



LEGISLATIVE COUNCIL

GENERAL PURPOSE STANDING COMMITTEE NO. 3

BUDGET ESTIMATES 2008-2009
QUESTIONS ON NOTICE

General Purpose Standing Committee No. 3

Attorney General, Justice and Industrial Relations

Friday 17 October 2008

Answers to be lodged by: Wednesday 12 November 2008

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Questions relating to the portfolios of Attorney General, Justice and Industrial Relations

17 OCTOBER 2008, 9.15 am – 1.00 pm

Questions from Ms Hale

NSW Interagency Plan To Tackle Child Sexual Assault in Aboriginal Communities

1. Would the Minister please advise the Committee on:
 - a. what the agencies in his portfolio are doing to ensure that they are participating fully in implementing the Actions in the NSW Interagency Plan To Tackle Child Sexual Assault in Aboriginal Communities: 2006 – 2011, including the Actions which require them to fund joint initiatives and work effectively with other agencies in and beyond the portfolio;
 - b. and whether he is satisfied with the portfolio agencies' progress in funding and implementing the Interagency Plan?

2. Will the Minister undertake to adopt for his own portfolio a transparent, publicly accessible reporting regime for the funding and implementation of the Actions in the NSW Interagency Plan To Tackle Child Sexual Assault in Aboriginal Communities: 2006 – 2011, including a publicly available annual report covering at least:
 - a. the amounts and sources of all resources for each of the Plan's Actions relevant to the portfolio;
 - b. the results to be achieved through these resources;
 - c. progress in achieving the results;
 - d. if the results have not been achieved:
 - e. the reasons for the failure to achieve them;
 - f. the action to be taken to ensure they will be achieved in future?

Fleet Cars

3. What is the percentage of hybrids in the car fleet associated with the Department of Justice?

4. Is there a mechanism within the agency to reward staff who choose not to exercise an entitlement to a fleet vehicle as a part of their package but use public transport instead?

5. What car does the Commissioner drive?

Questions from Mr Ajaka

JUSTICE

Officer Classification

6. What changes have the Department made over the last three years with respect to the employment contracts and arrangements of parole officers?

7. Have you changed the classification of any type of parole officer?

8. If so, what have these changes involved?

9. Were any new parole officer positions created?

10. If so, What are the conditions of these contracts and how do they differ from the existing contracts of parole officers?
11. If any new positions were created with a different classification were existing parole officers offered these new positions?
12. How have these changes impacted on overtime and the allotment of shifts?

Bullying/Harrassment within the Department of Corrective Services?

13. Are you aware of complaints of bullying and harassment against Mr Greg O'Rourke of your department?
14. It has been alleged that Mr O'Rourke was promoted while under investigation for bullying and harassment, is this true?
15. If his position was changed at any time was this a position that attracted more pay? Is it a position that would be regarded on the public sector scales as a more senior position?
16. Was there also a complaint relating to the disclosure of confidential information against Mr O'Rourke which is now the subject to an internal review?
17. Why were two departmental officers, a Kathleen Crilly and Lyn Colleey, flown around the state, at short notice, to explain the outcome of the investigation against Mr O'Rourke to Departmental employees who made the allegations?
18. How much did the flights, accommodation and expenses of this expedition cost the taxpayers of New South Wales?
19. Is it standard practice to send staff members out across the State to report on the outcome of an inquiry rather than communicate in writing?
20. Are you aware that staff members were told by Ms Crilley and Ms Colley that adverse findings were made against Mr O'Rourke in relation to bullying and harassment and that he was "counseled" by Assistant Commissioner Ian McLean and was also made the subject of a performance review?

Prison Cost

21. Given that in New South Wales it costs more than the National Average to keep a prisoner in custody:
 - a. What are the reasons for this additional cost compared to other states?
 - b. Has the Minister undertaken comparisons between Government-owned and run correctional centres and private run centres in terms of cost and output, if so what have the results of your investigation shown?
 - c. What action is the Government taking to reduce this cost to taxpayers?

Phone Jamming in NSW Prisons

22. Last year you used the Australasian Prison Ministers Conference to claim that the Howard Government were 'dragging the chain' on prison mobile phone jamming devices. It has now

been nearly a year since the Rudd Government were elected, what has happened with the installation of mobile phone jamming devices since their election?

- a. Where is the hold-up is it with you or with the Federal Government?
- b. What actions have you taken to install mobile phone jamming devices in NSW prisons?

Indigenous Prisoners

23. What rehabilitation programs and services have been specifically designed for indigenous prisoners?
24. What percentage of the indigenous prisoner population take up these programs and services?
25. Are you aware that the highly respected CEO of the NSW Aboriginal Legal Services, Mr Trevor Christian, has stated to the Standing Committee for the Inquiry into Overcoming Indigenous Disadvantage in NSW, quote;

“There is no rehabilitation in prison at all, and I have been going in there since 1968. You would like to think that there is rehabilitation in there but there is none”

Is this a clear indication that the programs you have in place are not rehabilitating but just filling time?

26. What is the recidivism rate for indigenous prisoners across the state?
27. Did the Commissioner appear before the inquiry into Overcoming Indigenous Disadvantage in NSW?
28. Given that the ABS’ report in to Corrective Services, June 2008, states that there were 2,072 indigenous prisoners in NSW, which makes up nearly 21% of NSW’s prison population, why did the Commissioner choose to ignore indigenous disadvantage by not attending the Overcoming Indigenous Disadvantage in NSW inquiry?

Recidivism and rehabilitation

29. BOCSAR’S recent research bulletin 112 claimed:

“There is little chance of achieving this (the Government’s stated goal of reducing recidivism by 10% by 2016) goal through programs that only reach a small proportion of offenders coming into contact with the criminal justice system.”

What is your response to this statement?

30. Why does NSW have the highest recidivism rate of any State in Australia?
31. A survey of Probation and Parole staff indicated there was a lack of access to suitable mental health, drug and alcohol services for offenders on supervised bonds, what measures are you undertaking to increase access to these services?
 - a. What is the total cost increase of funding of these programs?
 - b. Are there any new rehabilitation programs that you will be implementing?

32. The Productivity Commission's report on Government Services of 2008 found that NSW had the highest rate of prisoners returning to prison within 2 years at 43.8%, do you have any forward estimates of this recidivism rate for the next year?

Psychologist Positions

33. Last year before the committee the Minister said that 34 psychologist positions would be moved from correctional centres into the community, but Mr Woodham claimed there were 50, which one is it?

ATTORNEY GENERAL

Budget Infrastructure Statement

34. What involvement does the Attorney General have in the preparation and completion of the Department's budget?
35. Did you sign off on the accuracy of the budget?
36. Can you explain the \$1.733 million discrepancy in the budget infrastructure statement for the Attorney General's Department? The allocation for total major works is listed as \$37.661 million, while total major works projects, when tallied, only account for \$35.928 million.
37. Does this inaccuracy have a broader consequence for the entire budget paper's accuracy?

Mini Budget

38. Do you anticipate a reduction to the budget of the Attorney General's Department or relevant agencies in the Mini-Budget?
39. What preparations have you made for the budget cuts across the Attorney General's Department and related agencies?
40. Are there any projects which you have earmarked to be axed, reduced or deferred, if so, by how much and how long?
41. Will this budget cut have an effect on the \$250 million Courts 2010 project?
42. Will the budget cuts have any impact on the completion of the new Armidale Court complex or the substance of the upgrade?
43. Will you guarantee that the Dubbo Court House upgrade will be delivered on time and on-budget and not be impacted by the mini-budget?
44. You promised a \$1million facelift of Gosford Courthouse in August of this year, will you guarantee that this project, which you promised, will not be jeopardized by your mini-budget?
45. Will you guarantee the people of Goulburn that the \$2.5 million allocated for a new cell complex at Goulburn Courthouse will be maintained in this year's budget?
46. Will you guarantee funding to ensure that the Broken Hill and Wagga Wagga court upgrades are completed by 2014-2015?

Tax Offset for Retired Judges

47. Are you aware of the 10% tax offset provided by the Federal Government in the 2007/2008 Federal budget under section 300-100 of the Income Tax Assessment Act?
48. Do you agree that this deduction should be made from the PAYG amount on each pay period?
49. Has your Department complied with this directive since the introduction of the offset?
50. Are you aware of a letter from Ms Neville the Attorney General's Department which claims that "Effective from 1 July 2008 recipients of the Judges Pension scheme will be able to claim the 10% rebate"?
51. Do you agree that this letter shows a manifest error from your Department in that the rebate was available from 1 July 2007?
52. Will you reimburse retired judges who were denied the benefit and use of those extra incomes in 2007/2008 because of your Department's failings?

Criminal Justice Sexual Offences Taskforce Recommendations

53. In the introduction to the budget you claim that you have implemented all legislative changes recommended by the Criminal Justice Sexual Offences Taskforce. Why have you refused to implement other changes recommended by the report like "one-stop shops" for victims of sexual assault and properly resourced specialist courts for sexual assault victims?
 - a. Have you undertaken any studies as to the costs of implementing all measures and recommendations coming out of the Criminal Justice Sexual Offences Taskforce?
 - b. Will you commit to implementing these measures before the next election?

Videotaping of court proceedings

54. Do all courtrooms in New South Wales have video taping facilities with trained staff for recording evidence, especially in traumatic sexual assault cases?
55. What courtrooms do not have these facilities in place?
56. How does your department determine which courts are afforded these facilities and which are not?
57. When will all courtrooms in NSW have these facilities in place?

Remote Witness Facilities

58. In the 2007/2008 Attorney General's Department budget there is a \$12.898 million remote witness facilities program indicated in the infrastructure statement of the budget. The 2008/2009 budget has no indication of this item in the infrastructure statement, yet you state that it will receive \$3.25 million in funding this year.
 - a. Why has the item been removed from the infrastructure statement?
 - b. Out of what head of funding is the \$3.25 million in funding this year being taken out of?
 - c. Is the total cost of this project still \$12.898 million, or has it changed?
 - d. Will you guarantee that this \$3.25 million for remote witness facilities will be maintained after the mini-budget?

BOCSAR domestic violence homicide

59. Has the Government asked the Bureau of Crime Statistics and Research to provide the most recently available statistics on domestic violence related homicide- their number, nature, socio economic status, location and any other variables considered relevant. Could those figures be provided to the committee please?

Court Closures

60. With closing district courtrooms in Penrith and Campbelltown are you also going to be reducing the staff at, or closing down, the DPP and Legal Aid Offices at Penrith and Campbelltown?
- a. How many staff will be lost from these offices?
 - b. Will they all be transferred to Parramatta?
 - c. You claim that the decision to move the courts from Penrith was made after consultation between the District Court and stakeholders. Who were those stakeholders?
 1. Did you consult local legal practitioners?
 2. Did you consult the local law society, or the law society in general?
 3. Did you consult local businesses?
 4. Did you consult the Police?
 5. Did you consult Legal Aid and the ODPP?

ODPP Financial Controller

61. What are the policies in place to ensure that the Financial Controller doesn't have a say in the operation of cases.
62. Would the financial controller have any power to recommend that a case is dropped due to budgetary constraints?
63. What is the salary package of the financial controller?

Crown Prosecutor Appointments

64. How many crown prosecutors are currently in temporary or acting positions?
65. How many crown prosecutors have you appointed to permanent positions since the *Crown Law Officers Legislation Amendment (Abolition of Life Tenure) Bill 2007* came into operation?
66. When did you fill the vacancy of the Deputy Director of Public Prosecutions?

DPP Cost matters

67. In the budget you have claimed that the matters in which costs are awarded against the ODPP will be reduced from 0.15% in 2007/2008 to 0.10% in 2008/2009, what measures have you implemented to bring about this significant change?

Court Case Costs

68. Your budget projects an increase of \$102 to finalise a court case in the Supreme Court, and a \$122 increase in finalising cases in the District court over the 2008/2009 year.
- a. What are the cost pressures that are fuelling these increases?
 - b. Why do you claim that over time the cost per case is expected to reduce when it has only been increasing in recent year?

- c. What measures are in place to achieve this anticipated reduction?
- d. What will be the projected magnitude of such a reduction?

Judicial Commission

69. Your budget papers comment that one of the services provided by the judicial commission is advice on the Commission's complaint function.
- a. How much has been spent on advertising/notification and in what form?
 - b. How many complaints were received against judicial officers in 2007/2008?
 - c. How many of these complaints were fully investigated?
 - d. How many of these investigations made negative findings against judicial officers?

Legal Aid

70. In terms of your bi-annual satisfaction survey results, how many clients of Legal Aid are surveyed and what statistical sample does this represent?

Jury Duty Payment

71. Given that the New South Wales Law Reform Commission's issues paper 28 outlines that in 1975 jury payments were in line with the average wage and now they are little over half the average weekly wage, what measures have you undertaken in response to this report to ensure that jury payments provide adequate compensation for those serving the community through jury service?

The Office of the Protective Commissioner

72. The Office of the Protective Commissioner holds the power to sell a property on behalf of a client. In what circumstances would the Office of the Protective Commissioner decide to sell a house on behalf of some one?
- a. When a house is to be sold what steps are taken to ascertain the value?
 - b. Are the client and family consulted regarding the decision to sell and the price being asked?
 - c. What procedures are in place to deal with disputes with the relatives regarding price and decision to sell?
 - d. What appeal rights exist for the relatives regarding decisions to sell and the price being asked?
 - e. Can you provide the details of how many cases of this nature have been handled by the office of the Protective Commissioner this year?
 - f. With acquisitions of properties under instruction from the OPC, are there any corporate investors or entities that have bought in excess of one property under the execution of the OPC?
 - g. Can you furnish to the committee a list of all property sales under instruction by the OPC since 2005 and the entity/person who bought that property, the price paid, and the valuation of the property if one was undertaken?

Appeals from Local Court

73. Can you please supply statistics for the number of appeals from the local court to the district court for the calendar years 2005, 2006, 2007, and 2008 (to date) and the success rate of those appeals?

Appeals

74. Can you advise the committee the break-up of:
- a. Sentence appeals by convicted persons;

- b. DPP appeals against manifestly inadequate sentences
- c. Conviction appeals
- d. Appeals under Part 3 of the Crimes (Appeal and Review) Act 2001

Magistrate Appeals

75. Do you keep statistics on the number of appeals from individual magistrates to the District Court and the success rate of those appeals?
- a. If yes, can these please be supplied to the committee?
 - b. Do you also keep data on the success rate of these appeals?
 - c. If no, why don't you keep these figures?
 - d. Can you prepare these figures for the committee?

District Court Appeals

76. Do you keep statistics for the number of appeals from individual District Court Judges to the Court of Criminal Appeal and the success rate of those appeals?
- a. If yes, can these please be supplied to the committee?
 - b. Do you also keep data on the success rate of these appeals?
 - c. If no, why don't you keep these figures?
 - d. Can you prepare these figures for the committee?

Magistrates

77. Can you please supply the committee with data on the number of magistrates, full and part-time, specifying those based at particular courthouses throughout New South Wales?

Chamber Magistrates

78. Can you please supply the committee with information regarding the number of chamber magistrates?

"On Contract" Legal Aid

79. Can you provide the committee with information concerning the number of "on contract" and temporary appointments at the Legal Aid Commission of NSW?

Acting Magistrates and Judges

80. Can you provide the committee with information concerning the number of acting magistrates/judges?