

# **GENERAL PURPOSE STANDING COMMITTEE NO. 4**

**Thursday 3 September 2015**

**Examination of proposed expenditure for the portfolio area**

**ATTORNEY GENERAL**

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**The Committee met at 2.00 p.m.**

## **MEMBERS**

The Hon. R. Borsak (Chair)

The Hon. D. J. Clarke  
The Hon. M. S. Mallard  
The Hon. S. C. Moselmane

Mr D. Shoebridge (Deputy Chair)  
The Hon. B. Taylor  
The Hon. L. J. Voltz

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## **PRESENT**

**The Hon. Gabrielle Upton, *the Attorney General***

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**CHAIR:** Welcome to the public hearing for the inquiry into budget estimates 2015-16. Before I commence I acknowledge the Gadigal people who are the traditional custodians of this land. I pay respect to the elders past and present of the Eora nation and extend that respect to other Aboriginals present. I welcome the Attorney General and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolio of Attorney General. Today's hearing is open to the public and is being broadcast live via the Parliament's website. A transcript of today's hearing will be placed on the Committee's website when it becomes available.

In accordance with the broadcasting guidelines, while members of the media may film or record Committee members and witnesses, people in the public gallery should not be the primary focus of any filming or photography. I remind media representatives present that they must take responsibility for what they publish about the Committee's proceedings. It is important to remember that parliamentary privilege does not apply to what witnesses may say outside their evidence at the hearing. I urge witnesses to be careful about any comments they make to the media or to others after they complete their evidence as such comments would not be protected by parliamentary privilege if another person decided to take an action for defamation. The guidelines for the broadcast of proceedings are available from the secretariat.

There may be some questions that a witness could only answer if they had more time or if they had certain documents to hand. In those circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days. Any messages from advisers or members of staff seated in the public gallery should be delivered through the Chamber and support staff or the Committee secretariat. I remind the Attorney General and officers accompanying her that they are free to pass notes and refer directly to their advisers seated at the table behind them. Transcripts of this hearing will be available on the web from tomorrow morning. I ask everyone to turn off their mobile phones for the duration of the hearing.

All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. The Attorney General does not need to be sworn as she has already sworn an oath to her office as a member of Parliament. I remind Mr Cappie-Wood and Mr Thomas that they do not need to be sworn again as they were sworn in an earlier budget estimates hearing. For all other witnesses, I ask that you state your full name, job title and agency and swear either an oath or an affirmation.

**WILLIAM GRANT**, Chief Executive, Legal Aid NSW, sworn and examined, and

**ANDREW CAPPIE-WOOD**, Secretary, Department of Justice, and

**BRENDAN THOMAS**, Deputy Secretary, Department of Justice, on former oath:

**CHAIR:** I declare the proposed expenditure for the portfolio of Attorney General open for examination. As there is no provision for the Attorney General to make an opening statement before the Committee commences questions, we will begin with questions from the Opposition.

**The Hon. SHAOQUETT MOSELMANE:** Why will you not establish a drug court in Dubbo?

**Ms GABRIELLE UPTON:** As you probably know, there are three drug courts at the moment. There is one in Parramatta in the justice precinct, there is one at Toronto and there is one in the City of Sydney. They are doing a good job. We are always looking at other ways and other places where there should be an extension of the specialist work done by that tribunal. They do the heavy lifting of what is a scourge in our community, which is the widespread use of drugs which impacts on local communities and families and creates social dysfunction. I have sat through Drug Court sittings and I have seen the power of what they do. At the moment, only recently, as you might know, they have set up operating in central Sydney. That was done on the basis of there being a need for that court in central Sydney, although it is a smaller geographical area. As you probably know, these courts respond to a local government area so people are defined by postcode and their locality as to whether they come within the jurisdiction of those drug courts.

**The Hon. SHAOQUETT MOSELMANE:** Are you telling me that Dubbo does not need a drug court?

**Ms GABRIELLE UPTON:** No, I am not saying that. You are putting words in my mouth. What I am saying is that it works successfully in three areas. We have most recently opened the Drug Court in the city of Sydney, and we will see how that goes to see whether that needs to be rolled out further across the State. There could be needs in other parts of the State so there would need to be a decision made based on where the need is.

**The Hon. SHAOQUETT MOSELMANE:** Have you had representations about a drug court in Dubbo?

**Ms GABRIELLE UPTON:** I have not had personal representations to me as Attorney General about drug courts in any area other than where they currently exist.

**The Hon. SHAOQUETT MOSELMANE:** Would you agree that the previous Attorney General, Greg Smith, noted that drug courts should open in regional centres such as Dubbo and Tamworth?

**Ms GABRIELLE UPTON:** I am the Attorney General now. I do not have a proposal before me but let me be clear. I welcome any initiative that will help people before our justice system who want to be rehabilitated and helped back to the community to be able to earn their living through holding down jobs, to have happy families, to live as part of our community.

**The Hon. SHAOQUETT MOSELMANE:** The *Dubbo Daily Liberal* stated that the Government needs to be up-front on when Dubbo will get a drug court? Why won't you be up-front?

**Ms GABRIELLE UPTON:** I have not seen that report in the *Daily Liberal*. I would like to see it. It is good of them to raise it. But as I said, the approach I take—

**Mr DAVID SHOEBRIDGE:** It is always good to check the sources.

**Ms GABRIELLE UPTON:** —as Attorney General is you need to find the evidence for a rollout of those courts. They have most recently been rolled out into the City of Sydney area because there was a need there. I am always open to ideas that will better assist people make their way back into being productive members of our community after they have been brought before the courts for drug offences.

**The Hon. SHAOQUETT MOSELMANE:** Has the Deputy Premier spoken to you about a drug court in Dubbo?

**Ms GABRIELLE UPTON:** The Deputy Premier and I talk about a lot of things. As I said, my principle approach as Attorney General about any justice initiative is to have a look at the evidence and to look at the resourcing we have to hand. I am very happy to consider proposals for the Drug Court to be rolled out. As I said, it has recently been rolled out for the city of Sydney.

**The Hon. SHAOQUETT MOSELMANE:** My understanding is that the Deputy Premier promised that there would be a drug court in Dubbo? Is that right?

**Ms GABRIELLE UPTON:** You are saying that. I do not know that to be a fact.

**Mr DAVID SHOEBRIDGE:** Check the *Daily Liberal*.

**Ms GABRIELLE UPTON:** I would love to see the *Daily Liberal*. It is called the daily Liberal.

**The Hon. SHAOQUETT MOSELMANE:** Is there enough evidence to suggest that there is a need for a drug court in Dubbo?

**Ms GABRIELLE UPTON:** I do not have the evidence to hand but I am persuaded by evidence. If you are asking me whether it is a prospect that one might open or be considered in Dubbo, that is on the table. I would not rule it in; I would not rule it out.

**The Hon. SHAOQUETT MOSELMANE:** Is there any research to give you an understanding of whether it needs to be established in Dubbo? Have you undertaken any research?

**Ms GABRIELLE UPTON:** I have not seen the research but, as I said, I would not rule it out; I would not rule it in. I am happy to see the evidence. If you are advocating for a drug court in Dubbo, I would welcome that. We can talk about that after estimates.

**The Hon. SHAOQUETT MOSELMANE:** You are the Minister so I am asking you whether you support a drug court in Dubbo?

**Ms GABRIELLE UPTON:** Based on the evidence and if there is a need. This is always subject to resourcing. There must be a demonstrated case when you undertake a justice initiative—or indeed any other initiative across government—because there are many needs with fewer resources than we would like to have. But that is the approach of the Baird Government. We take fiscal probity very seriously. When it comes to justice initiatives, it needs to be on the basis of evidence that Dubbo or any other area in New South Wales has a need, that need is there and demonstrated by evidence. As I said, I am always open to considering proposals that will go some way to address issues of drug addiction and abuse and enable those people who come before our justice system to have a chance at a better life.

**The Hon. LYNDA VOLTZ:** You were asked whether the Deputy Premier had spoken to you about establishing a drug court at Dubbo and you said you were keen for the decision to be evidence based. Do you have the evidence to support a drug court at Dubbo and have you spoken to the Deputy Premier about that?

**Ms GABRIELLE UPTON:** I do not have the evidence to hand.

**The Hon. LYNDA VOLTZ:** When you spoke to the Deputy Premier about a drug court in Dubbo, what was your commitment?

**Ms GABRIELLE UPTON:** I have not spoken to the Deputy Premier, nor is there a request before me. My office has many pieces of correspondence that come before me as Attorney General. As I said, if anybody, including the Deputy Premier, has a proposal for a drug court to be set up in Dubbo—and there will be many other people who will talk about the need for a drug court in other areas of New South Wales—that is something I will consider. It needs to be based on evidence and it will be done within the resourcing we have in the Justice portfolio.

**The Hon. SHAOQUETT MOSELMANE:** What about a drug court in Lismore?

**Ms GABRIELLE UPTON:** What about it, Mr Moselmane?

**The Hon. SHAOQUETT MOSELMANE:** Have you considered Lismore for a drug court?

**Ms GABRIELLE UPTON:** My answers in regard to Dubbo apply in relation to Lismore. I am happy to consider a proposal. It needs to be based on evidence and be able to be funded from the budget. That is important because this Government takes very seriously spending within our means. For that reason, taking an eye to what the evidence provides enables you to make good decisions. It is an evidence-based decision-making process.

**The Hon. SHAOQUETT MOSELMANE:** Minister, the budget papers at page 7-98 reveal—

**Ms GABRIELLE UPTON:** Is this Budget Paper No. 3?

**The Hon. LYNDA VOLTZ:** It is page 7-96.

**Ms GABRIELLE UPTON:** Is this for 2015-16?

**The Hon. SHAOQUETT MOSELMANE:** No, for 2014-15.

**Ms GABRIELLE UPTON:** Last year's budget?

**The Hon. SHAOQUETT MOSELMANE:** The budget papers reveal a \$3.9 million underspend on wages.

**Mr DAVID SHOEBRIDGE:** It is 2015-16, the current budget.

**Ms GABRIELLE UPTON:** Can I get the right page so I can turn to it.

**The Hon. LYNDA VOLTZ:** It is page 7-96 of the 2015-16 budget papers.

**The Hon. SHAOQUETT MOSELMANE:** It reveals a \$3.9 million underspend on wages at the Office of the Director of Public Prosecutions [DPP] in 2014-15. What is the explanation for this?

**Ms GABRIELLE UPTON:** Are we looking at the line items "Financial indicators: Employee related"? The 2014-15 revised figure versus the budget figure, is that what it is?

**The Hon. SHAOQUETT MOSELMANE:** Yes.

**Ms GABRIELLE UPTON:** Can you refer me to the figures you are talking about?

**The Hon. SHAOQUETT MOSELMANE:** It shows an underspend of \$3.9 million.

**Ms GABRIELLE UPTON:** Is that the difference between \$92 million and \$88 million, the revised figure?

**The Hon. LYNDA VOLTZ:** You had forecast and then revised, yes.

**Ms GABRIELLE UPTON:** And your question is?

**The Hon. SHAOQUETT MOSELMANE:** What is the explanation for the underspend?

**Ms GABRIELLE UPTON:** I will ask the Secretary to answer that.

**Mr CAPPIE-WOOD:** From information of how they applied their resources, we understand that the underspend relates to a specific sub-element of their budget that covers contracted barristers. Therefore it is indicating that they have underspent on their budget for contracted barristers.

**The Hon. SHAOQUETT MOSELMANE:** Did that have an impact on any positions in the Director of Public Prosecutions [DPP] office?

**Mr CAPPIE-WOOD:** I understand not. That is just their line item for contracted barristers.

**The Hon. SHAOQUETT MOSELMANE:** Minister, do you have anything to add to that response?

**Ms GABRIELLE UPTON:** I do not, no.

**The Hon. SHAOQUETT MOSELMANE:** What is happening to the outstanding referrals to the Independent Commission Against Corruption [ICAC] for consideration of prosecution?

**Ms GABRIELLE UPTON:** Which particular prosecutions?

**The Hon. SHAOQUETT MOSELMANE:** The DPP's underspend—let me have a look.

**Ms GABRIELLE UPTON:** Are we back to the budget?

**The Hon. SHAOQUETT MOSELMANE:** Yes.

**Ms GABRIELLE UPTON:** What page are we looking at?

**The Hon. SHAOQUETT MOSELMANE:** It is in relation to operations Credo and Spicer. What has happened to the outstanding referrals to ICAC for consideration of prosecution?

**Ms GABRIELLE UPTON:** I do not understand your question.

**The Hon. SHAOQUETT MOSELMANE:** Okay, I will go to my next question.

**The Hon. LYNDA VOLTZ:** Perhaps we could ask it in a different way. Granted that the DPP has an underspend, is the DPP sufficiently well organised to consider possible recommendations for consideration arising from the reports of ICAC about operations Credo and Spicer?

**Ms GABRIELLE UPTON:** I cannot speak on behalf of the DPP. The DPP is independent of me in relation to matters he prosecutes or does not prosecute and the manner of prosecution. It is one of the fundamental tenets of our democracy in New South Wales and nationally. I invite the Secretary to comment.

**Mr CAPPIE-WOOD:** It is our understanding that the DPP have a unit that focuses on prosecutions in this matter and that they are appropriately prioritising their work to achieve the outcomes you have talked about.

**The Hon. LYNDA VOLTZ:** Why is there is an underspend on outstanding issues? Why have the DPP not prosecuted these outstanding issues when they have an underspend?

**Mr CAPPIE-WOOD:** I do not think there is a connection between the two. The question of an underspend in a budget line item relating to the employment of private barristers is different from establishing a brief of evidence to undertake a prosecution.

**The Hon. LYNDA VOLTZ:** How many staff are there in the section that deals with ICAC referrals? Is that Group 6?

**Mr CAPPIE-WOOD:** I do not have that information in front of me. We can take that on notice.

**The Hon. LYNDA VOLTZ:** Will you take it on notice?

**Mr CAPPIE-WOOD:** Yes.

**The Hon. LYNDA VOLTZ:** What was the role of Lisa Munro in that group?

**Mr CAPPIE-WOOD:** This is perhaps a question directly for the DPP because this is an operational matter relating to the deployment of individual staff.

**The Hon. LYNDA VOLTZ:** Has there been any criminal activity that has had any impact on the consideration of ICAC referrals?

**Mr CAPPIE-WOOD:** Again, I would have to say that that is a question best directed to the DPP. The DPP is independent from Government for a specific purpose.

**The Hon. LYNDA VOLTZ:** Who does the DPP answer to?

**Mr CAPPIE-WOOD:** The DPP answers to the joint parliamentary committee in terms of its operations.

**The Hon. LYNDA VOLTZ:** Where does the DPP fit in portfolios?

**Mr CAPPIE-WOOD:** They sit within the general cluster but they are statutorily independent for those purposes. The budget is a separate line item that is separate from the department and separate from the rest of the cluster, as you would anticipate for such an important statutory entity. It is pre-eminent, such as ICAC is in terms of having separate legislation for these purposes. It is a separate budget line item within the budget.

**The Hon. LYNDA VOLTZ:** Except that ICAC answers to a committee of the Parliament—

**Mr CAPPIE-WOOD:** Yes.

**The Hon. LYNDA VOLTZ:** —and the DPP answers through estimates.

**Ms GABRIELLE UPTON:** I come back to my first answer. The DPP is independent from Government. Whether the DPP makes a prosecution or does not make a prosecution, it is at arm's length from Government and political interference. That is one of the strong pillars of our democratic society. The DPP is like the judges and the courts. They are not under the instruction of politicians and legislators; they are independent from Government. Operational matters of when prosecutions are made or not made are matters for the DPP's consideration and his alone.

**Mr DAVID SHOEBRIDGE:** You can direct the DPP in certain circumstances, on appeals and the like, Minister. You would agree the DPP is different from judges in that regard?

**Ms GABRIELLE UPTON:** I can consult with the DPP but ultimately it is his decision to take prosecutions or not take prosecutions.

**Mr DAVID SHOEBRIDGE:** Appeals on sentence severity?

**The Hon. LYNDA VOLTZ:** We will move on to our next question.

**The Hon. SHAOQUETT MOSELMANE:** Minister, we will move to court fees. Would you agree that one of the central challenges facing the legal system is accessibility of justice and the cost of going to court? Everyone from the Productivity Commission to the Chief Justice recognises that it is a problem.

**Ms GABRIELLE UPTON:** Your question is about accessibility of justice in our State?

**The Hon. SHAOQUETT MOSELMANE:** Accessibility and the cost of going to court. Would you agree that cost is central?

**Ms GABRIELLE UPTON:** Justice needs to be accessible to members of our community. Justice for most people in our State is about everyday matters that they want resolved quickly and easily so they can get back to doing what they do. Justice is delivered by way of the work a lot of our ombudsmen do in this State. So it is done at a low level, almost administratively, and that can resolve an issue for a member of the community. Of course, at the highest levels there are matters before the Supreme Court, our superior jurisdiction. There are ways in which we are making justice more accessible. We have a program of introducing audiovisual links into our courts. There is a \$40 million commitment over four years in this budget to bring justice to places where it may not otherwise be. I will give you an example of that.

**The Hon. SHAOQUETT MOSELMANE:** What about the cost of going to court?

**Ms GABRIELLE UPTON:** Costs are but one consideration in determining whether someone will come before the court. Is justice readily available to them? Can they lodge their documents to make a claim? One of the other initiatives that this Government has introduced is an online court system that enables people to lodge court documents 24/7 rather than waiting until the registry is open. We are making courts and justice more available seven days a week for people to make claims. In answer to your question, costs are one consideration. However, there are many other issues and many other ways in which we can make justice accessible. I have mentioned two, but there are many others. One is taking justice to the people. It is also about giving them the opportunity to lodge the documents they need to lodge to make a claim within our system. It is a good system that at times presents challenges; but it serves our community well.

**The Hon. SHAOQUETT MOSELMANE:** You have introduced new fees; you have effectively increased costs. Why have you done that?

**The Hon. LYNDA VOLTZ:** There has been a massive hike in court fees.

**Ms GABRIELLE UPTON:** Fees have been increased only by the consumer price index [CPI].

**The Hon. SHAOQUETT MOSELMANE:** You have increased fees by 2.5 per cent, but fees relating to civil procedures have experienced increases ranging from \$400 a day for individuals and between \$800 and \$2,000 for corporations. Can you explain that?

**Ms GABRIELLE UPTON:** Most of the fees were increased by the CPI, which is appropriate and what the community expects. It also reflects the 2.5 per cent wage policy that applies across government. Part of it was about harmonisation of court fees in the higher jurisdictions. It reflects the fact that these are complicated court proceedings. Some of it was also harmonising the existing court costs. That is reason it was done. However, the bulk of court fees were increased only by the CPI.

**The Hon. LYNDA VOLTZ:** How can increasing the cost of civil proceedings by \$400 a day to \$1,000 a day for individuals be about harmonisation? Are you not simply pricing them out of the justice system?

**Ms GABRIELLE UPTON:** Are you aware that the District Court jurisdiction deals with civil matters at the high end of the spectrum that can be considered across our justice system? The Supreme Court provides justice for civil matters involving more than \$750,000. We are sometimes talking about commercial claims made by large companies. Again, there were some anomalies, but the bulk of the fee increases were CPI-related.

**The Hon. LYNDA VOLTZ:** Those fees were not about the CPI. To call it harmonising when they are huge increases is wrong. It is simply pricing ordinary people out of the court system.

**Ms GABRIELLE UPTON:** I reject that assertion. If you have a difficulty with particular prices, I would welcome your raising them with me and I would be happy to respond.

**The Hon. SHAOQUETT MOSELMANE:** When you increased those fees, did you consult anyone?

**Ms GABRIELLE UPTON:** I am a consultative Attorney General, yes.

**The Hon. SHAOQUETT MOSELMANE:** With whom did you consult?

**Ms GABRIELLE UPTON:** I consulted many people; I have many stakeholders. When it comes to matters for the court, I make it my business to consult with the heads of jurisdiction and the associations. I am proud of the consultation that I undertake. I have an open door, and I will continue to have those conversations with stakeholders in the justice system to ensure that it serves them well.

**The Hon. SHAOQUETT MOSELMANE:** Did they support the fee increases?

**Ms GABRIELLE UPTON:** I consult on the decisions I make. Most of those fee increases were CPI-related. If there are particular anomalies—and I call them anomalies—that concern you, I am happy to take them on notice and respond.



**The Hon. SHAOQUETT MOSELMANE:** I do not think \$2,000 is an anomaly.

**Mr DAVID SHOEBRIDGE:** Thank you for appearing.

**Ms GABRIELLE UPTON:** Thank you, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** Do you find it acceptable that the New South Wales District Court has more than 1,900 pending criminal trials?

**Ms GABRIELLE UPTON:** That is the challenge within our justice system. I am concerned about finding solutions. You probably know as well as I do that there are many reasons for that, including that police are charging potential criminals with more serious crimes. We know that the proceedings going before the District Court are more complicated and that an increasing number of child sexual assault matters have come before the courts, and particularly before the District Court. They are complex and they slow the justice process. I think those reasons are explicable and go to the fact that we have more criminal matters before the District Court.

We have a challenge that comes off the good work that our police officers do in identifying crime in our community. Of course, the community wants to unearth child sexual assault and to deliver for victims and young people who have suffered for too long and who want their day in court. One of the solutions in that regard includes my announcement two weeks ago of the appointment of two new District Court judges. They are fine practitioners who have strong and proud professional credentials in conducting child sexual assault trials. Justice Traill and Justice Girdham will primarily do child sexual assault cases across the State, which are an increasing percentage of criminal trials brought before the District Court.

I assure members that I know that other things must be done. I have already mentioned them, but I will mention them again. We need to ensure that we use the information technology at our disposal to make justice speedier and to take it to the people. As I said, people in custody can now give evidence from jail. That saves time and avoids transportation issues. It also lessens the distress of victims who must appear in court and allows vulnerable witnesses to give evidence in a secure facility. The trauma they have suffered at the hands of the perpetrators will not be revisited on them by their having to be in the same space.

We have a working group comprising a number of the stakeholders in the justice system at the District Court level: the Director of Public Prosecutions, the Public Defender, the Bar Association, the Law Society, and the heads of jurisdiction. They are meeting to look at how the District Court processes can be improved and provide for a more speedy justice process. That is a challenge. The current system is delaying justice for those who deserve it to be delivered more quickly. We are doing other things, but it is a challenge. We are working actively to address that issue, and I would like you to get on board, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** I am not taking any appointments. This is not a sudden challenge; it has been an unfolding crisis since 2007. The number of trials in the District Court has increased year in and year out since 2007. They are now double what they were in 2007. All of those factors have a part to play, but this Government and the previous Government have consistently failed to put resources into the District Court. Do you not accept that?

**Ms GABRIELLE UPTON:** No, I reject that. I have spent a couple of minutes talking about this, and I have acknowledged the challenge.

**Mr DAVID SHOEBRIDGE:** But none of that was about resources.

**Ms GABRIELLE UPTON:** There are solutions to that. A judge is an important resource within the justice system, and there are others. As I said, we are making a commitment not only to working out how the procedures can work better but also to case manage criminal trials earlier. We are doing that not only for the benefit of the victims but also the offenders, who should also have justice delivered in a timely fashion. So there are number of initiatives. Technology is part of it. There was a boost to the Director of Public Prosecutions [DPP] in the last budget of \$9 million for more prosecutors. But the really good thing about this, Mr Shoebridge, is that we have the stakeholders in that system, who know it better than probably you and I, coming up with solutions on the ground in real time to tell us about how the processes inside the District Court for criminal trials can be speeded up, and I welcome that.

**Mr DAVID SHOEBRIDGE:** Attorney, new prosecutors is one thing, but there is no point having new prosecutors if there are no judges there to deal with the trials. The number of judges in the District Court, even with your two new appointments, has fallen from 67 in 2007 down to just 63 now. You would accept that is a part of the explanation for the delay.

**Ms GABRIELLE UPTON:** Judge numbers will fluctuate.

**Mr DAVID SHOEBRIDGE:** But they are fluctuating downwards. They do not seem to be going back up.

**Ms GABRIELLE UPTON:** I have just appointed two new District Court judges for a—

**Mr DAVID SHOEBRIDGE:** That took it from an almost decade-long low of 61 back up to 63. You are still below where we were in 2007.

**Ms GABRIELLE UPTON:** Those judges are going to be focusing on the matters which more and more are becoming a part of the criminal trials within our State District Court jurisdiction. They are child sexual assault matters in our regional areas. Not only will they be focused on the matters that are comprising more and more of the matters before the court but they have the experience and insight to bring to the role as they go across the State helping us address some of the backlogs.

As I said, judges are an important, vital part of our justice system, but there are other ways in which we can make justice work better for us in the District Court system. I mentioned a number before. We talked about technology. We talked about case management. We talked about the fact that if we have prosecutors talking to public defenders and the private bar, settling the way the case will move forward earlier, having more information shared between those adversarial parties in the justice system, that is good.

We also have a recent report from the Sentencing Council that talks about looking perhaps at early guilty pleas. We know that our defendants in the system are often on the court steps making decisions about what they will plead. Can we have a system that perhaps brings that plea forward and therefore means that a trial can proceed or not proceed with more certainty earlier so there are fewer court days? We have had a District Court judge increase the sittings that they are making across the State, sitting through some of the holidays.

What I think is commendable about this array of things that I am talking about is that all of the stakeholders in the justice system are working together, acknowledging the challenges and working to a solution. But it requires addressing at many different levels: technology, personnel, having the process inside the court work well and a very active working group between all of those stakeholders to talk about how the court procedures can work better. There is always more to do, but I put to you that there is a solid package of work going on which practically addresses at many levels the challenge that we have before us.

**Mr DAVID SHOEBRIDGE:** What are you and your officials predicting will be the number of trials pending in the District Court when you come back to budget estimates next year?

**Ms GABRIELLE UPTON:** I am not in the business of crystal balling, Mr Shoebridge, but with these initiatives—

**Mr DAVID SHOEBRIDGE:** But you must have predictions. You must be looking at it.

**Ms GABRIELLE UPTON:** We would hope they would be reduced. That is certainly the intention.

**Mr DAVID SHOEBRIDGE:** I am not asking about your hope. I am asking about what the best evidence from your Secretary is about what the number of cases pending in the District Court will be at the end of this budget cycle. What are your predictions? What are you funding for?

**Ms GABRIELLE UPTON:** I am hoping there will be fewer matters before the District Court, but you are asking for crystal balling—

**Mr DAVID SHOEBRIDGE:** No, I am asking about your advice.

**Ms GABRIELLE UPTON:**—which is something I am not engaged in, as to how many more matters will be lodged with the court. We do not know what that number will be, so there cannot be any certainty around the reduction in the case workload before a District Court. I know you want to talk to the Secretary, so I will defer to him.

**Mr CAPPIE-WOOD:** As the Attorney has pointed out, the caseload will increase. Clearly, therefore, as the Attorney has pointed out, there are a number of concerted actions which are primarily designed to reduce this. Our expectation is that we will be reducing the caseload. However, you cannot tell if there is going to be a sudden surge in particular police action which will result in strictly indictable matters coming to the District Court or the nature of the particular cases themselves. The Attorney has already alluded to the nature of some of the cases specifically when there are phone taps or other related information where there might be large amounts of matters to be transcribed, large amounts of evidence—DNA evidence, forensic evidence.

That has been part of the reasoning as to why we are seeing the extension of this. What we are getting is better information into the justice system, but that also potentially slows matters down. So what we are doing as a result of that is saying, "What can we do to see that procedures that operate within there work more effectively?" To balance the fact that we do not know what the police actions or other actions might be to increase the flow in there, we at least are looking at what the processes are to make sure we have the very best we can.

**Mr DAVID SHOEBRIDGE:** One of the significant increases in caseload has been the number of child sexual assault cases being brought to the District Court. When can we expect to see the procedural reforms that have been promised in relation to the way in which children give evidence—the capturing of their evidence on video so they will not have to be put through that trauma again if there is a successful appeal? When will we see that package of reforms?

**Ms GABRIELLE UPTON:** Those reforms are being scoped by a task force. They need to be right, particularly in relation to our children and young people who are victims of child sexual assault. It is something that you want to be considered about. It is something about which you want to make sure that you have the right processes, the right people and the right approach—and it has to be very nuanced because of the victims who are the people that would come before the court.

**Mr DAVID SHOEBRIDGE:** Yes, but—

**Ms GABRIELLE UPTON:** We made an announcement around our Children's Champions, an initiative which will mean that our young people and our children before the courts will have somebody who will help them through the process of justice, which can be a challenging one, particularly for our young people. We have made the announcement about allowing our young people and children to give cross-examination remotely so that, again, as you are saying, it takes away from the trauma of the event. I think these things will make a difference. They will take some time to lock down in terms of how they will work and what they will look like on the ground. That is appropriate because they need to be right to make the best difference to the experience of justice for our children and young people who have been victims of child sexual assault. I invite the Deputy Secretary to make a comment.

**Mr DAVID SHOEBRIDGE:** What is your expected time frame for delivering a package of legislative reforms that puts those protections in place?

**Mr CAPPIE-WOOD:** The task force is concluding its work effectively immediately. Its work is concluding and will be reporting next week. My deputy, Brendan Thomas, is the chair of that. He may wish to add something further.

**Mr THOMAS:** I chair the task force that the Attorney established to look at these options. That task force has been quite broad, with stakeholders from a whole range of different legal areas: the Law Society, the Bar Association, NSW Police, a range of victims groups and others. We have had extensive consultation with legal experts about how to design the legal framework.

**Mr DAVID SHOEBRIDGE:** Are you getting a consensus, Mr Thomas?

**Mr THOMAS:** Very much so, yes, around how to design the system to pre-record evidence from children as well as how to structure a system to engage Children's Champions early in the process in a

constructive way that will add value to the criminal justice process without slowing it down. As the Secretary and the Attorney said, that task force's work is coming to a conclusion now and providing some options for the Attorney to consider.

**Mr DAVID SHOEBRIDGE:** Is this calendar year the expectation for legislative reforms?

**Ms GABRIELLE UPTON:** Once we have received the task force report and findings they will then need to be considered by Cabinet. They will then need to be considered and drafted for the consideration of Parliament. As soon as they can be brought before the Parliament, when they are right, I will be happy to do so, but there are a number of steps. I come back to the fact that it is important to get it right and to be advised by experts.

**Mr DAVID SHOEBRIDGE:** I absolutely agree with you on that, Attorney. The appointment of two specialist judges to the District Court to hear child sexual cases is welcome, but that is an extraordinarily gruelling task that those two judges will have if their only caseload, day in, day out, is sexual assault cases. What measures are you putting in place to ensure that those two judges get appropriate support, counselling and other services—time off if necessary—to deal with what in any view of it would be an extraordinarily gruelling job?

**Ms GABRIELLE UPTON:** Mr Shoebridge I think that is probably one of the few things you and I would agree on. It is, indeed. I have been concerned personally about this and that has led to discussions with the head of jurisdiction of the District Court. To your point, the arrangement is that these two fine former prosecutors in the system will not exclusively be doing child sexual assault matters. A substantial part of the work that they will do will be that, but it is something for which ongoing support is available to them. They will also be undertaking some specialist training, and that is provided by the Judicial Commission.

The District Court head, after discussions with me, agrees that this is a priority for those two new judges, making sure that there is additional training, which will contextualise their judicial training with a broader understanding of child sexual assault matters and the matters at play when children and young people are brought before the court, but they will also be aware of the issues that you are raising. That is very much at the top of my mind and their boss, the District Court judge, and the Judicial Commission, which will support them in their roles.

**Mr DAVID SHOEBRIDGE:** I appreciate your concerns but I was asking what has been done to address those concerns. What counselling is available? What additional support will be available? We do not want to set the judges up to fail, given the gruelling—and close to unrelenting—nature of their case load. Perhaps the secretary might—

**Ms GABRIELLE UPTON:** All judicial officers have access to support services. Those support services, in a regular way, will be available to these judges. I come back to my point that this is a matter under act of discussion. It is a matter that I and the head of the District Court are fully aware of. They are very fine prosecutors who have a long and deep experience with child sexual assault prosecutions. They are now judges rather than prosecutors, but they are matters within their professional competency. They are matters which they have represented before the courts, but that is not in any way to diminish the fact that they need to be supported in the ways I have already described.

**Mr DAVID SHOEBRIDGE:** The Commonwealth's Government response to the United Nations High Commissioner for Human Rights in relation to the New South Wales Victims Compensation Scheme is one of the only places where there are detailed statistics on the new victims support scheme. When will you be publishing full and comprehensive statistics on the New South Wales victims support scheme?

**Ms GABRIELLE UPTON:** Mr Shoebridge, you are referring to the scheme that commenced its operation last year?

**Mr DAVID SHOEBRIDGE:** In 2013.

**Ms GABRIELLE UPTON:** Which, I might add, provides sooner, more practical benefits to people who make claims—

**Mr DAVID SHOEBRIDGE:** You say that, but there are no statistics published. That is what I am asking you about.

**Ms GABRIELLE UPTON:** —and it has financial sustainability, which the former scheme did not have. I will ask the secretary to comment on where and when those statistics will be available.

**Mr CAPPIE-WOOD:** It is anticipated that they will be published in the department's annual report.

**Mr DAVID SHOEBRIDGE:** They were not published in the last one.

**Mr CAPPIE-WOOD:** No, but I can give you—

**Mr DAVID SHOEBRIDGE:** Why?

**Mr CAPPIE-WOOD:** I cannot answer that; I was not in the job at the time. But I can say they will be published in this annual report.

**Mr DAVID SHOEBRIDGE:** Including detailed breakdowns of times for determinations, the amount of counselling, the number of recognition payments—the full suite of statistics?

**Mr CAPPIE-WOOD:** Clearly, the issue of timeliness is very important and is critical because there were considerable time delays with the previous compensation arrangements. Therefore, responsiveness under the new arrangements is part of the improvements and we want to be able to make that known very clearly. We would make as much information as possible known without infringing any privacy matters.

**Mr DAVID SHOEBRIDGE:** I have more questions but I will come back to them.

**The Hon. SHAOQUETT MOSELMANE:** Attorney, at the end of last year magistrates expressed their concerns about inadequate court security because of insufficient numbers of Sheriff's officers. How many extra Sheriff's officers have been employed since December last year?

**Ms GABRIELLE UPTON:** At the time of the 2015-16 budget there was an announcement made of an allocation to employ 40 new sheriffs. That was in response to the higher security alert that we had across our community, and that is a commitment that will address some of the potential risks that we now know are within our community and also within our court system. Our courts need to be safe not only for our judicial officers but also for the people who work there, and for the people who come before the courts and the tribunals to seek justice.

**The Hon. SHAOQUETT MOSELMANE:** How many Sydney court complexes have days when there are no Sheriff's officers on duty?

**Ms GABRIELLE UPTON:** That is an operational matter, Mr Moselmane. I will ask for the secretary to comment.

**The Hon. SHAOQUETT MOSELMANE:** It is a security matter for the magistrates.

**Mr CAPPIE-WOOD:** The allocation of Sheriff resources has been, and continues to be, focused around risk. Every day every week there is an assessment of the court listings as to where Sheriff's officers should be present, and—this can be confirmed—there is an ongoing and reasonable expectation that where there are matters coming before the court and where there could be matters of security, the Sheriff's officers are rostered on. There are currently 234 uniform Sheriff's officers, which will be added to by the Government's allocation of the additional \$5.2 million in this year's budget. They will be applied again on that risk basis. The Sheriff's office has a relationship with the police and, if there is an explicit risk, they jointly discuss any security operations or enhance security that might be required. This has happened on a number of occasions and it is done in consultation with the judiciary.

**The Hon. SHAOQUETT MOSELMANE:** Has there been a situation where Sheriff's officers have not been dispatched when an incident has happened?

**Mr CAPPIE-WOOD:** There are always circumstances where sheriffs know they have to respond to calls if they are not necessarily present in the courtroom. Obviously the allocation of resources at high volume courts such as the Downing Centre, et cetera—there are always Sheriff's officers present in the Downing Centre. If they are not present in the actual courtroom because of the risk assessment there is a duress alarm in the courtrooms that they can respond to expeditiously.

**The Hon. SHAOQUETT MOSELMANE:** What about regional courts?

**Mr CAPPIE-WOOD:** The same process applies; the same risk assessment. As you can understand, some small claims matters are not going to produce the need for a uniformed Sheriff's officer to be present, whereas other matters may be more contentious and more likely present a risk. Therefore, it is a logical process that the allocation of those resources meets the needs.

**The Hon. LYNDA VOLTZ:** Could you provide us with the number of days that they were without sheriffs in Sydney and in the regional offices? I am not asking for that now. You can take that question on notice.

**Mr CAPPIE-WOOD:** Yes.

**The Hon. SHAOQUETT MOSELMANE:** What is the status of the Australian Federal Police [AFP] review of security in courts?

**Ms GABRIELLE UPTON:** I will ask the secretary to address that matter.

**Mr CAPPIE-WOOD:** The AFP review of security in courts was undertaken prior to the increased security alert in respect of the lift from medium to high. As a consequence of that, work is presently being undertaken to further review that in relation to the lift in the security levels to make sure that we have the appropriate responses available.

**The Hon. SHAOQUETT MOSELMANE:** When will that report be available?

**Mr CAPPIE-WOOD:** Work is currently underway on that. I can provide it to you. I will check as to when it will be finalised.

**The Hon. SHAOQUETT MOSELMANE:** What is the status of the review into Sheriff's office staffing requirements and future structure?

**Mr CAPPIE-WOOD:** As I said, the process of not only how we on board the additional resources but also the allocation of those resources is currently being finalised to make sure they are distributed appropriately. There is always the open question about how we distribute the resources and, in some instances, we are best placed to have them static or they are moved in association with the various court sittings. As you know, they go on circuits. How do the sheriffs go on circuits? It is an active process of review

**The Hon. SHAOQUETT MOSELMANE:** How many full-time positions are there in the Sheriff's Office?

**Mr CAPPIE-WOOD:** There are 234 uniformed officers.

**The Hon. SHAOQUETT MOSELMANE:** Sorry, how many?

**Mr CAPPIE-WOOD:** There are 234 uniformed sheriff officers; however, there are additional resources within the Sheriff's Office that relate particularly to the management of juries. I will get you the total number of resources available within the Sheriff's Office—both uniformed and non-uniformed.

**The Hon. SHAOQUETT MOSELMANE:** Can you take on notice the question of how that compares to staffing in 2012, 2013 and 2014?

**Mr CAPPIE-WOOD:** We will do that.

**The Hon. LYNDA VOLTZ:** Minister, have you or your department received a proposal to ban all public protest unless approved in advance by the police?

**Ms GABRIELLE UPTON:** Ms Voltz, I receive lots of proposals and lots of correspondence. To my knowledge, no.

**The Hon. LYNDA VOLTZ:** You have received no proposal. Have you been consulted— ?

**Ms GABRIELLE UPTON:** I said that that was to my knowledge. I receive a lot of correspondence and a lot of briefings. To my immediate knowledge, the answer is no.

**The Hon. LYNDA VOLTZ:** Have you been consulted about any such proposal? Has anyone raised with you a proposal to ban all public protests unless approved in advance by police?

**Ms GABRIELLE UPTON:** No, there is nothing under my active consideration. No.

**The Hon. LYNDA VOLTZ:** Has anyone consulted you about it; has anyone raised the issue with you?

**Ms GABRIELLE UPTON:** There is nothing under my active consideration.

**The Hon. LYNDA VOLTZ:** I am asking you whether you have been consulted. I am not asking whether it is under your consideration; I am asking if anyone has consulted you about it.

**Ms GABRIELLE UPTON:** There is nothing under my active consideration.

**The Hon. LYNDA VOLTZ:** That is not the question I asked, Minister. I would like an answer to the question I asked.

**Ms GABRIELLE UPTON:** Maybe I will make it clearer. I am not currently aware of any proposal.

**The Hon. LYNDA VOLTZ:** Okay. That is good. You are not aware of any proposal, but have you been consulted?

**Ms GABRIELLE UPTON:** I am not aware of any current proposal. I do not know how much clearer I can be.

**The Hon. LYNDA VOLTZ:** That is good. So what you are saying is that you will rule out legislating for such a proposal.

**Ms GABRIELLE UPTON:** I have not said that. I said that I have not been consulted on such a proposal.

**The Hon. LYNDA VOLTZ:** You did not say that you had not been consulted, you said—

**Mr DAVID SHOEBRIDGE:** She eventually did.

**The Hon. LYNDA VOLTZ:** You are now saying that you have not been consulted. That is okay; you have not been consulted. Will you rule it out?

**Ms GABRIELLE UPTON:** I would not rule it in; I would not rule it out.

**The Hon. LYNDA VOLTZ:** But you would agree that there is a common law right to assembly.

**Ms GABRIELLE UPTON:** I am not aware of any proposal. I will not rule it in and I will not rule it out because I am not aware of any proposal. I do not know how much clearer I can be.

**The Hon. LYNDA VOLTZ:** Would you agree that there is a common law right to assembly?

**Ms GABRIELLE UPTON:** I have made my answer clear.

**The Hon. LYNDA VOLTZ:** You have made your answer clear on a common law right to assembly? You are the Attorney General; you can tell me whether there is a common law right to assembly.

**Ms GABRIELLE UPTON:** I have given you my answer.

**The Hon. LYNDA VOLTZ:** You have not given me an answer to that.

**Ms GABRIELLE UPTON:** I have given you my answer. I have not received a proposal. There is nothing under my active consideration.

**The Hon. LYNDA VOLTZ:** Are you the senior lawmaker in this State?

**Mr DAVID SHOEBRIDGE:** That is the Minister for Police. He is the head of the cluster.

**The Hon. LYNDA VOLTZ:** Yes, he is the head of the cluster, but Ms Upton is the Attorney General of the State.

**Ms GABRIELLE UPTON:** I am the Attorney General, yes.

**The Hon. LYNDA VOLTZ:** So something like a common law right to assembly would be something that you would be across.

**Ms GABRIELLE UPTON:** That is a technical matter, Ms Voltz. You have asked me a series of questions.

**The Hon. SHAOQUETT MOSELMANE:** It is a basic principle of our legal system.

**Mr DAVID SHOEBRIDGE:** It is pretty fundamental.

**Ms GABRIELLE UPTON:** You asked whether a proposal was under my consideration. I said that I am unaware of any proposal and it is not under my active consideration. I have answered your question.

**The Hon. LYNDA VOLTZ:** You said that you would not rule it out. That is fine.

**Ms GABRIELLE UPTON:** I will rule no proposal in or out, particularly if I am unaware of it.

**The Hon. LYNDA VOLTZ:** I asked you if the Government was going to legislate. You said that you will not rule it in and you will not rule it out. The next obvious question is: Is there a common law right to assembly? The only way you are going to change our common law right is by legislating, and you will not tell us whether you will legislate in or legislate out. So I am asking you, is there a common law right to assembly, and will you rule in or rule out that the Government will legislate on that matter?

**Ms GABRIELLE UPTON:** I will not, because I am unaware of any proposal. It is not under my active consideration.

**The Hon. SHAOQUETT MOSELMANE:** The Chief Magistrate, in his forward to the 2014 annual review of the local courts said:

During 2014, Government increased the number of cuts to magistrate resources from four to six. Next year that figure is intended to rise to eight. Against this background, reduction in judicial resources challenges the ability of the Court to maintain an adequate level of service to country regions.

Which country courts will close or have reduced sittings?

**Ms GABRIELLE UPTON:** Mr Moselmane, I do not know if you are aware, but the Local Court is actually the best performing jurisdiction across Australia in relation to addressing its case workload—both civil and criminal matters—and we should all be proud about that. They do a really good job at the very difficult end of justice—the everyday justice, where people are most likely to come before the courts to get their everyday matters resolved. As I said before, when you asked me a question about the number of judges, I do not know whether you were talking about full-time equivalents or people, or whether you are talking about acting judges. There is all of that mixed up in what you are saying. The number of judges within any part of our justice system—tribunals or courts—will fluctuate from time to time, including, indeed, in the Local Court.



**The Hon. SHAOQUETT MOSELMANE:** Attorney General, my question was clear: Which country courts will close or have reduced sittings?

**Ms GABRIELLE UPTON:** That is a matter for the head of jurisdiction. The head of jurisdiction decides the number of judges, where the courts will sit, what matters will be heard before what judges and where those judges will go across the State. They are operational matters within the court.

**The Hon. LYNDA VOLTZ:** The Chief Magistrate stated in his forward that it was the Government that had increased the number of cuts to magistrate resources, so it is not really a matter for them. It is a matter for the Government when it has reduced the magistrate resources from four to six. Is that not correct? In that context, which country courts will close or have reduced sittings?

**Mr DAVID SHOEBRIDGE:** He cuts the cloth you give him.

**The Hon. LYNDA VOLTZ:** The number of magistrates will change from time to time. There are other ways in which we can resource our court system. The matter you raise, about the number of magistrates, where they sit and what courts they sit in, are matters for the head of jurisdiction of the Chief Magistrate. There are other ways in which justice is made more available to people across the State. I am happy to go back to the things I talked about before, which was about how we are introducing audiovisual technology into our courts to ensure that we can have things go as quickly as they can and so that witnesses can give their evidence outside the courtroom from remote locations and so that people in custody can give their evidence from jails. We can protect our vulnerable witnesses inside the court system. We can have online lodgement of documents within our court system. There has been an increase to the legal aid budget in the last 2015-16 budget of about 5 per cent. These are all ways in which a court is resourced. The matter that you raise again is about the number of magistrates. That is a matter for the head of the jurisdiction, the Chief Magistrate. I invite the Secretary to comment.

**Mr CAPPIE-WOOD:** I might add that it is worthwhile noting—because it is a question of how we deal with courts not only now but into the future—that the civil listings have dropped by 10 per cent this year. After the last year-and-a-bit they have dropped by 18 per cent. It is not just a question of saying that it is all one type of work or another; there are clearly changes in the work that the Local Court is undertaking. I would like to acknowledge the Auditor-General's comments in the recent report that looked at productivity. He acknowledged the improving trends of productivity there. As the Attorney General mentioned, the Productivity Commission reported that New South Wales has the best-performing local courts for criminal and civil listings in terms of the amount of backlogs. This would indicate that we have an efficient court.

It is about maintaining that efficiency and making sure that it is suitable for a future where there are considerably different types of matters coming forward. As the Attorney mentioned, we have looked at an electronic e-registry, which we hope this year will be able to have 70 per cent of matters dealt with in terms of e-lodgement of registry court papers. This, combined with the electronic linkages into the Computerised Operational Police System [COPS] and the transfer of information, mean that we are looking at a substantially different system of how justice can be appropriately and speedily applied. We have to make sure that all resources—not just the number of magistrates but all the support resourcing—can be responding to these substantial changes in the nature and flow of our justice system.

**The Hon. LYNDA VOLTZ:** Perhaps we can come at it in a different way. Extensions and renovations were completed at the Local Court at Liverpool. An extra courtroom has been added. That increases capacity to a total of five hearing rooms. At the same time the number of magistrates was reduced to three. We went from having four magistrates with four rooms. We now have three magistrates and five courtrooms. What is going on with the magistrates at Liverpool? Are you going to appoint five, given that you have undertaken those renovations and extensions?

**Mr CAPPIE-WOOD:** As the Attorney pointed out, the allocation of where magistrates sit is a matter for the Chief Magistrate. The Chief Magistrate looks at where court sittings are required and on what court circuits they go as well. The Chief Magistrate determines that particular fact.

**The Hon. LYNDA VOLTZ:** But does the Chief Magistrate decide the number of magistrates?

**Mr CAPPIE-WOOD:** The Chief Magistrate certainly has a budget. He operates within that. If he chooses to hold positions vacant and juggle within the budget, that is clearly a matter for him.

**The Hon. LYNDA VOLTZ:** How do you reconcile that with his statement in his annual review that during 2014 the Government increased the number of cuts to magistrates resources from four to six.

**Mr CAPPIE-WOOD:** Had he met his budget?

**The Hon. LYNDA VOLTZ:** Yes, but it was the Government's decision to cut the number of magistrates, not the Chief Magistrate's.

**Mr CAPPIE-WOOD:** The issue that we are looking at here as well, as I pointed out, is that there is a shift in the type of work being done. With a reduction of 10 per cent in civil listings, it would indicate that the nature of what is coming before the courts is changing. There has to be flexibility in how the resources are distributed. The Chief Magistrate is working within his budget.

**Mr DAVID SHOEBRIDGE:** He does not have any choice.

**The Hon. LYNDA VOLTZ:** No.

**The Hon. SHAOQUETT MOSELMANE:** I will go on to another question. Do you propose to, or have you considered, cutting the circuit of the specialist Children's Court Magistrate in country areas?

**Ms GABRIELLE UPTON:** I have not considered that, no.

**The Hon. SHAOQUETT MOSELMANE:** So you are ruling it out?

**Ms GABRIELLE UPTON:** I am not ruling it out because I have not considered it. There is a bit of a pattern to the questioning going on here, but I will defer to the Secretary.

**Mr CAPPIE-WOOD:** Outside the specialist children's courts in circuit areas in regional locations, the Chamber Magistrate hears the children's matters. It is just a regular magistrate in those regional locations who will hear those matters.

**The Hon. LYNDA VOLTZ:** Minister, do you agree that the police should have the power to obtain bank records, such as bank statements, without the approval of a court?

**Ms GABRIELLE UPTON:** I am not aware of any proposal. Would you like to enlighten me, Ms Voltz?

**The Hon. LYNDA VOLTZ:** I am pretty sure that it has been widely reported in the media. I am not sure if anyone has brought those media articles to your attention. Perhaps you could check with your media staff.

**The Hon. SHAOQUETT MOSELMANE:** The *Sydney Morning Herald* is one.

**Ms GABRIELLE UPTON:** I am very happy to consider the media. I respect the media. They are not always right. If you have something that you would like me to have a look at, I am very happy to take a look.

**The Hon. LYNDA VOLTZ:** No. When those media articles were reported and brought to your attention, did you seek any advice?

**Ms GABRIELLE UPTON:** I am telling you it is not anything of which I am aware, which is under my current consideration.

**The Hon. LYNDA VOLTZ:** So you are not considering it? Okay. Do you propose to sit in courts and observe proceedings while you are Attorney General?

**Ms GABRIELLE UPTON:** I have done so. I spent a morning at the Drug Court in Parramatta. I referred to this when I was answering an earlier question. They are important things for an Attorney to do.

There are many things that an Attorney does. There are many things that a Minister of Government does. One of them is getting out, seeing how the stakeholders and the parts of the portfolio that you actually oversight, how they work on the ground every day. One of my first visits was to the Newcastle justice precinct. I had been out to the Children's Court at Parramatta. One week ago I was out at the Hornsby courthouse to view the upgrade that has gone on there to make it accessible for people who would not otherwise be able to navigate the steps at the front of the building and to see the installation of the audiovisual link [AVL] to make justice more available to people in that district, that part of New South Wales.

So, yes I do; I would like to do more but, as for a Minister, this is always a balance of doing as much as you can with the many responsibilities you have. But it grounds you in understanding justice every day. I am very proud of the people I go out and meet who are supporting our justice system—the judges, the magistrates, the sheriffs, the court officials and the people in the Department of Justice who sit inside our courts. They do an important job every day. They do it with professional competency. They do it often using professional knowledge of many years' experience. I am inspired by them because it is through them that the State can do the work of providing justice to members of the community.

**Mr DAVID SHOEBRIDGE:** In the data that was supplied to the United Nations [UN] in 2013-14 in relation to victims support, there were 3,362 victims of domestic violence who had counselling applications, but only 360 victims of domestic violence received recognition payments. Why is it that only 11 per cent of domestic violence victims were receiving recognition payments under the new scheme?

**Ms GABRIELLE UPTON:** Mr Shoebridge, I am respecting the fact that those figures are from something that you are reading from. I do not have the benefit of that.

**Mr DAVID SHOEBRIDGE:** I am happy to give them to you.

**Ms GABRIELLE UPTON:** Can we see the document, please?

**Mr DAVID SHOEBRIDGE:** I am assuming that what the Australian Government told the UN was accurate. I relied upon what the Prime Minister said the other day and that got me in trouble.

**Ms GABRIELLE UPTON:** Mr Shoebridge, I do not know about the authenticity of this. I am assuming it is authentic. I would like the Deputy Secretary to answer that question.

**Mr DAVID SHOEBRIDGE:** I think it is admissible, if that is any help.

**Mr THOMAS:** My understanding is that the figures provided to the UN reflect the very early life of the new scheme. The figures for the last financial year are far more substantial. Last year there were 5,700 applications for support for domestic violence offences. They were the largest single category of support applications that came in under the new scheme.

**Mr DAVID SHOEBRIDGE:** What proportion of those received recognition payments?

**Mr THOMAS:** A significant proportion. We can provide you that data.

**Mr DAVID SHOEBRIDGE:** When you say "significant", is it more than 11 per cent?

**Mr THOMAS:** Yes, significantly more than 11 per cent.

**Mr DAVID SHOEBRIDGE:** Is it 12 per cent, 13 per cent?

**Mr THOMAS:** The success rate for applications under the new scheme is 87 per cent.

**Mr DAVID SHOEBRIDGE:** But that is of all applications, is it, or is it just of recognition payments?

**Mr THOMAS:** For domestic violence cases, it is 86 per cent. The domestic violence acceptance rate is the same as it is generally for acceptance rates under the scheme.

**Mr DAVID SHOEBRIDGE:** That is of people who make a claim for recognition payments, but what proportion of the victims of domestic violence, who have sought counselling, are in a position where they are getting their recognition payments?

**Mr THOMAS:** Well, 86 per cent of those who have come to us, who have applied for recognition payments, and all applicants who have come to the Victims Support Scheme are informed of all the options that are available to them.

**Mr DAVID SHOEBRIDGE:** But I am not talking about the proportion of those who seek recognition payments getting them. I am talking about the proportion of victims of domestic violence who come to Victims Support. What proportion of them are getting recognition payments?

**Mr THOMAS:** I would suggest that all victims who are coming to the Victims Support Scheme from experiencing domestic violence are informed of the option for lodging an application for recognition payment.

**Mr DAVID SHOEBRIDGE:** But how many of them are doing it and getting it? That is what I am asking you?

**Mr THOMAS:** I can take that on notice—what proportion that are contacting us are actually lodging the application. But of those who are lodging the application, 86 per cent of them are getting those applications determined.

**Mr DAVID SHOEBRIDGE:** What those 2013-14 figures also showed was that, of those victims of domestic violence, only 3 per cent of them were receiving the financial assistance payments under the scheme. How do you explain such an extraordinarily low proportion?

**Mr THOMAS:** Those figures are significantly different now. As I mentioned, the figures that were provided to you were in the very early life of the scheme—I emphasise: very early in the life of the scheme. We have had two full financial years worth of operations of the scheme, so the figures in the performance of the scheme are substantially different now.

**Mr DAVID SHOEBRIDGE:** Could you provide on notice all the figures that you have on financial assistance, on immediate needs, on recognition payments, and on counselling?

**Mr THOMAS:** We can provide you figures for all the applications that have come in, the nature of those applications by client type, the success rates for those, and the average payments.

**Mr DAVID SHOEBRIDGE:** I would appreciate that. One of the real concerns is the time in which immediate needs applications are being processed. What is the average time frame in which immediate needs applications are being processed?

**Mr THOMAS:** Twenty-eight working days.

**Mr DAVID SHOEBRIDGE:** That is the average?

**Mr THOMAS:** Yes.

**Mr DAVID SHOEBRIDGE:** What is the longest that an immediate needs application has been?

**Mr THOMAS:** Off the top of my head I do not know.

**Mr DAVID SHOEBRIDGE:** Given that immediate need is often accommodation for a victim of domestic violence to get away from that domestic violence, do you think 28 days is a reasonable time frame in which to determine immediate needs?

**Mr THOMAS:** The 28-day time frame is for the payment of whatever the account is. The immediate need being sought might be accommodation. That accommodation might be provided the night that it is sought; the bill is paid within 28 days.

**Mr DAVID SHOEBRIDGE:** Can you give me the details about the average time frame, the longest time frame and the short time frame for immediate needs?

**Mr THOMAS:** Yes.

**Mr DAVID SHOEBRIDGE:** And the classes of assistance that are covered by that?

**Mr THOMAS:** We can.

**Mr DAVID SHOEBRIDGE:** The regulation that is reinstating those rights that were retrospectively removed in 2013 expressly excludes the payment of legal costs, although many victims will have incurred legal costs in the preparation of their initial claim. Why have they been excluded?

**Mr THOMAS:** In dealing with the 24,000 claims that were caught in that transition period, all legal fees that were incorporated into those claims were paid in those transition payments. Over the last two financial years in those transitional arrangements we have paid over \$12 million in legal fees for those claims. Those people whose claims are now being re-assessed have had their legal bills paid for under the provisions of the former scheme. What is occurring now in terms of the examination of their claims is that they are not based on matters of law; they are based on matters of gathering fact for determining the level of compensation payment they will get.

**Mr DAVID SHOEBRIDGE:** But this is fact gathering of a more complex nature that relates to the previous scheme, rather than the current scheme. Surely you recognise that many victims of violence will require legal assistance to get those facts together and there should be a reasonable recognition of those legal costs in the assessment?

**Mr THOMAS:** The legal questions that people sought legal assistance for in the original application were dealt with largely through those transitional applications. What are being sought now are matters of fact. We have significantly changed the administration of the Victims Support Scheme from one in which people were required to get external assistance to help fill out an application to one where we now have in-built support coordinators who work with applicants to help them access the information they need. If an applicant in this transitional arrangement needs police information, we will seek that information for them. If they need hospital or medical information, we will seek that information for them. The Commissioner for Victims Rights also has the legal authority to demand the production of documents to support applications and she uses that legal authority quite regularly. In our assessment there is no requirement for people to have specific legal assessment in this transitional arrangement.

**Mr DAVID SHOEBRIDGE:** Why is there no State funding for the Far West Community Legal Centre [CLC] at Broken Hill? Why is that legal centre singled out for no State funding?

**Ms GABRIELLE UPTON:** I am not aware of that. I am happy to refer that question to Mr Grant.

**Mr GRANT:** As with most CLC funding at the moment, it is based on historical reasons. There have been many reasons why CLCs have been set in parts of the State. They relate to, for example, matters where the Commonwealth, way back in the mid-1990s, created eight new CLCs, so the historical base of funding, up until this year, has been simply where the jurisdictions have committed their funds. That is about to change under the new provisions of the national partnership agreement [NPA], where we are looking at jurisdictional planning. All of that material will be on the table, probably from as early as next year but under the NPA most certainly from the year after.

**Mr DAVID SHOEBRIDGE:** Given that the centre has such a high case load of family and domestic violence issues, which clearly fall within the State jurisdiction, will you commit to having a close review of State funding for the Far West Community Legal Centre?

**Mr GRANT:** It will definitely happen under the jurisdictional planning requirements and the jurisdictional planning processes that we will go through in this State to look at needs-based funding. Certainly, the Far West, the south-west and the north-west all have particular requirements that will need, under proper jurisdictional planning and collaborative service delivery, to receive special attention.

**Mr DAVID SHOEBRIDGE:** Particularly out in Broken Hill in the Far West and far western New South Wales the reduction in Commonwealth funding is putting these community legal centres under enormous stress. What is the State Government doing in terms of assisting these community legal centres to provide their essential service?

**Mr GRANT:** Can I clarify the Far West funding? It has been brought to my attention that there are two amounts of Commonwealth funding. One is the temporary funding that will expire in two years' time; one is the basic Commonwealth funding. There is a third amount of Public Purpose Fund [PPF] funding that goes to the Far West. It is not State funding as such, but it comes through State legislation—

**Mr DAVID SHOEBRIDGE:** Which has been greatly reduced over the past three years, as you know.

**Mr GRANT:** Indeed it has for all discretionary beneficiaries, I would think.

**Mr DAVID SHOEBRIDGE:** And from memory it is a tiny fraction of the budget that is going to the Far West Community Legal Centre. You have the numbers there; you might assist.

**Mr GRANT:** Yes.

**Mr DAVID SHOEBRIDGE:** What is it?

**Mr GRANT:** There is also an amount that is being paid to the Far West in relation to the partnership between Legal Aid NSW and 22 community legal centres for the implementation of early intervention services in the care and protection jurisdiction, and that is an amount of \$28,500.

**Mr DAVID SHOEBRIDGE:** Again, a tiny proportion of their budget.

**Mr GRANT:** Indeed it is. Again, on the historical basis of funding up until 2014-15, all these matters were tied funding. What we are seeing now is a much more considered development of jurisdictional planning and jurisdictional funding on a needs basis. That is happening now, and it will gather apace for next year's Commonwealth funding before the 2017-18 drop in Commonwealth funding for community legal centres.

**Mr DAVID SHOEBRIDGE:** The Legal Aid guidelines for the funding of contested criminal matters in the Local Court were changed so that funding was only provided where there was "a real possibility of a term of imprisonment being imposed". How many cases have had their funding refused because they failed to meet that test in the last financial year?

**Mr GRANT:** I cannot give you a case number. We will take that on board. There are a couple of different ways of looking at it. We can look at what saving that initiative has made to our budget and we can give you that figure.

**Mr DAVID SHOEBRIDGE:** Which I would appreciate.

**Mr GRANT:** There is also a refusal rate and we can look at whether it has been refused on that ground. We can give you that figure. The figure I cannot give you is how many people may have applied had the policy been in existence.

**Mr DAVID SHOEBRIDGE:** I understand people have been discouraged from applying because of the existence of the policy so it will not be a fair reflection on the unmet need.

**Mr GRANT:** We can give you the two other figures and let you have those.

**Mr DAVID SHOEBRIDGE:** I understand. Have you had any quality tracking of outcomes in the Local Court to see whether or not people have found themselves the subject of a term of imprisonment in circumstances where their legal aid was refused because your office made the call that there was not a real possibility of a term of imprisonment being imposed?

**Mr GRANT:** No. We have no way to assess that information. But I can tell you that we also provide assistance for people for District Court appeals. If someone has applied for aid and that aid has not been

forthcoming because of the test that we now apply in the Local Court, if they are given a term of imprisonment they are entitled to legal aid for that appeal, provided they satisfy our means test.

**Mr DAVID SHOEBRIDGE:** They may well be discouraged by this point, having had their initial application rejected, but you have not followed that through in the data.

**Mr GRANT:** We cannot track that data. Our own system will not tell us what has happened to those people. We cannot track them through the justice system.

**Mr DAVID SHOEBRIDGE:** Do you not think that would be an important way of testing the quality of your decision-making?

**Mr GRANT:** It is not information that we have the capacity to gather.

**Mr DAVID SHOEBRIDGE:** Do you think that would be important information to allow the tracking of the quality of legal aid determinations?

**Ms GABRIELLE UPTON:** It would be a useful indicator, of that there is no doubt. What I am hearing from Mr Grant, who is the CEO of Legal Aid, is that some of these matters, capturing of data, can potentially flow from what is a new way of looking at funding that has been prompted by the NPA that was signed up by this Government with the Commonwealth not long ago, which is going to the heart of an important principle in that the amount of funding that is available for legal aid to the most vulnerable members of our community, who would not otherwise have legal assistance, should go to areas of need in proportion to where those needs are. That will be a good move because we can ensure there is some integrity around where the money does flow. It is a discipline that is being provided. It will also allow us to understand a bit more about where those needs are and how to track them.

**Mr DAVID SHOEBRIDGE:** Attorney, do you think it is an acceptable situation for the administration of justice in New South Wales that the first law officer of the State, the Attorney General, is a junior Minister in a cluster that is headed by the police Minister?

**Ms GABRIELLE UPTON:** Mr Shoebridge, I am the Attorney General. My allocation of Acts and responsibilities is as it was for the former Attorney General. I am a member of Cabinet. I work collaboratively with my colleagues. Ultimately, any policy decision-making at any significant level goes to Cabinet, which is where every member of the cabinet table needs to make an argument for their policy to be accepted by the whole Cabinet and by that it then becomes government policy. I am very happy to tell you what I do. I am the chief law officer. Those responsibilities have always resided with an attorney general. They are as guardian of the rule of law, as an adviser to Cabinet on matters that are legal, signing off on legislation to the Governor for it to take effect once both Houses of Parliament have agreed to that legislation becoming law. Every day it is an honour to serve in this role. I do not treat it lightly. The Act allocation is very clear as to what my responsibilities are, as they have been under our term of government.

**Mr DAVID SHOEBRIDGE:** Mr Cappie-Wood, do you report to the Attorney General or do you report to the police Minister? Where is your direct report?

**Mr CAPPIE-WOOD:** I have the honour of having responsibility for a department that has three Ministers that I report to, like a number of my colleagues.

**Mr DAVID SHOEBRIDGE:** Who is your coordinating Minister?

**Mr CAPPIE-WOOD:** The coordinating Minister, as you have mentioned, is the Deputy Premier. The coordinating Minister for the cluster is the Deputy Premier

**Mr DAVID SHOEBRIDGE:** Do you not find it extraordinary that the Secretary of Justice reports to the police Minister rather than the Attorney General as the coordinating Minister? It is like the tail wagging the dog of justice in New South Wales.

**Mr CAPPIE-WOOD:** No, I do not find it extraordinary that the Secretary of Justice reports to the Minister for Justice, because that is his title.

**CHAIR:** Thank you very much, Minister, for your answers. Some questions were taken on notice and you have 21 days to respond.

**(The witnesses withdrew.)**

**The Committee proceeded to deliberate.**

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