

Ms Margaret Quirk; Mrs Liza Harvey; Mr Paul Papalia; Mr Murray Cowper; Mr John Quigley; Mr Peter Abetz;
Mr Bill Johnston

Division 37: Attorney General, \$347 115 000 —

Mr I.M. Britza, Chairman.

Mrs L.M. Harvey, Minister for Police representing the Attorney General.

Ms C. Gwilliam, Director General.

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

Mr A.J. Marshall, Acting Director, Policy and Aboriginal Services.

Ms P. Bagdonavicius, Public Advocate.

Ms J. Hoffman, Commissioner for Victims of Crime.

Mr B. Roche, Public Trustee.

Ms J.M. Stampalia, Acting Executive Director, Corporate Services.

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

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

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

Mr M. Connolly, Principal Policy Adviser, Office of the Attorney General.

[Witnesses introduced.]

The CHAIRMAN: The member for Girrawheen.

Ms M.M. QUIRK: I refer the minister to the second last dot point on page 438, which states —

The National Partnership Agreement ... is the instrument through which Legal Aid Western Australia ... derives the majority of its Commonwealth funding. Under existing arrangements, Commonwealth provides for approximately 37% of LAWA's total revenue. LAWA is seeking a more equitable funding arrangement under a newly negotiated NPA which is due to come into effect on 1 July 2015.

I think the Attorney General has said that there has been an increase in funding for Legal Aid under that national partnership agreement of some 14 per cent; however, the community legal centres are based under the same national formula and they have had a decrease of \$240 000. I just want an explanation for that.

Mrs L.M. HARVEY: My understanding is that the community legal centres were funded through a commonwealth arrangement, and it was a commonwealth decision to withdraw funding from the community legal services. I will ask Mr Turnbull to elaborate further.

[3.10 pm]

Mr G. Turnbull: Yes; \$240 000 is correct for the current financial year. That is a reduction. It is commonwealth funding; they are not state funds.

Ms M.M. QUIRK: Can the minister advise me of the funding position for the Environmental Defender's Office and the Employment Law Centre of WA?

Mrs L.M. HARVEY: I will ask Mr Turnbull to respond further.

Mr G. Turnbull: Commonwealth funds were removed from the Environmental Defender's Office some time ago. The state government has recently removed its contribution. Those funds have now been effectively transferred to the Employment Law Centre.

Ms M.M. QUIRK: So the existence of the Employment Law Centre is not under threat and it is ongoing?

Mr G. Turnbull: Yes, that is my understanding.

Ms M.M. QUIRK: How much funding has it received?

Mr G. Turnbull: I would need to take that on notice.

Mrs L.M. HARVEY: I will provide by way of supplementary information the funding provided to the Employment Law Centre.

[*Supplementary Information No A74.*]

Mr P. PAPALIA: I refer the minister to the first dot point under "Significant Issues Impacting the Agency" on page 438 of the *Budget Statements*, which states that the department is working towards reducing the over-representation of Aboriginal people in the justice system. I also refer to the Auditor General's report released this week, "Management of Adults on Bail", specifically the following observation by the Auditor General —

Not all people who attend Court can read or comprehend English. In 2010, the Aboriginal Legal Service estimated that one in five Aboriginal or Torres Strait Islanders living in remote Western Australia had difficulty communicating with health or legal service providers.

How does the minister reconcile the first dot point on page 438 with what the government is doing in Western Australia noting, as the Auditor General identified later, that three per cent of the Department of the Attorney General's budget was spent on translators for Aboriginal people?

Mrs L.M. HARVEY: My understanding is that the department already has a process in place if an interpreter is required for an accused person. That interpreter will be paid for by the department. The responsibility also rests with legal representation to ensure that the accused understands proceedings and also, if necessary, can request an interpreter. It should also be noted that most of the bail is set by WA Police.

Mr P. PAPALIA: Maybe I will make it clearer: if 39 per cent of the adult prison population is Aboriginal, why did we spend only three per cent of the DOTAG budget on interpreters for Aboriginal people, noting the observations made in this report by the Auditor General?

Mrs L.M. HARVEY: I understand that there is no budget constraint on the provision of interpreters for offenders and accused persons. The department has provided interpreters and will continue to provide interpreters as and when requested and required. The provision of interpreters is not subject to any budgetary constraint.

Mr P. PAPALIA: How does the minister explain that last year DOTAG spent \$770 000 on interpreters and it only spent \$23 100 on Aboriginal interpreters, bearing in mind that a large number of Aboriginal people in the Kimberley, the eastern goldfields and the Pilbara do not speak English as a first language?

Mrs L.M. HARVEY: I am advised that the court officers and the court determines whether interpreters are needed and then the department provides them. From my own perspective with police, I know that the police also source their own interpreters for accused persons. I will ask Ms Gwilliam to elaborate further.

Ms C. Gwilliam: There is not much more I can add. We go out of our way to find interpreters. It is a matter of finding an interpreter if needed. We certainly have no budget constraints on interpreters. The figure appears to be high because, as the member knows, non-Indigenous people needing interpreters are generally people smugglers. We were providing a lot of expensive interpreters for Indonesians and other nationalities for people smuggling cases in the court. Every effort is made to have interpreters for Indigenous people.

Mr P. PAPALIA: Has DOTAG looked at this report from the Auditor General?

Mrs L.M. HARVEY: I will ask Ms Gwilliam to respond.

Ms C. Gwilliam: Yes, we were subject to the Office of the Auditor General review, and I have looked at the report.

Mr P. PAPALIA: The adviser would be familiar with the following observation made by the Auditor General —

The Kimberley Interpreting Service is the only established Aboriginal interpreting service in the State. Guaranteed government funding for the service ended in 2014. Some political efforts were made in late 2014 to keep the ... Service operating but as at March 2015, there has been no public announcement about its future.

Is that not an issue?

Mrs L.M. HARVEY: My understanding is that that service that the member is talking about was funded by the Department of Aboriginal Affairs, not by DOTAG.

Mr P. PAPALIA: I am talking about the relatively minor expenditure of DOTAG's funding for Aboriginal interpreter services, noting that a need is clearly not being met since the federal government cut its funding.

Ms C. Gwilliam: We are aware of that provider. We worked closely with the Department of Aboriginal Affairs to ensure that funding was provided to it because its interpreters are utilised by the court when required. It is a court decision. Once a court decides that there is a need for an interpreter, the court officers go out of their way to secure a court interpreter.

Ms M.M. QUIRK: Courts, especially in regional areas, have long lists and are under a lot of pressure in terms of resources. There is probably a disincentive for magistrates, for example, to request interpreters because it then holds up the list and there are issues. Has there been any examination of whether there any systemic problems as to why more Aboriginal offenders are not given access to interpreters?

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Mrs L.M. HARVEY: I am advised that there is no impediment to the courts requesting interpreters. I will ask Ms Gwilliam to respond further.

Ms C. Gwilliam: I agree with the minister's comment. In terms of substantive equality, we put a lot of work into that space. We have been focused on the Children's Court of Western Australia and also the Registry of Births, Deaths and Marriages. A lot of work has gone into substantive equality to ensure that Indigenous people, particularly in remote locations, get access to the registry processes, and with the Children's Court to ensure that our service delivery is mindful of the needs of Indigenous people.

Ms M.M. QUIRK: When will the other courts be examined in terms of adherence to substantive equality issues?

Ms C. Gwilliam: There is no constraint on when they respond. We are just working down what we saw as a priority list. The priority list was the Children's Court first and then the importance of the registry process, particularly with people being able to access Centrelink, the importance of school enrolment and also traffic offences and fines enforcement. We have done a lot of work in the births, deaths and marriages and fines enforcement space. The other area that I did not mention was fines enforcement in terms of substantive equality.

[3.20 pm]

Mr M.J. COWPER: I refer to the line item "Fines Enforcement Registry Fees" on page 450 of the *Budget Statements*. I note that the budget papers state that there is a 60 per cent recovery of fees that come from the courts. What is the current liability in unpaid fines to the Fines Enforcement Registry?

Mrs L.M. HARVEY: I will defer to Mr Warnes.

Mr R. Warnes: With respect to the outstanding debt for year ending 2014–15, as of 19 May it was \$317.8 million.

Mr M.J. COWPER: How does that compare with the previous year?

Mr R. Warnes: For the year ending 2013–14, it was \$277.9 million.

Mr M.J. COWPER: Can the minister advise what the government is doing to try to arrest that trend?

Mrs L.M. HARVEY: I will ask Ms Gwilliam to respond about some of the government's initiatives to try to reduce the number of outstanding fines owed to the state.

Ms C. Gwilliam: We are being very active with the enhanced enforced sanctions that came to play, particularly in terms of wheel clamping and how we handle contacting people who owe fines. We also send people an SMS to encourage payment and we have officers who work closely with Indigenous people to encourage them to enter into a time-to-pay arrangement through Centrelink, so we are very active in this space.

Mr P. PAPALIA: So far this year, \$317.8 million is outstanding to the Fines Enforcement Registry. In 2008 the figure was \$230.7 million, which, by my reckoning, means there has been about a 37 per cent increase over that time. How can the government make its claim in the fifth dot point on page 438 that "The enhanced sanctions continue to have a positive impact on payments and are a valuable tool in managing the outstanding debt currently registered with the Fines Enforcement Registry", when it looks as though it has gone up every year?

Mrs L.M. HARVEY: There are a couple of things. Since the new legislation came into effect, more than \$63.1 million has been collected. Payments are up from \$56.4 million collected for the same period in previous years. There have been 2 458 applications for a stay-of-execution payment that have been arranged. As of 13 May 2015, the additional actions that have occurred as a result of the new strategy include the application of 711 wheel clamps; the removal of 601 registration plates; the placing of 8 264 calling cards at premises calling on people who have outstanding penalties; the application of 87 warning stickers; 5 896 payment arrangements being made; 169 seizure actions being performed; 43 vehicle registrations being detected through the advanced traffic management vehicle recognition technology, which has resulted in outstanding warrants to the value of \$128 610 being actioned by the criminal enforcement team, which commenced in October 2014; and the 17 clamps or stickers that have been interfered with being referred to Western Australia Police for investigation and possible further prosecution. The funding for this project has been extended until August 2017 and that also encompasses a review of the project.

Mr P. PAPALIA: I acknowledge all the statistics, but the amount owed to the registry keeps going up. Is it not true that the vast majority of the outstanding debt to the Fines Enforcement Registry is owed by people who are not subject to all those things that the minister listed and are capable of avoiding payment, avoiding court and avoiding jail?

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Mrs L.M. HARVEY: Notwithstanding all those additional actions that were not occurring prior to the change in policy, I will ask Ms Gwilliam to explain what has also contributed to the increase in the value of fines that are outstanding.

Ms C. Gwilliam: Other increases have occurred, such as the Electoral Commission registering people who did not vote. They have become infringements in the system, which was a bulk increase. Also, as the member would be aware, the process for court fines has been changed to allow a time-to-pay arrangement. The time-to-pay arrangement has meant a big increase of tens of millions of dollars through the FER system. They were exceptional increases.

Mr P. PAPALIA: But is it not true that the vast amount of debt to the Fines Enforcement Registry is owed by a small number of people who owe significant amounts as opposed to those people who are subject to the other things that the minister listed?

Mrs L.M. HARVEY: I will ask Ms Gwilliam to elaborate further on the composition of the debt.

Ms C. Gwilliam: As the member would be aware, we do have a top 100 list on the website. In terms of when we started the website—vis-a-vis, the top 100—only 18 remain. We have a system of churn with the publication of the names of individuals and also of course the action we put in vis-a-vis wheel clamping and calling cards. The reason we say “calling cards” is that we are letting people know that we know where their car is and we know where they live: “Here is the number, ring up and pay.” And people do. Most people are very responsible and most pay their fines. Some people have financial difficulties, which is why we are very active with the time-to-pay arrangement through Centrelink. For the other group, it is a sport. With that sport, it is about having to apply real sanctions and, as the minister said, the evidence from different period figures show that there is an increase, but there is always a flow on to fines and a growth in the business because, first, the value of the fines has increased. There has been a growth in the value of fines and, as I said previously, post-state election, we had more registrations. It is also about the good change with court fines being allowed time to pay through the FER, because previously court fines were not allowed time to pay once a person received the court fine. That helps people and with a time-to-pay arrangement, people avoid traffic offences that may lead to imprisonment.

Mr M.J. COWPER: I was interested to hear about all the government’s initiatives, which are great. Have any warrants of execution been issued for outstanding fines?

Mrs L.M. HARVEY: I would need to provide that information by way of supplementary information.

The CHAIRMAN: What will the minister provide?

Mrs L.M. HARVEY: I will provide the number of warrants of execution that have been issued for unpaid court fines for the last 12 months.

[*Supplementary Information No A75.*]

Mr M.J. COWPER: Not the ones in the first instance, but particularly for goods and chattels.

Mr J.R. QUIGLEY: I refer to the average cost of legal matters for services provided to government outlined on page 443 of the *Budget Statements*. What I want to do this afternoon—I realise that there are two divisions; there is this division and then later there is the division with the Director of Public Prosecutions—is ascertain the total cost to taxpayers of the absolute debacle involved in the seizure of assets belonging to Mr Kizon and Mr Mansfield. I want to find out the total cost to taxpayers of both the legal costs and moneys paid out to Mr Kizon and Mr Mansfield during the course of that. What have been the legal costs in resisting Mr Kizon and Mr Mansfield? We have been told during the last two or three budget hearings that —

The CHAIRMAN: What page is the member referring to?

Mr J.R. QUIGLEY: I refer to page 443.

The CHAIRMAN: Are those names on that page?

Mr J.R. QUIGLEY: No, they are not; they are not anywhere in the budget. The budget just refers to “legal matters”.

Mrs L.M. HARVEY: If I can respond, the only agency that would be able to respond to the member’s question is the Office of the Director of Public Prosecutions.

Mr J.R. QUIGLEY: Has the State Solicitor’s Office had nothing to do with that matter?

Mrs L.M. HARVEY: The only authority that would be able to summarise the total cost of that would be the office of the DPP. I suggest that the member put that question on notice to the DPP.

[3.30 pm]

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Mr J.R. QUIGLEY: That director will be coming soon. Did the State Solicitor's Office play any part in giving advice on that matter?

Mrs L.M. HARVEY: Once again, information on the legal advice provided by the SSO is held by the Director of Public Prosecutions. I suggest that the member put that question on notice to the Attorney General or to me in this house to find that information from the DPP.

Mr J.R. QUIGLEY: I am only asking whether the SSO —

Mrs L.M. HARVEY: Member, that is not in this division.

Mr J.R. QUIGLEY: It depends; it is hard to tell. This is a fairly innocuous looking budget paper in which no-one's name is mentioned. We know that a lot of taxpayers' money has been spent on a number of legal matters and the budget papers refer only to the average cost per legal matter. In this division I am seeking to ascertain whether the SSO provided any advice on the Kizon–Mansfield matter; and, if it did, what was the cost to taxpayers?

Mrs L.M. HARVEY: My response is unchanged: although the SSO may have provided advice to the DPP, the member needs to put that question to the Director of Public Prosecutions because it is not information that we hold.

Mr J.R. QUIGLEY: In relation to the average cost per legal matter, how much did legal advice about resisting Mr Rayney's defamation matter cost? Did the SSO provide representation on that matter?

Mrs L.M. HARVEY: Once again, the member needs to put that question on notice. We are not aware of the value of that effort—if the SSO was involved. We do not keep an itemised account of every case or matter that the SSO provides advice on to the DPP.

Mr J.R. QUIGLEY: Is the SSO providing legal advice and legal representation to the people being sued for defamation by Mr Rayney?

Mrs L.M. HARVEY: That is an ongoing matter, so I put to the member for Butler that it would not be finalised at this point in any event. I will ask Ms Gwilliam to further clarify the matter but, once again, I am representing the Attorney General in this place and I put to the member that that question would be best placed on notice.

Ms C. Gwilliam: The State Solicitor's Office provides extensive advice to the state. If there is a need for the SSO to be involved in this matter, it would be involved from a state perspective. I would have to ask the State Solicitor that question. Normally, as the member knows, I would have the State Solicitor here, but he is overseas at the moment on Bell matters. I am happy to put the question to the State Solicitor and get an answer for the member.

Mr J.R. QUIGLEY: It has been reported in the media that this defamation matter has been going for quite some time, with counsel appearing for various police officers and the state. Is the SSO involved in providing that advice?

Mrs L.M. HARVEY: Member, we do not have that information here. As I said, I am representing the Attorney General and I suggest that the member put the question on notice to him.

Mr J.R. QUIGLEY: It is incredible that people from the SSO do not know whether or not they are acting.

Mrs L.M. HARVEY: The State Solicitor's Office is not represented here. I do not have a representative from the State Solicitor's Office here to advise me. Ms Gwilliam said that she has something to contribute.

Ms C. Gwilliam: In the past, the State Solicitor never attended estimates hearings. With the appointment of Mr Paul Evans two years ago, I had him attend the estimates hearing because I thought it would be useful for members of Parliament to know the new State Solicitor and for him to have the chance to answer questions, particularly on what I then saw were controversial matters such as the Royal Commission into Institutional Child Sexual Abuse. Mr Evans would have been here but, as I indicated, he is in Singapore at the moment on the Bell matter. I am certainly happy for the minister to provide supplementary information. I do not want to second-guess what the SSO is doing; I do not monitor the information about which clients it is dealing with for what matter.

The CHAIRMAN: Member for Butler, are you happy for that to be supplementary information?

Mr J.R. QUIGLEY: I will have to be. How much has the state incurred in legal expenses in so far resisting Mr Rayney's defamation action?

Mrs L.M. HARVEY: If possible, I will provide by way of supplementary information the legal expenses the state has incurred in the defamation action by Mr Rayney.

[*Supplementary Information No A76.*]

Mr J.R. QUIGLEY: Going back to the average cost of litigation—I do not understand how we got to this point—I want to turn to the litigation instigated by BGC Australia, Mr Buckeridge or both in relation to damages resulting from the agreement to build a port at James Price Point. Is the SSO providing legal advice to resist the claim by BGC and Mr Buckeridge, which I think is in the order of \$2 billion, or that is what Mr Buckeridge said publicly? How much has it cost the state of Western Australia in legal expenses to resist that claim?

Mrs L.M. HARVEY: Once again, if possible we will provide by way of supplementary information advice from the State Solicitor's Office via the Attorney General's office about the state's legal costs to date for the Buckeridge matter.

The CHAIRMAN: Does that answer the member's query?

Mr J.R. QUIGLEY: Yes.

[*Supplementary Information No A77.*]

Mr J.R. QUIGLEY: What stage is that litigation up to? I ask that so the taxpayers have some sort of idea of what is to come their way.

Mrs L.M. HARVEY: I am sorry; litigation for which case?

Mr J.R. QUIGLEY: The Buckeridge matter. Has it gone to mediation? Is it ready for trial? Where are we up to?

Mrs L.M. HARVEY: That question needs to be put on notice.

Mr J.R. QUIGLEY: I request supplementary information.

Mrs L.M. HARVEY: With respect, a question about the status of a legal matter the state is involved in with another party is more appropriately a question put on notice to be answered by the Attorney General. It is not the sort of question one expects to answer as part of a budget examination in an estimates hearing.

[3.40 pm]

Ms M.M. QUIRK: Pissing money up against the wall is relevant.

Mrs L.M. HARVEY: I beg your pardon! Member for Girraween, I did not hear what you said.

Ms M.M. QUIRK: Good.

The CHAIRMAN: I did not hear anything either, but the minister does not have to provide anything that she does not want to provide. At this moment we have two supplementary information requests. Does the member for Butler have a further question on this matter?

Mr J.R. QUIGLEY: I do. I want to ask about the Bell litigation. I am not asking for any details leading up to the settlement of the claim with the banks, but we have been told in this chamber that litigation is on foot arising directly out of a dispute central to which is the funding agreement. Can the minister let taxpayers know through the answer to this question how much the state has spent or legal costs incurred in disputing the distribution consequent upon the funding agreement, which is now the threatened litigation?

Mrs L.M. HARVEY: Once again, that question needs to be put to the Treasurer, who is the responsible person coordinating the Bell matter through the Insurance Commission of Western Australia.

Mr J.R. QUIGLEY: That matter is being run by an agency within the Attorney General's portfolio. That agency will know what sort of a bill taxpayers are racking up in disputing the funding contract.

Mrs L.M. HARVEY: Once again, that matter needs to be put to the Treasurer.

Mr J.R. QUIGLEY: I am putting it by way of a supplementary question. This agency is refusing to answer. My supplementary question is: how much has the State Solicitor's Office incurred by way of in-house legal expenses for contesting the outcomes of the funding agreement in the Bell litigation?

The CHAIRMAN: Minister, are you going to accept that request for supplementary information?

Mrs L.M. HARVEY: My response is still the same. The question needs to be put to the Treasurer.

The CHAIRMAN: No supplementary information. Further question, member for Warnbro?

Mr P. PAPALIA: Are not the services provided by the State Solicitor in this case a component of item 5 in the service summary table on page 439, "Services to Government"? This gives a dollar figure. If it is a component of that service, we should be able to ask questions about it either here or via a supplementary information request to the minister.

Mrs L.M. HARVEY: Once again, although I would dearly love to provide the member with a concise answer —

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Mr P. PAPALIA: It is not whether the minister would love to or not; she is supposed to.

Mrs L.M. HARVEY: Let me explain. The issue is that although the State Solicitor's Office provided advice to ICWA and other agencies on these matters, we would need to find out from the State Solicitor's Office and ICWA what the funding arrangements were—and that is why I would suggest that this question is better put on notice to allow us to determine the matters and provide an appropriate answer.

Mr P. PAPALIA: I can understand the minister wanting this matter as a supplementary question, but I cannot understand her wanting us to put it on notice. The same minister is receiving the request; it is just a shorter time frame for the response. We all know that it would take about five minutes for the office to find the answer, so it does not need four weeks; it needs only one week. It should be a supplementary information question.

Mrs L.M. HARVEY: I am now advised that we can provide by way of supplementary information—what exactly is the member after?

Mr J.R. QUIGLEY: I am after the costs incurred, either in-house or by briefing externally, by the state of Western Australia in contesting the outcome of the litigation funding agreement.

Mr P.T. MILES: It started with your government under Brian Burke.

Mr J.R. QUIGLEY: No. You are wrong. It is the funding agreement started, and contested —

The CHAIRMAN: Members, let us stay with the supplementary question. I want to confirm that the minister is in agreement to providing this information.

Mr J.R. QUIGLEY: It is the outcome of the litigation funding agreement.

The CHAIRMAN: I have allocated supplementary information A78. I want to confirm that the minister is in agreement with what we have written down.

Mrs L.M. HARVEY: I will endeavour to provide by way of supplementary information the costs incurred by the State Solicitor's Office with respect to providing advice to government agencies on the Bell matter.

Mr J.R. QUIGLEY: I am trying to delimit it. There is advice given during the litigation with the bank. That had to happen. That was settled. A funding agreement was entered into by SGIO and ticked off by the Court cabinet 16 years ago, and now the current government says, "We dispute the interpretation of that agreement." What legal costs have been incurred in that dispute—that is, the dispute arising from the litigation funding agreement, as opposed to the Bell litigation? The director general understands.

Mrs L.M. HARVEY: To further qualify the supplementary answer that I will provide, we will provide the costs incurred by the State Solicitor's Office in providing advice with respect to the Bell matter referring to litigation funding disputes.

Mr J.R. QUIGLEY: Yes. The litigation funding dispute forms the basis of the current dispute that has Mr Evans in Singapore at the moment.

Mrs L.M. HARVEY: I think we have nailed it.

[Supplementary Information No A78.]

Mr J.R. QUIGLEY: I note that since the passage of the antisocial behaviour orders legislation in 2010, only 29 antisocial behaviour orders have been listed on the website of the Department of the Attorney General. Previously—I think it was at last year's estimates committee hearings—the State Solicitor explained that he had a whole unit, comprising one or two practitioners plus paralegals, serving the Commissioner of Police's requests for antisocial behaviour orders. How many antisocial behaviour orders did the State Solicitor's Office successfully achieve for the Commissioner of Police, and at what average cost? There have been 29 in the past five years, and I wonder how many there have been this year, and at what average cost.

[3.50 pm]

Mrs L.M. HARVEY: There has been a total of 88 prohibited behaviour orders since the legislation came into force five years ago. I would need to provide by way of supplementary information the average cost of processing a prohibited behaviour order.

[Supplementary Information No A79.]

Mr J.R. QUIGLEY: In relation to this year's budget, how many have been made, and at what cost, this year? Could that be added to the supplementary information? It will have to be a supplementary question —

Mrs L.M. HARVEY: No orders have been made so far this year. For 2015, no prohibited behaviour orders have been made.

Extract from Hansard

[ASSEMBLY ESTIMATES COMMITTEE A — Thursday, 11 June 2015]

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Ms Margaret Quirk; Mrs Liza Harvey; Mr Paul Papalia; Mr Murray Cowper; Mr John Quigley; Mr Peter Abetz;
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Mr J.R. QUIGLEY: Does the State Solicitor's Office still maintain a unit, which was described in some detail during an Assembly Estimates B hearing, to secure PBOs or has that unit been abandoned?

Mrs L.M. HARVEY: Member, with the prohibited behaviour orders legislation, initially a special unit was set up to work through the application process for prohibited behaviour orders and to understand what would be acceptable to the court and to try to build up a body of knowledge around how to use the new legislation. That special unit has now been disbanded and the function is being taken over by Western Australia Police with advice provided to them by the State Solicitor's Office. The unit has been disbanded but prohibited behaviour orders will now be raised by police in consultation with the State Solicitor's Office.

Mr J.R. QUIGLEY: When was this unit disbanded?

Mrs L.M. HARVEY: The unit was set up initially for two years only. I believe it was disbanded in June 2014.

Mr J.R. QUIGLEY: Since the unit was disbanded in June 2014, can the minister tell us how many prohibited behaviour orders have been issued since June 2014? There was none in 2015.

Mrs L.M. HARVEY: I will provide by way of supplementary information the number of prohibited behaviour orders that have been issued since 1 July 2014 until now.

[*Supplementary Information No A80.*]

Mr J.R. QUIGLEY: In relation to average costs per legal matter, we are told every year at estimates that the minister is on the brink of making an application under the anti-association laws, commonly called bkie laws—the Minister for Police has referred to them by that name in this chamber. Has an application yet been made?

Mrs L.M. HARVEY: No.

Mr J.R. QUIGLEY: In the last 12 months, how much has been incurred or raised in legal expenses by the SSO to provide advice to police in relation to an application?

Mrs L.M. HARVEY: I will provide by way of supplementary information the cost to the state for the State Solicitor's Office to provide advice to police with respect to the Criminal Organisations Control Act.

[*Supplementary Information No A81.*]

Mr J.R. QUIGLEY: Leaving aside the question of quantum, how many matters have been processed by the SSO with a view to bringing an application to have a declaration made under anti-association laws? Are there any at the moment; and, if there are any, how many?

Mrs L.M. HARVEY: My understanding is that there is a matter pending. It may well be operationally sensitive, so I would not be prepared to go further into who that might be —

Mr J.R. QUIGLEY: I am not asking who —

Mrs L.M. HARVEY: — and the status that that might be at.

Mr J.R. QUIGLEY: Just before Christmas last year the minister told us the SSO was on the brink of making an application. Now we are here in 2015. Is there one that has been prepared for court? We have been waiting years for this.

Mrs L.M. HARVEY: There is a matter being considered by Western Australia Police and SSO at present. That is all I am prepared to say.

Mr J.R. QUIGLEY: It is by WA Police and SSO?

Mrs L.M. HARVEY: It is under the advice of the State Solicitor's Office at present.

Mr P. ABETZ: My question relates to item 6, "Legal Aid Assistance" under "Service Summary" on page 439 of the *Budget Statements*. About \$37 million is allocated there. Is the minister in a position to provide a breakdown of the number of men who are given legal aid assistance versus the number of women who are given legal aid assistance? The reason I ask the question is that I frequently have men coming into my office complaining that women are much more likely to receive legal aid than men. The second part of the question is for how many Family Court actions was legal aid granted, say in the last year, to the male party and how many times was it granted to the female party?

Mrs L.M. HARVEY: I will defer to Mr Turnbull to respond to that question and to advise whether the department keeps gender-specific records with respect to legal aid applications.

Mr G. Turnbull: Yes, we do keep those records. I do not have them at my fingertips. What I can say generally, though, is that the criminal jurisdiction is dominated by men, if I can use that expression. In the family law jurisdiction, and perhaps to a lesser extent the child protection area, females are the dominant clients.

Extract from Hansard

[ASSEMBLY ESTIMATES COMMITTEE A — Thursday, 11 June 2015]

p463c-481a

Ms Margaret Quirk; Mrs Liza Harvey; Mr Paul Papalia; Mr Murray Cowper; Mr John Quigley; Mr Peter Abetz;
Mr Bill Johnston

Mr P. ABETZ: In situations in which the male is unemployed and the woman is on some sort of social security benefit, it appears there are times when the female is granted legal aid and the male is not. Is that a frequent occurrence?

Mr G. Turnbull: In a family law situation, priority is given to what we call independent children's lawyers who are, in effect, lawyers acting in the best interests of the children, quite independently of either party. In very tight funding situations it is quite often the case that neither party will receive legal aid or, as the member suggests, in some instances one party will and the other will not. It really depends on the circumstances.

Mr P. ABETZ: Would the minister be prepared to provide the supplementary information that the adviser indicated was available but is obviously not here?

Mrs L.M. HARVEY: I am prepared to provide by way of supplementary information the number of legal aid matters that were granted to male applicants and to female applicants.

[*Supplementary Information No A82.*]

[4.00 pm]

Ms M.M. QUIRK: Minister, I am talking about "Legal Aid Assistance" under the service summary on page 439 of the *Budget Statements*. The minister gave some evidence earlier that the Employment Law Centre of Western Australia was going to receive funding. Is that just until June 2016, or is there a longer term strategy?

Mrs L.M. HARVEY: I will defer that to Mr Turnbull to respond.

Mr G. Turnbull: Yes, our understanding is it is only until June 2016, and it is \$139 000.

Ms M.M. QUIRK: Does the figure for legal aid assistance also incorporate funding for community legal centres?

Mr G. Turnbull: No, I believe not.

Ms M.M. QUIRK: Where is that recorded in the budget?

Mr G. Turnbull: I am sorry; the director of business services has just corrected me. In fact, the state component of that funding is included.

Ms M.M. QUIRK: Am I correct in assuming that the funding for CLCs from the state as well as from the commonwealth has gone down?

Mr G. Turnbull: That is correct.

Mrs L.M. HARVEY: That is correct.

Ms M.M. QUIRK: What is the reason for the CLC funding being reduced?

Mrs L.M. HARVEY: I will ask Mr Turnbull to respond.

Mr G. Turnbull: My understanding is that it is a flow-on from the agency expenditure review savings.

[Mr P. Abetz took the chair.]

Ms M.M. QUIRK: Minister, is it not due to decreasing demand? In fact, is it not the case that demand is actually increasing?

Mrs L.M. HARVEY: I would need to ask Mr Turnbull to respond with respect to the demand for services.

Mr G. Turnbull: Yes, it is a fact that there is certainly no evidence that there is a decrease in demand; it is quite the contrary.

Ms M.M. QUIRK: In relation to that, does Legal Aid WA itself suffer the same fate of a reduction for efficiencies?

Mr G. Turnbull: Yes.

Mrs L.M. HARVEY: All government agencies have been required to come up with efficiency savings for the general government efficiency dividend procurement savings, and those are detailed in the budget.

The CHAIRMAN: Member for Butler, do you have a further question?

Ms M.M. QUIRK: No, he has a different question.

The CHAIRMAN: He told me he had a further question.

Ms M.M. QUIRK: On legal aid?

Mr J.R. QUIGLEY: Yes, I have one on legal aid, and then I want to go to criminal injuries, if I can.

The CHAIRMAN: Further question, member for Butler.

Mr J.R. QUIGLEY: Going to the key performance indicators for legal aid —

Mrs L.M. HARVEY: What page number, member?

Mr J.R. QUIGLEY: Sorry; it is page 440.

The CHAIRMAN: That would really be a new question, would it not?

Mr J.R. QUIGLEY: No, it is a further question on legal aid.

The CHAIRMAN: There is a very broad area for legal aid. There was the question that I asked before.

Mr J.R. QUIGLEY: It goes to yours, too, Mr Chairman, because your question when you were on the floor and not in the chair was about, as I understood it, the grant of legal aid to persons in matrimonial dispute. It states at page 440 under the line item “Percentage of eligible applicants who receive a grant of legal aid” that 78 per cent—which will fall by a mere one per cent—of eligible applicants receive a grant of legal aid. Does the minister agree that that line item is predicated on eligibility? If we just, with a stroke of the pen, say that we do not have funding to cover women in domestic violence situations—they are rejected—it does not show up in the budget papers as a KPI, does it? This just states that they are not eligible.

Mrs L.M. HARVEY: This indicator is consistent with previous years. It measures the proportion of eligible applicants who receive a grant of aid. An eligible applicant for legal aid is one who satisfies a test based on the applicant’s means and the merit of the matter for which they are seeking aid. In addition to satisfying these tests, an applicant must fall within a category of funding priority established under state and commonwealth grant funding guidelines. The percentage of eligible applicants who receive a grant of legal aid is therefore represented by the proportion of eligible applicants whose applications fall within the criteria established by the funding guidelines.

Mr J.R. QUIGLEY: If a woman alleges misbehaviour by her husband—domestic violence misbehaviour—is she eligible for legal aid to get restraining orders?

Mrs L.M. HARVEY: I can ask Mr Turnbull to respond with respect to matters pertaining —

Mr J.R. QUIGLEY: People in my electorate have been knocked back for that and say that they cannot go along —

The CHAIRMAN: Member for Butler, the minister has the floor.

Mrs L.M. HARVEY: As I said, with respect to the way that applications for legal aid funding on domestic violence matters are handled, I will ask Mr Turnbull if he is able to provide a response.

Mr G. Turnbull: My understanding is that a person in those circumstances would receive legal aid or would receive some assistance in order to obtain a restraining order, for example. It would depend on the circumstances, but my understanding is that we have a whole section set up for that very purpose.

Mrs L.M. HARVEY: Further to that, I also ask Jennifer Hoffman to respond on the work that she is doing with victims of domestic violence and their ability to access the legal system.

Ms J. Hoffman: In terms of family violence generally, obviously there is a vast work program going on within the department at the moment. In fact, that was originally partly driven in response to the Law Reform Commission’s report last year on enhancing family and domestic violence laws. That was a report that the Attorney General requested in 2013. A final report was issued in mid-2014. We have an extensive work program going on there, and we therefore have close examination of these issues. Certainly in my role as Commissioner for Victims of Crime, I find it troubling that we would be referring to family violence as misbehaviour, if I can be so bold as to make that observation. It is criminal conduct, and it is very serious criminal conduct. In terms of the kind of work that is ongoing, there is certainly a rich work program at the moment—as has been announced by the Attorney General and the Minister for Police—to overhaul the Restraining Orders Act to bring in a new, specific category of family violence restraining orders. Part of this is about ensuring that there is a targeted order so that victims of domestic and family violence will have a sense that it is targeted at their particular needs. There is also a great deal of work around a focus on victims of family violence within the court system. There is a range of measures going on at the moment to ensure that the seriousness of family violence is understood to be what it is and that there are appropriate responses to that.

Mr J.R. QUIGLEY: The interpretation of my comments given by the commissioner in response to my question was that she was disturbed that I would call it misbehaviour. That is what the lady said; she was disturbed that I would categorise it as misbehaviour. I cast it as wide as possible, because it might not involve violence. For example, an attempt to contact someone after the issue of a restraining order might not involve an act of violence—an attempt to contact. However, leaving that aside for the moment, may I take it from the answer

given by the minister's adviser that should a woman in my electorate come to me and say that she cannot get legal aid for an application for an ex parte order or for a contested order, I can refer her to the minister and she can guarantee that woman will get legal assistance? That is all they want to know. They do not want to hear the policy. They want to know whether or not they are going to get a lawyer. Those women are petrified to go to court by themselves. When they come to me and tell me that their husband has been terrible to them or to the children and they want an ex parte order and ask for legal aid, they want to know whether they are going to get a lawyer. Will I be able to say, "Definitely, yes"? If the husband is going to plead not guilty or contest the order, will I be able to say that on the word of the minister they will definitely get a lawyer for court? Is that the answer?

[4.10 pm]

Mrs L.M. HARVEY: I will ask Mr Turnbull to comment on the funding arrangements available to people who seek advice on family violence matters. However, the review of family violence situations experienced by victims in Western Australia suggests to us that they do not view any contact by the perpetrators as a misdemeanour or mischief of any sort; they are all viewed as acts of violence. We have taken the step to change the family and domestic violence order situation in Western Australia because the violence starts with coercion, manipulation and subtle attempts to control the victim. At that point, with our new laws, we are enabling victims to seek assistance earlier in the cycle, prior to physical violence occurring.

Mr J.R. QUIGLEY: Good.

Mrs L.M. HARVEY: We absolutely reject any assertion that an attempt by an offender to contact a victim by way of a text message is in any way just a mischief. It is not; it is an act of violence.

Mr J.R. QUIGLEY: I never used that word. That is your word.

Mrs L.M. HARVEY: We intend to change the template in the state to cover it. I ask Mr Turnbull to please respond to the question about family violence applications to Legal Aid.

Mr G. Turnbull: First of all, any person in the circumstances described by the minister who came to our office, or who telephoned for that matter, would receive advice. There is no issue there. Whether or not they were to receive legal representation to make an application for a restraining order, for example, would depend on whether they, firstly, passed our rather stringent means and merits tests. Assuming that that were the case, then it is quite likely that they would in fact receive legal aid. My colleague advises me that 500 matters were aided in the last financial year.

Mr J.R. QUIGLEY: A mere 500?

Mr G. Turnbull: That is, violence restraining order applications.

Mr J.R. QUIGLEY: I refer to "Legal Aid Assistance" on page 439. The commissioner's answer was to the effect that 500 people have received advice. I am not asking about telephone advice. That is not what the scared women who approach me in my office are worried about. They are worried about going to the Joondalup court unaccompanied and without a lawyer. How many of the women who seek advice for ex parte orders—that is, after it has happened—were provided with lawyers in the last year? How many lawyers actually accompanied them to the court? These women are terrified. How many get a lawyer to go with them? I go with them because I am a registered lawyer, but in other electorates they do not have lawyers. How many women get assistance from a lawyer being assigned to say, "I will go and assist you to get the ex parte order"?

Mrs L.M. HARVEY: Member, there is more than one source of assistance to victims of family violence. A family violence service also provides advice and assistance to victims of domestic violence, and, indeed, to provide an advocacy service to assist them with the traumatic experience of attending court. I will ask Mr Turnbull to respond to the legal aid matter that the member raised.

Mr G. Turnbull: I apologise if I did not make my answer clear. The 500 grants of aid that I was referring to were in fact cases in which the applicant was legally assisted or represented for a violence restraining order. I do not have the figures on the issue of legal advice, but that would have been considerably higher, certainly in terms of the number of people who were provided with that level of assistance.

Ms M.M. QUIRK: I refer to page 438 and to the observation at the fourth dot point about the increasing demands on the Public Advocate as a result of the ageing population. The Attorney General, some time ago—when I say some time ago, I mean some years ago—made a commitment to review the laws for enduring powers of attorney. There is ample evidence that financial elder abuse has reached significant levels in this state and that there is improper use of enduring powers of attorney, which in particular facilitates elder abuse. We have had a number of high-profile cases in the courts of financial elder abuse, and I want to know when the Attorney General is going to act on the matter.

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Mrs L.M. HARVEY: We share the member's concerns. I will ask Ms Bagdonavicius and then Mr Roche to comment. A significant body of work has been done on the matters the member for Girrawheen has requested information about.

Ms P. Bagdonavicius: My office is involved in investigating financial abuse. Enduring powers of attorney may be a factor, but there are also many other cases in which people do not have a substitute decision-maker through either an administrator or an attorney or through an enduring power of attorney when there is abuse. It is important to keep in perspective that there are a number of cases that involve enduring powers of attorney, but there are also many enduring powers of attorney that would appear to be working effectively in the community. I say that, because it is an important protection strategy.

Ms M.M. QUIRK: This is what Advocare Incorporated is telling me, minister.

The CHAIRMAN: Member, someone else has the floor.

Ms P. Bagdonavicius: Enduring powers of attorney provide important protection. The Attorney General has been undertaking a review of the Guardianship and Administration Act and our officers have been providing advice on that matter, and I understand that matter is still with the Attorney General.

Ms M.M. QUIRK: When can we anticipate that the Attorney General will complete his deliberations and take some action?

[4.20 pm]

Mrs L.M. HARVEY: Our expectation is that the report of the review of the Guardianship and Administration Act will be presented to Parliament late this year.

Mr W.J. JOHNSTON: When did that report arrive on the minister's desk?

Mrs L.M. HARVEY: I am advised that it was 8 April 2015.

Ms M.M. QUIRK: Last night the Minister for Seniors and Volunteering gave the figure of some 12 500 estimated cases of elder abuse in Western Australia every year. Can the Minister for Police confirm whether that probable quantum is within the Public Advocate's experience?

Mrs L.M. HARVEY: I will ask Ms Bagdonavicius or Mr Roche to respond.

Ms P. Bagdonavicius: I am not in a position to comment on that. I believe that has been taken away for some broader research, which has not been undertaken through this department.

Mrs L.M. HARVEY: Mr Roche, as the Public Trustee, does the Public Trustee have any figures of cases that have been brought to the agency's attention to manage as a result of these scenarios?

Mr B. Roche: Given the increase and awareness around elder abuse, my office decided to start capturing statistics two years ago. We reported for the first time in our annual report last year based on the same criteria as the Public Advocate around reporting statistics, which I think needs to happen more and more in the community, and that is a good thing. We identified 61 cases of at least allegations of elder abuse last year. At this stage, up to the end of March, the office had identified 31 new cases of alleged elder abuse. We certainly investigate them at all times when we become aware of them.

Ms M.M. QUIRK: Can the Public Advocate or the Public Trustee indicate whether they are aware of cases being referred to police, resulting in prosecution?

Mrs L.M. HARVEY: I will ask Mr Roche to respond. Police record matters that they prosecute under the Criminal Code so obviously they would be matters involving physical assault, fraud and those sorts of matters. I will ask Ms Bagdonavicius or Mr Roche if they can comment further on how many cases have been referred to police.

Mr B. Roche: Elder abuse is a very fraught area. A lot of the time it is very difficult to prove and we have to look into it and obviously carry out significant investigation. A lot of the time, unfortunately, it can be a family dispute. One of the family members might believe that one of the other brothers or sisters may well have taken financial advantage of mum or dad but of course that person may have a different view of that. They may view it as a gift whereas the sister or brother believes it might be financial abuse. On occasions we involve the police. Yes, we refer cases to the police but not often. We try to resolve them either through the State Administrative Tribunal or sometimes we go to the Supreme Court to seek orders.

Mr W.J. JOHNSTON: Given that the minister with the other responsibilities raised 12 500 cases, could the Minister for Police advise how many of those cases have been referred to the Attorney General's agencies for action?

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Mrs L.M. HARVEY: I do not know that I would be able to gather that information because I do not understand what that survey was about. With respect to the Public Advocate and the Public Trustee, does the member want to know how many cases have been referred for action?

Mr W.J. JOHNSTON: The question I asked was relatively straightforward. I asked: how many of those cases mentioned by the minister with responsibility for ageing have been referred to agencies of the Attorney General? The Attorney General's agencies would know how many were referred by the other agencies. It would be very easy to answer.

Mrs L.M. HARVEY: Not necessarily. It depends on the action that has been taken on those 12 000 cases and whether they have been referred to the police or the Public Trustee or dealt with by some other means. I will endeavour to find out from the Minister for Seniors and Volunteering the status of the 12 000 matters that the member is referring to and what has occurred with those.

Mr W.J. JOHNSTON: With respect, that is not what I asked. I cannot ask a question in this division of the other minister. That is why I am not asking for information about the other minister. I am asking about the Department of the Attorney General and the other agencies of the Attorney General. How many cases of elder abuse have been referred by the agencies of the other minister to the Attorney General's agencies? That is only a matter that the Attorney General's agencies can determine, not the other minister. It is a question about the Attorney General's agencies, not about the Minister for Local Government; Community Services.

Mrs L.M. HARVEY: I will ask the Public Advocate, Ms Bagdonavicius, whether she captures the referrals from other agencies. Could she respond to the question about the number of matters that have been referred to her office by other government agencies?

Ms P. Bagdonavicius: That information is not easily captured but each year our office is involved in investigating elder abuse with a focus on whether there is a need for a guardian or administrator to be appointed by the State Administrative Tribunal. The figure is placed in our annual report each year. In the 2013–14 annual report, we identified 104 allegations involving financial abuse—matters that we determined needed to be referred to the State Administrative Tribunal for the appointment of a guardian or administrator. That was done. That is the primary focus of our work. We do not carry out an extensive investigation. We do not have the capacity to forensically examine the material around elder abuse to that extent. Our focus for financial matters would be on the initial referral to the tribunal. It is then focused on appointing an administrator to address those issues of financial abuse and then for the administrator to make a determination about a more extensive examination of the financial situation and what could be referred to the police.

Mrs L.M. HARVEY: Could Mr Roche articulate the number of cases referred to the Public Trustee by other government agencies, if the department collects that information? If it does not, we just need to know.

Mr B. Roche: We do. Our caseload or our clients comes through the State Administrative Tribunal. As Pauline was saying, she may well go there and believe an administrator should be appointed. If an administrator is appointed, it will be the Public Trustee in the majority of cases. On average, over the last three or four years we were on target for about 580 new cases from the State Administrative Tribunal this year. As I said earlier, until the end of March we have identified about 31 that fall into elder abuse, which is someone aged 65 or older. Last year I think about 527 cases were referred to us from the State Administrative Tribunal, of which we identified 61 cases of financial abuse.

Ms M.M. QUIRK: The same page deals more generally with victims of crime. Can the minister advise what the average waiting time is for an applicant who makes an application for criminal injuries compensation to get the matter resolved? I understand that there is quite a substantial delay.

Mrs L.M. HARVEY: The average time to determine an application is 9.9 months.

Ms M.M. QUIRK: Is that a matter of resources? Could that time be shortened if more resources were available?

Mrs L.M. HARVEY: I do not believe it is linked to resources. We benchmark ourselves against the other states. In the ACT, it is 12 to 24 months; in New South Wales, it is 31 months; and in Victoria, it is 12 months. I understand it is more a matter of the complexity of the issues rather than a resourcing issue. I will ask Ms Gwilliam if she can elaborate further.

[4.30 pm]

Ms C. Gwilliam: I concur with the minister's comment. We are keen to ensure that we maintain our time lines below those jurisdictions, so I have temporarily put on some additional staff—5.5 FTEs—to assist with the secretarial work. That is not the assessing work but the paperwork just to ensure that any temporary influx we have had can be dealt with. We have three assessors and 18.2 FTEs in the administration. We are adding another

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5.5 for about three months, and that will ensure that it does stabilise. We are certainly doing very well with the resources we have.

Ms M.M. QUIRK: That is based on the resources the department has, but that is not to say, minister, that the time frame cannot be reduced if there are additional resources.

Mrs L.M. HARVEY: I think Ms Gwilliam just articulated quite clearly that we respond to fluctuations in demand for the service. As the demand for the service gets to a point at which we think the time frames will become unacceptable, we put additional people on to cope with it.

Mr W.J. JOHNSTON: I refer to the fifth dot point on page 438 of the *Budget Statements* regarding fines enforcement. How many outstanding fines are there for corporate entities rather than individual people? I understand there is a very significant fine for one particular company that was applied because of a matter in the work safety jurisdiction and that that fine has not been enforced. I wonder whether there is any enhanced enforcement activity, as I know is done for individuals, in respect of companies.

Mrs L.M. HARVEY: I ask Ms Gwilliam to respond.

Ms C. Gwilliam: The member is correct: there is a small number of corporates with large outstanding fines. As the member knows, the department publishes that on its website. The top 100 are featured and named. I mentioned earlier that 18 of the original 100 remain on the website. Most people, when they are put on the website, follow it up and pay readily. Others take longer—and then it is a matter of what action we can take with them. The sheriff is currently considering what further sanctions may be required.

Mr W.J. JOHNSTON: There is now enhanced enforcement activity in respect of individuals. I wonder what is planned by government for enhanced enforcement activity against corporations.

Mrs L.M. HARVEY: That is work in progress. The department is looking at the opportunities it might have to get better compliance and a better recovery rate from the corporates. Ms Gwilliam has said that currently some work is underway to get a better result.

Ms C. Gwilliam: The department is seeking legal advice as to what actions we can take because it is all about corporate structures and where the assets and money are.

Mr W.J. JOHNSTON: I am pleased by that answer because it is what I understand to be the case—that the department has trouble getting through the corporate veil on these matters. I notice that that has not troubled the government in respect of the Bell Group legislation where the rules of the law were completely overturned. Five hundred years of common law were thrown out for that. Is it intended to have the same sort of rigour in enforcing fines when people are killed or severely injured in workplaces? Is that the sort of rigour we can expect from the government or will it be some lesser standard than the pursuit of money on behalf of the Insurance Commission of WA?

Mrs L.M. HARVEY: I think the member would agree that the legislation for Bell was somewhat exceptional, and there were exceptional circumstances in that regard. We cannot add further to our earlier response about the effort we are undertaking at the moment around improving our ability to recover penalties that have been imposed on corporate entities—except to say that we are seeking advice to see what it is we might be able to do to get better compliance and ensure that those penalties do apply to those corporate entities.

Mr W.J. JOHNSTON: So the pursuit of \$1.4 billion is an exceptional circumstance, but the death of a worker is not an exceptional circumstance. Is that what the minister is saying to me? Is the minister saying that it is okay to overturn 500 years of common law to get \$1.4 billion off the receivers of the Bell Group, but it is not an exceptional circumstance to pursue the death of a worker and ensure that the family gets some even small level of justice out of the very small fines that are levied because a worker is killed?

Mrs L.M. HARVEY: No, member—that is absolutely not what I am saying, and that is not what my answer reflected either.

Mr W.J. JOHNSTON: Then what is the exceptional circumstance that applies to Bell Group but does not apply to the pursuit of fines in respect of death and injury of workers in Western Australia?

Mrs L.M. HARVEY: I have nothing further to add.

Mr W.J. JOHNSTON: If the minister has nothing further to add to the idea, as the minister said, that there are exceptional circumstances in the pursuit of the Bell matter, which involved \$1.4 billion, and cannot tell me any exceptional circumstance about the pursuit of the fine in respect of the death of a worker, can she please explain the priorities of the government when it is prepared to suspend 500 years of common law to get \$1.4 billion in the Bell matter but does not have any priority about suspending the normal practices of corporations to get fines levied in respect of the death of workers?

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Mrs L.M. HARVEY: I am sure that the member appreciates that I am representing the Attorney General in this place with respect to the budget estimates. When it comes to the consideration of the legal matters that the member is bringing into debate, obviously those policy matters are far better considered by the Attorney General who has responsibility for those policy considerations. I appreciate the point the member for Cannington makes. The government does take workplace safety very seriously. The minister responsible for that is the Attorney General under his purview of Minister for Commerce. I believe that estimates hearing has been concluded, but I put to the member that if he wants to pursue —

Mr W.J. JOHNSTON interjected.

The CHAIRMAN: Member!

Mrs L.M. HARVEY: I am answering your question. If the member wants to pursue those matters —

Mr W.J. JOHNSTON interjected.

The CHAIRMAN: Member for Cannington, the minister is speaking.

Mr W.J. JOHNSTON: If I am going to be asked a question, I am very happy to answer.

The CHAIRMAN: The minister has not finished.

Mrs L.M. HARVEY: I would just say that those policy discussions the member raises are more appropriately put to the minister who has responsibility for the policy area, not to me here as representative with regard to budget estimates. I do not have a representative here to discuss those complex policy matters with you.

Mr W.J. JOHNSTON: I am talking about fines enforcement. If the minister wants to have a debate about the underlying unfairness of the fines, that is a separate issue; I am not doing that. I am talking about the fines enforcement which, as I pointed out to the minister, is the fifth dot point on page 438. That is the question I raised. I am not asking about the underlying fairness of the Minister for Commerce and his attitude to this matter; I am talking about enforcement of the matters. I am happy with the minister's answer and given that she asked me this question, I am happy to answer it. I am satisfied with the minister's answer because I understand that the Liberal government is more interested in \$1.4 billion of cash than workers dying in workplaces. I am satisfied with that. That is a very good answer and I am very pleased by it.

Mrs L.M. HARVEY: Mr Chairman, I would like to respond.

Mr W.J. JOHNSTON interjected.

Mrs L.M. HARVEY: My response is that the Bell —

Mr W.J. JOHNSTON: On a point of order, I have not asked a question. The minister cannot answer something that has not been asked. If the minister wants to have a debate, I am happy to debate.

The CHAIRMAN: Member!

Mr W.J. JOHNSTON: We can go and have a debate, but this is not a question.

The CHAIRMAN: Member, I gave you —

Mr W.J. JOHNSTON: The minister cannot answer when there is no question asked.

The CHAIRMAN: Member!

Mr W.J. JOHNSTON: That is the standing orders, Chairman. I would appreciate you complying with that.

[4.40 pm]

The CHAIRMAN: I will stand and that means that you need to be silent. Member for Cannington, I gave you permission to ask a further question and you proceeded to do that. The minister has the right to respond. That is my ruling. Thank you. Minister.

Mr W.J. JOHNSTON: That is very nice, but that is not —

The CHAIRMAN: Member, I ask you to be silent or I will call you.

Mrs L.M. HARVEY: I would like to point out that the Bell matter is not a matter in pursuit of an outstanding fine or penalty imposed by the government. It is a different matter of litigation and is not relevant to the fines enforcement actions taken by the government.

Ms M.M. QUIRK: I refer to "Court and Tribunal Services" on page 441 and to the Coroner's Court. One issue that arises from time to time is that similar issues come before the coroner on numerous occasions. The coroner will issue a finding and maybe make recommendations, but similar cases or a body of law is not built up because

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there is no follow-up of those findings or central recording of the recommendations. One of the standing committees has recommended that a running list of the coroner's recommendations and where they are at be put on the coroner's website. Clearly, there are no resources to do that. It seems to me that, with four deaths in custody over the past six years—the same issues keep arising—it would be good public policy and a sensible idea to have an ongoing list of recommendations, with the government reporting to Parliament from time to time on where it is at with the recommendations. However, it is unsatisfactory for cases to go into the ether without follow-up when time and again the same issues arise. Is there any potential for that to be looked at?

Mrs L.M. HARVEY: I am advised that a range of considerations will be undertaken as part of the review of the Coroners Act and that some of the matters raised by the member will be covered during that review process.

Ms M.M. QUIRK: What stage is the review at?

Mrs L.M. HARVEY: I understand that the Attorney General is expecting a report to be presented to him by the end of this calendar year.

Ms M.M. QUIRK: He clearly will not be able to take a break at Christmas!

What is the average delay before a matter is heard before the Coroner's Court? I know that it is dependent on police investigations, but I want to know whether we have made any ground in that regard.

Mrs L.M. HARVEY: The key performance indicator by which we measure matters in the Coroner's Court is time to trial. The time to trial 2013-14 actual was 112 weeks, but the budget is 128 weeks. Our target for 2015-16 is to come in at an average of 128 weeks. I will ask Ms Gwilliam to comment on the backlog.

Ms C. Gwilliam: Members will recall that we have had considerable concern about the backlog in the Coroner's Court. In 2010-11, the backlog, which is cases that are more than 12 months old, was nearly 850. I am pleased to report that, with the additional resources that were provided permanently to the Coroner's Court, the backlog as of 30 May 2015 has dropped to 376. The team at the Coroner's Court is working on the old cases, which are cases that are more than two years old. That is without doubt concerning, but the total backlog is down to fewer than half of what it was a couple of years ago.

Mr W.J. JOHNSTON: I refer to "Legal Aid Assistance" on page 444 of the *Budget Statements*. I assume that that is the area for community legal centres, because I understand that it is funded through this. There is no indication in the *Budget Statements* about commonwealth funding going through the department, so I assume that commonwealth funding for community legal centres goes directly to those centres and therefore not through the agency. Has there been any increase in funding for community legal centres, noting that the commonwealth government has reduced that direct funding element?

Mrs L.M. HARVEY: It is unfortunate that the member was not here earlier because we canvassed the community legal centre funding issue. For the member's benefit, I will ask Mr Turnbull to recap those matters.

Mr G. Turnbull: It certainly is correct that at the moment there is direct appropriation from the commonwealth to the community legal centre sector. However, the proposed national partnership agreement that has just been presented to all the states is intended to, in effect, pick up all the CLC funding and provide it to the states for the purpose of distribution to the sector. It will be a different situation in the future, assuming that that agreement is agreed to.

Mr W.J. JOHNSTON: What I can assume, then, is that when the commonwealth provides funding to the state—assuming that the state signs the agreement—the money will flow directly from the state to the centres and there will not be a clip by the agency for administration et cetera, which will guarantee that 100 per cent of the commonwealth money will go to its intended beneficiaries.

Mrs L.M. HARVEY: No. It is my understanding that the agency does not take any commission, or a clip as the member called it, on the funding provided by the commonwealth.

Mr W.J. JOHNSTON: I called it a clip actually, not a commission.

Mrs L.M. HARVEY: Can Mr Turnbull clarify that?

Mr G. Turnbull: The arrangement at the moment is that a program manager and her staff are employed to in effect do that clip, as it were, and that cost is currently borne by the Legal Aid Commission. Under the new arrangements, that cost will remain and it is not entirely clear at this stage where that funding source will ultimately come from. The commonwealth's position is that that function should be a matter for the states. It has in a sense made decisions about the allocation of the money and has, in effect, suggested that the states should pick up that responsibility. We have not quite analysed whether that will mean there will an additional cost shift to the state, but we suspect there will be.

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Mr W.J. JOHNSTON: But at the moment the government is allocating money to community legal centres and it has some necessary accountability structure. Is Mr Turnbull saying that the agency will need additional resources to maintain that accountability structure even though it already has it in the agency?

Mrs L.M. HARVEY: I am advised that the Attorney General has written to the federal Attorney-General, Mr Brandis, to resolve these matters. Negotiations are currently underway between the state Attorneys General and the federal Attorney-General, but as yet they remain unresolved. Certainly, a considered effort is being made by the Attorney General to resolve this matter in favour of the state budget.

Mr W.J. JOHNSTON: Is the minister saying that the position that the state of Western Australia is putting to the commonwealth is that we should be allowed to take a certain amount of commonwealth funding for the purpose of administration of the grants in Western Australia?

[4.50 pm]

Mrs L.M. HARVEY: No, that is absolutely not what I said. I said that the Attorney General is currently negotiating the cost structure of our legal aid services and how that will be administered as a result of the withdrawal of commonwealth funding. How we continue to fund community legal centres given the withdrawal of commonwealth funds is a work in progress, and those matters have not yet been resolved. We want the service to continue to be funded and for the commonwealth to continue the level of funding it previously provided, but those conversations are still occurring and have not yet been resolved.

Mr W.J. JOHNSTON: Clearly, my question was not clear enough because the minister did not understand what I asked. I asked about Western Australia's position in those negotiations. I understand the negotiations are yet to conclude but regardless of that the government knows what it is asking for. Is the state government asking for a position in which part of the commonwealth funding will be retained by the agency for the agency's benefit and the remainder of the money will go to the community centres, or is the government asking that all the commonwealth money, regardless of how much it is, will flow to the community legal centres?

Mrs L.M. HARVEY: I request that the member put that question on notice to the Attorney General, because I am not privy to the discussions and negotiations the Attorney General has had with his federal counterpart. Mr Turnbull has some further advice to add, but I will caveat these responses because this conversation and those negotiations are currently in progress and the Attorney General has not settled on a position yet. Mr Bradshaw will respond.

Mr M.G. Bradshaw: I thank the minister. The amounts to be allocated to nine community legal centres in Western Australia are directly specified in the draft National Partnership Agreement on Legal Assistance Services and there is a residual amount for other community legal centres in Western Australia. The funding for those community legal centres that have specific amounts allocated will continue for only two years, and that is the subject of the negotiation between the state Attorney General and the commonwealth Attorney-General. Legal Aid WA had undertaken the process and cost of administering the program for a number of years and there is an allocation for that. At this stage, from an agency perspective, it is not our intention to increase our take for administering that program. The purpose of the negotiation with the commonwealth is to ensure that those nine community legal centres in Western Australia have funding beyond the end of 2016–17.

Mr J.R. QUIGLEY: I refer to the seventh dot point on page 438, which states —

The Commissioner for Victims of Crime will continue to progress a range of reforms to contribute to better outcomes for victims of crime.

I have a female constituent who was a victim of crime four years ago. Her and her husband's house was invaded and her husband was very, very seriously injured. She put in an application for criminal injuries compensation that dragged on for over three years and correspondence was not answered by the commissioner. Expenses were incurred for providing medical reports to the assessor. Her solicitors, Friedman Lurie Singh and D'Angelo, kept on writing letters pressing for a determination. On a Friday morning, her solicitors rang her to tell her that they had received an email at 9.00 am that morning that thanked them for their phone call and advised that a determination and an award had been made and the letter to the solicitors was in the typing pool. The solicitors had been advised in writing by email that an award had been made and that a letter was in the typing pool. Later that morning, the woman's beloved husband passed from this world. On hearing that news, the assessor said that his claim died with him and that no award had been made. Yet at 9.00 am, the assessor had advised Friedman Lurie Singh and D'Angelo that an award had been made and that the letter of advice was in the typing pool. This woman has been left thousands of dollars out of pocket for her late husband's medical expenses. How does that square with this statement in the budget papers —

The areas of focus are on enhancing safety for victims, deepening the recognition of the interests of victims of crime in the justice system, and consolidating improvements to the whole-of-government provision of information to victims of crime.

That sort of statement makes this woman throw up. She was advised by email at 9.00 am not that a decision was being made; she was advised in the past tense that an award “had been made” and then her husband subsequently died. What is this woman to do in view of this statement that the commission is improving services to victims of crime?

Mrs L.M. HARVEY: I will ask Ms Hoffman to respond.

Ms J. Hoffman: I thank the minister. I have had some contact with the family members of the late gentleman in this matter and I can speak to it. I will take a technical matter with what the member said. I think early in his comments the member said something about correspondence to the commissioner that was not answered. I cannot comment on that matter, but it certainly was not correspondence to me.

Mr J.R. QUIGLEY: It was to the criminal injuries compensation assessor, not to the commissioner. I think it stayed with the assessor for several years.

Ms J. Hoffman: I thank the member for clarifying that.

On the larger issue, as I said, I have spoken to members of the families. As part of our community outreach, I held an information session during Law Week for members of the community to come and speak with me and other members of the Victims of Crime Reference Group, which reports to the Attorney General, and that is how the family came to my office. We had a session for people to come and talk to us about these issues and the kinds of issues people can bring forward and how we can assist people and work those issues into the policy and advocacy space of government. This is how that family came to speak to me.

The CHAIRMAN: Members, there are too many conversations taking place.

Ms J. Hoffman: We then had contact with the family and the assessors on this matter. We say that this goes squarely to the role of our office because by raising awareness victims of crime can come to us for assistance with difficult policy issues. I will not go into detail of those discussions because I am not privy to all the issues and some are still to be resolved and there may well be outstanding matters. However, the larger issue is we looked at the legislation and I am advised that a final determination had not been made. The legislation is very specific and it was a technical legal issue about whether the determination had actually been issued. It is an unusual issue that is distressing for the family involved, but we are now looking at what the larger policy response should be. My answer to the question is that it is very typical of the kinds of matters that come into the office, and it goes squarely to the role of the office.

[5.00 pm]

[Mr I.M. Britza took the chair.]

Mrs L.M. HARVEY: This is an active issue at present, and my understanding is that the Attorney General is seeking legal advice as to whether, in the absence of a legal obligation to make a payment, it might be appropriate for some ex gratia consideration, outside the statutory process. However, this is an active matter, and I will not be prepared to comment any further on it.

Mr W.J. JOHNSTON: The second dot point on page 438 refers to the law reform agenda. Can the minister advise the committee where the government is at with its prostitution law reform?

Mrs L.M. HARVEY: Prostitution legislation is not currently on the government’s agenda.

Mr W.J. JOHNSTON: I did not quite understand that answer.

Mrs L.M. HARVEY: Some policy work is being implemented on prostitution, but the legislation the member is referring to is not currently on the government’s agenda.

Mr W.J. JOHNSTON: I must be very confused, because every single Liberal member in this chamber right now was elected in 2008 with an agenda to bring in prostitution law reform. I am confused. Has the government changed over the past few years? Is this a different Liberal Party or something? Is prostitution law in this state no longer an issue?

Mrs L.M. HARVEY: It does not actually form part of the budget papers.

Mr W.J. JOHNSTON: It does. As I pointed out to the minister, that dot point is in effect about the government’s law and order reform agenda. It begins with the words, “The Department continues to progress the Government’s law and order reform agenda”. I thought this was pretty significant. I did not realise that prostitution was no longer part of the government’s law reform agenda. If that is an announcement, it is great—just make the announcement.

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Mrs L.M. HARVEY: The member will appreciate that I am representing the Attorney General in this place, and that the rest of that dot point states —

... including priorities to introduce specific Family Violence Restraining Orders, and to strengthen laws relating to Directors' Liability, provision of bail and sentencing of offenders.

If the member has a specific question on something that does not form part of these budget papers, as a representative of the Attorney General, I think that appropriately the member should put that question on notice to the Attorney General.

Mr W.J. JOHNSTON: I will read out the whole dot point, just so that Hansard gets it correct —

The Department continues to progress the Government's law and order reform agenda, including priorities to introduce specific Family Violence Restraining Orders, and to strengthen laws relating to Directors' Liability, provision of bail and sentencing of offenders.

The minister should note that it uses the word "including". Given that prostitution law reform was left off that list as a specific agenda, I was wondering whether the minister could have updated the committee. I appreciate that if there is no agenda for this area, there is no agenda for this area. I come into the chamber with surprise. That is why I was asking the question, but if that is the minister's answer, thank you very much.

Mr J.R. QUIGLEY: It was announced by the Premier and the Attorney General as the government's agenda to have prostitution law reform introduced into and passed by this Parliament during the first 100 days of the government's first term. Is that now no longer on the agenda?

Mrs L.M. HARVEY: I think there might be a bit of confusion about my response. I understood that the member was referring to the prostitution legislation that was presented to Parliament in 2011. I thought it was common knowledge that that bill had lapsed. Back in September 2014, the Attorney General stated in Parliament that he was looking at ways to enhance powers to control premises being used for the purposes of prostitution. He had some policy meetings with a senior officers' group around December 2014, but the legislation of 2011 that the member referred to has lapsed.

Mr J.R. QUIGLEY: Is the minister saying that a bill was introduced to this Parliament?

Mrs L.M. HARVEY: The Prostitution Bill 2011 was introduced into Parliament on 3 November 2011. It was not debated, and lapsed when Parliament was prorogued in the lead-up to the 2013 state election.

Mr W.J. JOHNSTON: I will just go back and clarify that I never asked about a bill; I asked about the agenda of the government. As I pointed out a minute ago, that dot point is about the government's agenda. If the minister is again confused about the difference between a question about the budget and a question about some legislation from four years ago, I apologise for her confusion on that topic. Is the minister saying that this is one more thing that is sitting on the Attorney General's desk?

Mrs L.M. HARVEY: I am sorry, the member probably was not listening to me. The advice I am provided with is that a senior officers' group was convened by the Attorney General on 8 December 2014. There are a number of recommendations for amendments to the Prostitution Act 2000 in response to that senior officers' group, including providing police with expanded powers to deal with complaints from members of the public about prostitution, an emphasis on members of the public who seek the services of a prostitute in a public place, and introducing disproportionate penalties that are more stringent for the users and the suppliers of sexual services obtained in a public place. The recommendations are looking at providing expanded protection for children from being involved in any form of prostitution, reviewing the adequacy of provisions in the Prostitution Act 2000 relating to possession of prophylactics and minimising the risk of acquiring and transmitting sexually transmissible infections. The Attorney General is working in the policy area of prostitution, but, as I reiterate, the legislation that was introduced to Parliament in 2011 has lapsed.

Mr W.J. JOHNSTON: Is the minister saying that these matters are with the Attorney General, or are they still with the senior officers' group? If they are with the senior officers' group, do we have any expectation that they will get to the Attorney General's desk anytime soon? If they are going to get to the Attorney General's desk anytime soon, when will they go out for public consultation or will legislation be drafted in the Attorney General's office without any opportunity for members of the public to have any input?

Mrs L.M. HARVEY: As I alluded to previously, at present this is a policy consideration of the senior officers' group, who are yet to report to the Attorney General.

Mr W.J. JOHNSTON: Do we have an expectation of when it will get to his desk?

Extract from Hansard

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Ms Margaret Quirk; Mrs Liza Harvey; Mr Paul Papalia; Mr Murray Cowper; Mr John Quigley; Mr Peter Abetz;
Mr Bill Johnston

Mrs L.M. HARVEY: The member will need to put that to the Attorney General. My understanding is that the expectation is that they will be reporting this year, but the member will need to put that to the Attorney General. That is his policy development area.

Mr W.J. JOHNSTON: I am asking the department, because this is not actually about the minister; this is actually about the budget, which is about the department. That is why we have the agencies here. That is the idea of the process, so that we can interview the agency rather than getting it filtered. That is why we are asking what the department is doing, rather than what the minister is doing.

The appropriation was recommended.

Meeting suspended from 5.10 to 5.15 pm