normal.

Hon MICHAEL MISCHIN: Yes, within the terms of reference of the commission. That is why an acting commissioner has been appointed—an experienced civil servant.

The CHAIR: Hon Nick Goiran, did you have another —

Hon NICK GOIRAN: I have a question in regard to the Attorney General, not with regard to the Equal Opportunity Commission.

The CHAIR: I think we have finished the Equal Opportunity Commission, so I am coming back to you, and then I —

Hon ALANNA CLOHESY: The substantive equality unit is part of that, but it is a different question.

The CHAIR: All right—if Hon Alanna Clohesy wants to ask about the substantive equality unit.

Hon ALANNA CLOHESY: With regard to program rationalisation, which led to the abolition of the substantive equality unit within the Equal Opportunity Commission, what programs are operating in other government agencies that will fill the gaps that have occurred as a result of the substantive equality unit being abolished?

Hon MICHAEL MISCHIN: Well, the substantive equality unit will terminate from 1 July 2014, so it is not in this current budget. But the unit was set up, I think, some time in about 2005 by Hon Jim McGinty when he was Attorney General. At that stage it was intended to examine housing policy. At the completion of that exercise, it seems to have gained a life of its own, reviewing policy in government agencies. So it has been running now for some eight years without a review of that program and its efficacy. My thinking is that it is a program that by now should be part and parcel of the culture of government departments. The educative function of the equal opportunity commissioner has not changed and that of her staff has not changed, so she is there to provide the assistance necessary for government agencies to exercise the same principles that have been exercised by the substantive equality unit over that period of time.

Hon ALANNA CLOHESY: So I assume that will be taken into account in the review of the commission.

Hon MICHAEL MISCHIN: That is open for the Public Sector Commissioner to consider, but the objectives of the review —

Hon ALANNA CLOHESY: So the relationship between the commission and the unit, or those tasks and those roles, will be included in the terms of reference of the review.

Hon MICHAEL MISCHIN: How the equal opportunity commissioner is fulfilling the objectives of the act and how those services and objectives under the act can be best provided, and what structure is necessary—I have no comment to make on that other than this is a program that it seemed to me could be better done through other avenues, and at a significant saving. As to what the Public Sector Commissioner comes up with at the end of his review of the office, I wait with interest. Just how it ought to be structured and how its administrative and other services ought to be provided—all sorts of things—I expect will fall within his review. But I am looking forward to ensuring that at least the principles in the Equal Opportunity Act 1984 are maintained and promoted, and in the most effective and efficient way.

Hon ALANNA CLOHESY: Given that the unit will be abolished, what partnerships with non-government agencies and organisations will be undertaken, or are being planned to be undertaken, to make sure that racist and discriminatory policies and practices in government do not lead to unequal outcomes and treatment?

Hon MICHAEL MISCHIN: I have no reason to suppose that they will be any different or less than they have been over the last 10 years in their gradual improvement and enhancement.

Hon ALANNA CLOHESY: Will the relationship between the unit and the NGOs be included in the terms of reference of the review?

Hon MICHAEL MISCHIN: I am not sure I understand. The unit is simply an allocation of resources within the equal opportunity commissioner's office to —

Hon ALANNA CLOHESY: And they work closely with non-government organisations to —

Hon MICHAEL MISCHIN: Well, that may be right, but —

Hon ALANNA CLOHESY: — work through discriminatory practices within government.

Hon MICHAEL MISCHIN: That may be right. That is not the only way that they can go about achieving those ends, and I would be surprised if the equal opportunity commissioner and her office were to suddenly sever all ties with non-government organisations that have an interest in the promotion of equal opportunities simply because there is a change in one aspect of the equal opportunity commissioner's operations.

Hon ALANNA CLOHESY: One final question on this: is the Attorney General aware of Deputy Premier Hames' commitment on behalf of the government reiterating the government's commitment to substantive equality in a pre-election forum?

Hon MICHAEL MISCHIN: I was not aware of it specifically, but there is nothing in that that surprises me. This government is committed to that and has always been committed to that, as far as I am aware.

[2.30 pm]

Hon ALANNA CLOHESY: To the unit?

Hon MICHAEL MISCHIN: How one delivers that objective should not be fastened on to the activities of one particular group of public servants. Needs change over time and the mode of delivery of service changes over time. We constantly need to look at better ways of delivering objectives and as I have indicated, I am committed to the objectives under the Equal Opportunity Act. It is, after all, the law of this state. As to how those objectives can best be delivered is always open for review and if there are better ways of doing it, then I will be looking at better ways of doing it, but I am not wedded to any particular program.

Hon ALANNA CLOHESY: That is why it is strange that the unit will be abolished before the outcomes of the Equal Opportunity Commission review are known. That is exactly why it is strange.

Hon MICHAEL MISCHIN: It is a matter of opinion. I do not see the point in a program continuing that can be and should be, in my opinion, achieved in other ways; but I will wait to hear what the Public Sector Commissioner comes up with.

Hon KATE DOUST: I have just been listening to the Attorney General and I am wondering: before the decision was made to cut the funding for this unit, was there any type of needs assessment made or any form of consultation with the stakeholders who would access this unit?

Hon MICHAEL MISCHIN: Not on my part, no; but I was aware of the activities of the unit and had been for some years.

Hon NICK GOIRAN: Attorney General, page 580 of budget paper No 2 sets out “Services and Key Efficiency Indicators” with respect to the courts. In particular I note that the civil jurisdiction of the Magistrates Court states that the cost is budgeted at \$345 000 per case. Is the Attorney General in a position to indicate whether any analysis has been done to contrast the cost per case for civil matters under the Magistrates Court in comparison to what it was under the then Local Court before the change in 2005?

Hon MICHAEL MISCHIN: I am sorry, but for some reason I do not have that page.

Hon NICK GOIRAN: It is page 580.

Hon MICHAEL MISCHIN: Yes I have it now. We are looking at the Magistrates Court—civil or criminal?

Hon NICK GOIRAN: Civil. So cost per case is \$345 000 and I am interested to know, Attorney General, what impact has occurred as a result of the changes in 2005 to, in effect, evolve the Local Court into the Magistrates Court.

Hon MICHAEL MISCHIN: I am sorry, I cannot tell you. I do not have that material in front of me going that far back in history.

Hon NICK GOIRAN: Is it something that is accessible within the department?

Hon MICHAEL MISCHIN: I am assured that the department may have it as a consequence of their material from budget papers, so it may reveal that.

Hon NICK GOIRAN: It would be; it would be available.

Hon MICHAEL MISCHIN: If we could put that on notice I will find out.

Hon NICK GOIRAN: Could I ask, Mr Chairman, that we take on notice a question as to what the cost per case for civil matters was under the then Local Court, in contrast to the Magistrates Court at present. And can I have a supplementary question further to that?

[*Supplementary Information No B7.*]

The CHAIR: All right. You want to ask a supplementary question, is that correct?

Hon NICK GOIRAN: Yes please.

Hon MICHAEL MISCHIN: Yes, okay we will look into that. There may, of course, be some differences because I understand that volumes of work are going down in the civil listings of the Magistrates Court.

Hon NICK GOIRAN: Right; that pre-empts my next question, Attorney General. What data exists for us to be able to analyse the volume of cases that were in the Local Court at the time, in comparison with the volume of cases now in the Magistrates Court? To be more precise, what I really want to know about is cases under the threshold. At the time the threshold was \$3 000 for

people to decide whether they wanted to be represented or not and could have cost recovery for that. That threshold went to \$7 500 and is now \$10 000. I am interested to know whether any analysis has been done on that, specifically for the purpose of determining whether people are now being discouraged from bringing cases before the court because, in effect, they are not able to recover the cost of their representation.

Hon MICHAEL MISCHIN: All right. I will have to take that on notice and see what we can come up with.

Hon NICK GOIRAN: Through you, Mr Chairman. I do not want to give work to the department for the sake of it. If an analysis of that sort has been undertaken and it is easy to ascertain, that is fine. If it is going to require a lot of man hours to find this out, then I do not know that I would want to put it on notice and give you that extra responsibility.

Hon MICHAEL MISCHIN: I understand that it will take some work—taking into account law changes. Can I suggest—I am not sure whether it is a matter of general interest to the committee—that if it is a matter of particular interest to Hon Nick Goiran, whether he might like to write to me directly about that and I will find out what information is available and then if he wishes to pursue the matter, I will extend to him what assistance I can and provide what material I can. I will be in a much better position to be able to say just how much work will be involved going through historical material. Some of it, in terms of trends, might be able to be picked up quite easily, but the finetuning in terms of seeing just how the law has changed in the meanwhile from 2005 through to date, and to consider the variables, is something that may be a problem. I am informed that Western Australia in fact has the lowest cost per case in the country. I do not know if that really helps the member.

Hon NICK GOIRAN: Unfortunately not.

Hon MICHAEL MISCHIN: I understand, I think, what the member is driving at—whether the changes to the law have been so radical that they have actually reduced the workload because people are not seeking due redress that is available to them because it is prohibitive for them to do so, so they are being denied an avenue of legal redress.

Hon NICK GOIRAN: Yes, exactly.

Hon MICHAEL MISCHIN: I will see what I can find out. If the member would care to articulate his issue by way of correspondence to me, perhaps I will do that rather than have it as a question from the committee.

The CHAIR: If the member is happy to go down that path, unless other members of the committee indicate they want that information, then I am happy to recommend that we proceed on that basis.

Hon MICHAEL MISCHIN: I am obliged.

Hon KATE DOUST: Thank you Mr Chairman. Given that the government has made its announcement about rationalisation of public sector employees, I just want to know how many jobs are anticipated to go, to be cut, in the Equal Opportunity Commission.

The CHAIR: I think Ms Lucas has indicated that she might be able to answer the question.

Hon MICHAEL MISCHIN: If I could invite the acting commissioner, Allanah Lucas, to answer.

Ms Lucas: In terms of the substantive equality unit that would be four positions. In terms of the other savings and measures we would be looking at perhaps another three to four positions.

Hon KATE DOUST: Out of how many?

Ms Lucas: Currently we are running at 29 full-time equivalents.

Hon KATE DOUST: And that includes the substantive equality unit as well?

Ms Lucas: That is right.

The CHAIR: Is that your question Hon Kate Doust? I call Hon Adele Farina.

Hon ADELE FARINA: I go back to the question I asked earlier in relation to funding for the Legal Aid Commission. If I understand the minister correctly, he said that at the end of each financial year additional funding is provided to the Legal Aid Commission to make up any shortfall that it has and that at the end of the last financial year \$1.7 million was made available to the Legal Aid Commission. Was that out of the appropriation to the department, or was that over and above the appropriation to the department?

[2.40 pm]

Hon MICHAEL MISCHIN: It is supplementary funding additional to the departmental funding.

Hon ADELE FARINA: So it is over and above the appropriation to the department?

Hon MICHAEL MISCHIN: Yes.

Hon ADELE FARINA: If that is the case and it is an annual event, I do not quite understand why that is occurring and why the budget papers continue to underrepresent what is actually required for the Legal Aid Commission. Surely the government should be appropriately funding the Legal Aid Commission and it should not be in a position of having to run, effectively, a deficit, and then hoping that the money gets refunded at the end of the financial year. Will the Attorney General explain to me how this practice has come about, why it happens and why it is not addressed in the budget papers so that we can adequately understand the cost of the Legal Aid Commission when we look at the budget papers?

Hon MICHAEL MISCHIN: I will ask Mr Malcolm Bradshaw, director of business services at the Legal Aid Commission, to answer that.

Mr Bradshaw: Until about two years ago there was never any funding appropriated on an annual basis for what are called expensive cases. An expensive case is a case generally in the superior court that costs the Legal Aid Commission approximately in excess of \$26 000. The practice has been for the Legal Aid Commission to absorb those expensive cases internally, and then prepare a supplementary funding application to Treasury at the end of the year to fund those expensive cases. About two years ago, in an effort to, I suppose, identify and rectify the issue you have identified, member, an annual appropriation in the order of \$1 million was made. So, we currently now have an appropriation of \$1 million to cover expensive cases on an ongoing basis. There may be years, though, when the value of expensive cases actually exceeds that \$1 million. For example, in the most recent year the value of expensive cases was in the order of \$2.8 million in total. What occurs now is that in addition to the \$1 million we receive for expensive cases, which is now recognised annually, in the event that an expensive case's total exceeds that \$1 million, we will go back to Treasury for more. As you are probably aware, there have been a number of expensive cases in the past year that have taken that balance over that \$1 million.

Hon ADELE FARINA: So how many years has this been running?

Mr Bradshaw: The \$1 million appropriation for expensive cases has been in place for about two years now. That is my understanding.

Hon ADELE FARINA: And in each of those years it has actually exceeded \$1 million?

Mr Bradshaw: My recollection is that in the first year it was very close to \$1 million; in the most recent year it was well and truly above the \$1 million.

Hon ADELE FARINA: Yet the budget has included only \$1 million again this year, even though it was well exceeded in the last financial year?

Mr Bradshaw: The reason for the \$1 million figure is that we have taken an average of the size of the supplementary funding we have required over time, so it is only in these most recent years when the value of the supplementary funding has really needed to exceed that \$1 million mark. We have

had a number of unique cases in recent years, which is why the value of expensive cases has exceeded that \$1 million.

Hon ADELE FARINA: The bottom of the table on page 579 of the *Budget Statements* states that the percentage of eligible applicants who receive a grant of legal aid is sitting at about 73 per cent. That means a lot of people who are actually eligible to receive legal aid are not getting it. What is the government doing to address that shortfall in funding for legal aid, because clearly a significant number of people qualify for legal aid but are unable to access it.

Hon MICHAEL MISCHIN: I understand that it is because the funding growth here has been from the state, not the commonwealth.

Hon ADELE FARINA: I cannot hear you.

Hon MICHAEL MISCHIN: The commonwealth used to fund legal aid to the extent of 60 per cent; it was dropped to 30 per cent under the previous commonwealth administration. So the amount of funds that have been donated or are being applied to it has decreased. The state has made up some of it, but by no means all.

Hon ADELE FARINA: Is there any plan to address the shortfall by the state?

Hon MICHAEL MISCHIN: The state has increased its funding, and as I have indicated —

Hon ADELE FARINA: By how much?

Hon MICHAEL MISCHIN: Perhaps I will get the director to deal with that.

Mr Turnbull: I do not have the precise figure in front of me, but two years ago we received the largest single increase from the state government we had in the past 10 years, and that was in the order of between 10 per cent and 12 per cent, I think from memory; it may have even been a little more than that. Some of that was specifically to boost the number of lawyers providing duty lawyer services. Some of it was to increase our ability to grant legal aid for representation for people in defendant trials. So it was a significant increase. As I mentioned earlier, some of that has been in a sense eroded by virtue of the fact that we have been required to, effectively, fill the gap that has been left by the ALS withdrawing its services from a number of courts, but essentially there has been a steady increase from the state government over the past 10 years as I recall.

Hon ADELE FARINA: So does that 10 per cent increase include the \$1 million a year for the expensive cases?

Mr Turnbull: No; that is a separate amount.

Hon ADELE FARINA: As a supplementary question I would like to know exactly what the increase has been in funding to the Legal Aid Commission over the past three years for each of the past three years. Also, why has that figure, in terms of the number of eligible applicants, not improved? The number of people receiving legal aid seems to be around that low 70s figure, despite there having been an alleged increase in funding to the Legal Aid Commission. I am curious as to why there has been no improvement in that figure.

[*Supplementary Information No B8.*]

Hon PETER KATSAMBANIS: Through the Attorney General, I would like to address a specific question in relation to the Public Trustee. As is pointed out in the second dot point on page 578, the state's increasing and ageing population, combined with the prevalence of dementia, requires greater access to trustee services. It is quite opportune that we are discussing it today, because in our last sitting week in this place a number of us spoke on a motion in relation to elder abuse and highlighted that elder abuse either commences or eventually ends up with financial abuse of elderly people. Through the Attorney General, I would like to know whether there are any statistics or anecdotal information about the prevalence of concerns about financial irregularities that have been caused by people assisting an elderly person that are referred to the Public Trustee at the same time

as a case comes to the Public Trustee's attention or subsequently. Are there either statistics or anecdotal evidence around that?

[2.50 pm]

Hon MICHAEL MISCHIN: I will ask Brian Roche, the Public Trustee, to see if he can throw some light on that.

Mr Roche: There are no statistics as such. We are starting to see a lot more elder abuse, at least anecdotally. I along with the Public Advocate are involved with the Alliance for the Prevention of Elder Abuse, which has cross-agency and not-for-profit sector members. I am intimately involved with the fact that we are probably seeing a little more of it. As the Public Trustee, I am involved mainly through the State Administrative Tribunal when it feels that perhaps there has been some irregularity or misappropriation of someone's finances. The tribunal will appoint the Public Trustee as the administrator and we will investigate the matter and take action as required. However, we have no statistics because it depends on the order that we receive the referrals from the tribunal.

Hon PETER KATSAMBANIS: Is there some sort of protocol or specific guidelines around how a matter is handled when evidence comes to light of financial irregularities or the potential for financial abuse?

Hon MICHAEL MISCHIN: I will ask the Public Advocate, Pauline Bagdonavicius, who deals with people who are incapable of managing their own affairs, to provide some information about this as well. With the permission of the Chair, I will get the Public Trustee and the Public Advocate to contribute to this answer.

Ms Bagdonavicius: The Alliance for the Prevention of Elder Abuse has a protocol or guidelines in place that have been made available to agencies and are promoted to a raft of service providers by members of the alliance. My office may become involved in investigating whether someone needs a guardian or administration because there appear to be some irregularities around financial abuse or other forms of abuse. The statistics that we keep show that last year the State Administrative Tribunal made 923 referrals to my office, which were new investigations around applications made to the tribunal. Not all of those applications relate to financial matters, I am talking about the total picture. We identified 193 instances of abuse out of those referrals. Quite a proportion of those referrals—117 instances—related to elder abuse, which equates to about 61 per cent.

Hon PETER KATSAMBANIS: Do you have any figures on how many of those reported matters led to either criminal charges being laid and/or a conviction?

Ms Bagdonavicius: No, we do not have those statistics. It is difficult to track that because our involvement ceases once the tribunal has decided if an order is required and who is appointed. The involvement of my office around financial matters ceases at that point.

Hon PETER KATSAMBANIS: Are any of those matters routinely reported to police?

Ms Bagdonavicius: Matters involving criminal concerns would be reported to the police, but it often requires a greater investigation than what our office can do. Often it becomes more a matter of the Public Trustee making a decision about that further down the track when more information is available. Our concern is with stopping the abuse and ensuring that the person's assets are safe. Where necessary, we will make urgent applications to the tribunal as well to prevent further abuse from happening, the tribunal will make an order, and often, in that case, the Public Trustee or another person is appointed as administrator, who will decide what action is taken further down the track.

Hon PETER KATSAMBANIS: I am interested in this area and ask questions around this sort of stuff because I would like to determine the capacity within the system to identify and then examine these matters because, like you, I want to see these things prevented at the outset. I believe that highlighting the issue and conveying a strong message of deterrence to the community, particularly

in this area, will go some way to deterring future sorts of financial abuse events from happening. Based on the answer of the Public Advocate, what sort of capacity is there within the Public Trustee's office to properly examine and look into these issues to get a sense of whether the reported abuse is happening?

Mr Roche: It is certainly something that I can take on board. Unfortunately and sadly, by the time the Public Trustee is appointed and if there has been a financial misappropriation, much of the damage has been done. The priority is to protect the assets of the person that we have been appointed to represent and, if required, the matter would then be reported to the police and we would take matters through the courts. We certainly talk to the State Solicitor's Office about that. I, along with the Public Advocate, do as much as we can publicly in terms of seminars and promotions and so forth about raising awareness, which is, as Pauline said, one of the biggest things we would like to do more of because by the time the matter reaches us, unfortunately some damage has been done—so we can certainly do more. In terms of the statistics, I will think about how we can identify and track that a little more.

Hon PETER KATSAMBANIS: I would appreciate that.

The CHAIR: Are you indicating that that is something you can provide as supplementary information?

Mr Roche: No, it is something I would have to give some thought to.

Hon PETER KATSAMBANIS: I appreciate that this is an evolving area and I highlight it as a key area of concern within the budget papers, so no doubt greater thinking around it will lead to better outcomes.

Hon MICHAEL MISCHIN: Unless the member has a desire to receive the information through a supplementary question that requires a response to the committee, and if he is interested in a variety of areas, it might be more convenient to put them in writing and we will see if we can find out that information because it may not be a definitive answer.

Hon PETER KATSAMBANIS: I am happy to take up that offer.

The CHAIR: That is the best way in light of the answer not being available. If members have finished asking questions, we will now move onto the Director of Public Prosecutions.

The committee will forward any additional questions it has for the witnesses via the minister in writing in the next couple of days together with the transcript of evidence, which includes the questions you have taken on notice. Responses to these questions will be requested within 10 working days of receipt of the questions. Should you be unable to meet this due date, please advise the committee in writing as soon as possible before the due date. The advice is to include specific reasons as to why the due date cannot be met. If members have any unasked questions, I ask them to submit these to the committee clerk at the close of this hearing. On behalf of the committee, I thank you all for your attendance today.

Hearing concluded at 2.58 pm
