Division 27: Attorney General, $369 629 000 —

Mr M.W. Sutherland, Chairman.

Mr C.C. Porter, Attorney General.

Ms C.M. Gwilliam, Director General.

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

Ms P.M. Bagdonavicius, Public Advocate.

Mr J. F. Skinner, Public Trustee.

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

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

Ms L. Baker, Manager Finance, Legal Aid Western Australia.

Mr W. Hewitt, Executive Director, Corporate Services.

Mr D. Creedon, Chief of Staff, Office of the Attorney General.

[Witnesses introduced.]

The CHAIRMAN: The member for Mindarie.

Mr J.R. QUIGLEY: I take the Attorney General back to the 2010 estimates hearing. At page E111 of the transcript of the proceedings, in response to a dorothy dixer by the member for Swan Hills about the Coroner's Court, the Attorney General informed the committee of an additional $822 000 in two-year emergency funding to the State Coroner to try to deal with the backlog. I have two parts to the question. Firstly, is this additional funding being provided on an ongoing basis, or will this additional funding expire at the end of the current arrangement? Secondly, in relation to the lengthy and complex inquest currently being undertaken into the Christmas Island tragedy, is there funding from the commonwealth for the Coroner's Court to meet the extraordinary expenses of that case, given that the deaths were in an Australian excised territory?

Mr C.C. PORTER: I will answer those questions in reverse order. My recollection of the people-smuggler issue was that the coroner approached us and sought the state government's guarantee that funds would be available to apply specifically to that coronial inquest. We also took the view that the member does—that is, that ultimately the commonwealth should pay. Coming to those sorts of agreements with the commonwealth is not always simple. I recall that we took the view that we should make the commitment and pay for the inquest, and we will seek reimbursement from the commonwealth for that. The inquest that the member has referred to is due to the fact that the state government, notwithstanding federal responsibility, put its hand in its pocket and paid for it and allowed for counsel assisting to be appointed at the earliest possible stage. We will endeavour to receive reimbursement from the commonwealth in due course.

Mr J.R. QUIGLEY: In relation to that, is there any estimate of what the costs of this particular inquest might run to?

[9.50 am]

Mr C.C. PORTER: I will add to my previous answer. I understand that the commonwealth has given agreement in writing that it will fund it. I have had such agreements from the commonwealth before, so we will see how that transpires. As to the actual estimate for its operation, we do not have that information yet. We have given a commitment that we will pay whatever it will cost, but we are expecting to be reimbursed, and we will obviously be keeping the cost reasonable. The temporary additional funding to the Coroner's Court has been extended to $660 000 for 2011–12, and $680 000 for 2012–13, so for the next two years it will receive those amounts. The $800 000-plus figure cited by the member included within it an amount similar to the $660 000 which was, in effect, for FTEs. There was also a $200 000 amount for some additional costs that related to other areas of funding. The $660 000 that was applied to FTEs has been continued for the next two years. After discussions with the coroner, that will allow some continuity of employment rather than having people working there on rolling one-year contracts. Ultimately, we have provided the funding we consider necessary to keep the office operating at a functional level, in excess of the funding previously provided. The permanency of that funding, and how much permanent funding there is, will depend very much on the Law Reform Commission's report into the office of the coroner, which has been some time in the making, but we expect it within the period of this funding. This government has provided additional funding. I understand that has been of great assistance to the coroner. I have every expectation that in some way, shape or form that funding will continue into the future.

Mr J.R. QUIGLEY: Towards the end of the Attorney General's answer given to the member for Swan Hills last year, he said that by the end of 2009–10 the backlog would be reduced to 400 files, and that by the end of 2010–11 it was anticipated that most, if not all, of the 75 inquest files would be completed, and that the backlog of administrative files would be reduced to 150. What is the current status of the inquest files, and has the number of administrative files been reduced to 150?

Mr C.C. PORTER: In that answer, I think there was a subcategorisation of files. There were backlog cases that were older than 12 months, and the total cases pending —

Mr J.R. QUIGLEY: You had hoped to reduce the backlog of 400 to 150.

Mr C.C. PORTER: I think the answer is that the backlog has not been reduced by as much as we would have hoped, and the reason for that is that, as a managerial decision, the coroner has decided to allocate the FTEs he has been given to immediate inquests, so the backlog has not decreased by as much as we would have hoped.

Mr J.R. QUIGLEY: The backlog that was cited at dot point five on page 4 of last year's committee hearings was 400 files. Is the Attorney General able to tell us what the progress is on those 400 files?

Mr C.C. PORTER: The backlog is measured in various ways, depending on how long a file has been backlogged before, so there is —

Mr W.J. JOHNSTON: Whatever term was used last year, the same definition could be used.

Mr C.C. PORTER: I do not recall what measure that was, but if the member would like me to provide that by supplementary information, I am very happy to get it.

Mr W.J. JOHNSTON: That would be great.

Mr J.R. QUIGLEY: The coroner attributed much of the backlog to insufficient staffing levels at the coronial inquest section of WA Police, whereas Mr Anticich said that any police officer could investigate a coronial file. What is the current view of the coroner? Is he still of that view? It was reported in *The West Australian* on 26 April that the coroner had said that extra resources were needed to investigate cases more thoroughly, and that the sudden death squad had long been under-resourced to perform that difficult and complex task. That was in reference to the Bradley Whitehouse inquest.

Mr C.C. PORTER: What year was that?

Mr J.R. QUIGLEY: The Bradley Whitehouse inquest was February 2008; that article appeared on 26 April 2011. The coroner was reported as saying that the coronial investigation unit responsible for examining all metropolitan sudden deaths had long been under-resourced to perform that difficult and complex task, and that extra resources were needed to investigate cases more thoroughly. What is the coroner's current view? Is that section still under-resourced?

Mr C.C. PORTER: It is difficult to tell the member what the coroner's thinking is; I have had several conversations with him about this issue. I do not think it would be unfair to the coroner's views to say that he considers the level of funding provided under this government to far exceed the level of funding that was provided by the previous government. The comment that the member talked about, about the office being long under-resourced, was in February 2008.

Mr J.R. QUIGLEY: Correct.

Mr C.C. PORTER: There was an approximate $800 000 figure last financial year, and we have provided $641 000 this year and $660 000 and $680 000 for the next two years. I think I can summarise the coroner's view in this way: although all agency heads would like more funding than that which is provided, there is a significant increase in the quantum of funding for his office in this budget. The coroner, I think, takes the view that his office should not be compelled to wait for the Law Reform Commission report, which has been promised but not delivered on a number of occasions, but which I am now reliably informed will be delivered in December this year. He should not have to wait for that report to have something similar to this quantum of funding simply appear as a readjusted baseline budget for his office going into the future. I take the slightly different view that it is better to provide this funding on a two-yearly basis in this case, awaiting that review, because the review may well point to some fundamental reforms in the structure of the office that have funding implications. As I understand it, the coroner has generally used this new funding—we have not told the coroner how he should or should not use it—for the completion of backlogged inquests and hearings. To provide an example, there were 41 inquests and 155 sitting days in 2010–11 compared with 36 inquests and 68 sitting days in 2009–10. That is a significant increase. The coroner, in effect, has applied the FTEs that this extra funding has allowed for directly to the level of inquests. He is targeting those backlogged matters that are the most serious and important. I can

provide a breakdown of comparative backlogged files, based on the age of files, as supplementary information. I think that what I have just given is a relatively fair summary of the coroner's views, based on my conversations with him.

Mr J.R. QUIGLEY: Sure, but when I look at the answer the Attorney General gave last year, he said that it was anticipated that by the end of 2010–11 most, if not all, of the 75 inquest files would have been completed. One could infer from the answer that the Attorney General has just given that the level of funding offered to the coroner is insufficient to achieve that which the Attorney General said would happen—that 75 inquest files would have been completed.

Mr C.C. PORTER: As I said, there were 41 inquests and 155 sitting days compared with 36 inquests and 68 sitting days. It may well be the case—I can provide supplementary information—that the complete backlog of inquests has not been achieved, but that there is nevertheless a significant improvement in the number of inquest days the coroner has undertaken with this funding than he could have done without it.

Mr J.R. QUIGLEY: All right, but the backlog is still significant. It is not realistic for the new coroner's legislation to be passed through the Thirty-eighth Parliament, so the community might expect this unacceptable delay in the Coroner's Court to exist some several years hence.

Mr C.C. PORTER: The member is presuming that the Law Reform Commission report is about legislative reform. There may be a component of it that relates to that, but as I understand it, the report is also about the structure, objects, funding and FTE levels of the office. It has an administrative and management component to it as well, and it is that which the government seeks to assess before we make a decision about baseline funding for the coroner's office. In my view, the coroner's office is now far better funded. It may be that this report indicates that it needs a yet more fundamental restructure of its baseline budget; we are awaiting that report.

[10.00 am]

Mr J.R. QUIGLEY: But this is a management issue of the coroner's office. In so far as this is not dealing with legislation, this is something that the government itself should get on top of, is it not, to bring down this dreadful delay for all families waiting upon the outcomes of inquests.

Mr C.C. PORTER: It was the former Attorney General, Jim McGinty, who commenced the Law Reform Commission process. He obviously took the view that the office and its interface between administration and law reform is complicated enough to warrant it. That was in late 2007. He noted at the time that it was envisaged that that Law Reform Commission project would take several years to complete and that the detailed consultations would commence only in the later half of 2008. It has certainly taken longer than I would have expected, but it is due at the end of this year. However, I think the view of the previous government was that this was not simply a matter for the government, in a management-consultancy type or style, to make a determination about baseline funding and make a decision, but rather that it was more complicated than that.

[Mr P.B. Watson took the chair.]

Mr P. PAPALIA: I return to my previous question. Can the Attorney General confirm that he is aware that since April 2009, when he appointed Justice Narelle Johnson as Chair of the Prisoners Review Board of Western Australia, that 13, or 60 per cent, of the staff in the office have felt compelled to seek placement elsewhere because of alleged abusive treatment and nepotism at the hands of the chair, Justice Narelle Johnson, and her registrar?

Mr C.C. PORTER: Could the member give me the line item?

Mr P. PAPALIA: I referred before to page 333 of budget paper No 2, volume 1, under the heading "Outcomes, Services and Key Performance Information", the first table, "Desired Outcomes", "An efficient, accessible court and tribunal system".

Mr C.C. PORTER: I am prepared to accept the question, but I do not know whether it is technically a court or a tribunal. However, the member has asked me to confirm whether I am aware that 13 staff have moved —

Mr P. PAPALIA: Sixty per cent of the office.

Mr C.C. PORTER: Okay; I am trying to answer. It is a very serious question—the member will appreciate.

Mr P. PAPALIA: It is a serious question; that is why I am asking it.

The CHAIRMAN: Members, could you put your questions through the Chair, please.

Mr C.C. PORTER: The member is asking me to confirm whether I am aware that 13 staff members have left the employment of the Prisoners Review Board for the sole reason that they allege abusive conduct towards them by whom?

Mr P. PAPALIA: By the Chair of the Prisoners Review Board, Justice Narelle Johnson, and her registrar.

Mr C.C. PORTER: I have regular meetings with Justice Narelle Johnson and I have regular meetings with my director, Cheryl Gwilliam, and Mr Ray Warnes, who is in charge, administratively, of the Prisoners Review Board. I am aware that one complaint has been made in respect of employment circumstances at the Prisoners Review Board. If the member is asking me whether I am aware that 13 staff members have left the employment of the Prisoners Review Board because they allege they have been abused by the Chair of the Prisoners Review Board, I am not aware of that.

Mr P. PAPALIA: And her registrar.

Mr C.C. PORTER: Just let me answer the question. It is a very serious question.

Mr P. PAPALIA: And her registrar!

The CHAIRMAN: Members, ask your questions through the Chair, please.

Mr C.C. PORTER: I am not aware of that. No allegation of that nature has ever been made to me outside of the member now making it here; not by my director, not by Mr Warnes and not by any individual person, that I am aware of, writing to my office. I am unaware of those circumstances that the member speaks of. That is an incredibly serious allegation —

Mr P. PAPALIA: It is; that is true.

Mr C.C. PORTER: — to levy against a judge, a Supreme Court Judge, of this state.

Mr P. PAPALIA: Exactly.

Mr C.C. PORTER: I might just ask Mr Warnes to comment with respect to what I understand to be the case of one existing complaint about employment circumstances. If I can place that in context: a complaint of one type or other with respect to employment circumstances in public sector agencies is neither unheard of nor unusual but, member, I will invite Mr Warnes to freely comment about what he knows as to the circumstances of that complaint.

Mr R. Warnes: There is one investigation regarding a public servant being conducted. It is my understanding that the investigator has lodged his final report with the department—perhaps last week. The department's human resources area is considering what it will do with that investigation report, which is fairly detailed and contains interviews with all concerned staff as either witnesses or parties to the formal complaint raised. With respect to the 13 people leaving the department—if I may, minister—that particular area of the department has a large number of records officers who are on fixed-term, short-term contracts. It is fair to say that a number of those contracts have ceased. I understand from the executive manager that a number of officers chose to continue university studies. From his point of view, probably 50 per cent were not suitable for employment at the office and their contracts were not continued. One officer in a secretarial position—when I say "secretarial", it is an important role within the organisation; about a level 4—was a fixed-term appointment, and when the position was advertised for permanent appointment that officer chose not to apply and an appointment was made from the pool of applicants who chose to apply for the position.

Mr P. PAPALIA: If the Attorney General is not aware of it, perhaps the director general can advise him, or us, whether the department is in receipt of a letter from the Public Sector Commissioner recommending, amongst other things, the removal of the Chair of the Prisoners Review Board, Justice Narelle Johnson, and her registrar from within the office to another physical location, which I suggest implies an acknowledgement of ongoing workplace bullying or harassment. Also, in that letter, sent on 13 May 2011, is it not also recommended that a plan be put in place to manage the conflict of interest that exists with the registrar and her daughter working on the Prisoners Review Board? Does it not also recommend that the department seriously consider relocating the Prisoners Review Board to a location within the central business district or, ideally, within the department's offices at Westralia Square? If all those recommendations have been made, why would they have been made if we are talking about only one incident and one individual? Is this not an acknowledgement beyond the department, of serious misconduct within that office or some likely serious misconduct or, at least, a likely serious situation involving someone the Attorney General's department does not appear willing to take on or question the behaviour of?

Mr C.C. PORTER: I will invite Ms Gwilliam to speak to that in a moment. However, let us be very careful here. The member is exercising his right to parliamentary privilege. He has, as I see it, alleged abusive conduct by a judge of the Supreme Court against 13 staff, and he has done so in my view without any evidence whatsoever.

Mr P. PAPALIA: If you are —

Mr C.C. PORTER: No; I will answer the question!

The CHAIRMAN: Members!

Mr P. PAPALIA: If you are going to verbal me, get it right!

The CHAIRMAN: Member!

Mr P. PAPALIA: I am reporting alleged abuse by other people—that is, allegations by other people.

The CHAIRMAN: Members. I refer you to standing order 92 which states —

> Imputations of improper motives and personal reflections on the Sovereign, the Governor, a judicial officer or members of the Assembly or the Council are disorderly other than by substantive motion.

Members, I therefore —

Mr P. PAPALIA: Are we talking about someone who is acting as a judicial officer?

Mr C.C. PORTER: She is a judicial officer.

The CHAIRMAN: All I am asking is for the member to be very cautious in what he says.

Mr P. PAPALIA: I am asking about the department.

Mr C.C. PORTER: Thank you, Mr Chairman.

The member then states or purports evidence of likely serious misconduct —

Mr P. PAPALIA: I have asked if the Attorney General is aware of it.

Mr C.C. PORTER: —and it seems that the basis of that evidence, as the member suggests, is a letter from the Public Sector Commissioner to, I take it, the Director General of the Department of the Attorney General, which suggests a physical move of the chair of the Prisoners Review Board from one location to another. I am not aware of that letter. However, I might ask Ms Gwilliam to comment on whether such a letter exists and whether, as the member quite seriously purports, it is considered by her to be evidence of the types of things the member is speaking about, including abusive conduct by a judge towards 13 staff.

[10.10 am]

Ms C.M. Gwilliam: We have been working closely with the Public Sector Commission in relation to the grievance. Because the matter had media coverage in *The West Australian* I alerted the Public Sector Commissioner to what we were doing in terms of maintaining effective training and good management at the Prisoners Review Board. We are handling one grievance and, as Mr Warnes said, it is at the final report delivery stage. I provided all of that information to the Public Sector Commission and invited its advice to me about anything I could learn to better manage a very small work group that is isolated from the department. We met many times with commission staff to talk about ways forward. A number of findings, comments, recommendations—I am not quite sure of the exact word, not having the letter in front of me—were made. The commission staff said that the layout of the office is probably not conducive to best working arrangements. They also made the comment that the location of the office, because it is in Wembley, causes a disconnection from the rest of the department, which tends to be based in the central business district. Therefore, there is an isolation factor. The commission has also commented on the need to increase communication with staff from management, both divisional and local management, and that has been accepted. The commission has acknowledged the work that we have done but it says that we could do more. I would not take the letter as a criticism at all. The commission's comments to me have very much reinforced what the agency has done. I have indicated to the Public Sector Commission that I will respond with an implementation plan on some of those actions. At no stage has the Public Sector Commissioner ever made any criticism of, nor expressed any concerns about, the judge to me. The judge is regarded as a highly experienced, valuable, competent member of the judiciary. Our role with the staff is to have the administration support the workings of the board. That requires training, teamwork and management focus, and we have that in place.

Mr P. PAPALIA: Perhaps the director general could indicate whether she received an acknowledgement in this letter that the events referred to are recent, current and ongoing and are not events from a long time ago, and that the issue is more extensive than the one incident referred to.

Mr C.C. PORTER: I will invite the director general's comment on that question in one moment. Part of the traditional role of an Attorney General is to defend the judiciary from unfair comment. The member makes outrageous and unfair comment under privilege in this place and skirts very close to the boundaries of standing order 93. The member's previous question, which I allowed the director general to answer, was effectively an allegation requiring the director general to comment on a letter that had been sent to the Public Sector

Commission that provided some form of evidence for what the member described as either abusive conduct against 13 staff or likely serious misconduct by a judge. The answer from the director general was unequivocal: that letter about which the member speaks provides absolutely no evidence whatsoever of what the member alleges. The member now back-pedals and asks whether that letter is evidence of or speaks to some other misfeasance by the judge. I will allow the director general to respond in any fashion that she sees fit, but I find the member's behaviour towards a sitting member of the judiciary absolutely outrageous.

Mr P. PAPALIA: Who are public sector employees supposed to go to for assistance if they make a complaint and allege behaviour of this nature? They go to the Attorney General's department. It is ultimately acknowledged by the Public Sector Commissioner that the problem is more widespread than the one incident being investigated by the department. Who are public servants supposed to go to for assistance?

Mr C.C. PORTER: Complaints by public sector employees about matters pertaining to their employment are governed by the Public Sector Management Act. The fact is there has been one such complaint, that Mr Warnes has spoken to, under the auspices of the Public Sector Management Act. It is open to any public sector employee, at any time, to avail themselves to the processes of the Public Sector Management Act. The member asked me who people can complain to. This state has a rich vein of legislative bases through which one might complain as a public sector employee. The member now asks me to comment about why people who he suggests may have had cause to complain never did. How can I possibly comment on that?

Mr P. PAPALIA: I think that the Attorney General has commented on that through his response to me.

The CHAIRMAN: Member!

Mr C.C. PORTER: I will now hand over to Ms Gwilliam —

Mr P. PAPALIA: The Attorney General intimidates people out of asking.

Mr C.C. PORTER: I am not the one using parliamentary privilege to make unsubstantiated and serious accusations against a judicial officer. What the member is doing is quite wrong.

Mr P. PAPALIA: I am reporting an allegation.

Mr C.C. PORTER: What allegation? What evidence of any allegation has the member provided?

The CHAIRMAN: Members!

Mr P. PAPALIA: What has the Attorney General done? I have met with people in the office.

The CHAIRMAN: The member for Warnbro has had his chance.

Ms C.M. Gwilliam: Many issues have been raised. In terms of dealing with complaints or concerns from staff, the agency has put a lot of effort into ensuring awareness of the grievance process. Therefore, where there are issues about the management of the Prisoners Review Board, staff are encouraged and welcome to raise their concerns. The actions we intend to take on administration are a result of those concerns. We have spoken to the judge about the program, which will provide more training and more one-on-one mentoring. We have put a lot of work into ensuring that staff have knowledge of the grievance process, that they have access to training to do their jobs well, and that management spend more time nurturing the staff in their roles, because there are a lot of young, new staff. We are talking about positions that are quite junior; we are not talking about senior positions— they are levels 2, 3 and 4. Often they come into the PRB without a lot of experience in administration, therefore we need to increase training for that. Staff can write about concerns. I have received correspondence about concerns, but no actual grievances have been lodged apart from the one we have referred to. We have encouraged staff to lodge grievances if there is an issue.

Mr P. PAPALIA: Therefore, it is not quite so unequivocal, is it?

Ms C.M. Gwilliam: No, it is like anything —

The CHAIRMAN: Member, please do not speak across the chamber. I ask that the director general respond through the Attorney General.

Mr C.C. PORTER: The member, by way of interjection, said, "It is not quite so unequivocal." He has made serious allegations unsupported by any form of tangible evidence whatsoever. If the member wants to make allegations and puts evidence before us that will allow either my director general or I to respond, he should do so. Otherwise, he seriously defames a member of the judiciary and he ought to stop.

Mr P. PAPALIA: No, I am not.

Mr C.C. PORTER: Of course he is.

The CHAIRMAN: Members, let us settle this down now. If the member for Warnbro wants to make this allegation, he can do so under a substantive motion in the house.

Mr P. PAPALIA: I am asking about the management of the department.

The CHAIRMAN: The member has had a fair go. Before we go to the next question, the Attorney General earlier referred to standing order 93; for the information of Hansard, it should be standing order 92.

Mr W.J. JOHNSTON: I refer to the first dot point on page 334 in the *Budget Statements*. What is the outstanding amount of fines—I assume that they are with the Fines Enforcement Registry—as of 31 March, or whatever the most recent date is?

Mr C.C. PORTER: To give some background on this matter, since the Fines Enforcement Registry has come into being, 4.3 million court fines and infringements have been registered. The total value of those registered fines is in excess of $1 billion—$1 096 million, as recorded at the end of February 2011. Of all the matters lodged with FER, a total of 3.5 million, or 83 per cent, have been completed, which is to say that the fines have either been paid, acquitted or written off, and the total value of those fines is $835 million. That includes $691 million paid in full or expiated through other means; $144 million withdrawn by prosecuting authorities, written off or referred back to court; and a further $19 million collected through partial payments being made with the balance still subject to active enforcement or, in some cases, due to be written off. The present status of all the amounts lodged with FER since 1995—all these figures are accumulative year on year—successfully completed through full payment is $691 million; completed through write-off or referred back to court, $144 million; currently subject to active enforcement, $237 million; unlikely to be collected or due to be written off, $7 million; and part payments received from existing time-to-pay arrangements $19 million. This all adds up to the total of $1 096 million. So the outstanding amount is $237 million. For the first time ever, that represents a stabilisation and a decrease in the outstanding amounts. That is a significant credit to the office. However, that amount is clearly too high. We will not make inroads into the amount without legislative change, which is imminent. That will be seen soon, but that is the situation as it presently exists.

[10.20 am]

Mr W.J. JOHNSTON: Of the $144 million, how much is written off?

Mr C.C. PORTER: There is $144 million. Part of that, as the member points out, is written off. Part is referred back to court for follow-up. I do not know whether we have the breakdown of which part of that $144 million is written off. We can find it for the member. Generally speaking —

The CHAIRMAN: Attorney General, would you like to provide that as supplementary information?

Mr C.C. PORTER: We are happy to do that.

The CHAIRMAN: Can the Attorney General just let us know what it is for?

Mr C.C. PORTER: We will provide a figure representing the portion of $144 million that represents the amount of fines that are written off.

[*Supplementary Information No B20.*]

Mr C.C. PORTER: I can say that, as a matter of policy, writing off a fine is a last resort. The types of circumstances include those in which someone has died, when immigration matters intervene, or when, after exhaustive attempts, there is no ability to locate the offender and the subject of the fine. Of the $244 million, $237 million has been actively enforced, so that is still under enforcement, including time to pay.

Mrs L.M. HARVEY: Has any progress been made on increasing the recovery of funds over the past couple of years?

Mr C.C. PORTER: As the member will see, the amount of unpaid fines continues to be large. But I can say that we have had the first significant reduction in the overall outstanding debt level in the past five years. The problem is this: increasingly, fines are used as a punitive measure, and that is likely to continue with the government's use of the criminal penalty infringement notice system. Until very recently, we found that the gap between collections and uncollected fines was starting to widen and widen. The first step has been to stabilise that gap, which we have done. In the long run, with an increasing number of fines being levied, the only way in which that gap is going to be closed is through the use of techniques additional to those presently used to create incentives for people to pay their fines. They necessarily are the subject of legislation. This Parliament will be seeing that legislation shortly. Are attempts being made? To date the attempts have been administrative. They have stabilised the situation. Future attempts are going to require a legislative base.

Mr W.J. JOHNSTON: I have a further question. Is it true that the connection between the Department of Transport and the Fines Enforcement Registry is entirely manual? If somebody gets two enforcement notices and

pays one of them twice and does not pay the other one, is it an entirely manual system to reconcile those payments?

Mr C.C. PORTER: I will hand over to Mr Warnes on this, but much turns on what the member means by "manual". When someone becomes the subject of a fine, that fine may emanate from a variety of different circumstances—parking, speeding or a police matter for a sometimes relatively serious infringement. The information is recorded by the agency that lodges the fine. The Fines, Penalties and Infringement Notices Enforcement Act sets out a regime under which the endeavours of the fining agency to recover the moneys have failed and under which the information becomes transferred and the fine becomes registered with the Fines Enforcement Registry. If the member is describing whether that process is manual, I think in part there is some fairness to that description. It is not as though, as I understand it—I will hand over very shortly to Mr Warnes—that information that is simply emailed is uploaded onto a different computer system. There is manual —

Mr W.J. JOHNSTON: What I am getting at, for example, is that the Department of Transport has no automatic system to link the information provided by the department with the Fines Enforcement Registry; in fact, the information has to be manually translated, if I can put it that way.

Mr C.C. PORTER: The member is correct. I will hand over to Mr Warnes. A great number of agencies—the member has mentioned the Department of Transport—issue fines. They all do it pursuant to different offences in very different ways. The information that is required by the Fines Enforcement Registry is set, but the information that is collected by each and every agency that levies a fine can be quite different. I will ask Mr Warnes to describe how that information comes from an agency to the FER.

Mr R. Warnes: The fines information system exchanges information from the Department of Transport. When we receipt payments of fines, that information is again conveyed back electronically. That system is 19 years old. It is not state of the art in terms of the handshaking exchange of information. It is something that we are going to deal with in a very short period of time. In confirmation, it is electronic.

Mr W.J. JOHNSTON: So an email is sent out —

Mr R. Warnes: Through the minister, the information is not necessarily emailed. There are emailed conversations that happen between people who are chasing up details about addresses and trying to verify the right address to send enforcement information to. Once we receipt a fine from a party, it is not by email that it goes back to say, "I've received Ray Warnes's fine." It is done by an exchange of information that is more automated than just an email.

Mrs L.M. HARVEY: Attorney General, my question refers to the second dot point on page 344 also regarding the Aboriginal justice program. I am interested in the work that is being done in that area, with particular reference to the impact we are having on regional motor driving licence offences and suspensions and whether we are managing to gain any ground in that area.

Mr C.C. PORTER: The Aboriginal Justice Agreement was a program established by the previous government. The budget allocation was $10.8 million over four years. We recently had a review of that program, and it is certainly the government's intention to continue it. However, that review was not entirely positive, I have to say. In effect, the Aboriginal Justice Agreement relied on what is known as an engagement model. The idea was to establish regional meetings of Indigenous leaders who would meet, with a target of four times a year, and in effect discuss the issues in their local communities and provide advice and planning and policy proposals to government on how to decrease incidences of criminal behaviour in their communities.

We commissioned a review of that system, because it is obviously a substantive amount of expenditure. It is my intention to release the results of that review in due course, after I have had been able to speak with the peak body, the Aboriginal Justice Congress, about the results of the review. To summarise, one of the deficiencies of the system as it existed, as highlighted by the review, was that it was very difficult to find people who were willing to meet and to ensure that they did in fact meet. It was envisaged that there would be 59 or so local groups meeting. In the end we were able to establish only 36. It was envisaged that they would meet four times a year; very few of them met that target. The number of people meeting dropped considerably from the start to when it had been in operation for a while.

[10.30 am]

The government has decided to use that money to build on the parts of the program that have been successful. The Aboriginal Justice Congress; the peak body, has been very useful in its provision of policy advice. There is a need to focus on four areas of key difficulty for Indigenous people in the criminal justice system. The member mentioned one of those. First and foremost is licensing. Parallel to this Aboriginal Justice Agreement system, we are in the final stages of bringing together legislative change that will allow special provisions for licensing in

remote Indigenous communities. However, I have asked the Aboriginal justice program and the Aboriginal Justice Congress to focus on four areas, which include licensing, repeat offending at the lower levels of offending, and domestic violence. With respect to licensing, one of the first things we did was establish open days. They have been immensely successful in basically providing a one-stop shop for Indigenous community members to turn up to and ensure that they have documentation that we all probably take for granted. I will give this example. At the end of a series of open days in and about Warmun, 53 birth certificates were replaced and 25 people had fines converted to work and development orders. It was estimated that the total amount of fines converted was $30 000. These are fines that may have otherwise simply been ignored and gone unpaid, which can have consequences down the track of imprisonment for long outstanding fines. There are many other examples of statistics, but I have tried to move the Aboriginal Justice Agreement focus into four very practical areas and, using strict key performance indicators, we will be measuring what we do and how many licences we achieve. This is building on the program established by the previous government, but doing so, in my view, in a more measurable way.

The CHAIRMAN: Before we go on, I will remind everyone of part of the information for members. It will assist the committee's dissemination if questions and answers are kept brief without unnecessarily omitting material information. It is the intention of the Chair to ensure that as many questions as possible can be asked and answered and that both questions and answers are short and to the point. Do not worry, Attorney General; I say that to every minister!

Mr C.C. PORTER: I do go on a bit, Mr Chairman; I am sorry.

The CHAIRMAN: I had noticed!

Mr J.R. QUIGLEY: I will get shortly to the point, Mr Chairman. On the question of fines enforcement, is the government not guilty of cant and hypocrisy? I take the Attorney General specifically to page 17 of *The West Australian* of 12 May 2007.

The CHAIRMAN: Does the member have a budget line?

Mr J.R. QUIGLEY: Certainly. I refer to the first dot point on page 334. I also refer to page 17 of *The West Australian* dated 12 May 2007, which states that the write-offs were much lower and the outstanding fines were much lower, and that the opposition—the present government—said that the most disturbing aspect to the blow-out was that thousands of people who had not paid their fines would be driving while suspended. It said that the Carpenter government was presiding over a "do the crime, don't pay the fine" regime and that the justice system, by reason of these matters, was crumbling. That is what the government said while it was in opposition.

The CHAIRMAN: Can the member get to the point?

Mr J.R. QUIGLEY: Yes, certainly. The Attorney General is quoted on page 1 of an article dated 13 February 2010 as saying that the state government revealed that it was in the final stages of drafting legislation that would introduce stronger sanctions. That was in February 2010. What has the Attorney General done during 2010 about this legislation that he promised was in the final stages of being drawn 15 months ago?

Mr C.C. PORTER: The member for Mindarie may well accuse us of having underestimated how difficult this problem is and how long the legislation would take, but hypocrisy is another matter entirely. The member for Mindarie has quoted from some news media. A quote from the member for Mindarie on 5 March 2011 notes that under this government there has been the first big reduction in the overall debt in the last five years.

I can tell the member for Mindarie that with the increasing number of fines that are levied and accumulated every year, that achievement in the absence of legislation is, in itself, significant. The legislation has taken longer to develop than I expected. Approval to draft has been given. Drafting is very close to completion. That will go back to cabinet. The member for Mindarie will see it shortly. However, I warn the member for Mindarie that when we come to the issue of hypocrisy and the seriousness with which any member of Parliament treats the issue of recovering fines, we have made our decisions and will finally make them through cabinet; then this Parliament will have to make its decisions on what it is willing or unwilling to do about recovering fines. Having looked across a variety of jurisdictions—including New Zealand, the United Kingdom and Queensland—for a regime on which to base our legislation, we saw some very serious measures that had to be engaged in to recover fines. Although the situation has improved under this government compared with that under the former Labor government, it will not substantially improve without the legislation. It has taken longer than expected, but it is very complicated, with the added complication that we have to make sure that the measures do not cost more than the fines we are recouping; and there has been some devil in that detail.

Mr J.R. QUIGLEY: I have a further question. Acknowledging the intransigence of some fine defaulters, it was a bit rich to say in those circumstances that the previous government was presiding over a "do the crime, don't pay the fine" regime when the Attorney General has been battling for the past 15 months to introduce legislation.

Mr C.C. PORTER: It has taken two years to develop the legislation. I may have been assisted in that process when I came into government had I gone to my department and said, "Show me the directions from the previous government to start tackling this issue using legislative amendments." That cupboard was bare! I started as Attorney General from scratch. I can tell the member for Mindarie that after eight years of this problem getting worse year after year, there was not even a twinkling in the legislative mother's eye of a process to reform and engage in improvement in this area! We started from scratch.

Mr J.R. QUIGLEY: I have a further question. Given the Attorney General's track record on prostitution law reform and given the Attorney General's forward movement on legislation for fine recovery—both zero—is it not true that this part-time Attorney General is failing to deliver to this Parliament necessary law reform and is just harking back to history to blame the previous administration for his own inability to bring this legislation forward because of his onerous task as Treasurer of this state?

Mr C.C. PORTER: I might commence answering that question by saying that I am enormously pleased that the member for Mindarie recognises that legislative reform of the type that we suggest in broad terms for both prostitution and fines enforcement is, as he describes it, necessary, and I look forward to his fulsome support on the floor of Parliament.

Mr J.R. QUIGLEY: That depends on what the Attorney General brings in. If he is going to "hang 'em and flog 'em" for not paying their fine, I am not going to support it.

Mr C.C. PORTER: Secondly, both those areas are obviously complicated. This is our halfway point in government in a first term. The member for Mindarie will see both those pieces of legislation shortly.

Mr J.R. QUIGLEY: It is nearly three-quarter time! We have had the big break! We are down to only oranges at three-quarter time!

Mr C.C. PORTER: The member for Mindarie is right: we are entering the premiership quarter! The member will see that legislation sooner than he wants to see it, as he and the caucus will be faced with some difficult decisions about whether they support law reform in these two areas. Let me say that after starting from scratch in both those areas, the member for Mindarie will shortly see this legislation; after eight years of his government, there was nothing on prostitution and nothing on fines enforcement.

Mr J.R. QUIGLEY: We are going back! We have had three years of a Liberal government!

Mr W.J. JOHNSTON: I have a further question. Is the Attorney General saying that a 15 per cent increase on the situation he inherited is a satisfactory performance?

Mr C.C. PORTER: I am sorry; what does the member measure as a 15 per cent increase?

Mr W.J. JOHNSTON: At the time of the 2008 budget, $208 million in fines was outstanding, and now the Attorney General says it is $240 million. In round figures that is a 15 per cent increase, and the Attorney General says that is a satisfactory performance.

Mr C.C. PORTER: That is a 15 per cent increase in the baseline measure that the member for Cannington has indicated. Fines are, importantly, relative between the unrecovered amount and the total amount levied. The member will find that over that period there has been a significant increase in the total amount of fines levied. This is the obvious point: fines are increasingly being used as a method of civil and criminal punishment. We must take serious steps to make sure we recover as much of the increasing amounts levied as possible. The member can expect to see that shortly.

[10.40 am]

Mr A. KRSTICEVIC: I refer to budget paper No 2, volume 1, page 334, specifically the sixth dot point. The papers there convey an increasing demand on the Office of the Public Advocate as a result of changing demographics. Is the government taking any measures to remedy that situation?

Mr C.C. PORTER: I might ask our Public Advocate in a moment to speak to this. I know that the Public Advocate has made representations to both the director and me on this issue. In essence, the demographic changes that the member for Carine talks about relate to an ageing population. The Public Advocate does a great deal of very important work representing people who find themselves personally unable to deal with administrative matters. The workload is increasing steadily and has been for some time. Not unlike the State

Coroner's office, the Office of the Public Advocate has been under enormous pressure, but very little media or political attention is ever placed on that office. The office has received a very important boost to its funding in this budget. I will ask the Public Advocate to comment briefly on why that funding is necessary and where it will go.

Ms P.M. Bagdonavicius: The increase in demand on the office is certainly very evident. I have been the Public Advocate for just over three years and in that time we have seen a net increase in the appointments of the Public Advocate as guardian of last resort by the State Administrative Tribunal. Those appointments have doubled and that has increased the workload in our office. Dementia is a key factor in the increase. We have also had a similar increase in workload for our role of investigating the need for a guardian or an administrator and referring those matters to the State Administrative Tribunal to consider. Dementia has dominated as an area for investigation. About 41 per cent of the investigations in the last financial year related to dementia. Dementia has been the reason for 44 per cent of new appointments of the Public Advocate as guardian of last resort.

We are very pleased with the staffing increase that has been made available through this budget, which provides 14 additional staff over four years. The budget brings on board permanent funding for eight staff this year and two staff in each of the out years. We think that funding will go a significant way to helping us address those demands. With the support of the director general, some of the eight new positions were made available to us in the last financial year because the demand was so evident. Those positions are now substantively part of our budget.

Mr J.R. QUIGLEY: Law reform is the third area on which the Attorney General has spoken, but as yet he has failed to introduce any laws. I refer to page 333, which states —

> ... develop legislation to implement the Government's ... policy …

I particularly raise the issue of shield laws. The Attorney General wrote a letter to stakeholders, which he seems to have abandoned, and gave an address to the Law Summer School at the University of Western Australia in January–February 2011. Does the Attorney General intend to publish a green bill on shield laws to give all stakeholders the opportunity to examine the fine detail, bearing in mind that the devil is usually in the detail of this sort of law; and, if so, when might a green bill be expected? Secondly, can the community and the media expect shield laws to pass through the thirty-eighth Parliament?

Mr C.C. PORTER: Is the member for Mindarie suggesting that any timing promise was made on shield laws?

Mr J.R. QUIGLEY: I did not say that a timing promise was made. I am saying that the media and others, having been teased at the university summer school and earlier, are quivering in anxious expectation of these laws. Will the media and community be gazumped with a bill being brought into the house? The question has two parts. Will the Attorney General deliver a green bill on shield laws; and, if so, when? Can the community and the media expect the shield laws to pass through the thirty-eighth Parliament?

Mr C.C. PORTER: Yes, they can. A green bill —

Mr J.R. QUIGLEY: That is the second part.

Mr C.C. PORTER: I will answer all the parts.

Mr J.R. QUIGLEY: When the Attorney General said "Yes, they can", I did not know whether that was attaching —

Mr C.C. PORTER: Yes, the community and media can expect the shield laws to pass through during this term of this government. I have not made a firm decision on whether a green bill would be a useful process here, but it is a possibility. I am about to correspond with the member for Mindarie and the heads of jurisdictions in this state as a second process of consultation, because obviously changes in this area represent substantive changes to the law of evidence. The member for Mindarie can expect that letter in the next week or two.

As the member notes, the devil is in the detail here. I understand that the journalistic profession is awaiting legislation. I had quite a long meeting in my office yesterday with John Hartigan on this issue and I made this point: this is an area where hasty legislation can have seriously poor consequences for both the journalistic profession and the Australian community. The commonwealth legislation that recently passed through, which has some useful features, was amended by the Greens in the Senate to change the definition of "journalist". The original definition of "journalist" was someone who publishes in a news medium something given to them by a source who indicates that they wish to remain anonymous or secret, and publishing in a news medium is in the regular course of that person's profession. That seemed to me to be a reasonable definition of "journalist", although it is a very hard thing to define. The Greens in the Senate changed that definition so that "journalist" is defined as anyone who publishes in any form anything that they are told in secret. Given that the point of this legislation is quite properly to enhance the free flow of information, that definition ironically means that a vast

body of information, which previously could be elicited in evidence in a court or accessed by journalists, will now be secret. Anything that is ever told to a blogger or a tweeter can be subject to privilege under this federal legislation to keep the identity of the information source secret. That seems to me to be an utterly perverse result of the process that was followed.

In my speech to the Law Summer School, I gave some indications of my views on the fundamental tenets of the legislation. My view in some areas has somewhat changed after the first round of consultation with news media. I think we will deliver a significantly improved version of the journalistic privilege in the commonwealth bill. The member for Mindarie will shortly receive a letter on the fundamental tenets of that. The drafting, as I am reliably informed, is well underway and approval to draft has been given. Without giving a monthly promise on timing, that drafting is well advanced. I am interested in the member's views on the nuts and bolts of what we intend to progress and also the views of the heads of jurisdiction, because with issues such as defamation, criminally transmitted information to a journalist and potential refinements of our whistleblower legislation running in tandem with this legislation, ultimately our government will be doing more and better than what the commonwealth has delivered in this area.

[10.50 am]

Mr F.A. ALBAN: Attorney General, "Works in Progress" on page 340 of budget paper No 2 features a line item for "Court Audio/Visual Maintenance and Enhancements". I note that there is ongoing enhancement of audiovisual equipment. What impact is the implementation of audiovisual equipment having on reducing the transportation of prisoners to court cases?

Mr C.C. PORTER: I thank the member. This is a very difficult area for government, because audiovisual equipment is very expensive and the up-front costs of maintaining a state-of-the-art system are large and the technology changes with regularity. Then we have issues of interface between the Department of Corrective Services, the police, the Department of the Attorney General, and the courts, but it has been an area that I have been particularly focused on. There is no doubt that the more often audiovisual facilities can be used for prisoners to communicate with the court, rather than having to transport them to the court, there is a decrease, overall and in the long run, in cost and risk. There has been an increase in the number of video links used from prisoner to court. Over the last year, it is up from 50 per cent to 62 per cent and we calculate that that has reduced the travel proportion of prisoners going to court from 50 per cent to 38 per cent. That is a pretty significant change because of the improved use of facilities. I think there is a lot of further work to be done, and we hope very much that as the technology becomes more readily available and less expensive, we can use more and more of it. That is just an indication to the member of some very, in my view, impressive improvements in that area on the part of this government.

The CHAIRMAN: I just ask the committee's advice. We are still on the Department of the Attorney General, which is division 27; we have divisions 28, 29, 30, 31, 32, 33 and 34 to go. Do we have a time limit, or does anyone want to take a break?

Mr W.J. JOHNSTON: If I may make an observation: I do not think we are running out of time because I do not think the other divisions will take anywhere near the time that the department does, but I am happy to have a break.

The CHAIRMAN: Is everyone happy to have a break until 11.00 am?

Mr C.C. PORTER: I think that is a little soft, Mr Chairman.

The CHAIRMAN: Look, it is up to you.

Mr C.C. PORTER: I am happy to acquiesce to that request.

The CHAIRMAN: Yesterday it was the other way around; the ministers wanted to go!

Mr C.C. PORTER: Indeed. With respect to timing, the opposition can determine how long it wishes to question any of the departments. If it wishes to have all day on the Department of the Attorney General, it is completely a matter for it.

The CHAIRMAN: We will have a break for 10 minutes until 11.00 am.

Meeting suspended from 10.52 to 11.03 am

[Mr A.P. O'Gorman took the chair.]

The CHAIRMAN: Members, there is a quorum present. I am going to start; there is a lot to get through. We are on division 27, including the Office of Native Title. The next question is from the member for Mindarie.

Mr J.R. QUIGLEY: Attorney General, if I could just go back to that dot point, which is my lead-in point, which might be a bit flimsy but I think not. The first dot point on page 333 of budget paper No 2 refers to the government's legislative agenda. Could I just run through the balance of the legislation as a group—not piecemeal as I have been doing so far—to see whether it is anticipated by the Attorney General that it will pass through the thirty-eighth Parliament or whether it is slipping? I will give the Attorney General the list, if I may: powers for the Corruption and Crime Commission regarding organised crime—the Attorney General knows what I am talking about there.

Mr C.C. PORTER: I do.

Mr J.R. QUIGLEY: Then anti-association laws; the flagged increased in penalties, perhaps, for manslaughter, particularly for the manslaughter of babies in utero; double jeopardy reform; public sex offender register; victims of crime reform, including an advocate for victims of crime; and, the right-to-silence restrictions. The Attorney General has flagged all of those matters as legislative initiatives that the government will introduce. Are any of these not going to make it through the thirty-eighth Parliament?

Mr C.C. PORTER: The member is quite correct; I have flagged all of those. As I understand it, I have not made any undertaking necessarily that there will be victims of crime legislation in this term of government. If the member points to a representation I have made in that respect, I would be happy to comment on it.

Mr J.R. QUIGLEY: I am not saying that the Attorney General has made these promises.

Mr C.C. PORTER: I think I have for some of the others. I am just pointing out that there is a goal to reform in the victims of crime area. That will be complicated. I consider that that is most likely to follow a longer path of consultation, so there is a possibility that that particular legislative reform project will not be finalised in this term of government. My view is that the organised crime powers for the Corruption and Crime Commission will be finalised in this term of government. My aim on anti-association laws is to finalise that in this term of government; however, we are obviously waiting at the moment for the decision in "Wainohu", which is the second of the major High Court challenges to those laws. This one emanates from New South Wales. That has been heard, and we are awaiting the judgement. Something will depend on the timing of that; however, I expect that that will come relatively shortly. The goal is to have the anti-association laws completed in this term of government. With respect to manslaughter, yes, the goal is to have that completed in this term of government.

Mr J.R. QUIGLEY: With manslaughter, does that include —

Mr C.C. PORTER: I am cognisant of the member's question. I was just about to say that, with respect to the death in utero concept, I have not made any undertakings that we will or will not adopt such a defence as exists in some other jurisdictions. Obviously, as a corollary of that, I have not made any undertaking that that will happen in this term of government. I am looking into that. I think there are arguments for and against that. I have not yet made a personal decision on whether that is a wise piece of legislative reform. If we determine to go down that track, it may occur in the context of changes with respect to manslaughter. With respect to manslaughter, yes, the goal is to have that completed in this term of government. With respect to double jeopardy and the right to silence, yes, the goal is for that to happen in this term of government. The member mentioned the sex register issue. That falls under the auspices of the Minister for Police, but, again, it is on track for this term of government.

Mr W.J. JOHNSTON: I refer to the "Reducing the Burden" report of the Red Tape Reduction Group, in which the government stated its intention to reduce the number of pages of legislation in Western Australia. How far through that process is the Attorney General?

Mr C.C. PORTER: I think that is probably a question that ought to be asked this afternoon under the auspices of the Treasurer. Perhaps the member might identify a line item for that.

Mr W.J. JOHNSTON: I am referring to the exact same line item. Surely the Attorney General is responsible for drafting legislation no matter which minister proposes it. What resources have been allocated to the task? What is he doing about it?

Mr C.C. PORTER: I think the member has a fundamental misunderstanding about the role of the Attorney General. Simply because the Parliamentary Counsel's Office has —

Mr W.J. JOHNSTON: So no resources have been allocated?

Mr C.C. PORTER: Just let me answer the question, member. Simply because the Parliamentary Counsel's Office is administratively responsible to me, that does not make me the minister in charge of each and every piece of legislation that goes through Parliament. The member may be right if he is suggesting that some of the

recommendations in the report on reducing the regulatory burden will require legislative reform, but that question needs to be asked during the division on the Treasury.

Mr W.J. JOHNSTON: With respect, I was asking a question that was directly related to the Attorney General's responsibilities. Given that, as I understand it, the government is saying that there is too much legislation and that the volume of legislation that regulates society in Western Australia is too large, have no additional resources been allocated to the parliamentary draftsmen to take on what must be a very complex task? I note that the director general is nodding her head, so it must have been something that she has contemplated.

[11.10 am]

Mr C.C. PORTER: This is a different question.

Mr W.J. JOHNSTON: It is the exact same question. I asked the Attorney General what he was doing about it; whether I asked the question in the way he wanted me to ask it does not change the fact that I asked the question. I would appreciate an answer, for a change.

Mr C.C. PORTER: The member's first question was about whether I, as Attorney General, am doing anything about the sheer volume of legislation produced. That was a question that a member linked to the red tape issue —

Mr W.J. JOHNSTON: Yes, that is right—by allocating resources. I cannot understand why the Attorney General does not understand English.

The CHAIRMAN: Member for Cannington, the way this process works is that the committee asks the questions, and the Attorney General answers, or he passes the question to an adviser. This is not an opportunity to continue to talk across the chamber. Once you have asked the question, even if you do not like his answer, that is his answer. You can probe further; I will give you the opportunity to ask further questions, but while the Attorney General is answering, you should allow him the opportunity to answer. If you are not happy, I will allow you the opportunity to ask a further probing question.

Mr C.C. PORTER: The member asserted that there is a lot of legislation and asked what I, as Attorney General, am doing to decrease the amount of legislation. That might be a fair question to ask of me in my capacity as Treasurer. His second question was how the Parliamentary Counsel's Office was coping with drafting all that legislation. That is a fundamentally different question, and one that I am happy to answer. The Parliamentary Counsel's Office is an exceedingly busy group of public servants at the moment, because the government has a very heavy legislative agenda, and it is heavy in areas of substantive legislative reform. These are very complicated pieces of legislation to draft. Indeed, the member for Mindarie has gone through a list of legislation that is yet to be drafted; he has omitted the amendments to the Restraining Orders Act, which will be coming on during this term of government. A lot has already been done. Additional resources to the Parliamentary Counsel's Office have, in large part, been funded from the seamless national economy reward payments. That is a sum of $400 000 per annum over the next two years. That will ensure that the office has the capacity to draft reforms proposed by the national partnership agreement within agreed time lines, and this is part of the seamless national economy initiative. That has allowed the office to take on extra work in this area, which has freed up some resources for the government's legislative agenda proper. But it is always the case that the Parliamentary Counsel's Office is engaged in a very difficult task. It is an office composed of very specialised members of the public service, who are doing a very good job under pressure. From my point of view as Attorney General, I am very satisfied with the progress it is making on a very large body of legislation.

Mr J.R. QUIGLEY: I refer to a press release the Attorney General put out on 23 February 2011, in which he announced that, as of that date, the Prohibited Behaviour Orders Act 2010 would become operative. Can the Attorney General inform us whether, since that time, any prohibited behaviour orders have been made and published on his website; and if he knows how any applications have been made for prohibited behaviour orders since that day?

Mr C.C. PORTER: Yes, I am vaguely familiar with that press release; I noted in it that the legislation had been proclaimed and was operative. The orders will not flow until the regulations are settled, agreed and accepted by the courts. Those regulations have gone to the heads of all jurisdictions; I think the deadline for that consultation is this Friday. The regulations will be agreed on as of Friday, and it is a matter of legislative possibility that orders can flow after the regulations have been agreed upon. I have to provide a caveat to that by saying that I understand there is now a disallowance motion before the Legislative Council, moved by the Greens (WA), to amend the regulations that provide for a range of offences to be presumed to be antisocial behaviour offences. That issue will also have to be dealt with. In the interim, the police have identified three geographical precincts or areas in which individuals offend with great repetition. They have identified areas where they think

applications will be pending. Training is well advanced; yes, the actual legislation has been proclaimed, but orders will not start to flow until the regulations have been finalised and agreed upon.

Mr W.J. JOHNSTON: The Attorney General said that the Greens are seeking to amend the regulations in the Legislative Council. How are they going about that?

Mr C.C. PORTER: It is a disallowance motion, from recollection.

Mr W.J. JOHNSTON: They are seeking to disallow the regulations—is that what the Attorney General is saying?

Mr C.C. PORTER: That is right.

Mr W.J. JOHNSTON: That is different to amending them.

Mr J.R. QUIGLEY: They are different regulations from the regulations the Attorney General is talking about.

Mr C.C. PORTER: Indeed; these are the court regulations.

Mr J.R. QUIGLEY: Will we get to see those before they are tabled?

Mr C.C. PORTER: The member has not been part of the consultation process, but once we have consultation back from the courts, I am happy to send a copy to the member by letter.

Mr J.R. QUIGLEY: I take the Attorney General to an article that appeared on 5 February 2009. I am going back to matters that have not yet been attended to. The Attorney General was considering changes to the Sentencing Act that would allow judges to partially suspend a jail sentence, giving them more flexibility in sentencing, in the hope of reducing prison numbers. Can the Attorney General advise us what progress has been made in that regard in the two and a half years since then?

Mr C.C. PORTER: The Sentencing Act has within it a requirement for a review after a set period, which unfortunately was not observed under the previous government. We have sent out a very large and thoroughgoing discussion paper on the Sentencing Act. This is an area in which the member has highlighted a potential matter that I have raised publicly; there are others that I consider worthy of potential reform. This discussion paper is in respect of thoroughgoing root-and-branch reform of the Sentencing Act. That was out for consultation for a long period and all the various stakeholders have responded to that discussion paper. The member will be aware of the discussion paper, I am sure. The director general and her department will compile a summary report of all the stakeholder input.

Mr J.R. QUIGLEY: I do not think I have seen that report.

Mr C.C. PORTER: As shadow Attorney General, surely the member should be keeping up!

Mr J.R. QUIGLEY: Has it been published?

Mr C.C. PORTER: No.

The CHAIRMAN: Members, you can only address questions through the Attorney General.

Mr C.C. PORTER: In any event, the member will appreciate that everyone has individual views about potential areas of reform in the Sentencing Act. Some of mine have been included in this very thorough process of consultation. The report summarising the various stakeholder inputs will come to me and in due course will form the basis of a cabinet submission for changes to the Sentencing Act, but it was always contemplated that that would be a long and somewhat arduous process.

Mr J.R. QUIGLEY: Will it be thirty-eighth term of Parliament legislation?

Mr C.C. PORTER: The idea that this process will result in a root-and-branch overhaul of the Sentencing Act during this term of Parliament is optimistic. I am not aware that that has ever been promised.

Ms M.M. QUIRK: I refer to "Outcomes and Key Effectiveness Indicators" on page 335, although the Attorney General need not refer to it because it is a general reference. I refer to the coroner's recommendations in the Mr Ward case. In particular, I understand that a couple have yet to be implemented. I would like some indication of progress on those recommendations; whether the government intends to follow them; whether it contemplates legislation to amend the legislation covering custodial services; and whether this jurisdiction will extend to police lockups.

[11.20 am]

Mr C.C. PORTER: I thank the member for her question.

I understand that the only two outstanding matters with respect to the coronial recommendations are, firstly, the reform of the justices of the peace system, which is in progress and to which our response has been, as the

member is aware, to create a two-tiered system in which we provide extensive training to the limited tiers engaged in judicial activities. As part of the 2010–11 budget process, DOTAG secured additional funding in excess of $200 000 to enhance and target the training for JPs. The breakdown of that funding includes $20 000 to engage a cultural consultant to provide training for JPs; $30 000 to develop electronic and hard copy justice system training modules; $25 000 to enhance the existing JP handbook; $60 000 to update the JP database; $30 000 for additional regional training seminars; and approximately $69 000 for the recruitment of an appointments officer to release the existing training and research coordinator. The process of training those top-tier JPs who engage in quasi-judicial and judicial functions is now well and truly underway. Given that training is an ongoing process, I do not know whether we have identified a date by which that recommendation will be completed or finished. I might just ask Ms Gwilliam to speak to that.

Ms C.M. Gwilliam: We have certainly rolled out extensive JP training. The issue of which model we might use is subject to further consideration of the costings, which we will provide to the Attorney General. However, extensive training has been provided statewide and it is ongoing training. We have dedicated extra resources to coordinate it and we are rolling out extensive training support.

Mr C.C. PORTER: The second outstanding issue is, as the member pointed out, the legislation that will allow for enhanced powers for the Office of the Inspector of Custodial Services. That falls within the corrective services portfolio, which I was responsible for but which has now been passed to Minister Redman. I can say —

Ms M.M. QUIRK: A further question; unless the Attorney General wants to finish.

Mr C.C. PORTER: It is very well advanced. I cannot speak for that minister about exactly when we will see that legislation in Parliament, but I understand it is imminent. It is somewhat larger than the publicly discussed recommendations of the coroner, but the Minister for Corrective Services retains responsibility for custodial services. The legislation was in very good nick at the time of the handover and I think it is imminent.

Ms M.M. QUIRK: That is interesting, Attorney General, because when I questioned the minister and the Commissioner of the Department of Corrective Services about this issue yesterday, they both said that the matter was now with the Attorney General and that as far as they were concerned they had complied with every coronial recommendation the agency was required to comply with. From what I understand, the Attorney General does not agree with that and says that it is the responsibility of the Minister for Corrective Services.

Mr C.C. PORTER: I provided a lot of drafting assistance because I commenced the drafting of that legislation, which has been delivered, in effect, in its final form. However, I will have to discuss that view with them. I did not listen to that response in estimates yesterday. I understand that, as a matter of ministerial line responsibility, the Minister for Corrective Services, and not the Attorney General, is responsible for bringing that legislation into Parliament. If there is any level of misunderstanding—I do not know whether there is or is not—I will sort that out. However, it is not that misunderstanding that is holding up this issue; the legislation is basically finished and ready to go.

Mrs L.M. HARVEY: On page 340 of budget paper No 2, I refer the Attorney General to the works in progress under the asset investment program. An amount of $44.3 million is listed for the Kalgoorlie court upgrade. Will the Attorney General please advise where that project is up to?

Mr C.C. PORTER: That is going to be a fabulous court building. It is one that the community now well and truly supports. This government is spending a good deal of money on courts and regional courts, which, in my view, are the first priority. The government office building is being restored and altered. A new two-level building will be built at the rear of the Kalgoorlie government office. A bridge link will give right of way to the existing police lockup, and there will be four courtrooms, with provision for a fifth. As I understand, the heritage aspect of the present government buildings is now well advanced, if not nearing completion. The next phase is the construction proper. An issue has arisen, and representations have been made to me by the member for Kalgoorlie and, indeed, the member for Eyre, and I have also received a letter from the Mayor of Kalgoorlie–Boulder. In effect, they want to paint the dome of the existing heritage building in gold leaf. The heritage architect says that it should remain grey, as it has always been. It is my view that if the community can show overwhelming support for changing that heritage aspect, we should not be bureaucratically bound by the heritage architect's view; however, there has to be clear community support for that. I will be speaking soon to the Kalgoorlie council about whether it is prepared to provide substantially for the cost of the gold leafing. I do not necessarily think that that should come out of the state's existing building budget. It is a very good project, with some odd quirks that have arisen in recent times.

Mrs L.M. HARVEY: I have a further question. Has the Attorney General had any valuation done of the cost differential between gold leaf and grey paint?

Mr C.C. PORTER: No; that is one of the problems that I —

Mr J.R. QUIGLEY: Royalties for regions is just swimming in it. You could have gold throughout—a gold tax!

Mr C.C. PORTER: My view is that it will not be an insubstantial amount. I imagine that it will cost something in the vicinity of $40 000—maybe more. However, that is an absolutely rough estimate that has been given to me. There are two interesting issues. The first is that a heritage architect has said that the dome should remain grey in colour because it was always grey. It looks like the community wants to create a bit of its own unique heritage, being a gold town, and not have it grey but in gold leaf. I do not think that the community should be prevented from doing that by virtue of the view of a single heritage architect. I mean no disrespect. I am sure that he, in strict heritage terms, is precisely right. However, I am not overly keen that the taxpayers of Western Australia, through already allocated money, should pay for that particular desire of the local community. If the community wants that, I intend to speak to and correspond with the local council to say that the way it can demonstrate community support for overriding the heritage architect is to raise the money for the gold leafing. It might be a nice thing; I do not know. The community might want to create its own heritage, but apparently gold leafing is more expensive than grey paint!

Mrs L.M. HARVEY: They can have gold taxis as well.

Mr W.J. JOHNSTON: Can I ask: is that because you want to keep the gold leaf for the Premier's palace across the road?

Mrs L.M. HARVEY: Oh, you idiot!

The CHAIRMAN: Member for Mindarie.

Mr J.R. QUIGLEY: Whilst we debate the Kalgoorlie courthouse—I note that the previous government was instrumental in building the new law courts building—has there been any discussion between the Chief Justice, the department and the Attorney General; Treasurer about the next great public building this state needs—that is, a new Supreme Court, similar to the one in Queensland, in which all courtrooms can be consolidated on the one site and in which adequate accommodation and facilities can be provided for the twenty-first century in a booming economy in which all these companies are turning to the court? Where on the agenda is a new Supreme Court building?

Mr C.C. PORTER: There were two parts to the question: have there been discussions; and where is a new prospective Supreme Court courthouse on the agenda? The first answer is yes, there have been many and numerous discussions. Where is it on the agenda? Harking back to the first point the member made, the former government did a tremendous job on the District Court building, delivered as a public–private partnership—that is, built, owned, financed and maintained as a PPP.

Mr J.R. QUIGLEY: It might be harder with a Supreme Court.

Mr C.C. PORTER: No, not necessarily. The Premier has made public statements about the old Treasury building. The heritage building there will, I understand, become a five or six-star hotel complex. Behind that complex will be a multistorey office tower. The Premier has publicly supported that building being the location of the new court. It has always been my view, since I was first briefed on the old Treasury building, that that would be an excellent option for the court. If it becomes a court, it will be an absolute state-of-the-art building in what will become a legal precinct. To achieve that, given that this, like the District Court, will in effect —

[11.30 am]

Mr J.R. QUIGLEY: The six-star hotel was proposed at the old Treasury building at one stage, are we no longer talking about that now?

Mr C.C. PORTER: It is still proposed. The whole complex is being redeveloped. The heritage building will become the hotel and behind it an office tower will be built. The government is progressing the construction of that building along very similar lines to the public–private partnership that the former Labor government progressed for the District Court. We need a private sector partner willing to build the building, pursuant to contract, and willing to build a building specifically fitted out as a court. The member will appreciate that courts have some significant differences from normal multistorey office buildings, but I understand that the building process is being progressed very well. It is still short of contractual completion, but the Premier is of view that that is a good location for the new Supreme Court. I strongly support that view. The plan is being progressed. Part of that plan is that if that location were to be used for the Supreme Court, it would encompass the entire civil jurisdiction of the Supreme Court. The AXA lease would run out at a roughly commensurate time to the construction of the building. The present Supreme Court building would still be used for criminal matters, and of course it has all the necessary accoutrements for criminal courts, with holding cells and the like. That is the plan; it has not yet had the t's crossed or the i's dotted, but it is being progressed very well.

Mr J.R. QUIGLEY: One thing that concerns me is that I am old enough to remember when Central Law Courts were commissioned—I think it was in 1983 or 1984. It was proposed then that the Supreme Court would have two localities. In other words, I think, courtroom 41 was the Supreme Court, and I appeared as counsel in trials before the Supreme Court. But it was not long before the judges said that we would all go back to the Supreme Court Gardens, and withdrew from the CLC. There was a stop-work order or some such thing. Is what is proposed and the discussion the Attorney General is having with the Chief Justice meeting with the aspirations of the Supreme Court itself? The legal profession and the judiciary look to the body politic, not just the government, to deliver a great public building within which to house the Supreme Court. Is this being advanced in accordance with the aspirations of the court itself?

Mr C.C. PORTER: In my dealings with the Chief Justice, he has shown a high level of enthusiasm for this project. The alternative to this project is an additional, separate, stand-alone building somewhere else—it was originally mooted as part of the Perth foreshore redevelopment. In some senses that would be a considerably more expensive project. In addition, we would have to carve into what is presently public open space, which may present a range of difficulties that we do not have with the old Treasury building. But, I take that member's point about the Central Law Courts and the migration of judicial officers back to the old Supreme Court building. Let me assure the member that if, as I expect, the old Treasury office building becomes a purpose-built court, it will be a place that judges will well and truly want to stay in. It will be a state-of-the-art, fit-for-purpose building, with judges' chambers, executive washrooms and the whole works—it will be a very serious building. My view is that, once the plans become realised, judges, even if they were minded to exercise a choice, would not exercise it in favour of the present location.

Mr J.R. QUIGLEY: I have taken the Attorney General back to previous press releases and indeed previous transcripts of this committee from 12 months ago. I must frame this as a question, and it is not a challenging question! Does the Attorney General understand that I will follow the progress of issues through every time we sit in these sorts of committees, as I expect the legal profession and the judiciary would want both the Attorney General and me to do? In the next 12 months we want to see some progress in the development of the plan.

Mr C.C. PORTER: Indeed. The idea of building court infrastructure can be popularly sold to the community in the regions because the need for it is visceral and at the forefront of the community's mind. Building large pieces of court infrastructure is not always seen by the public of metropolitan Perth to be as important as that of other projects. That is why it is incumbent upon an Attorney General, and indeed a shadow Attorney General, to advance the issue as far as they can.

Mr J.R. QUIGLEY: The Chief Justice has a good ally, because the Attorney General is also the Treasurer!

Mr C.C. PORTER: Of course that has no bearing on the matter. I am very confident that we will work through a point of contractual resolution by which the old Treasury building will be the final outcome. If I am right, it will happen this year. It is not impossible that the project may not progress, but I think that the very high likelihood is that it will.

Ms M.M. QUIRK: Is the Attorney General able to advise whether he contemplates introducing any privacy laws; and if so, what is the likely timetable for that? If not, why not? We have had a number of quite public instances of privacy issues in past years. A burgeoning amount of information is held about private citizens and I wonder where the Attorney General is with privacy legislation.

Mr C.C. PORTER: I support enhanced privacy laws. It is an immensely complicated area. It has not been in the top third of our legislative priorities. Two schools of thought exist on this matter. One is that we should wait for the e-health initiative and the commonwealth planning the issue of personal, or private, identifiers in health, and that our privacy legislation should dovetail off that. Privacy legislation is something we have been working on with the Information Commissioner, and it is something he advocates. It is not yet at the stage at which there is approval to draft a cabinet submission, but we are getting close to it. The fundamental tipping point in making a decision, and I must confess to not having made it yet, is whether we proceed in advance of the commonwealth or whether we wait to see what happens with the identifying numbers in the commonwealth system. If the member has views that she wishes to correspond with me about, I would warmly receive them. With the government's very large legislative agenda, I cannot say that privacy legislation is in the top third of our legislative priorities.

Ms M.M. QUIRK: Draft privacy legislation floated around for some years. Is this a process that the Attorney General wishes to start from scratch or is he aware of the existing draft legislation?

Mr C.C. PORTER: I am not aware of that draft. Is the member talking about a commonwealth draft or a draft commissioned under the previous Labor government?

Ms M.M. QUIRK: It was state legislation.

Mr C.C. PORTER: If it was a cabinet document, I would not necessarily have access to it.

Ms M.M. QUIRK: I do not think that it was. The Attorney General has not seen the draft; that is all I needed to know. It might just save the Attorney General some time if he looked at it.

Mr C.C. PORTER: I will hunt around in the legislative closet for that draft. Without putting words into the mouth of the FOI commissioner, I understood his view to be that with what is now proposed at the commonwealth level, even with a broad guess about what the legislation might look like, previous drafts of state privacy legislation have been superseded. That is what I recall from my previous meetings with the FOI commissioner on this issue, but I will look for that draft legislation.

Mr A. KRSTICEVIC: I refer to budget paper No 2, volume 1, page 334 and the fourth dot point. I seek an update on the Bell Group litigation underway in the Supreme Court and what the significant commercial factors involved are.

Mr C.C. PORTER: This was a hot topic of conversation with the shadow Attorney General last year. In the budget we approved $3.3 million across 2010–11 and 2011–12. That was to allow for three additional judges to come into this jurisdiction to be appointed as acting judges to hear this appeal. It is shaping up to be the longest appeal in the nation's history, and, indeed, I would argue that it is the most complicated. As I understand it, as soon as those judges were identified and commissioned into this jurisdiction, they started work prior to the hearings, availing themselves of all the material and briefing themselves on the matter. Hearings will be conducted throughout the course of this year. I do not know how long it will take, but it is a very important matter in the context of this state's litigation and legal profession. It will involve an enormous amount of resources, which we have made provision for. I do not know if I can give the member much more of an update to that. If the member cares to, he can sit in on the hearings. I am sure that they will be riveting.

[11.40 am]

Mr A. KRSTICEVIC: For the first few years maybe.

Ms M.M. QUIRK: I refer to page 335, which relates to efficiency and key effectiveness indicators of the courts. The Attorney General does not have to look at anything in particular there. I want to ask how the rollout of video links in courts is going. We hear lots of anecdotal evidence that the links are fitted but courts are unwilling to deploy them or use them. Either that, or if they break down, there is a substantial delay in getting them repaired. There is not as wide a rollout as would be desirable, as recommended by various committees and bodies.

Mr C.C. PORTER: It is not an area without its difficulties. There was a question tangential to this issue earlier. Are there complaints that exist from time to time in the court system? Most certainly, there are. Many of the complaints relate less to the Department of the Attorney General and more to the Department of Corrective Services, and each of them are running on a slightly different platform. It has been an area of specific focus. The figure I gave out earlier was that use of video links between 2010 and 2011 has increased from 50 per cent to 62 per cent. That is prisoner-to-court video links. That is actually quite a rapid increase compared with what had happened over previous years. That obviated a decrease in the need for travel—down from 50 per cent in 2010 to 38 per cent. I would argue we have made pretty significant inroads. There are no doubt still problems. This is clearly the future of administering a prison population, travel and court hearings.

I might invite the director general to make any comment that she wishes on this area, because most of those complaints come directly to her.

Ms C.M. Gwilliam: We do receive complaints about the technology in the courtrooms. I would say that they are low levels of complaints. We have had some recently in relation to Geraldton. I think we had one previously in relation to Coolgardie, but they are very isolated. They are not always our technological problems, but, if they are, we do not skimp on getting them repaired. Repairs are done as a high priority. Often they are Telstra—ISD line problems. The AV rollout is a priority for us, as the minister has said. It is an important way of ensuring the safety of people in custody by not having to undertake transportation. It also enables very efficient use of the courtrooms, because video links can be scheduled.

We are working closely with WA Police and the Department of Corrective Services to ensure that they can also upgrade their technological support. We have offered to project manage that for them, if they get the money, so that we can ensure consistency between out platforms and technological solutions.

Ms M.M. QUIRK: I have a further question on that. Attorney, is there still a cultural issue in the take up of the technology by the judiciary? There seemed to be some suggestion of that.

Mr C.C. PORTER: I do not think so. I meet regularly with the heads of jurisdiction, as does Ms Gwilliam. There are frustrations. As the director general said, many of those frustrations are sometimes because of phone

line problems that are somewhat out of our control. Maybe this is one of the great benefits we will look forward to with the NBN. I am being quite serious; this might be one of the efficiencies. I do not think that there is a cultural problem, but there is a degree of frustration.

What I have observed over the last two years is that the way to improve in this area is just by looking at the data on a quarterly basis. When we find in the breakdown of this data that a particular region is not tracking in the right direction, we try to find out why, what the problem might be, whether it is at our end or the prison's or whether there are frustrations on the part of the magistrate and then try to look at the problem. Literally it is just looking at region by region, quarter by quarter, and making sure that we are tracking in the right direction. Is there frustration? Yes. Are there cultural views that there are better ways of doing it? No. Safe to say, there will sometimes be particular evidentiary occasions when the judges will require someone to be in the courtroom rather than appear via video link. That is a matter for judges to control their inherent jurisdiction. I think those occasions are occurring less and less.

Ms M.M. QUIRK: Finally on this issue, can the minister explain why there are different platforms for police, Department of Corrective Services and the Attorney General's department? Is that something that can be sorted out?

Mr C.C. PORTER: In the long run, yes. Why are there not similar platforms? It is because historically these grew up in a piecemeal way. I do not think anyone envisaged how successful they could or should be. We have some preliminary costings about how much a complete and consistent overhaul would take, and they are pretty substantial. Quite a substantial amount has been put in this budget for police ICT. In part, as I understand it, some portion of that will be used on audiovisual facilities.

Ms M.M. QUIRK: In the fullness of time, Attorney General.

Mr C.C. PORTER: Nevertheless, it is a substantial amount of money. From recollection, I think it is in excess of $100 million. The answer is yes, but that is a mid to long-term plan.

The appropriation was recommended.