

COURT PROCESS

Grievance

MR M.P. MURRAY (Collie-Wellington - Parliamentary Secretary) [9.15 am]: My grievance today is to the Attorney General. I wish to draw his attention to problems that I see with the court system. Having just recently attended court as, I suppose, a mentor - some might say they wonder why anyone would want me there - I was extremely disappointed in the process that people have to go through. They are required to turn up at 10 o'clock on the dot and then they are told that the prisoners that are on remand in the jail will be processed through a video system, which takes from an hour to one and a half hours. That means that people who have turned up in good faith with their legal counsel are left sitting there paying around \$250 or more an hour, and in some cases they certainly cannot afford it. I am told that approximately 70 cases are posted on the wall each day in alphabetical order. I can see no reason why they could not be distributed at five-minute intervals so that people do not have to come as a group at 10 o'clock. If that were done, it would certainly help both the lawyers and the clients. It distressed me to see young people there - some would say they should not be there - who had taken half a day off work to make sure they were there on time, and told their bosses they would be there, and then the process stretched out for the full day. One young girl in particular was very distressed and was crying and saying, "I'm going to lose my job." That would certainly outweigh any penalty she received from the court system.

I waited five hours for this particular person's case to be called. Some would say, "Okay what if you get out of rhythm a little on the rostering system?" That is fine. If the system gets ahead, it gives the magistrate time to have a break and a coffee or something like that. The problem is the overall cost to the court system, not just to the clients there on the day. There are different people standing around waiting for their call and other people working in the system seem to be idle while they are waiting. Certainly the ushers come under huge pressure from the people who are waiting to be processed. When they first get there, the members of the public are very nervous, but by the end of the day the nervousness has gone and has been replaced by agitation. Another problem is parking, bearing in mind that some of these people cannot afford too many costs. One person was starting to get a bit jumpy after having put \$18 through the parking meter. He had to move his car a couple of times because the parking inspector had put white crosses on the tyres. It was making the person angry and I was worried about whether he would take it out on people in the system. I believe this system could be a far more efficient and much leaner and meaner system, and that would help everyone.

I know that a couple of lawyers who were there had previously written letters of complaint about the system. They felt embarrassed about charging their clients for their time while they were just sitting in the corridor waiting for the system to take them through. Again, I do not know why a video system could not be used. Most of the people who would use it are not going anywhere because they have a few bars in front of them! If the system were turned around and they were put on last, it would help the general public. Some people are remanded whilst others are sentenced on the spot. I am concerned that the frustration might make someone fly off the handle and cause himself problems over and above the fine he faces. I would like to see a roster system on an alphabetical basis. A person would then know within a five-minute space approximately when his matter would come on. That would save a lot of time for the lawyers and for their clients. It would certainly reduce their costs.

MR J.A. MCGINTY (Fremantle - Attorney General) [9.21 am]: I will ensure that the *Hansard* of the grievance that the member has raised is taken up directly with the Chief Magistrate in the light of these matters being raised again. I will do it myself. I did arrange to have this matter discussed with the Chief Magistrate.

Although the procedure will differ from court to court, the general arrangement in the Central Law Courts and the central Perth Magistrates Courts are these. The first appearance is at 9.00 am for people who have been arrested or charged and bailed to appear on their first appearance in the court. The court does not have any control over the number of arrests that are made by the police. As a result, sometimes there might be a large number and sometimes there might be a small number of people listed. The law requires that those people who are arrested be brought before the courts within a fairly narrow time frame, and that is why they are given priority before the courts start their normal hearings at 10.00 am. The common starting time of nine o'clock for first appearance matters is primarily to maximise the time of duty lawyers employed by Legal Aid and the Aboriginal Legal Service and other support staff to allow for contact and interviews prior to them appearing in court.

At 9.30 am each day the specific lists start. Those lists are generally for shorter matters, such as applications for extraordinary drivers' licences, licence applications, general applications such as violence restraining orders, or for handing down decisions or sentences prior to the commencement of substantive court business at 10 o'clock. The courts try to deal with first appearances and things like extraordinary drivers' licences and restraining orders prior to 10 o'clock in order to deal with matters that are generally of shorter duration and can be dealt with

expeditiously. The issue raised by the member is that of a substantive matter coming on, which is generally listed for 10.00 am.

At 9.30 am there is also a call-over court, at which time trials are allocated to various courts and magistrates. The practice in the courts is to over-list. More hearings are listed than the courts are capable of dealing with on the basis that there will be some non-appearances, some late pleas of guilty and things of that nature. In order to ensure that a court or magistrate is not sitting idle for the rest of the day, the practice - which has been adopted in all courts, including superior courts - is to over-list to ensure maximum efficiency and throughput. The call-over court is the device used to manage that over-listing in the courts and to maximise the use of court time. This ensures that the court has matters to hear notwithstanding changes of plea, late requests for adjournment and non-appearances. People are then not required to sit at the back of the court all day. In the call-over court people are given what is referred to as a "not before" time. In other words, they are advised that their matter will be called on not before 11 o'clock or two o'clock, and I think this is very much at the heart of what the member is suggesting. People are still required to be in the city but they know that they have a number of free hours before their matter will be called on.

Mr M.P. Murray: That is the problem.

Mr J.A. McGINTY: Yes. Implicit in what the member is saying is that if we were able to extend the "not before" arrangements, people would attend to other business or go shopping while they are in the city so that their time is not completely wasted by spending - as the member has related to the Parliament this morning - five hours sitting at the back of the court. Although the emphasis should be on the efficient conduct of the court's business, I think there is greater scope for saying to people that they are not required before 12 o'clock or two o'clock. Without impairing the efficiency of the court, that allows people to get on with other business before that time.

There is a protocol for the order in which things are dealt with. Most magistrates have quite a long list of matters each day, particularly in the criminal area. The arrangements are that everyone is listed for 10 o'clock subject to the comments I have already made. The general order of priority for appearances is that those people who are in custody are brought on first. Many of those people who are in custody will be released on bail. The liberty of an individual requires that those people be given priority in the way in which people are dealt with, rather than leaving them to the end of proceedings. Those people have lost their liberty and are in the lock-up. I believe that they should be dealt with first, followed by people with legal representation. Generally speaking, two principles operate when we are talking about people with legal representation. One is the order of arrival, which is a first on, first-served sort of thing. The second is that a seniority issue among lawyers comes into play. If a Senior Counsel is appearing, he is given priority over more junior practitioners. There is some flexibility in working that out between the two principles. Lawyers quite often work that out between themselves. The final group of people are "in person" litigants. In other words, they are not legally represented. I presume that, because the member appeared as a mentor, the person was not legally represented, and that is why the person was at the end of the queue.

Mr M.P. Murray: No, there was legal representation. What the Attorney General is saying is right, but we must have a time factor and use the video. Then a person would know that he would not be sitting around for hours.

Mr J.A. McGINTY: Yes. In the past 24 hours I have arranged for these matters to be discussed with the Chief Magistrate, Mr Steven Heath. I will take the *Hansard* of this debate to him to see whether there is anything more that can be done - without impairing the efficiency of the court - to make sure that people are not unduly inconvenienced and to reduce the general level of aggravation.