

GENERAL PURPOSE STANDING COMMITTEE No. 3

Friday 17 October 2008

Examination of proposed expenditure for the portfolio area

ATTORNEY GENERAL

The Committee met at 9.15 a.m.

MEMBERS

The Hon. A. R. Fazio (Chair)

The Hon. J. G. Ajaka
The Hon. G. J. Donnelly
The Hon. M. Gallacher

Ms S. Hale
Ms L. Rhiannon
The Hon. R. A. Smith
The Hon. H. M. Westwood

PRESENT

The Hon. J. Hatzistergos, *Attorney General, Minister for Justice, and Minister for Industrial Relations*

Attorney General's Department
Mr L. Glanfield, *Director General*

CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS

Corrections should be marked on a photocopy of the proof and forwarded to:

**Budget Estimates secretariat
Room 812
Parliament House
Macquarie Street
SYDNEY NSW 2000**

CHAIR: I declare open to the public this inquiry into budget estimates 2008-09. I welcome Minister Hatzistergos and accompanying officials to this hearing. Today the Committee will examine the proposed expenditure for the portfolio of Attorney General, Justice and Industrial Relations. Before we commence I will make some comments about procedural matters. In accordance with the Legislative Council's guidelines for the broadcast of proceedings, only Committee members and witnesses may be filmed or recorded; people in the public gallery should not be the primary focus of any filming or photographs. In reporting the proceedings of this Committee, the media must take responsibility for what they publish or what interpretation they place on anything that is said before the Committee. Guidelines for the broadcast of proceedings are available on the table by the door.

Any messages from attendees in the public gallery should be delivered through the Chamber and support staff or the Committee clerks. Minister, I remind you and the officers accompanying you that you are free to pass notes and to refer directly to your advisers whilst at the table. I remind everyone to turn off mobile phones. The Committee has agreed to the following format for the hearing: Attorney generals 1¾ hours, Justice for one hour and Industrial Relations for one hour, and we will deal with them in that order. Minister, the House has resolved that answers to questions on notice must be provided within 21 days; the Committee has not resolved to change that. Transcripts of the hearing will be available on the web from tomorrow morning. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. I remind the Minister that he does not need to be sworn as he is already been sworn with his oath to his office a member of Parliament.

LAURENCE GEOFFERY GLANFIELD, Director General, New South Wales Attorney General's Department, sworn and examined:

CHAIR: I declare the proposed expenditures for the portfolio areas of Attorney General, Justice and Industrial Relations open for examination. As there is no provision for a Minister to make an opening statement, we will commence with questions from the Opposition.

The Hon. JOHN AJAKA: Attorney General, there has been some considerable concern about closure of courts throughout New South Wales, especially in Penrith. Last year you told Ms Sylvia Hale MLC and this Committee, "There are no plans to close courts in New South Wales." You have already indicated you intend to close two district courtrooms in Penrith court, is that correct?

The Hon. JOHN HATZISTERGOS: First of all, are you talking about rooms or are you talking about courts?

The Hon. JOHN AJAKA: Rooms.

The Hon. JOHN HATZISTERGOS: I do not close courtrooms. Decisions as to where a court sits are matters for the head of jurisdiction, not a matter for me it. I thought you would have known that when you started the criticism that you levelled earlier about the decision of the Supreme Court to sit at Parramatta for the hearing of the Baladjam matter. That is a decision taken by the Chief Judge. He has taken that decision following widespread consultation with a number of stakeholders including the Legal Aid Commission, the Director of Public Prosecutions, the Aboriginal Legal Service and, I understand also, the Law Society, which supports the decision.

The Hon. JOHN AJAKA: You have no concern yourself about two district courtrooms being closed in Penrith?

The Hon. JOHN HATZISTERGOS: When you say they have been closed, they are available. He is transferring some of those cases that previously were being heard at Penrith to Parramatta following the Baladjam matter being concluded. At this stage we anticipate July, but it may be longer than that.

The Hon. JOHN AJAKA: Are you aware of any other plans to close any further courtrooms in Penrith?

The Hon. JOHN HATZISTERGOS: We do not close courtrooms. In fact, that will open up a capacity for the Local Court to sit more in Penrith. Once the Baladjam matter started and once we were doing

the renovations of the old Penrith Courthouse, which is \$14 million redevelopment of the old courthouse, which is across the road from the justice precinct, a number of matters had to be taken from Parramatta to other courts. Some work is currently being done in surrounding courts. A number of the matters currently at Penrith would be proximately closer to Parramatta. I am talking particularly about areas like Blacktown. So, Penrith will continue to have the work that comes from Penrith, from Hawkesbury and the Blue Mountains. Matters from some of the other surrounding regions will go to Parramatta. The longer trials as well will go to Parramatta. All of the civil work that goes to Penrith will remain there. There is a flexibility and a capacity for the District Court to sit in more than one courtroom, if it needs to, in Penrith. Ultimately it is a matter of workload and the decision of the Chief Judge.

The Hon. JOHN AJAKA: The longer trials going to Parramatta, would they include the sexual assault trials?

The Hon. JOHN HATZISTERGOS: It depends on the length. No, because we just put in new equipment, remote witness facilities, in Penrith. So, those sorts of matters can still be dealt with in Penrith.

The Hon. JOHN AJAKA: What would you consider a long trial, by way of length? How many days would you consider a long trial?

The Hon. JOHN HATZISTERGOS: It is not a matter of what I consider a long trial. It is a matter of what the chief judge thinks is a long trial.

The Hon. JOHN AJAKA: Are you aware of that period?

The Hon. JOHN HATZISTERGOS: I think generally anything longer than two weeks, potentially. But it is flexible; I do not think there is any specific requirement. It can vary.

The Hon. JOHN AJAKA: My experience is that well over 90 per cent of all sexual trials are well in excess of two weeks.

The Hon. JOHN HATZISTERGOS: I am not putting a figure on it. At this stage his consultations are that all matters that involve short trials—the majority of trials are short trials, not long trials, appeals from the Local Court and those specific areas of command—will all be dealt with at Penrith. There is no reason why, if he feels that he needs additional capacity at Penrith to handle particular matters, he cannot arrange to put an additional judge into Penrith. There is the capacity there to be able to do so. There is also the capacity for the Local Court, which at the moment is constrained in Penrith, to be able to expand.

The Hon. JOHN AJAKA: You have a situation at Penrith Local Court where a considerable amount of money has been spent refurbishing the court so that it has the various facilities needed for sexual assault matters. It has the court facilities there yet victims and other witnesses within the area are suddenly being told that they have to now go to Parramatta for long trials. Why do you not just use the facilities at Penrith? The money has been spent.

The Hon. JOHN HATZISTERGOS: Those facilities can be used but let me remind you that the majority of the cases that we are referring to are cases that are more proximate to Parramatta than they are to Penrith. I mean, Blacktown is closer to Parramatta than it is to Penrith. That is where the Chief Judge has made his decision. It is also important for you to remember the flexibility that will be available, particularly at Parramatta, with the large number of judges that will be sitting there, to reduce the impact of cases being not reached, which often can be very stressful for victims of sexual assault will be considerably diminished with the additional capacity that should be available at Parramatta. It also means that other victims of crimes particularly involved in the Local Court can have those cases more expeditiously dealt with in the Local Court in the increased capacity of the Local Court to sit in that location.

The Hon. JOHN AJAKA: Are you aware that Chief Judge has any more plans to move District Court rooms or sittings of the District Court, including Penrith or any other court?

The Hon. JOHN HATZISTERGOS: From time to time he adjusts the sittings. We have chief judges for that. Courtrooms are available around the State. Sittings are adjusted to reflect the workload.

The Hon. JOHN AJAKA: Does he consult with you before he does it? Does he seek input from you or any of your department heads or does he just simply do it?

The Hon. JOHN HATZISTERGOS: I think the Act requires a head of jurisdiction to consult with me in the event that he decides to stop sitting at a particular location. He has not said he is going to stop sitting at any particular location.

The Hon. JOHN AJAKA: My question again is: Are you aware of any at this stage?

The Hon. JOHN HATZISTERGOS: He has not advised me of any other changes that he proposes.

The Hon. JOHN AJAKA: Has he advised you of any other changes?

The Hon. JOHN HATZISTERGOS: I have answered that question, no. He has not advised me, not that I can recall. But I can say that the decision he has taken was following an approach by the Director of Public Prosecutions [DPP], Legal Aid, the Aboriginal Legal Service and, coincidentally, the President of the Law Society has also indicated that he supports the decision. There are a couple of lawyers that apparently do not like the decision. I find that a little bit surprising, because just about any practitioner of any repute who practises in criminal law in Penrith would practise all around the Western Sydney region. I would be surprised if any substantive criminal lawyer—and you would know from your own days in practice that you are not based just at Kogarah Local Court; you did work all over the place, you practise at Penrith—just about all of them would have a practice that also consists of Blacktown, Parramatta, Mount DrUITT, the Blue Mountains and so on.

The Hon. JOHN AJAKA: But the concern was usually for the victims and witnesses not travelling long distances.

The Hon. JOHN HATZISTERGOS: No it was not. I wish it were, because the victims would actually be better looked after. The concerns that were raised were directly about the economic impact it was going to have on the law firms. Let us be quite clear about this. A person who is facing a District Court trial just does not rock up to the local corner solicitor to represent them. They go where they can get expert advice because of the consequences that can flow from that decision and they are very discerning about the choice that they make. They do not just look up the Yellow Pages and pick out any old person.

The Hon. JOHN AJAKA: If you look at the aspect of police witnesses: if the police are stationed at Penrith, the inquiries were made Penrith, the witnesses are at Penrith, surely it is better that the matter be dealt with at Penrith and not Parramatta, where police would have to sit all day at Parramatta when if they were locally at Penrith they could still deal with other matters at Penrith?

The Hon. JOHN HATZISTERGOS: That is true and that will happen, but what is not convenient is, for example, a number of police officers who are based in police stations west of Parramatta having to go all the way to Penrith when they could go to Parramatta to have their evidence heard.

The Hon. JOHN AJAKA: I do not think you have indicated: Are there any intentions to close any rooms at Campbelltown that you are aware of that the Chief Judge has made a decision on and has advised you of?

The Hon. JOHN HATZISTERGOS: Yes, there is another one that is drawn to my attention and that is from February 2010 he has advised that some of the Campbelltown matters—and again, they are the areas closer to Parramatta—will go to the Sydney West Trial Court.

The Hon. JOHN AJAKA: Will that result in a courtroom—I still use the word "close" but you might want to use a different word?

The Hon. JOHN HATZISTERGOS: A better way of putting it is that some of the judges will go to the Sydney West Trial Court and there will be more matters heard at the Sydney West Trial Court but the District Court will continue to sit at Campbelltown.

The Hon. JOHN AJAKA: Does that mean that the court staff will also have to move to Parramatta? Let us use the words "not utilising" rather than "close"; if you are not utilising the courtrooms and matters are being transferred and judges are being relocated to Parramatta, will staff suddenly also be relocated?

The Hon. JOHN HATZISTERGOS: That is not necessarily the case, particularly if the Local Court is going to take up additional sittings.

The Hon. JOHN AJAKA: Can you assure us that the staff, for example at Legal Aid and the DPP offices will be maintained at their level at, say, Penrith or Campbelltown?

The Hon. JOHN HATZISTERGOS: That will be a matter for the DPP and for Legal Aid.

The Hon. JOHN AJAKA: You have no say in it?

The Hon. JOHN HATZISTERGOS: I am not going to direct the director as to the most efficient use of his staff. The most outrageous thing about these questions is that you continually used to say that I interfered with the DPP and that I interfered with these organisations. The shadow Attorney General is nodding his head. Now you are telling me that I should have some say and tell him what latitude and longitude he should locate his staff. I have better things to do than worry about those sorts of issues.

The Hon. JOHN AJAKA: Mr Glanfield, in preparing operations for the Parramatta Justice precinct, had it been your intention to move to other courts from Penrith as part of the project, when the decision was first made to close the courts and move them to Parramatta? Was that always part of the plan?

Mr GLANFIELD: First of all, no courts have been closed. But I think everyone in the legal and justice system was aware when we created the Sydney West Trial Court, creating nine courts in Parramatta that did not exist before, that there would need to be some consolidation. We were very short of capacity in Sydney West. We now have the best trial court in Australia, and it does not surprise me that the Chief Judge of the District Court wishes to use those facilities. They have the best technology support for trials. It was not a question of what my intention was at the time; the Government decided to deal with the court out there because there was a desperate need for additional courtroom facilities in Sydney's west.

The Hon. JOHN AJAKA: I understand that there is a desperate need for additional court facilities in Sydney's west. What I do not understand—if you could explain it to me I would be grateful—is that you build a new, as you call it, state-of-the-art courthouse at Parramatta to create additional courtrooms, and then all of a sudden you cease to use—or, I still maintain, close—courts in the west for Penrith and Campbelltown. I do not understand how this is creating additional courts.

The Hon. JOHN HATZISTERGOS: It is very simple. Let me take it step by step so that you understand it. One of the complaints with the way things were operating before the trial complex was established was that a lot of people had to travel further than they should in order to be able to access the District Court. In particular, they would go to Penrith, or Campbelltown, or one of these locations. That was because of the limited capacity at Parramatta to be able to handle those cases.

Anyone who had been to Parramatta—and I have been to Parramatta many, many times—will know that the workload at Parramatta had greatly increased exponentially. Ever since that complex was established, new courtrooms were being added, and we had legal profession rooms that were converted into courtrooms. All sorts of things were happening around that place to increase the capacity of that court complex. You would know that, if you ever went to Parramatta. That is what was happening. Cases were going to other courthouses.

The idea of establishing the Sydney West courthouse was to bring those cases back, in part. And that is what will happen. That creates a convenience for people who are able to access those courthouses. One of the areas that currently goes to Parramatta is Blacktown. Blacktown is closer to Parramatta. Anyone in that command has to troop out to Penrith for a District Court hearing. There is no reason why that should be necessary if there is additional capacity at Parramatta to be able to do it.

You have so many cases. You have a trial complex which is state-of-the-art, which can accommodate a wide range of different cases of varying length, and you have the Chief Judge who has made a decision that that is where he wants to sit his court. After consultation with all the stakeholders—and the only ones who, it seems to me, are objecting at this stage are a couple of lawyers, whom you have referred to, and yourself.

The Hon. JOHN AJAKA: Mr Glanfield, are you able to say that there are now additional courtrooms available as a result of Parramatta being built, notwithstanding the courtrooms in, for example, Penrith and, in the near future, Campbelltown not being used?

Mr GLANFIELD: The Sydney West Trial Court led to the creation of an additional 10 courtrooms in Sydney West. We did not close any courtrooms as a consequence of the Sydney West Trial Court. So there are 10 additional courts in that whole area.

The Hon. JOHN HATZISTERGOS: We are refurbishing the old courthouse, and that has displaced some of the work from Parramatta to other courthouses.

The Hon. JOHN AJAKA: Have new District Court judges been appointed and have new staff been retained to cater for those additional courtrooms?

Mr GLANFIELD: Partly, yes. Not an additional judge for every courtroom, obviously, because it depends on where the court is sitting at the time. But there are, as you would appreciate, sufficient District Court judges to ensure that at the moment it ranks as the best, in terms of timeliness, District Court level court in the country.

The Hon. JOHN AJAKA: What about staff?

Mr GLANFIELD: Yes, additional staff were employed.

The Hon. JOHN AJAKA: Can you tell me how many?

Mr GLANFIELD: I would have to take that on notice. The Sydney West Trial Court is fully staffed to be able to deal with—

The Hon. JOHN AJAKA: Are you aware whether additional crown prosecutors have been retained?

Mr GLANFIELD: There were at the time. We are going back a couple of years in terms of adjustments to budget. But there were additional resources throughout the system, including legal aid, that were provided as a result of the new courts.

The Hon. JOHN AJAKA: Can you tell me how many, or do you need to take that on notice?

Mr GLANFIELD: I will take it on notice.

The Hon. JOHN HATZISTERGOS: It is all public information anyway.

The Hon. JOHN AJAKA: My concern is this. We obviously do not want these new courtrooms being made available, only to find out that the courtrooms are not being utilised because there are either no judges, no crown prosecutors, or no staff to man them. You can assure me that that is not going to happen?

The Hon. JOHN HATZISTERGOS: Let me answer that question quite clearly. The Local Court is the best performing court in Australia, and so is the District Court. So do not say that cases are not getting heard, because they are. In terms of locations, there are courts established in a large number of locations in New South Wales, and courts sit there from time to time according to need. And we supply those resources according to need. A lot of courtrooms in New South Wales are not used all the time.

I am sorry to have to say this, but I am going to have to say it again. When your government was in office 39 courthouses were closed in one day—it is not that they were not used or not used temporarily; they were closed. In order to be able to ensure that they were not used, they were sold completely. They are now fulfilling the functions of coffee shops, art galleries, CWA halls, in one case a library; I think one might even be a Gardens R Us or something. That is the function that they are fulfilling. We do not do that. What we are doing here is rebuilding the court system. We have done that with the Sydney West Trial Court complex, and we have done that with a large number of other court complexes, with refurbishments of old buildings and establishing new buildings to ensure that we remain up to date and we can service the needs of the people of New South Wales.

The Hon. JOHN AJAKA: Thank you, Minister. My question to Mr Glanfield was this. I simply want to be assured that we have not spend all this money, as you put it, building these additional courtrooms if we will have a situation where some of the rooms are not be used, simply because we either do not have enough judges, we do not have enough crown prosecutors, or we do not have enough staff.

The Hon. JOHN HATZISTERGOS: What about enough cases?

The Hon. JOHN AJAKA: What if we have a lot of cases and there is no-one to man the courts? It is a simple yes or no. Do we have sufficient staff?

Mr GLANFIELD: The question is based on a false premise, and that is that if the courtroom is currently being used by the District Court it is somehow dedicated to the District Court. The way we deal with our courtrooms is that they are used by all the courts. Sydney West Trial Court is a good example of that, where we have the Supreme Court sitting at the moment. To the extent that a District Court is not using a court, as the Attorney General said a moment ago, the local court will be using it.

The Hon. JOHN AJAKA: Mr Glanfield, you know as well as I do that when cases are being listed the first determination that is made is whether a courtroom is available, whether a judge is sitting in that courtroom, and whether a Crown prosecutor is available. The list clerk does not list cases on the basis of not knowing if there will be judges there. Now that these courtrooms are available, do you have sufficient judges to man them, do you have sufficient crown prosecutors to prosecute the cases, and do you have sufficient staff, so that if there are cases waiting to be listed they can be immediately listed?

The Hon. JOHN HATZISTERGOS: I answered that question earlier. There is a capacity for the District Court to adjust its sittings to meet demand. The other day I went to Penrith, where three magistrates and two District Court judges were sitting on that particular day. That can vary according to need. At the moment I think we have the Court of Appeal sitting in the Maddison Tower, on the eighth floor; it has been sitting on a very long case. We do not have courthouses that are dedicated to a specific jurisdiction.

The Hon. JOHN AJAKA: Mr Glanfield, are you aware of cases being marked "not reached" because there were not sufficient courtrooms for judges to deal with them?

Mr GLANFIELD: No.

The Hon. JOHN AJAKA: Have you any idea of how many cases at Parramatta have been marked "not reached"?

Mr GLANFIELD: No, but that would be a matter for the chief judge.

The Hon. JOHN AJAKA: Are you aware of any?

Mr GLANFIELD: No, I am not aware of any problems. No-one has drawn any to my attention.

The Hon. JOHN AJAKA: Would you take that question on notice and go back and have a look to see if cases are being marked "not reached" at Parramatta because other cases being dealt with have not concluded or because more cases are being listed than the judges can deal with?

The Hon. JOHN HATZISTERGOS: That is a listing matter.

The Hon. JOHN AJAKA: Of course it is a listing matter but if there are not sufficient judges or sufficient courts then surely it comes down to your jurisdiction.

The Hon. JOHN HATZISTERGOS: Here is the answer to your question. Once you consolidate the resources at a place like the Sydney West Trial Court Complex, and you have all those judges sitting, there is the less likelihood of a matter not being reached because you will have more judges who can potentially become available during the day to hear matters. That reduces the trauma to victims and the expense to parties. That is one of the benefits of being able to consolidate your resources so that you have those opportunities. What we have got here is a situation where: first, convenience is taken into account and, second, the resources can be maximised to ensure that litigants get their cases heard.

The Hon. JOHN AJAKA: So you can assure us that no cases are being marked "not reached" because of the fact that there is either no judges to deal with them or no courtrooms to deal with them or no staff? You can assure us that situation is not occurring?

The Hon. JOHN HATZISTERGOS: No, and that will never not occur because some times estimates blow-out. People say that a case is going to take this long and you list so many cases on that basis and then those estimates are wildly inaccurate and that obviously causes cases to be not reached. In order to be able to minimise the potential of that occurring, one of the strategies is that you consolidate the number of judges so that in the event of some judge's time allocation for a case settles or resolves or something happens you then have the capacity to use that judge and those other resources in order to begin a case which otherwise would have been not reached. Where you have a situation, however, that you have a small number of judges sitting in a particular location there is less prospect of being able to provide that additional facility.

The Hon. JOHN AJAKA: Unfortunately we have limited time. I would have liked to continue with this but I have to move on.

The Hon. JOHN HATZISTERGOS: Please do.

The Hon. JOHN AJAKA: How much in total has been spent on CourtLink and JusticeLink to date?

The Hon. JOHN HATZISTERGOS: By the way, can I correct an answer that I gave before? I said that you closed 36 courthouses and, in fact, it was 39 courthouses.

The Hon. JOHN AJAKA: Have you reopened all 39 courthouses?

The Hon. JOHN HATZISTERGOS: No, you sold them.

The Hon. JOHN AJAKA: Have you opened up another 39 courthouses?

The Hon. JOHN HATZISTERGOS: The total cost of the project is estimated at \$48.2 million.

The Hon. JOHN AJAKA: I am sorry, how much?

The Hon. JOHN HATZISTERGOS: \$48.2 million?

The Hon. JOHN HATZISTERGOS: That is what I am told.

The Hon. JOHN AJAKA: Would you agree that another \$10 million apparently this year is to be spent on CourtLink?

Mr GLANFIELD: I am not sure it is \$10 million. Can I say that you need to make a distinction, as I have indicated in previous estimates committees, between what we are paying to the contractor and the cost that the department is incurring in relation to the whole chain of management implementation of the project. So \$10 million may be, I do not know, the full cost to the department over the entire year but the—

The Hon. JOHN AJAKA: I am interested in full cost to the department?

Mr GLANFIELD: The amount that we are paying to Contractor Accreditation Services [CAS], the contractor, is precisely what has been contracted. We are not paying anything more. There has been no blow-out in that amount. Because of the delays we have incurred some additional costs—

The Hon. JOHN AJAKA: Whose fault are the delays?

Mr GLANFIELD: The contractors being not able to deliver.

The Hon. JOHN AJAKA: Are we obtaining any compensation in relation to the delays?

CHAIR: It is time for Opposition questioning.

The Hon. JOHN HATZISTERGOS: Can I just correct another answer I gave?

CHAIR: Certainly.

The Hon. JOHN HATZISTERGOS: I did say that I thought Gardens R Us used one of the old courthouses that the Opposition sold off. It was Berry Courthouse and it has been used for garden club meetings. We have rebuilt a number of courthouses: Blacktown, Broadmeadow, Mount Druitt, Bankstown, Orange, Moree and Nowra, that is apart from Sydney West and King Street.

Ms LEE RHIANNON: Minister, of the 175,000 calls made to LawAccess, can you advise the Committee how many of these callers actually spoke to a LawAccess lawyer and can the lawyers actually give legal advice or are they restricted, like the Chamber Registrars in local courts, to dealing only with procedural matters?

Mr GLANFIELD: There are two aspects to LawAccess, one is the provision of legal information for which legal qualifications are not required. It operates very much as a call centre providing information to people seeking information often just involving referral to other legal practitioners, such as community legal centres or solicitors. There are some lawyers there who will provide assistance where the matter is clearly indicative of requiring proper professional legal assistance. But the main role of LawAccess is really this triage to help someone very quickly identify whether they do need a lawyer and legal advice and, as I say, there is advice available if that is the case, or whether it can be satisfied by provision of legal information.

Ms LEE RHIANNON: So who provides the legal information? Are they lawyers or what is their training?

Mr GLANFIELD: Legal information does not involve giving legal advice. It may be, for example, pointing out the relevant place where this information can be found. As you are aware, LawAccess has a very detailed website with a lot of self-help information where people find out information about the law but it is not giving advice. There is a distinction. Our laws prohibit people who are not lawyers from purporting to give legal advice for reward.

Ms LEE RHIANNON: So all the people who work at LawAccess are lawyers? All the people that answer the phones are lawyers?

Mr GLANFIELD: No. I am sorry, I thought I had made the distinction clear. There are a large number of them who are not lawyers but they have all been trained so that they are able to assist people in identifying legal information that will help them. I might say that the satisfaction rate from all the surveys we do for LawAccess are in excess of 95 per cent satisfaction. So we have non-lawyers who are giving a lot of information. They are highly trained and they are giving a lot of information out but not legal advice. We also have some lawyers who are giving legal advice. A lot of the non-lawyers though refer matters to the relevant legal sources, for example, community legal centres.

Ms LEE RHIANNON: Does that mean when a call comes in it is taken by a non-lawyer and they may pass it on to a lawyer but it is more likely that that person will be given information that they will follow up separately from that phone call?

Mr GLANFIELD: That is right. It works exactly the same, and can I say, with the Chamber Registrar service as well. The vast majority of my Chamber Registrars are not legally qualified.

Ms LEE RHIANNON: So you do not actually get a lawyer when you ring a LawAccess lawyer?

Mr GLANFIELD: Well, you may. If you need one you will but—

Ms LEE RHIANNON: But you do not get one in the first instance?

Mr GLANFIELD: No, but it is exactly the same as going to a hospital.

Ms LEE RHIANNON: That is all right, I am just trying to understand how it works. Can you give us a breakdown—and by all means you can take it on notice—of the number of calls between the lawyers and the non-lawyers?

The Hon. JOHN HATZISTERGOS: We will have to get that information to you. Some would be both.

Ms LEE RHIANNON: Last year there was another restructure in Court Services. I understand the Assistant Director General of Courts and Tribunal Services was upgraded from SES 3 to SES 4. Can you advise the Committee what new duties this position has taken on since the former position holder, Mr Tim McGrath, retired?

Mr GLANFIELD: If I can, but I am not sure I will be exhaustive. All of the court support services, including libraries, transcription- reporting services, the Sheriff's Office, were all combined under courts. So instead of just being responsible for the courts, that position took on responsibility for all of the court support services as well.

Ms LEE RHIANNON: Is it the case that the Director of Court Services was upgraded from SES 2 to SES 3 and took on the role of the District Court as well? Also, was the Assistant Director of Court Services upgraded from SES 1 to SES 2 with no additional duties?

Mr GLANFIELD: What we did—as well as what I have just mentioned—as part of making that area more efficient, was to merge the registry and administration of both the District Court and local courts together and, at a lower level, we also merged the administration of the Sheriff's Office with the local courts. There were significant changes in responsibilities for positions but, in fact, by doing that there was in fact one less senior management position looking after those responsibilities.

Ms LEE RHIANNON: Does that mean the Assistant Director of Court Services was upgraded from SES 1 to SES 2 with no additional duties? Is that what you are saying?

Mr GLANFIELD: No, it is not what I am saying. I would have to go back and check what happened in relation to the particular position.

Ms LEE RHIANNON: Would you take that on notice? I am interested if there was a change in duties.

Mr GLANFIELD: Can I make this point about evaluation? There is a proper process by which a position changes its grading. There are very clear guidelines provided by the Department of Premier and Cabinet that we adhere to, which involve an independent appraisal of the role of a job and its position. It may be that the position you are referring to was undergraded for the value of the work that was being done. On the other hand, it may have been that additional duties were given to the role. I will look at that and take it on notice.

Ms LEE RHIANNON: What is the Government's position in relation to the proposed personal property securities reforms being led by the Commonwealth? Is the Government aware of privacy concerns about the proposed national register expressed by the Australian Privacy Foundation and the Federal Privacy Commissioner? What, if any, advice has been obtained from the New South Wales Privacy Commissioner or other services?

The Hon. JOHN HATZISTERGOS: I will have to take the issues on privacy on notice. We have indicated we will join in the national scheme, along with the other States and Territories. I think that is important. The specific aspects of your question I will take on notice.

Ms LEE RHIANNON: Can you answer questions about the automatic numberplate recognition system?

The Hon. JOHN HATZISTERGOS: What about it?

Ms LEE RHIANNON: I want to know about the New South Wales Government's involvement in and position on the development of this national system?

The Hon. JOHN HATZISTERGOS: Is this a privacy issue?

Ms LEE RHIANNON: Yes. I am trying to work out whether it comes under your responsibility.

The Hon. JOHN HATZISTERGOS: I am not sure that it does. I will ask Judge Taylor and get some information, if he has any information. I know he has been consulted generally in relation to the issue. On the specific aspects of your question, I will have to take it on notice and ask the judge.

Ms LEE RHIANNON: What progress is being made towards the enactment in New South Wales of a national model spent convictions law?

The Hon. JOHN HATZISTERGOS: There has been some discussion at the Standing Committee of Attorneys General [SCAG] relating to this issue. I understand there is a discussion paper that will come out.

Ms LEE RHIANNON: Was it not supposed to go to a SCAG meeting in July?

The Hon. JOHN HATZISTERGOS: It will be at the next SCAG meeting. I have seen the proposal. We have had some input into it. There are a variety of ways that people treat these issues in different States. It is going to be hard to be able to reach an agreement amongst all the jurisdictions. My preference at this stage is to enable the thing to go forward with a variety of options. There are some very sensitive issues in relation to spent convictions, particularly in relation to sex offences. Some jurisdictions apparently allow those to be spent, others do not. Some have a court-based approach where a person can make an application to the court and the court can decide to spend it in an appropriate case. There are a variety of approaches to this issue. In order to be able to progress the project, my position is that to the extent there cannot be agreement at this stage on a proposed model, we should put a variety of options forward and allow that to go out for public consultation. I cannot say any more than that. That is a matter that our colleagues in other jurisdictions and I will need to resolve at the next SCAG meeting.

Ms LEE RHIANNON: When do you anticipate that public consultation will take place?

The Hon. JOHN HATZISTERGOS: The SCAG meeting is in the first week of November. If it is approved then, and I am optimistic that it will be, then the discussion paper can go out. I cannot give you any guarantees. It is dependent obviously on the decision of all the Attorneys. In particular, I know there is a different approach to this issue in Western Australia. There is a new government there and I do not know whether they will take the same position as the previous Government. We will need to watch that space.

Ms LEE RHIANNON: Do you believe there has to be a national uniform approach? If it falls over because of Western Australia—

The Hon. JOHN HATZISTERGOS: I do not think it is just Western Australia, with respect. There are other issues. I hesitate to be the one person out on these national issues, but sometimes I had to be. You would have read the *Australian* today: I am one out on the proposal to have a national judicial commission. At the moment, on the information I have that would be a dilution of what we currently have and I am hesitant about supporting it. I am anxious that the issue go further. If we come to a point of principle that we cannot agree on, we will cross that bridge when we come to it. At this point in time I do not want to be the one that says, "Don't go forward."

Ms LEE RHIANNON: What, if any, arrangements are being made for access to New South Wales Government databases, including births, deaths and marriages and electoral enrolment information, for the purposes of identify verification under the Commonwealth Anti-Money Laundering and Counter-Terrorism Financing Act?

The Hon. JOHN HATZISTERGOS: I have some knowledge of that, but in deference to your question I will take it on notice and come back to you.

Ms LEE RHIANNON: Is the Government proposing to enact the Model Identity Crime Offences? If so, what is your timetable?

The Hon. JOHN HATZISTERGOS: We will make an announcement about that in the near future.

Ms LEE RHIANNON: You cannot give us any time line?

The Hon. JOHN HATZISTERGOS: I have answered your question.

Ms LEE RHIANNON: That was very cooperative, Minister. You could have taken it on notice.

The Hon. JOHN HATZISTERGOS: It will be in the new future. By the time my get you an answer you might know—

Ms LEE RHIANNON: That soon?

The Hon. JOHN HATZISTERGOS: You might be better off waiting.

Ms LEE RHIANNON: So within 21 days?

The Hon. JOHN HATZISTERGOS: I know your background but I do not have to respond to a specific timetable.

Ms LEE RHIANNON: You know my background? What have you been looking at?

The Hon. MICHAEL GALLACHER: He is the Attorney General. He has got the files.

The Hon. JOHN HATZISTERGOS: I did not want to be disrespectful. I know the soviet style of asking questions and getting answers.

Ms LEE RHIANNON: Do you have to be a cold war warrior like Mr Costa and Mr Egan? It does not do you justice.

The Hon. JOHN HATZISTERGOS: I will withdraw it. Let us move on.

Ms LEE RHIANNON: In the last year have any preventative detention orders been made?

The Hon. JOHN HATZISTERGOS: Yes. I might be at cross-purposes. Are you talking about sex offender preventative detention orders?

Ms LEE RHIANNON: Do you have preventative detention orders under the Terrorism Legislation Amendment (Warrants) Act?

The Hon. JOHN HATZISTERGOS: I will have to take that one on notice. I was at cross-purposes.

Ms LEE RHIANNON: You do not know whether you have had any preventative detention orders? I thought you would have that on the tip of your tongue.

The Hon. JOHN HATZISTERGOS: Not that I can recall off the top of my head. I need to check it.

Ms LEE RHIANNON: If there are any, could you supply circumstances for each incident and whether any complaints were made?

The Hon. JOHN HATZISTERGOS: I do not recall any, but I just need to check it. I do not recall any, but I will doublecheck.

Ms LEE RHIANNON: The Terrorism Legislation Amendment (Warrants) Act 2005 introduced covert search warrant powers. In the last year how many of these warrants were issued and executed in New South Wales?

The Hon. JOHN HATZISTERGOS: There is an annual report that comes out on that sort of information. I will refer you to it when it comes.

Ms LEE RHIANNON: Is that information not yet available?

The Hon. JOHN HATZISTERGOS: We provide information in a public report. I will check that that will be in the public report and, if so, refer it to you. If there is any other information that you want that will not be in that report, I will be happy to answer it.

Ms LEE RHIANNON: Will you take the question on notice?

The Hon. JOHN HATZISTERGOS: I will. To the extent that it will not be publicly available I will supply you with an answer.

Ms LEE RHIANNON: Have there been any complaints about the deployment of these powers?

The Hon. JOHN HATZISTERGOS: Which powers?

Ms LEE RHIANNON: The powers in the Terrorism Legislation Amendment (Warrants) Act 2005?

The Hon. JOHN HATZISTERGOS: There may be, I do not know. They may have been to the Ombudsman or some other agency that I am not aware of.

Ms LEE RHIANNON: Do you want to take it on notice?

The Hon. JOHN HATZISTERGOS: I will, but it will be limited to the extent of my knowledge. I will not go to all the complaint handling agencies and ascertain. There may have been a privacy complaint, there may have been all sorts of complaints, I do not know. I will do my best endeavours.

Ms LEE RHIANNON: Have the expanded powers in the Terrorism (Police Powers) Act 2002 been used in the last 12 months?

The Hon. JOHN HATZISTERGOS: Again, I will have to take that on notice. That is information I would have to obtain from another agency. To the extent of this issue, I will try to do what I can.

Ms LEE RHIANNON: I understand that the Commissioner of Police is required to furnish you a written report when there is an exercise of the special powers. Is that how it works?

The Hon. JOHN HATZISTERGOS: I understand that is part of it. I cannot off the top of my head recall receiving a report from the Commissioner of Police in recent times. Again, in deference to your question and I do not want to be inaccurate, I will come back to you.

Ms LEE RHIANNON: If there are any occasions, for each occasion these expanded powers were used—

The Hon. JOHN HATZISTERGOS: Perhaps you can put all those questions relating to that aspect on notice, so that I do not waste your time, and I will come back to you.

Ms LEE RHIANNON: I just want to ask about the regional solicitors scheme. Is this scheme still running?

The Hon. JOHN HATZISTERGOS: This is the legal aid one? Yes, it is.

Ms LEE RHIANNON: If so, how much of the public purpose fund has been spent on the regional solicitors scheme?

The Hon. JOHN HATZISTERGOS: I might take that on notice. Have you got many of these sorts of questions?

Ms LEE RHIANNON: I will put the rest of those on notice. In the budget papers it shows that the number of mediation sessions held has decreased from 2,691 in 2005-06 to 2,166 in 2006-07 and to a revised number of 1,610 in 2007-08. That is comparing the budget papers.

The Hon. JOHN HATZISTERGOS: Which page is it on?

Ms LEE RHIANNON: I have not got the page numbers, I am sorry.

The Hon. JOHN HATZISTERGOS: This is in community justice centres?

Ms LEE RHIANNON: Yes, that is what I said. So we have got this downward trend. Do you acknowledge that this is a disappointing downward trend? How do you explain this decrease?

The Hon. JOHN HATZISTERGOS: This is not the only jurisdiction that does mediation; there is mediation now in just about every jurisdiction and there are expanded opportunities elsewhere and some people will access that. We are developing an alternative dispute resolution [ADR] framework and there should be an announcement that will follow.

Ms LEE RHIANNON: Soon?

The Hon. JOHN HATZISTERGOS: I cannot say it will be soon but we are working through it, and it will encapsulate a lot of these programs.

Ms LEE RHIANNON: So is the issue funding? Is it because of a lack of funding that there is less mediation being done?

The Hon. JOHN HATZISTERGOS: That has not been drawn to my attention as an issue, no.

Ms LEE RHIANNON: Would you be suggesting that there is a decreased demand for it? Is that what you are saying?

The Hon. JOHN HATZISTERGOS: No. What I have said to you is that mediation is now much more widespread than it previously was and it is available across a range of other jurisdictions. Sometimes people would bring their cases in, for example, to the local court and it might have been suggested to them that they go to the community justice centre, another dispute mediator, or the district court. One of the big ones in community justice centres that was causing a lot of work was dividing fences and trees and things. That has now gone to the Land and Environment Court; they are dealing with those sorts of matters. They handle a lot of neighbourhood disputes that CJC were dealing with.

What I am saying to you is that we have now got mediation in a number of jurisdictions where previously it was not and people may have used the CJC as a means of having a dispute mediator whilst the case may have been in another jurisdiction pre-service. But now we are developing a whole ADR framework, which you will hear about.

Ms LEE RHIANNON: I am probably not aware of the full extent of the other jurisdictions so could you take that on notice?

The Hon. JOHN HATZISTERGOS: Yes. We can give you some information about what is available in terms of mediation assistance in other jurisdictions.

Ms LEE RHIANNON: Have efficiency savings targets been imposed on court services in the past year?

The Hon. JOHN HATZISTERGOS: Yes, across government.

Ms LEE RHIANNON: I understand that at a local court level expenditure in the past year had to be reduced by approximately 4 per cent and that local courts did not have sufficient funds to fill all the established positions. Is this correct?

Mr GLANFIELD: The idea that an established position is funded is an incorrect assumption. Quite often we might have created positions over the years in areas where there was increasing demand and those positions still exist but there is no reason to fill them. There is a feeling in some courts in areas where the workload has declined that each of those established position should be filled. We are currently going through a process of assessing for every court what the court's needs are with a view to clearing up establishment lists. So this idea that we should be funded to fill every job that actually at any time has been created is, I think, what leads to the question you have asked: Is there enough money to fill those positions? The answer is no, but all those position should not be filled.

Ms LEE RHIANNON: But if you have got understaffed departments does that not expose the staff to workplace risk and stress?

Mr GLANFIELD: I am very conscious of trying to ensure that my staff are not subject to any occupational health and safety risks. One of the things we have been doing in the courts area has been looking at trying to streamline the processes to reduce the red tape and bureaucracy, to make it easier not only for our staff to perform their job but also for users of the courts to be able to deal with the courts. The Justice Link project referred to earlier is currently in operation in the Supreme Court and District Court in crime. It is dramatically reducing the amount of data entry and unnecessary paperwork. As part of that project we substantially changed the way in which courts operated: we reduced some 700 different forms in the criminal area to something in the order of about 80 forms.

The Government passed legislation to have civil procedures uniform between Supreme, District and local courts, again simplifying the needs. So it is a melting pot of a whole range of initiatives to ensure that our staff are not overworked. But I do not accept the original premise that in fact the department is understaffed. Like any organisation, in or outside government, we have to be as efficient as we can in the delivering of services.

Ms LEE RHIANNON: The number I have heard is that you have to keep 50 positions vacant and that positions have not been abolished, they are just kept vacant to ensure that you meet these efficiency savings that are required. Is that the case: that you hope that when more money comes you can get them back?

Mr GLANFIELD: I just go back to the answer to the first question. The idea that every establishment position must be filled with an officer is a false one.

Ms LEE RHIANNON: But my question is a different one. My question is if you have not actually abolished these positions, you are just keeping them vacant, it suggests that you believe that they are needed and you are keeping them there so one day the funding may come through and they will get filled? That suggests something quite different.

Mr GLANFIELD: Indeed. It is not a big task in creating a position if it is needed in terms of the job; funding it is another issue. But the point I was making was that our workload moves around the State quite a lot. There are areas of the State that are suffering declines and there is less work. In some courts there may be an organisation, such as a large bank or a credit organisation, that does all of its debt recovery work through that court. If that work shifts to another court I need to move the resources. So yes, there are positions that exist notionally as part of the establishment but that are in fact not filled.

There has been no deliberate intention to keep positions vacant. It is very easy to create positions as they are needed. What has not happened is when we have made those changes we have not cleared up the establishment list well enough, and so some people still believe that the establishment that was relevant 10 years ago in a particular court should still be relevant, and that is not the case.

Ms LEE RHIANNON: I am interested also in what your plans are. Is it your intention to close or scale back any existing registries or remove or scale back local or district court sittings from any places where they occur?

Mr GLANFIELD: I do not have any say in where sittings occur.

Ms LEE RHIANNON: Can we ask the Minister?

The Hon. JOHN HATZISTERGOS: They are matters for the heads of jurisdiction, and from time to time the sittings do vary and the staff go where that need applies. But as I pointed out to your colleague last year, Ms Sylvia Hale, there are some registries where there have been significantly declining amounts of work and we have had a program of going out and doing some outreach services to try and bring the services to the people, particularly in some of the indigenous areas where there may be genuine access issues, to try and reach those people.

There is a variety of ways that you adjust your resources in order to ensure that people do have access. We also use government access centres. Bear in mind too that an increasing amount of our services is now supplied electronically and they are available to people as well. I applied for a birth certificate the other day. I downloaded the form from the web, filled it out and sent it in. I did not go to the registry. There are different

ways of delivering services. Ms Sylvia Hale asked a series of similar questions last year about efficiency savings and what we do. I refer the member to that.

Ms LEE RHIANNON: Does that mean there will be no further cutbacks in this area in the mini-budget?

The Hon. JOHN HATZISTERGOS: In what area?

Ms LEE RHIANNON: In how our courts are run.

The Hon. JOHN HATZISTERGOS: I do not know.

Ms LEE RHIANNON: Surely you have a say.

The Hon. JOHN HATZISTERGOS: We will deal with the mini-budget when it is handed down. I will not pre-empt announcements about that area. Our needs will be met. The whole concept that a service has to be delivered at this latitude and longitude and at this level forever and a day is ludicrous. Needs change and we must adjust our resources to ensure that we are able to service those needs. There are different ways of servicing needs. I am not sure that the member would disagree with that if she thought about it carefully, because if we thought along those lines we would never have changed anything, everything would have been the same forever. It is not realistic or practical.

When I first started practising we did not have a local court at Mount Druitt. However, demands grew and we had to build one there. When we built it there were lawyers going on about how it would drag work away from Penrith and Blacktown. We do not hear those criticisms these days, but that is what happened. There was a need and it had to be met.

The Hon. GREG DONNELLY: What is the latest information on the reforms to the judicial appointments process in this State?

The Hon. JOHN HATZISTERGOS: This is a very important question. Greater transparency and diversity in appointments to the judiciary and senior offices in the justice system is a hallmark of good governance. As members would be aware, last year a process was initiated to enhance the pool of potential judicial appointments. Vacancies on the bench for District Court judges and magistrates, Administrative Decisions Tribunal members, public defenders and crown prosecutors are advertised. Applicants come before a selection panel that is independent of institutional or political bias.

The panels are chaired by the head of the relevant jurisdiction or authority. In the case of public defenders and Crown prosecutors it is a retired judicial officer. The panels also include a prominent community member and a leading member of the profession. Some very distinguished people have been on these panels. Ms Renata Kaldor sat on the panel for the District Court and the Local Court. Lucy Turnbull and Gabrielle Kibble sat on the panel for the Land and Environment Court. Margaret Verity, the principal of Sydney Girls High School, sat on the panel of the Administrative Decisions Tribunal, and a number of other prominent judges have sat on the panels. Of course, John North has represented professional interests. The panels assess the applicants and make recommendations. I have made it clear that I reserve the right to directly recommend a suitable candidate outside that process. However, I have not done so since the new process came into force; there has been no need to.

There have been 16 appointments to the District Court and the Local Court under this process. Since advertisements were placed for the first time ever in New South Wales for District Court judges in October 2007, Judges Lakatos, Levy, Elkaim and King have been appointed. Magistrates Holdsworth, Dunlevy, Connell, Hiatt, van Zuylen, Bugden, Stubbs, Dakin, Clisdell, Goodwin, Corry and McIntyre, who come from a variety of different backgrounds have been appointed to the Local Court since advertisements were placed in May 2007. One appointment was from the Office of the Director of Public Prosecutions, and others have been from Legal Aid NSW, the Bar and the ranks of solicitors.

The calibre of these candidates speaks for itself. Judge Levy has had more than 30 years of experience in common law litigation and was appointed as a senior counsel in 1996. He specialises in professional negligence cases involving health care, and disciplinary and criminal proceedings relating to health care. Judge Elkaim was appointed as a senior counsel in New South Wales in 2002, and had been practising as a full-time

barrister for almost 30 years in a wide variety of courts and jurisdictions, predominately in the field of common law. He has also conducted litigation in the fields of equity, family law, family provision and criminal and commercial law. Judge King had more than 30 years of experience in criminal and civil law. He had acted for the Commonwealth Director of Public Prosecutions in a number of lengthy and complex drug trials. He was counsel assisting the commissioner at four Independent Commission Against Corruption inquiries and two Police Integrity Commission probes between 1991 and 2007. He has also served on the Bar Association's professional conduct committees.

The reality is that judges and magistrates play a pivotal role in the justice system. To build on the reforms of advertising for appointments and establishing independent panels, earlier this year my department released a discussion paper on selection criteria for judicial appointments. The discussion paper articulated a set of potential professional and personal selection criteria for judicial appointments in New South Wales and invited interested parties to comment on these criteria. I am pleased to announce that the criteria were recently finalised following consultation with key legal stakeholders, including the judiciary and the profession. The selection criteria are publicly available on the Internet. I look forward to advising the Committee and the community of appointments made pursuant to these criteria in the future.

It is important to rebut the criticism that has been made of what has happened so far, because unfortunately it adversely reflects on not only the people who participated in the process but also inferentially on some of the people appointed through that process. Some of the comments that have been made about judicial appointments in the past have been particularly disturbing, although less so in recent times. In 2004, the then Leader of the Opposition, the member for Vaucluse, said that we should review and replace 50 per cent of the judges and magistrates who displayed a clear bias in favour of criminals. That is an outrageous statement.

The member for Epping also released a document entitled "Restoring Faith in Justice—Promoting Transparency in Judicial Appointments in New South Wales". My colleague the former Minister for Police noted in the other House that a section of that document, under the heading "Career Judiciary", states:

In most civil law systems, individuals train for a career either as a lawyer or as a judge. The bench is regarded as another arm of the bureaucracy where promotion through the ranks is determined on the basis of technical ability and seniority.

The same opening sentence under the same heading is in an article that was published in the Melbourne University *Law Review* in 2003. The member for Epping went on to outline his "Way Forward for New South Wales". He stated:

While there is as yet no definitive empirical evidence on whether such commissions have increased the quality of judicial appointments, it is significant that they have been perceived as having had this effect.

The Melbourne article published five years earlier stated:

While there is as yet no definitive empirical evidence on whether such commissions have increased the quality of judicial appointments, it is significant that they have been perceived as having had this effect.

I will leave those comments aside and look at the United Kingdom model more closely. I have recently had some discussions with one of the British Ministers who had some involvement in this process. The British experience has been that numerous positions have been unfilled, resulting in criminals not being brought to justice or delays in process. In the British Judicial Appointment's Commission Annual Report, the appointment process is listed as taking up to 22 months. Over the past two years, British taxpayers have paid more than \$20 million for this commission. In spite of this, the commission was unable to recommend candidates for a number of positions, including the United Kingdom's most senior child support magistrate. This is a system that is being proposed by the Opposition as one that New South Wales should embrace. It includes the constitution of an elaborate, unworkable system where a body of people would be on the selection panel. In stark contrast, what I have done is institute a fair and workable selection panel process, particularly for magistrates, District Court judges, as well as for Crowns and public defenders.

The Hon. HELEN WESTWOOD: Attorney, will you outline to the Committee the operation of the Crimes (Serious Sex Offenders) Act and also detail the Government's efforts to protect the community from serious sex offenders?

The Hon. JOHN HATZISTERGOS: The Crimes (Serious Sex Offenders) Act has assisted us in providing an additional level of protection to the community and demonstrates the Government's commitment to

ensuring that serious sex offenders are not able to manipulate the laws as they were. Regrettably, and it is a fact of life, a number of sex offenders, in the past, have taken the view that parole means nothing. They are not interested in parole. They want to serve out their whole time in custody, because at the end of that period in custody they can then be released back into the community without any conditions, without any supervision from the Probation and Parole Service, to slip back into the community without the capacity of the Department of Corrective Services to be able to intervene, either to ensure compliance with any conditions or orders or to ensure ongoing therapy or treatment is undertaken.

The Act extends the role of the correctional system beyond the period of an offender's sentence. When they pose a risk to the community, serious sex offenders may now be kept in custody under the supervision of the Department of Corrective Services post the conclusion of their sentence. The legislation recognises that the role of the criminal justice system goes beyond mere retribution or rehabilitation. The role of the criminal justice system now encompasses community protection. The Crimes (Serious Sex Offenders) Act enables the Supreme Court to make two types of orders in relation to serious sex offenders: continuing detention orders, where the offender is ordered to remain in custody for a designated period; or extended supervision orders, where an offender is subject to supervision by the Department of Corrective Services in the community.

Where previously offenders in the community could only have their movements or activities restricted if they were on parole or bail, an extended supervision order enables those restrictions to be placed upon them beyond the completion of their sentence. Typical conditions imposed in extended supervision orders include electronic monitoring; controlling where offenders live; curfews; preventing offenders from accessing specific types of areas; abstinence from alcohol or drugs; mandatory psychological treatment; provisions that prevent offenders from changing their appearance; provisions that limit the movement of offenders and provisions that limit the employment of offenders. It is important to note that these conditions are tailored to suit the individual offender involved. Child sex offenders are kept away from locations where they should not be, and offenders with substance abuse problems are kept away, again, from areas where they should not be, such as licensed premises. The conditions can restrict offenders in the community and the Department of Corrective Services has the authority and the resources to enforce these conditions.

The community compliance group of the Department of Corrective Services visits offenders residing in the community potentially at all hours of the day and night. This group operates 24 hours a day, seven days a week. They are authorised to conduct urine analysis of offenders to ensure that they are complying with abstinence conditions. The Department of Corrective Services is also authorised, where an offender enters into an ongoing relationship with a member of the community, to inform that person of the criminal antecedents of the offender. Breaching an extended supervision order is a criminal offence. Two offenders have come to notice. One has been found guilty of breaching an extended supervision order and is currently behind bars, serving an additional sentence. Another is on remand.

The Department of Corrective Services has elicited the help and support of Professor William Marshall, who is presently an Emeritus Professor of Psychology and Psychiatry at Queen's University and Director of Rockwood Psychological Services. This body provides assessment and treatment for sex offenders in Canadian Federal prisons. Professor Marshall is the world's foremost expert on sex offender treatment. On 2 June this year, I met with him. I also facilitated the Judicial Commission and the profession to be able to attend a seminar whereby he was able to address them. He discussed the effectiveness of sex offender treatment and personally endorsed the New South Wales Department of Corrective Services' sex offender programs as being of a very high standard. Professor Marshall said the programs were likely to be very successful in reducing the rates of reoffending by sex offenders. He will continue to provide expert advice to the department.

I also welcome the support of victim groups, including Bravehearts, the New South Wales Rape Crisis Centre and VOCAL [Victims of Crime Assistance League] in our ongoing efforts to ensure that these serious sex offenders are unable to do what they have done in the past, and that is to obtain release without being the subject of treatment and without being the subject of supervision. I am pleased to report that so far the Crimes (Serious Sex Offenders) Act has been successful in achieving its objectives. There are currently four serious sex offenders behind bars beyond their prison terms who would otherwise have been released into the community. Two of these offenders have now been refused bail on further charges; two offenders are on continuing detention orders. Seven offenders are currently subject of extended supervision orders and one of the offenders is currently serving a sentence in relation to a breach of an extended supervision order. As I said, another is remanded in custody on a charge of a breach of an extended supervision order.

I acknowledge the swift action taken in relation to both those matters by the Department of Corrective Services and the Police, and I commend the work of those staff in the Attorney General's Department and the Department of Corrective Services who have worked hard on this legislation. I particularly acknowledge the efforts of the Crown Advocate.

The Hon. GREG DONNELLY: Attorney, will you provide the Committee with an update on key reforms dealing with young offenders and juvenile crime in New South Wales?

The Hon. JOHN HATZISTERGOS: With the exception of a very small minority, the vast majority of young people obey and respect our laws. The size of the small minority who do the wrong thing has been decreasing in recent years. I previously reported to the House that according to the Bureau of Crime Statistics and Research, between 2002 and 2006 the number of juveniles coming to the attention of police and the courts fell by 8.8 per cent. However, there is no doubt that a small minority of young people flout laws and engage in disruptive antisocial behaviour and cause significant consternation to communities right across the State. Sadly, we know it is often the case that these same juvenile law-breakers go on to graduate and become career offenders.

For these reasons the Government has maintained a strong focus on dealing with young offenders who become involved in the criminal justice system. In the past year we have undertaken a number of initiatives designed to make these juvenile offenders turn away from a life of crime. Under the Young Offenders Act, juvenile offenders can be referred to youth justice conferencing, to face their victims in the presence of family and the police. This provides victims of crime with an opportunity to make offenders face up to their behaviour. Conferences require offenders to make amends directly to victims through the development of an outcome plan, which can include a formal apology, the payment of compensation, or the performance of community work, such as cleaning up graffiti. Victims who participate in these kinds of conferences generally report high levels of satisfaction with the outcome, and reoffending rates for juveniles who participate in youth justice conferences are much lower than those who are brought through the former court processes.

Late last year the Government introduced new laws to expand the range of victims who are able to confront young offenders at youth justice conferences to include anyone who experiences shame, distress, physical or psychological harm, like humiliation and fear, and anyone who suffers any form of financial loss, not just those who have had their property damaged. We further amended the Young Offenders Act to allow victims of crime to provide a written statement to be read out when a police officer decides to formally caution a young offender. These changes mean that for the first time when a young offender receives a formal police caution they may also face a victim impact statement, which will detail the harm and suffering they have caused. Hopefully, this will make offenders realise that their behaviour has consequences and thereby encourage them to stay out of trouble in the future.

Earlier this year the Government also introduced new laws to make a number of important reforms to the Children's Court. Once again, the reforms were designed to make juvenile offenders face up to and meet appropriate amends for their behaviour. The first of these was the introduction of victim impact statements in Children's Courts. Victim impact statements have been the feature of the adult court system for some years. They have been successful in giving victims a voice in the justice system and in helping courts more fully appreciate the impact of crime on victims. The extension of the impact statements to the Children's Court is allowing even more victims to have their voices heard and forcing even more young offenders to face up to the impact of their behaviour.

As part of this legislative reform the Government also doubled the amount that the Children's Court can order a juvenile offender to pay a victim in compensation. Whilst the court must consider an offender's means when making a compensation order, the fact is that many juveniles who appear before the Children's Court have the capacity to pay. Making these young offenders compensate the victims forces them to make full amends for the damage that they cause, once again driving home to them the impact and the consequences of criminal behaviour.

The Government has also introduced amendments to grant new powers to the Children's Court magistrates so that they can order juvenile offenders to participate in education, training and behavioural programs as part of community service orders. Offenders who fail to complete their order risk being sent to a juvenile detention facility. Evidence shows that a lack of education and training and employment is one of the key factors that contribute to ongoing criminal and recidivist behaviour. This change, which delivers a

commitment made by the Government during the last election campaign, is about using the juvenile justice system to get young offenders early to turn them away from a life of offending.

Rather than graduating into career criminals, we want to see these young offenders graduate into trades people, engineers, nurses, teachers, managers and perhaps even lawyers and politicians. However, we are determined to ensure that those juvenile offenders whose criminal behaviour is so serious or repetitive do get dealt with by the court system appropriately, and that of course may include a sentence in juvenile detention. The Children's Court has the power to order juvenile offenders to serve terms of up to two years in detention and juveniles charged with serious indictable offences like homicide or sexual assault face the full range of adult penalties in the District Court or Supreme Court.

Accordingly, serious young offenders can often spend a large number of years in juvenile detention. The Government believes that generally, once a juvenile offender has turned 18, they should serve the remainder of their sentence in an adult facility. This is not only to make it clear to juveniles who commit serious crimes that their actions could eventually see them placed in an adult prison but it also in recognition of the fact that juvenile and adult offenders usually need to be separated for the protection and rehabilitation prospects of younger offenders and that young adults can sometimes be a source of discipline problems in juvenile detention centres.

Furthermore, adult facilities are usually a more appropriate place for young adult offenders. They are more likely to be with people their own age, stature and level of maturity, and can access a variety of education, employment and other rehabilitative programs aimed specifically at their age group. In light of these considerations, the Government introduced legislation to streamline the process for transferring juvenile detainees over the age of 18 into adult correctional centres and limit the circumstances in which courts can order offenders aged 18 to 21 to serve time in juvenile detention. Astonishingly, the Opposition opposed the legislation. Nevertheless, the laws were passed and this should see a greater proportion of offenders who commit serious crimes as juveniles and then turn 18 serve their time in adult facilities.

The Government is also committed to the getting to the root causes of juvenile criminal behaviour. We know that issues like drug and alcohol addiction, mental health problems, poor education and accommodation needs can all contribute to offending and, in particular, recidivism. In a brand new initiative aimed at getting young offenders to confront these kinds of issues, I recently announced that the Government will be spending \$1.4 million to pilot a Youth Conduct Orders Program in New England, Campbelltown and Mount Druitt. Under the trial, young offenders charged or convicted with lower level anti-social offences who would be otherwise dealt with under the Young Offenders Act can instead be placed on a youth conduct order for up to 12 months.

Once placed on an order, offenders will undergo intensive case management with their families, forcing them to confront issues like drug and alcohol dependence. They can also be referred to treatment for mental health problems and their families may be given extra help with parenting support and housing. The aim is to intervene early and get young offenders to work with their families in addressing the causes of their anti-social behaviour. To keep offenders on the straight and narrow while they are being case managed, youth conduct orders will also be able to include strict limitations on a juvenile's movement and behaviour, including curfews, school attendance requirements and non-association orders so they do not mix with bad influences or gang members.

If a juvenile on a youth conduct order steps out of line, they risk being sent straight back to court to face the full force of the law. The program will be trialled for two years, with an evaluation of its success to be undertaken by an independent evaluator. The Government takes the issue of juvenile crime very seriously. While juvenile rates of crime have been decreasing, there is still more work to do. Over the past year, we have maintained our reform agenda and extended our commitment to make young offenders face up to their behaviour and turn away from a life of crime. This has included introducing legislation to increase the role of victims of crime in the juvenile justice system, get more young offenders who turn 18 into adult prisons, where they belong and give courts new and expanded powers to force young criminals to address the causes of their offending behaviour. With new initiatives like youth conduct orders on the horizon, we are working even harder to protect people in this State from unlawful interference with their personal safety and property.

The Hon. HELEN WESTWOOD: What is the latest information about public confidence in the criminal justice system?

Ms LEE RHIANNON: Point of order: If the Minister has a long answer, I ask that he table it, so that we have a fair distribution of the remaining time.

CHAIR: The Minister can answer the question. My intention is to take any substantial overrun from the final allocation of Government members.

The Hon. JOHN HATZISTERGOS: I will stay longer, if you want me to. Even more than in other areas of government services it is vital for the public to have confidence in the effective operation of the justice system. Our justice system relies on the faith and support of the community when we ask victims to come forward and report crimes, when we ask witnesses to give evidence and when we ask members of the public to sit on a jury and judge their fellow citizens. It reminds me of what was said by Lord Hewart in a case *Ex parte McCarthy* when he said:

... it is not merely of some importance but is of fundamental importance, that justice should not only be done, but should manifestly and undoubtedly be seen to be done.

But for these reasons, public confidence in the criminal justice system is important. That is why at the last election the Government committed to undertaking research into public attitudes to sentences being conducted under the auspices of the Sentencing Council. This was so we could better understand the community's understanding of, and feelings towards, the sentences imposed by the courts. It will help inform governments on law reform and public education. The Sentencing Council and the Bureau of Crime Statistics and Research have now completed that research and they have released their report today.

Over 2,000 New South Wales students were surveyed for this study via telephone interviews. The bureau set quotas for the age, sex and residential location so that the group matched the New South Wales population as closely as possible. Participants in the study were asked a range of questions about their confidence in the New South Wales criminal justice system, their views about sentencing and their knowledge of crime and justice. The report found that a high proportion of people in New South Wales were very or fairly confident that the criminal justice system respects the right of an accused person—72 per cent; and treats accused people fairly—75 per cent. Regrettably, public confidence in other aspects of the criminal justice system is not as high. Over half, or 55 per cent, of adults are very or fairly confident that the criminal justice system brings people to justice. Just under half or 44 per cent are very or fairly confident that it deals with cases efficiently. Less than a third, or 29 per cent, are "very" or "fairly" confident that it deals with cases promptly. Slightly more than a third, or 35 per cent are "very" or "fairly" confident that the justice system meets the needs of victims.

Some of these questions are testing the subjective opinions of the public on issues—such as bringing people to justice or fairness. However, some of these results show that the public is not aware of some of the characteristics of our justice system. For example, contrary to public views about the efficiency and promptness of dealing with cases, the Productivity Commission's Report on Government Services 2008 shows our courts are among the most efficient in the country. The New South Wales District Court, Local Court and Children's Court were all national leaders in terms of timeliness of criminal matters. Each of these courts, which handle over 99 per cent of the criminal matters in New South Wales, had the lowest backlog of cases in Australia older than 12 and 24 months.

The efficiency of the New South Wales Local Court deserves particular mention. For the fifth year in a row, the New South Wales Local Court achieved the lowest backlog of criminal matters older than six months and the lowest backlog older than 12 months. The New South Wales Local Court was also the only court to achieve the national standard set by the Productivity Commission for local courts, which requires that no more than 10 per cent of matters are more than six months old.

On the issue of the public's views about the justice system meeting the needs of victims, we undertake a process of continual improvement and monitor the justice system, and we will make further reforms to ensure the system is properly supporting victims. The Rees Government is committed to supporting victims of crime. The Charter of Victims' Rights enshrines the rights and roles of victims. And we support victims through a number of other practical measures. We provide \$64 million in compensation, counselling and support through the Victims Compensation Scheme. We provide funding grants of up to \$15,000 each to about 40 non-government organisations that work with victims of violent crime at the grassroots level, and we have passed tough laws to reflect community expectations in sentencing.

We are also making further legislative changes to increase the ability of victims to have their voice heard in the court process. We are making it easier to give victim impact statements in court, giving victims of

young offenders a voice in court, and recognising the role of victims in sentencing options such as youth justice conferencing. We want to help victims to recover and rebuild their lives, and these steps help in that difficult task. These services do make things a bit easier for victims. Take, for example, the free counselling we provide to victims of crime. The most recent Victims Compensation Tribunal annual report showed that 4,767 victims of a violent crime were provided with counselling to help them deal with the trauma of being attacked. Over 330 approved counsellors provided 28,000 hours of counselling to victims. An additional 22,000 hours was also provided for victims to use if they want additional counselling now or in the future.

And the facts are that when victims were surveyed to find out their satisfaction with the service, 98 per cent found the counselling was worthwhile and helped them to cope better, 98 per cent found the counsellor helpful and supportive, and 99 per cent found the counsellor flexible to meet their needs. This shows that victims themselves find particular services we offer to support them useful.

The survey also measured public attitudes to sentencing and public knowledge of crime and criminal justice. A high proportion—66 per cent—of New South Wales residents feel that the sentences imposed on convicted offenders are either "a little too lenient" or "much too lenient". The New South Wales Government is committed to ensuring that criminals pay for their crimes. New South Wales has the toughest sentencing regime in Australia. We are more likely to send serious offenders—such as those convicted of sexual assault and robbery—to prison than any other jurisdiction, according to the survey conducted by the Judicial Commission.

The Bureau of Crime Statistics and Research analysed sentencing patterns in nine major offences over a decade and found that New South Wales courts were "showing no trend towards leniency in sentences". According to the bureau's analysis, in 2006 the likelihood of convicted offenders being sent to prison was considerably higher for a number of offences than when the Coalition was in government in 1993. We were the first jurisdiction in Australia to introduce standard minimum sentencing. Martha Jabour of the Homicide Victims Support Group said in the June 2007 edition of *Police New*:

"We went to the Premier ... and we basically said there is ... an inconsistency in sentencing, what is your government going to do about it? True to their word they brought in standard non-parole periods. No longer will we see the sentences that we saw [previously] ..."

And our tough approach is working. What concerned me about the research was not that some members of the public thought sentences were lenient but that many members of the public were mistaken about crime and sentencing issues. To measure public knowledge about crime and justice, the survey participants were asked the following questions: whether property crime had increased, decreased or remained about the same over the last five years; what percentage of all crime recorded by police involves violence or the threat of violence; what percentage of persons charged with home burglary are convicted of the offence; what percentage of persons charged with assault are convicted of the offence; what percentage of persons convicted of home burglary receive a prison sentence; and what percentage of persons convicted of assault receive a prison sentence.

Only 11 per cent of those surveyed correctly answered that property crime had fallen in response to the first question. Most respondents grossly overestimated the proportion of all crime that involves violence, grossly underestimated the conviction rates for assault and home burglary, and grossly underestimated the proportion of burglars sent to prison. The only area where the public overestimated the percentage of persons convicted who receive a prison sentence was for assault. Significantly, a lack of confidence in sentencing and the criminal justice system was found to be strongly associated with mistaken beliefs about crime and justice. In other words, those who had the least knowledge of our criminal justice system also had the least confidence in it.

The study also measured what people reported as being the most influential sources of information about the criminal justice system: 74 per cent said television or radio news, 48 per cent said broadsheet newspapers, 41 per cent said local newspapers, 35 per cent said tabloid newspapers, and 22 per cent said talkback radio. Some of the influential sources nominated by the least number of people were: educational institutions, 8 per cent, government publications, 8 per cent, and the Internet, 18 per cent. This research by the New South Wales Sentencing Council and the Bureau of Crime Statistics and Research will be a useful resource to inform future policy making. It will assist the Sentencing Council in its role of educating the public about sentencing matters. It will also assist the Government in future decisions on crime, justice and sentencing reform. I commend the Sentencing Council and the Bureau of Crime Statistics and Research for their work on this important project. We will be working with the Sentencing Council on the initiatives that it proposes to undertake, to ensure that some of the matters that have been identified in relation to ensuring that information about sentencing is provided to the public are enhanced.

The Hon. JOHN AJAKA: Mr Glanfield, when we ran out of time earlier I was asking you about CourtLink. You indicated there were delays and, as a result, more costs, and it was indicated that this was the builders' fault. I asked you whether you were seeking compensation, but you were not able to answer because we ran out of time. Are you seeking compensation as a result of these additional costs?

Mr GLANFIELD: Can I start by giving you information in answer to one of the earlier questions you asked, which was about the anticipated costs this year. The \$10.4 million figure you referred to was the cost incurred in 2007-08. For this year we anticipate that \$7.1 million will be spent, and that is all within the total, as the Attorney General indicated, of an estimated \$48.2 million.

In terms of compensation, what we have done through the whole of this process—which has been very much a phased process; we did not contract for the whole system to start with, we contracted for parts of it—has been to use the position of strength, if I can put it that way, that we had with the contractor's inability to deliver in a timely fashion, to negotiate improvements to the system to improve the product. It is a considerable time since we originally drew up the specifications for the system. So what we have been able to do is negotiate a much improved product, so we now have a system that is much more reflective of modern InterWeb processes and interactions for transactions than was the case six or seven years ago.

The Hon. JOHN AJAKA: Would you agree with me that CourtLink is not working efficiently at the moment in the Supreme Court and District Court?

Mr GLANFIELD: I do not accept that at all. Firstly, you refer to CourtLink, but it has been renamed JusticeLink. Partly the reason for that is that we are now starting to move towards the interactions between the system and other justice agencies. Another phase of this whole computer program will be to enable other justice agencies to be able to automatically download information, and police will be able to submit electronic briefs into the system. There is a fair amount of that already happening but we need to be more sophisticated.

The Hon. JOHN AJAKA: How much do you believe still needs to be spent on JusticeLink to complete the project?

Mr GLANFIELD: \$7.1 million this year, and probably small amount after that. But there will be something more we will be doing because we will be adding on to it. Just in terms of compensation, one of the things that we have held in place through all of our negotiations over the years has been a \$25 million bank guarantee from the supplier. So at any time they defaulted we could have taken the \$25 million and started from scratch again. If I did that, I would be putting us back six years probably to where we were. We have taken the view, and I think time has proven that to be the best outcome, to negotiate with the contractor to improve the quality of the product that is being delivered and to give them some more time not only to be able to deliver but to ensure that we have the product. It is operational in the Supreme Court and District Court crime. We have already looked at an advanced copy of local court crime and we expect to have the final product towards the end of the year.

The Hon. JOHN AJAKA: You did say earlier on that there were some costs because of delays that were the builder's fault. So it is open to you to seek compensation and you are now telling me that you have got this bank guarantee if that needs to be done. You can appreciate that we do not want to see a scenario similar to the integrated ticketing system that ended up being a complete fiasco.

The Hon. JOHN HATZISTERGOS: Firstly, the system is operational. I get the impression from some of your questions that you are not fully across how it works. If the Committee wants a briefing on how the system works we are more than happy to supply one. I have been down to the Supreme Court and I have seen it. I have spoken to the judges, who have been very supportive and have been assisting through the development. There are a number of judges on the information technology committees who have worked through this project and I have not heard any criticism frankly.

The Hon. JOHN AJAKA: I will move on to a completely different topic because of the limited time that I have—unfortunately I have only got five more minutes. Minister, in January 2007 the then Minister for Police wrote to the Judicial Commission with much fanfare about Magistrate Pat O'Shane, citing that the magistrate exhibited: "Ongoing prejudice against the police of this State". Can you tell us what is the current status of the Judicial Commission's report?

The Hon. JOHN HATZISTERGOS: No. There is a reason for that, and that is that I am precluded from doing so by law. I administer the Act and there are strict prohibitions on me divulging information. What I can say to you is that there is an annual report of the Judicial Commission that comes out every year and I would refer you to that. But, without specific authority, I am not in a position to be able to identify any information of that nature.

The Hon. JOHN AJAKA: When the report is completed will you ultimately be provided with a copy of it?

The Hon. JOHN HATZISTERGOS: I am not going to answer questions of that nature because I am the Minister who administers the Act and I regard myself as bound, in the same way as others are, because I have a role in the administration.

The Hon. JOHN AJAKA: Can you tell me how many cases Magistrate O'Shane has been overruled on by superior courts?

The Hon. JOHN HATZISTERGOS: What I can say is that there is an annual report that the Judicial Commission publishes and you are welcome to have a look at that.

The Hon. JOHN AJAKA: But you do not monitor the over-rulings of, say, magistrates like Pat O'Shane who have been rebuked, as to why she has been overruled on so many occasions?

The Hon. JOHN HATZISTERGOS: I do read judgements that from time to time that are issued and are available publicly on the website—they are available to all people—but the fact that a judge may or may not be overruled by an appeal court is—

The Hon. JOHN AJAKA: This is more than a case of her being overruled. This is a case where superior court judges, without hesitation, have rebuked her on her prejudice towards certain police officers?

The Hon. JOHN HATZISTERGOS: I am not going to get into the specifics. The decisions of the Supreme Court are there and they speak for themselves. Obviously any judge who is the subject of a successful appeal might regard himself or herself as being professionally rebuked, in the sense that they got their decision wrong in the first instance, and that is a matter of record. But let me say that the justice system does depend on human beings exercising discretion and applying the law. It does not run on the premise that every judicial officer will make the correct decision.

The Hon. JOHN AJAKA: She seems to be getting more than her fair share?

The Hon. JOHN HATZISTERGOS: There is a recognition that from time to time judicial officers will make a wrong decision and that is reflected in the fact that we have an elaborate appeals process to be able to correct.

The Hon. JOHN AJAKA: That just involves everyone in more costs? If you have got an unfit magistrate then you cannot simply say there is an appeal process and everyone has to bear the costs of it.

The Hon. JOHN HATZISTERGOS: Well, you say unfit.

The Hon. JOHN AJAKA: Well, you are the Attorney General. In your opinion do you believe that she is fit to continue to serve as a magistrate? I do not and I am happy to say that.

The Hon. JOHN HATZISTERGOS: That is a matter for you. I have great confidence in the magistrates of this State, indeed the judicial officers of this State.

The Hon. JOHN AJAKA: We are talking about Pat O'Shane only. We are not talking about the magistrates.

The Hon. JOHN HATZISTERGOS: I realise this is an acute political point that you would like to raise about an individual but—

The Hon. JOHN AJAKA: It is not. This is a matter that is of important public interest.

The Hon. JOHN HATZISTERGOS: There is a process that we have—

CHAIR: Order! One speaker at a time.

The Hon. JOHN HATZISTERGOS: This is not Zimbabwe. There is a process for complaints about judicial officers to be dealt with, and that includes a Judicial Commission analysis of whatever the subject matter is of the complaint. I would remind you that on the Judicial Commission and, indeed on the conduct committee, we have community representatives. Those persons are part of the collegiate decision-making in relation to any complaint that is received.

The Hon. JOHN AJAKA: But you, as Attorney General—

The Hon. JOHN HATZISTERGOS: Just a moment. If it goes to the conduct division and a complaint is upheld I must report to Parliament—that is my obligation—on the outcome of the conduct division. If it satisfies your question, I have received no report from the conduct division of the Judicial Commission requiring me to report to Parliament. If, and when, I receive a report in relation to any officer I will fulfil the obligations I have under the Act.

The Hon. JOHN AJAKA: Minister—again in the brief time we have—subject to the Auditor-General's report recommending the appointment of a financial controller, a further review into the office of the Director of Public Prosecutions [DPP] I understand was conducted by Jan McClelland, a consultant who happens to be the sister of the Federal Attorney General, Senator Robert McClelland. Why was the review conducted and who actually selected her for that particular role?

The Hon. JOHN HATZISTERGOS: There was a joint decision made. There was a budget committee decision made in relation to that particular decision but it is not appropriate for me to discuss those particular aspects.

The Hon. JOHN AJAKA: Was it a tender process or was she just simply selected?

The Hon. JOHN HATZISTERGOS: There were discussions with the Director of Public Prosecutions, there were discussions with the Department of Premier and Cabinet and the Treasury.

The Hon. JOHN AJAKA: Who had the final say in picking her?

The Hon. JOHN HATZISTERGOS: Ultimately it was paid for jointly by the Department of Premier and Cabinet and—

The Hon. JOHN AJAKA: Who had the final say in picking her?

Ms LEE RHIANNON: Madam Chair? Mr Ajaka still asking questions after his time.

The Hon. JOHN HATZISTERGOS: Can I just say I reject the gratuitous inference that you have made towards Jan McClelland. Jan McClelland has been an outstanding public servant.

The Hon. JOHN AJAKA: I did not make any inference at all.

The Hon. JOHN HATZISTERGOS: You did. You made some comments about her that I frankly find repugnant. She is an outstanding individual. She has served the public of this State on a number of different—

The Hon. JOHN AJAKA: I do not find it repugnant that she is related to Senator McClelland.

CHAIR: Order!

The Hon. JOHN HATZISTERGOS: I do not think it was necessary for you to phrase your question in a way that somehow seemed to suggest that she got that position, and now to follow up with further questions, as a result of an association that she has with the Federal Attorney General. Quite frankly, I think a lot higher of you than for you to have asked that question. I understand from time to time some low researchers in

the Opposition might throw these questions out but one of your roles as a member of Parliament is to actually go through those and not to make yourself a professional mouthpiece for nonsense like that.

Ms LEE RHIANNON: What is the advice you have received about the validity of any cases that Mark Standen was involved with during his period with the New South Wales Crime Commission?

The Hon. JOHN HATZISTERGOS: I have some information on that and I will provide it to you as soon as my advisers get it.

Ms LEE RHIANNON: Do you mean right now or will you take that on notice?

The Hon. JOHN HATZISTERGOS: We have got some information and I will try and get it for you. I might be able to get it for you by end of the hearing.

Ms LEE RHIANNON: What are the ramifications for the NCC from the Mark Standen case and the NCC release of large amounts of heroin and other drugs on to Sydney streets? I am trying to explore what you are doing about the NCC?

The Hon. JOHN HATZISTERGOS: The NCC?

Ms LEE RHIANNON: The New South Wales Crime Commission.

The Hon. JOHN HATZISTERGOS: They are not under my authority.

Ms LEE RHIANNON: I will go back to the validity of the cases.

The Hon. JOHN HATZISTERGOS: In relation to issues generally, I will not refer to this particular case that is before the court and I do not propose to. There is an elaborate process that enables reviews of any cases by any aggrieved party, which you ought to be aware of. That is in the Crimes (Appeal and Review) Act, which enables a person to petition for review a conviction or a sentence. Petitions can be made to the Governor or alternatively to the Chief Justice. Upon receiving a petition, if it goes to the Governor, there is a process that is followed. The Supreme Court, as I also indicated to you, has a capacity to be able to direct its own inquiries. So there is a process that is embedded in legislation that enables reviews to take place, if that process is relevant to any case.

Ms LEE RHIANNON: It sounds like you are not being proactive. You are saying to people to use the normal channels, which seems extraordinary considering Mr Standen was involved in a plot to import 600 kilograms of chemicals to make \$120 million worth of ice. The whole workings of that body and the cases he has been involved in are under a huge question mark. Do you not have some responsibility to ensure that justice is achieved in this State?

The Hon. JOHN HATZISTERGOS: I am not quite sure what you are talking to there. Are you talking about cases?

Ms LEE RHIANNON: I am talking about the validity of cases. I took you were saying in your answer that if people feel aggrieved they can follow the normal channels. Considering the enormity of this case and its seriousness, surely some proactive advice should be given on the standing of those cases.

The Hon. JOHN HATZISTERGOS: I do not determine the guilt or innocence of people.

Ms LEE RHIANNON: I am not saying that.

The Hon. JOHN HATZISTERGOS: I just do not, that is not my job. We have a court system that does that and it has a capacity to be able to deal with any grievances that people have in the normal appellate process or through the petition process. That is the facility we provide to keep me away from those sorts of issues. That is one thing. I am not comfortable answering questions in relation to this case in this forum.

Ms LEE RHIANNON: Because you do not think they should be public?

The Hon. JOHN HATZISTERGOS: I think there are issues relating to the fact that this case is now before the court. It is a very sensitive issue and I do not think it is appropriate. I will take some advice about whether I can provide some other information confidentially. At this point in time I do not think it is appropriate.

Ms LEE RHIANNON: So you are taking that on notice to come back to me?

The Hon. JOHN HATZISTERGOS: I will take some advice about it. I am not trying to obfuscate but I do have responsibilities and I have to be very conscious of what I say in forums such as this. I think I have said as much as I can say publicly. But if I am advised that I can say more to you confidentially, then I will do so.

Ms LEE RHIANNON: In August this year I met with Judge Taylor who spoke about the work he is doing and his work with various bodies.

The Hon. JOHN HATZISTERGOS: He told me you were nice to him.

Ms LEE RHIANNON: I find that an interesting comment and wonder about the conversation you had. But as I have limited time I will press on.

The Hon. JOHN HATZISTERGOS: He said it was a very pleasant meeting and very informative. I did not interrogate him.

Ms LEE RHIANNON: It did not appear that the regulatory role of the commission was a key part of his work any longer. We are seeing considerable movement going forward with privacy issues in the Rudd government—Mr Faulkner is doing work in this area—and the Bracks Government and technological and administrative changes. Clearly, there is a need to be keeping pace with these changes. Yet New South Wales is late getting out reports. When I asked you questions about this earlier, you seemed to be extremely slow off the mark and wanted most of the questions to go on notice. Do you want to give us big picture comments on privacy?

The Hon. JOHN HATZISTERGOS: I am happy to do so. You are talking about reports. When I became Attorney General there were a large number of reports obviously held over by the election and they need to be actioned with responses.

Ms LEE RHIANNON: That is a bit rich. One was tabled three years late. You cannot use an election as an excuse.

The Hon. JOHN HATZISTERGOS: I know. I acknowledge that there were some delays. But when I became Attorney General I moved on all of those and I do not think there are any delays. I am not aware of any specific delays in relation to the release of material. In any event, I try to get things out as soon as I possibly can. Also, I try to give it my own attention rather than just serving up what the bureaucracy provides, so that I am confident that the material that is going out is appropriate for the public to be able to respond to. In relation to privacy, you would be aware that not only have we had a very extensive inquiry by the Australian Law Reform Commission but there is also an inquiry by the New South Wales Law Reform Commission on these issues. That will be reporting, I anticipate, early next year. Judge Taylor and I do meet as often as he wishes. He comes and sees me and I go to Parramatta and I speak to him. We discuss the issues that he has taken on. He has taken a very proactive role, in my view, in terms of—

Ms LEE RHIANNON: Would you detail those proactive areas? There is the photo ID card, the electronic health records and weak workplace surveillance laws. Where are you being proactive?

The Hon. JOHN HATZISTERGOS: There are a number of areas that he will outline in the annual report that he has been particularly proactive on, particularly working with other agencies in relation to their obligations.

Ms LEE RHIANNON: Can you tell us now? That should not be secret.

The Hon. JOHN HATZISTERGOS: It is not secret. It will be in the annual report.

Ms LEE RHIANNON: Will you give us some detail?

The Hon. JOHN HATZISTERGOS: Of what Judge Taylor is doing, is that what you want to know?

Ms LEE RHIANNON: On those issues, how are you progressing privacy protection?

The Hon. JOHN HATZISTERGOS: There are the management plans that agencies have, as you know. He has probably already discussed the work that he has been doing in relation to those personal information and privacy management plans. I know for a fact that he has been working with other agencies in relation to their plans. You know that he is also a part-time Law Reform Commission commissioner and the work that he is undertaking with the Law Reform Commission. The annual report details a number of approaches that the Privacy Commissioner has undertaken. He has also commented on a range of different issues, such as those that you have identified and others I have referred to. He regards and I regard Privacy. It is a conciliation-based agency; it tries to resolve problems.

Ms LEE RHIANNON: It is regulatory. We do not see that regulatory side. It seems as though yet again privacy protection in New South Wales is diminished.

The Hon. JOHN HATZISTERGOS: When you talk about diminished, the Act has not changed. Where is it diminished? The fact is that he is trying to engender a culture amongst organisations that is respectful of privacy. I think that is his job and I think it is important that he ensure that agencies are responding to genuine privacy concerns and be aware of those concerns. What he is doing is, I think, very, very sensible. He is trying to get cooperation from all agencies to understand the issues and to respond to them appropriately. It is not just about getting the big stick out all the time or wielding the axe.

Ms LEE RHIANNON: I am not talking about a big stick. I am talking about having some initiative. I will move on.

The Hon. JOHN HATZISTERGOS: You are welcome to make a submission to the Law Reform Commission if you believe there is a further role that he should be undertaking.

Ms LEE RHIANNON: Thank you, Minister. I have received queries about the rollout of technology for vulnerable witnesses in rural and regional areas. People have reported to me that they your department has told them that it is all going ahead but the reports we get on the ground are that there are many problems, including technical staff to make it work. Could you inform us what is happening?

The Hon. JOHN HATZISTERGOS: I do not know about your informants. It is an ongoing process. We have about nearly 200 witness facilities now, with \$3.25 million to be spent just this year. It is growing and we are using it much more. The new Act will be proclaimed early next year in relation to audiovisual links in courts, following the settling of the practice notes.

Ms LEE RHIANNON: Can you give quantitative data?

The Hon. JOHN HATZISTERGOS: Are we talking about remote witness facilities or audiovisual link [AVL]? Do you want the locations?

Ms LEE RHIANNON: Yes.

The Hon. JOHN HATZISTERGOS: I will give you the locations, the new locations.

Ms LEE RHIANNON: You just gave a figure of about 400. Is that in the remote areas?

The Hon. JOHN HATZISTERGOS: Around 200. I am not clear.

The Hon. JOHN HATZISTERGOS: I am not quite clear.

Ms LEE RHIANNON: I understood that you were supposed to be setting up various changes in how vulnerable witnesses present their evidence in regional and rural areas. That is correct, is it not?

The Hon. JOHN HATZISTERGOS: Yes.

Ms LEE RHIANNON: That is what we understand you are committed to doing, but what we are hearing is that there are considerable delays in achieving that.

The Hon. JOHN HATZISTERGOS: Do you know what locations?

Ms LEE RHIANNON: I can find those out. If you could take it on notice to give us some quantitative data where you have delivered it?

Mr GLANFIELD: These are rolling programs so although we have indicated where these facilities will be going, technically it takes time to install them. So the expectations may be greater than our ability to deliver.

The Hon. JOHN HATZISTERGOS: Plus we do have portable units that we make available in those locations where there are the fixed units. If a court does not have one permanently there but there is a need for one then we can arrange for portable facilities to be provided. So I think the need is being met. But I will take those issues on notice. If you could provide me with any additional information that might make the inquiry more focused that would be appreciated.

CHAIR: That concludes the time available for the Attorney General portfolio.

(The witnesses withdrew)

The Committee proceeded to deliberate.

GENERAL PURPOSE STANDING COMMITTEE No. 3

Friday 17 October 2008

Examination of proposed expenditure for the portfolio area

JUSTICE

The Committee met at 11.00 a.m.

MEMBERS

The Hon. A. R. Fazio (Chair)

The Hon. J. G. Ajaka
The Hon. G. J. Donnelly
The Hon. M. J. Gallacher

Ms S. P. Hale
The Hon. R. A. Smith
The Hon. H. M. Westwood

PRESENT

The Hon. J. Hatzistergos, *Attorney General, Minister for Justice, and Minister for Industrial Relations*

Department of Corrective Services

Mr R. Woodham, *Commissioner*

Mr G. Schipp, *Deputy Commissioner, Corporate Services*

Mr L. Grant, *Assistant Commissioner, Offender Services*

CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS

Corrections should be marked on a photocopy of the proof and forwarded to:

**Budget Estimates secretariat
Room 812
Parliament House
Macquarie Street
SYDNEY NSW 2000**

RON WOODHAM, Commissioner, Department of Corrective Services, and

GERRY SCHIPP, Deputy Commissioner, Corporate Services, Department of Corrective Services, sworn and examined:

LUKE GRANT, Assistant Commissioner, Offender Services, Department of Corrective Services, affirmed and examined:

CHAIR: I propose that we will divide the time up equally. We will start with 20 minutes of Opposition questioning.

The Hon. JOHN AJAKA: Given there are going to be significant cuts in the mini-budget, what changes are you making to the Department of Corrective Services budgetary allocation?

The Hon. JOHN HATZISTERGOS: For when?

The Hon. JOHN AJAKA: For the 2008-09 period?

The Hon. JOHN HATZISTERGOS: I am not going to announce the mini-budget here; you will have to wait. That is assuming that decisions have been made about that.

The Hon. JOHN AJAKA: Will the first stage of the Nowra Correctional Centre still be completed in 2008-09?

The Hon. JOHN HATZISTERGOS: It has started. There is a contract out and it has started.

The Hon. JOHN AJAKA: Do you think it will be completed in 2008-09?

The Hon. JOHN HATZISTERGOS: It is 18 months construction time.

The Hon. JOHN AJAKA: So the \$59 million allocated to the project this year will still be adhered to?

The Hon. JOHN HATZISTERGOS: There is a contract out. We are not going to renege on a contract. That is a ludicrous question. There is a contract out; there is a commitment; we are building it; work has started.

The Hon. JOHN AJAKA: So I take it the answer is yes it will be completed on time?

The Hon. JOHN HATZISTERGOS: I have no reason to believe it will not be.

The Hon. JOHN AJAKA: Minister, given that the Premier has announced his intention of reducing the number of spin doctors in his Government, will you be reducing the number of media public relations officers employed in the Department of Corrective Services?

The Hon. JOHN HATZISTERGOS: I do not employ any spin doctors in the Department of Corrective Services.

The Hon. JOHN AJAKA: Mr Woodham, will you be reducing the number of public relations officers employed in your department?

Mr WOODHAM: No.

The Hon. JOHN AJAKA: You will not be reducing any at all?

The Hon. JOHN HATZISTERGOS: We have got very few of them.

The Hon. JOHN AJAKA: How many staff do you have employed in these roles in your department?

Mr WOODHAM: Three full-time and one part-time.

The Hon. JOHN AJAKA: Can you tell me what the total cost of their combined salaries is?

Mr WOODHAM: I cannot offhand. I will take it on notice.

The Hon. JOHN HATZISTERGOS: When you talk about spin doctors, these are people who do—

The Hon. JOHN AJAKA: Media public relations.

The Hon. JOHN HATZISTERGOS: They do not just do that; they also do the annual report; they also do various brochures and government material that are provided within the department.

The Hon. JOHN AJAKA: Mr Woodham, you have absolutely no idea as to what their combined salary package is?

Mr WOODHAM: I can only assume it would be—

The Hon. JOHN HATZISTERGOS: \$394,000 I am told. But their work is not just the sorts of things you are referring to; it also includes doing a whole range of other work.

The Hon. JOHN AJAKA: Again, with the Premier promising to cut the spin, why did you recently advertise for a spin doctor on nearly \$100,000 a year, where applications are closing today?

Mr WOODHAM: I am not aware of it.

The Hon. JOHN AJAKA: You are not aware that there is actually an advertisement for another public relations media person at \$100,000 a year and the applications close today?

Mr WOODHAM: No, I am not.

The Hon. JOHN AJAKA: So you do not actually authorise these appointments? You are not consulted about them? Somebody else in your department makes these decisions?

Mr WOODHAM: Yes, it is a position for the bulletin in internal communications position.

The Hon. JOHN AJAKA: What does that involve?

Mr WOODHAM: Putting together an internal bulletin, internal communications; putting together documents that we can hand out to the public and out to media.

The Hon. JOHN AJAKA: So this is someone who is going to put together information to hand out to the public and the media?

Mr WOODHAM: And also put together an internal bulletin, which is a very important internal communication in my department.

The Hon. JOHN AJAKA: So you have three full-timers, one part-timer and you are advertising for another one because this is something your department needs. I fail to understand why they are needed.

Mr WOODHAM: The part-time position is becoming a full-time position and that is the one being advertised.

The Hon. JOHN AJAKA: So there will four full-timers.

Mr WOODHAM: Yes.

The Hon. JOHN AJAKA: That is total expenditure of about \$500,000 a year.

Mr WOODHAM: We have 7,000 staff in the department to communicate with. It is a very important role, particularly given that we are going through the Way Forward process, which involves the biggest workplace reform package ever in history of corrections in New South Wales.

The Hon. JOHN AJAKA: Front-line workers would be ecstatic to hear that more media people are being hired, because that will really help the department.

Mr WOODHAM: Of course it does.

The Hon. JOHN AJAKA: Does it help the department or does it help you to get out the spin? Is that not the real reason you keep hiring these people?

Mr WOODHAM: No.

The Hon. JOHN AJAKA: Is it not completely contrary to what the Premier is saying about the level of spin and his plan to reduce it? Lo and behold, you advertise for another spin doctor. Do you not think that the public find that extraordinary?

Mr WOODHAM: This position probably would have been advertised before that announcement.

The Hon. JOHN AJAKA: And you are still proceeding with it.

Mr WOODHAM: At this stage, yes.

The Hon. JOHN AJAKA: Let's just hire more spin doctors!

Mr WOODHAM: If they tell me to stop, I will.

The Hon. JOHN AJAKA: Let me make sure I have this right. A mini-budget is being handed down because the finances of this State are completely—I will not use Michael Costa's words—stuffed, departmental budget cuts must be made and front-line officers are not receiving pay rises in line with inflation, but we can find \$100,000 to hire another spin doctor because that is what your department needs.

Mr WOODHAM: We are implementing a strategy to reduce the operational costs of my department in to the tune of about \$44 million a year.

The Hon. JOHN AJAKA: Where is that \$44 million coming from? It is definitely not coming from the spin-doctor budget.

Mr WOODHAM: I do not have spin doctors.

The Hon. JOHN AJAKA: No, your department does.

Mr WOODHAM: I have good public relations people.

The Hon. JOHN AJAKA: I am sure they are brilliant at \$100,000-plus a year.

CHAIR: That is cheap for a public relations person.

The Hon. JOHN AJAKA: I take it that the answer is yes.

Mr WOODHAM: The rolled up package for a prison officer is \$100,000 a year.

The Hon. JOHN AJAKA: But I have the greatest respect for what a police officer does. He puts his life on the line every day. I do not have the same—

Mr WOODHAM: I am talking about a prison officer.

The Hon. JOHN AJAKA: I do not think you can compare him to a spin doctor. That is insulting the prison officers.

Mr WOODHAM: It is not insulting the prison officers at all. Different people have different roles.

CHAIR: Before we proceed any further, I suggest that it is better to have only one person speaking at a time. Otherwise the Hansard reporter has difficulty getting the information recorded.

The Hon. JOHN AJAKA: There have been recent reports of the problems in court holding cells because of drastic cuts in the number of corrective services officers at Albury and Wagga Wagga. That has left the already overstretched Police Force to fill in the gaps. How many Department of Corrective Services staff have been removed from duties at court holding cells across New South Wales?

Mr WOODHAM: None to my knowledge.

The Hon. JOHN AJAKA: None to your knowledge?

Mr WOODHAM: Yes.

The Hon. JOHN AJAKA: Are you saying that there have been no cuts in the number of departmental officers at Albury and Wagga Wagga?

Mr WOODHAM: I have written to the local newspaper and to the officers at Albury and Wagga Wagga to tell them that there is no such plan. They were concerned about being privatised rather than being moved.

The Hon. JOHN AJAKA: How many officers are there at Albury and Wagga Wagga?

Mr WOODHAM: In the vicinity of 30 and 40 if you lump together both locations.

The Hon. JOHN AJAKA: Can you guarantee that there will be no reduction in the number of officers at Albury and Wagga Wagga?

Mr WOODHAM: Not at this time. However, the court security and escort security functions of my department are being market tested by Treasury under the Way Forward strategy.

The Hon. JOHN AJAKA: If it were necessary to reduce the number of Corrective Services officers at the holding cells because of budgetary constraints you can imagine how those officers would feel about the department paying \$500,000 a year for spin doctors and advertising for another one at \$100,000 a year.

The Hon. GREG DONNELLY: Point of order: I do not think there has been any concession that \$500,000 has been spent on spin doctors, using your words, and that another \$100,000 will be spent. The member did not listen carefully enough to the answer provided by the commissioner. That being the case, he should frame his questions more carefully and accurately.

The Hon. JOHN HATZISTERGOS: Moreover, the question was eliciting an opinion. The issue of staffing of court cells and court complexes requires a bit of attention. Treasury is market testing our services. This policy was implemented by the former Coalition Government. It was done without any analysis of the cost or the impact on the services. We have had some dreadful situations. For example, at one location the police cells were being looked after by Corrective Services. Those cells needed to be upgraded, but they were servicing only a neighbouring court. There was a two-way tussle between agencies about whose responsibility they were. The police said that they did not use them so they should not pay, Corrective Services said it was only staffing them and so on. I have had to navigate those sorts of issues as a result of what I regard as an ad hoc decision made many years ago to take over these complexes. The fact remains that we provide a lot of assistance to the Police Force to ensure that its officers are able to performance their services diligently and effectively in a wide range of locations at great cost to our department and the taxpayers.

The Hon. JOHN AJAKA: Given that overtime in Corrective Services cost New South Wales taxpayers \$41.035 million in 2005-06 and \$43.721 million 2006-07, what can the New South Wales taxpayers expect to see as the 2007-08 overtime bill for the department?

The Hon. JOHN HATZISTERGOS: As you would be aware, the Government has already announced a strategy to bring the overtime situation under control. That includes a variety of measures such as centralising rosters, the use of casuals, outsourcing of boom gates and perimeter security and so on. When I was first Minister for Justice in the previous term I commenced the Way Forward strategy. We made it quite clear to the

unions that that strategy would apply to all prisons. We reached an agreement in relation to a number of centres, which we called the Way Forward jails. They are in the new prisons at Kempsey—the Mid North Coast Correctional Centre; Dillwynia, which is the women's correctional centre at Berkshire Park; and more recently at Wellington. The new centre on the South Coast will also work under that model when it is completed. The model has proved to be very effective in reducing overtime.

The Hon. JOHN AJAKA: This response was outlined in 2004. Why has it taken four years?

The Hon. JOHN HATZISTERGOS: Quite apart from that, we have also managed to roll up the salaries of senior officers. That has significantly reduced the overtime bill. The model has now been in operation in a number of correctional centres. It has proved to be effective not only in reducing overtime but also in the effective management of the prisons with regard to assaults, escapes and so on. The indicators are that they are performing well. As you would be aware, there has been significant opposition on the part of the OVB in relation to rolling out that model in the existing correctional centres. They are happy to sign up for it in the new centres but they have significant issues in relation to rolling out that model in the existing correctional centres. That is the way we are proceeding forward. That is what is happening. I do want to get back to one comment, and that is that last year I recall on radio Greg Smith, the shadow Minister, saying there was not enough overtime in Corrective Services and called for more overtime.

The Hon. JOHN AJAKA: I refer you to an article in the *Daily Telegraph* on 18 August 2008 which stated:

An as-yet unpublished audit of the state's prison system uncovered a culture of rotting—which last year resulted in a \$23 million blowout in overtime payments to prison officers within the Department of Corrective Services.

Is that article correct?

The Hon. JOHN HATZISTERGOS: No.

The Hon. JOHN AJAKA: So you are saying the article was completely wrong?

The Hon. JOHN HATZISTERGOS: No, I did not say that either. You asked me whether it was correct and I said no.

The Hon. JOHN AJAKA: Is any part of it correct?

The Hon. JOHN HATZISTERGOS: First of all, it was not previously unpublished. It was published. It was published in December last year by the Auditor-General.

The Hon. JOHN AJAKA: So you have a copy of the report?

The Hon. JOHN HATZISTERGOS: You have too. It is available. It is public; anyone can read it.

The Hon. JOHN AJAKA: Would you consider there has been any rotting at all by Corrective Services?

The Hon. JOHN HATZISTERGOS: I did not use those terms.

The Hon. JOHN AJAKA: No, I am asking Mr Woodham. It is a question.

Mr WOODHAM: No, I do not use those terms either.

The Hon. JOHN AJAKA: You do not believe there has been any rotting by Corrective Services?

The Hon. JOHN HATZISTERGOS: What there is is an excessive amount of overtime being earned by a small number of officers. That is the problem. Some officers are working extraordinary amounts of overtime and that in itself creates a problem. When officers are working extraordinarily large amounts of overtime, obviously the fatigue issues and the occupational health and safety issues arise, which then bring issues in relation to their health, which then creates more demand for overtime. That has to be resolved.

The Hon. JOHN AJAKA: Is there a lack of officers? Is that part of the problem?

The Hon. JOHN HATZISTERGOS: No. We are now putting in more officers. We are training all these casuals now who can do this. But the officers themselves, obviously, have an issue in relation to their capacity to be able to perform overtime to maintain their income.

The Hon. JOHN AJAKA: As part of the Premier's announcement of the 20 per cent cut in senior executive service positions, can you advise which positions, if any, will be deleted in the Department of Corrective Services?

Mr WOODHAM: Not at this stage.

The Hon. JOHN AJAKA: You have not worked it out yet?

Mr WOODHAM: No.

The Hon. JOHN AJAKA: How long would it take you to work it out?

Mr WOODHAM: When you talk about senior positions, are you talking about SES positions or managers of jails or what?

The Hon. JOHN AJAKA: I am talking about the Premier's announcement of a 20 per cent cut in senior executive service positions.

The Hon. JOHN HATZISTERGOS: The Premier asked the director general of the Department of Premier and Cabinet to write to every New South Wales government department to decrease the number of senior executive service positions by 20 per cent. This will result in a reduction of 171 positions. In setting the savings targets, he has asked the director general to take into consideration the relative numbers of senior executives in each agency. This initiative will yield savings of around \$34 million per annum. Over the four-year estimates period, this will mean cumulative savings of \$120 million. A real consideration under the Government's mini-budget is to reduce staffing costs across the board. The Government will make sure that savings are achieved. This will contribute to maintaining fiscal responsibility and prioritising front-line services. When we rolled up the salaries of the superintendents, some savings in senior officer positions were achieved through that agreement.

The Hon. JOHN AJAKA: Can I get a guarantee from Mr Woodham that none of these executive service position reductions would in any way affect front-line staff, that the front-line staff are quarantined from any staff cuts?

Mr WOODHAM: I do not think anyone is quarantined. If the decision is made from the market testing of jails, and private enterprise does start to operate in some of the prison service they are not in now, there will be a reduction in numbers.

The Hon. JOHN AJAKA: So, we are looking at private enterprise jails now?

The Hon. JOHN HATZISTERGOS: We already have them.

Mr WOODHAM: We already have them.

The Hon. JOHN AJAKA: Are we looking at any additional private enterprise jails?

Mr WOODHAM: We are market testing Parklea and Cessnock at the present time and there is a feasibility study on Grafton as to whether we build a new jail at Grafton, which probably if it got approved, would be PFP.

The Hon. JOHN AJAKA: So, front-line staff cannot be guaranteed at this stage that none of their jobs are 100 per cent guaranteed?

The Hon. JOHN HATZISTERGOS: We are not proposing to remove anybody. We are not proposing to sack anyone.

Mr WOODHAM: There will be no forced redundancies.

The Hon. JOHN AJAKA: What about if people resign through natural attrition, front-line services, will their positions be filled?

The Hon. JOHN HATZISTERGOS: This goes back to your previous question. Basically you have a job and you have to fill it forever and a day. It does not work that way. Things change, and when things change you adjust. You do not have one position forever and a day and just assume it is going to continue on indefinitely. It is a ludicrous way of operating. Once there used to be 65 members of the upper House; 15 or 20 of them went.

The Hon. JOHN AJAKA: Mr Woodham, have you or any of your staff met with anyone from Wackenhut Inc or any other private provider about the possible future privatisation of prisons in New South Wales?

The Hon. JOHN HATZISTERGOS: Where did you get that name from? Can I know the name of the person—

Ms SYLVIA HALE: They are notorious. That is where they come from. They have administrators in the United States—Wackenhut Corrections Corporation.

CHAIR: Order, Ms Hale.

The Hon. JOHN AJAKA: Mr Woodham, have you or any of your staff met anyone from that organisation about possible future privatisation of prisons in New South Wales?

Mr WOODHAM: No.

The Hon. JOHN AJAKA: So, neither you nor anyone in your staff or department has met with them? You can assure us of that?

Mr WOODHAM: Yes. The GEO is—

The Hon. JOHN HATZISTERGOS: It is called GEO now, and they operate Junee, and yes, I have met with them. Not about any future business, but I have certainly met with them.

Ms SYLVIA HALE: Minister, you have referred to market testing by Treasury, which amounts to what, asking corporations whether they are interested in operating in the New South Wales prison system?

The Hon. JOHN HATZISTERGOS: No.

Ms SYLVIA HALE: What does it consist of? How do you define market testing?

Mr WOODHAM: Market testing is testing the cost of the public system as compared to a private operator. That is the market testing to see the difference. Then they make a recommendation that goes forward.

Ms SYLVIA HALE: But to achieve a reasonable assessment, you obviously had to ask private companies whether they are interested? How do you know what their operating costs are?

Mr WOODHAM: We know what Junee operates at. We know what other private run prisons in Australia run at. We know what our costs are.

Ms SYLVIA HALE: So you are just extrapolating from existing costs?

Mr WOODHAM: Yes.

Ms SYLVIA HALE: Say you are extrapolating from existing experience and projecting what the likely cost would be. You have not had any meetings with private companies in connection with this market testing?

The Hon. JOHN HATZISTERGOS: Junee is currently up for tender. It is a contract prison. It is coming up for tender. I think tenders have closed. But I have not even discussed that with them. I did go to Junee just to inspect the prison but that was sometime ago.

Ms SYLVIA HALE: You said you met with people from the GEO Group Australia, which, as you have said, is a subsidiary of the United States-based multinational Wackenhut Corrections Corporation?

The Hon. JOHN HATZISTERGOS: That is what it might have been called in the past.

Ms SYLVIA HALE: How often did you meet with them and how recently?

The Hon. JOHN HATZISTERGOS: A fair while. Invariably when I go to Junee—their executives are based in Sydney but invariably they come down. I think once or twice they may have come to my office. One was a courtesy call, an executive from the United States came in and talked with me.

Ms SYLVIA HALE: Have you talked with other organisations such as Australian Correctional Management or any other group?

The Hon. JOHN HATZISTERGOS: It is the same company. I have not met with other private providers. I did visit Arthur Gorrie Correctional Centre, which is also operated by GEO. That was some time ago.

Ms SYLVIA HALE: How many other companies are operating in the context of private correctional facilities?

The Hon. JOHN HATZISTERGOS: In New South Wales?

Ms SYLVIA HALE: Or even in Australia?

The Hon. JOHN HATZISTERGOS: I think there are about two others, GSL and Serco.

Ms SYLVIA HALE: If, after your market testing, you decide to proceed down the road of privatisation, you would presumably be seeking tenders from all three companies?

The Hon. JOHN HATZISTERGOS: They are all decisions for the budget committee. We have not got that far yet.

Ms SYLVIA HALE: I think you mentioned that you were considering privatisation in relation to the Cessnock Correctional Centre?

The Hon. JOHN HATZISTERGOS: We are market testing Parklea, Cessnock—

Ms SYLVIA HALE: Grafton?

The Hon. JOHN HATZISTERGOS: No, Grafton is different. Grafton needs a feasibility study. Grafton jail needs to be expanded. The North Coast is just getting too big. We cannot operate on the existing site into the future. We do not want to give away the site but we cannot continue indefinitely with a jail there, although a lot of pressure has been taken off with the one at Kempsey. We are looking at another facility there and a feasibility study is being undertaken.

Ms SYLVIA HALE: What about Nowra?

The Hon. JOHN HATZISTERGOS: What about Nowra?

Ms SYLVIA HALE: Is that in line for one?

The Hon. JOHN HATZISTERGOS: We have reached an agreement with the union on the way forward and they agree that with all new facilities we will operate on a way forward. There is no intention at this point in time that that will be run other than a way forward jail.

Ms SYLVIA HALE: Also under consideration is the handing over to private operators the court and transport units?

The Hon. JOHN HATZISTERGOS: That is being market tested—not all of it.

Ms SYLVIA HALE: Which sections are you market testing?

The Hon. JOHN HATZISTERGOS: The high security will remain with Corrective Services.

Ms SYLVIA HALE: It is interesting that you say high security will remain with you. Does this mean that where you have a privatised operation, if there is a major outbreak, similar to what we saw in South Australia recently, ultimately the task of restoring some sort of order would come back to the State authorities, even though you have private authorities running at present that prison?

The Hon. JOHN HATZISTERGOS: Your question is so convoluted, with respect, that it almost makes no sense. You talk about the court escort and security service and then you talk about a major outbreak in South Australia. What happened in the South Australia had nothing to do with the court escort and security services. It was an incident that occurred in a jail where some prisoners reacted to conditions in the jail. It is an entirely different thing that could happen in a public prison. It was a public prison. It did not happen in a private prison.

Ms SYLVIA HALE: You are talking about retaining the high security service. I find that whenever privatisation is raised, that whenever push comes to shove, ultimate responsibility and ultimate cost always comes back to the State because private firms will do that which is profitable but that which is essentially unprofitable, they prefer to hand back to the State Government or to a government?

The Hon. JOHN HATZISTERGOS: That is very interesting. I am looking forward to seeing what the Greens will do at Marrickville Council. Are you now going to takeover the garbage contracting service?

Ms SYLVIA HALE: You talk about me being irrelevant, Minister. It seems to me that you are entirely out of order and it is not your place to ask me questions.

The Hon. JOHN HATZISTERGOS: You are giving opinions about private contracts and it is based on a philosophy. I am just interested in seeing how all these services which are currently contracted out in these council communities that you now have the numbers in are going to all of a sudden find that they are going to have council-controlled garbage contracting services. I am just interested to know what the philosophy is, if what you are saying is true about public providers and private providers. I just want to know. It is a general glib statement. I appreciate the fact that you may not be across matters of correctional operations as you might be across other issues, but that was a general philosophical question and it invited a general philosophical response.

Ms SYLVIA HALE: May I say in response to set the record straight for Marrickville Council, that Minister, you are no doubt aware that the mayor is a Labor councillor. You may also be aware that the council has deliberately decided for many years to maintain not to privatise its garbage collection services. It has a very strong support of the local Labor Party in that regard. I return to Correctional Services.

The Hon. JOHN HATZISTERGOS: Leichhardt.

Ms SYLVIA HALE: You get your areas right eventually once you have been prompted, when someone fills you in, but apart from that you flounder. We should be grateful from small mercies.

The Hon. JOHN HATZISTERGOS: They are not areas I am as familiar with as I should be. There is not a jail in Leichhardt.

Ms SYLVIA HALE: I understand the operation of the boom gates at Long Bay, Silverwater, Parklea, Lithgow and Windsor Correctional Services were previously operated by the guards as part of their roster. Is it correct that those services have now been privatised?

The Hon. JOHN HATZISTERGOS: They have gone now to private contract.

Ms SYLVIA HALE: Why has that occurred?

The Hon. JOHN HATZISTERGOS: We train prison officers to be prison officers, to manage prisoners. I am sick of this. The military do not have military officers sitting on their boom gates. You do not have teachers out there doing the perimeter controls of schools. You do not have nurses doing perimeter controls. We employ prison officers to manage prisoners. It is very simple. Prison officers manage prisoners.

Ms SYLVIA HALE: As a result of the privatisation of these services, was there any reduction in the numbers of prison officers?

The Hon. JOHN HATZISTERGOS: Because—

Ms SYLVIA HALE: It is a simple question: As a result of the privatisation of the operation of boom gates, did this lead to the reduction of the numbers of prison officers employed—a simple yes or no?

The Hon. JOHN HATZISTERGOS: The answer to that question is that those prison officers are going to now go back into the jails.

Ms SYLVIA HALE: They have gone back into the jails. There are been no job losses as a result of that privatisation?

The Hon. JOHN HATZISTERGOS: No, there are no job losses—

Ms SYLVIA HALE: Thank you—

The Hon. JOHN HATZISTERGOS: Let me finish the answer. I realise there is a certain style to the Greens, that you only want to hear part of it, but let me finish what I want to say. You are talking about a prison officer sitting at a boom gate looking for the identification and pressing a button. I do not train people for 12 weeks so they can sit there and press a button. As I understand it we do not have people full time on these things anyway. They do it on overtime or it is part of another job that they have to do.

Ms SYLVIA HALE: Can we move to another topic?

The Hon. JOHN HATZISTERGOS: Please.

Ms SYLVIA HALE: As you know the proposal is to transfer the mentally ill patients to the new forensics hospital at Long Bay. I understand the hospital is a first-class facility, from what I have heard?

The Hon. JOHN HATZISTERGOS: Thank you.

Ms SYLVIA HALE: Will that transfer take place in stages and, if so, when will it start and when will it be completed?

The Hon. JOHN HATZISTERGOS: I understand that the hospital is due for completion next month, November. I am not sure what the timetable and the process is, but I have been too weak. I went to it during various stages when I was the Minister for Health when it was being constructed and I have been through it in more recent times. In terms of the details of the transfer process, I am not sure if the commissioner has any information, I do not, but I imagine it will be done in stages as they test the various sections of it.

Ms SYLVIA HALE: Given that it will take time, and it does not start until November, will you be introducing an additional shift of prison officers back into the Long Bay Hospital to allow a reduction in the lock-in hours?

The Hon. JOHN HATZISTERGOS: Sorry?

Ms SYLVIA HALE: Are you going to introduce an additional shift at Long Bay to allow a reduction in the lock-in hours?

Mr WOODHAM: We are talking about two different things. There is a forensics hospital and there is a prison hospital. The forensic hospital is totally run by Health. No prison officers will be in there.

Ms SYLVIA HALE: I am talking about the Long Bay Hospital where currently there is the 18-hour lock-in of prisoners. Presumably the number of prisoners there will be reduced as they gradually transferred to the new forensic facility? I am asking, in the meantime will an extra shift be introduced to enable those prisoners who are being locked up 18 hours at a stretch to be able of their cells for a lesser time?

The Hon. JOHN HATZISTERGOS: What we are doing with the Long Bay Prison Hospital I have already announced to Parliament as the subject of a detailed answer to a question you have provided. That is the strategy for the Long Bay Prison Hospital which will eventually, subject to the various investigations that are currently being conducted, see Justice Health take over that facility. Then the management of the offenders in there would be a management matter for Justice Health. There is no proposal to change the existing arrangements, until such time as those issues are sorted out.

Ms SYLVIA HALE: Minister, you are aware no doubt that Justice Action is considering a legal challenge to the 18-hour-a-day lock-in regime on the grounds that it is a contravention of the Mental Health Act?

The Hon. JOHN HATZISTERGOS: I do not normally comment on the manoeuvres of Justice Action. Although, I do recall that at one time they took on the commissioner in relation to not allowing prisoners to vote at various jails, and they ended up—

Ms SYLVIA HALE: I think they won that.

The Hon. JOHN HATZISTERGOS: No, that was the one that they ended up withdrawing at the last minute and then there was a big argument about paying costs; they were trying to get out of paying costs.

Ms SYLVIA HALE: Can we get back to my question? What I am trying to ascertain is, when exactly will the 18-hour lock-in regime end?

The Hon. JOHN HATZISTERGOS: I do not know that I can be any more specific than I have been. Those are issues, ultimately, that Justice Health will need to resolve. Justice Health will take over the forensic hospital, and they will then take their patients through that facility. The issues in relation to the prison hospital I have already answered to you. There are matters of detail that are being sorted out at the moment. Once those details are sorted out, those issues will be ultimately a matter for Justice Health.

Ms SYLVIA HALE: Minister, there is a perception that medical staff at Long Bay are at greater risk from patients due to the cut-backs in the numbers of prison guards. Are you aware of that perception?

The Hon. JOHN HATZISTERGOS: I am aware of some claims. I think they have come from people such as yourself. How do you perceive these things?

Ms SYLVIA HALE: Minister, are you aware that a male nurse was assaulted in July this year at the Long Bay Hospital and, rather than a guard being available to restrain the prisoner, a doctor had to restrain the inmate?

Mr WOODHAM: That is not true. I have a video of the incident. It was a very minor incident, and prison officers were there immediately, within 10 seconds.

Ms SYLVIA HALE: It was not a doctor who restrained the inmate?

Mr WOODHAM: There might have been a doctor there as well, but the officers put the prisoner back in the cell. I have it on video.

The Hon. JOHN HATZISTERGOS: Assistant Commissioner Luke Grant has some figures that you might find enlightening.

Mr GRANT: To determine whether or not there had been an increase in adverse incidents associated with the new regime, we undertook an analysis of those types of incidents that occurred in the same period last year and we compared the figures. In the same period last year, that is in the first four months of the opening of the centre, there were 60 adverse incidents. In the period since the centre was opened, that figure was reduced to about 30. Very specifically, in terms of issues involving assaults on staff, in the period last year before the

introduction of the new regime there were 12 reported assaults on staff, and that has been reduced to five in the equivalent period this year, since the new regime has been introduced.

We have been very closely monitoring the prevalence of adverse incidents in the hospital under the new regime. We take very seriously the safety of our staff and the safety of the offenders. Our analysis of the figures between those two periods reveals that there has been a decrease in the number of adverse incidents. We believe that people are safer under this new regime at this time.

Ms SYLVIA HALE: Minister, has there been a reduction in staffing in the watchtowers at Long Bay or at any other correctional facility?

Mr WOODHAM: No.

Ms SYLVIA HALE: Is any intended or contemplated?

Mr WOODHAM: It is being talked about in the negotiations we are having with the union at the present time.

Ms SYLVIA HALE: Presumably, the department's wish is to reduce the staffing numbers?

Mr WOODHAM: When you have guards sitting in armed towers over minimum security prisoners, it is not really necessary in my opinion.

The Hon. JOHN HATZISTERGOS: When you look at our escape record, it is just outstanding. It is the lowest escape record ever, notwithstanding the highest prison population.

Ms SYLVIA HALE: But we are talking about publicly operated prisons—

The Hon. JOHN HATZISTERGOS: Look at Junee's escape record.

Mr WOODHAM: They have armed perimeter security at Junee, our private jail.

The Hon. JOHN HATZISTERGOS: Our staff do very, very well.

Ms SYLVIA HALE: I am surprised that you are so keen to privatise the whole shebang.

The Hon. JOHN HATZISTERGOS: You seem to think that everything has to stay exactly the way it is. This is the Greens' philosophy. You have to have every position, everywhere, the same latitude and longitude—nothing changes; everything has to remain exactly the same. And it must be only these particular people; it cannot be anyone else.

Ms SYLVIA HALE: Minister, is it the case that approximately 50 per cent of the justice department staff work in correctional centres and the other 50 per cent do not work in those centres?

The Hon. JOHN HATZISTERGOS: Firstly, there is no justice department; it is the Department of Corrective Services. The breakdown of our staff is in the annual report, which is available publicly.

Ms SYLVIA HALE: Can you inform the Committee as to the breakdown?

The Hon. JOHN HATZISTERGOS: It is in the annual report.

Ms SYLVIA HALE: I am asking you. You must have the figures at your fingertips?

The Hon. JOHN HATZISTERGOS: So do you. They are in the budget papers.

Ms SYLVIA HALE: Is it the case that Justice has a particularly top-heavy senior management structure of non-prison staff?

The Hon. JOHN HATZISTERGOS: Could you repeat the question?

The Hon. JOHN HATZISTERGOS: I asked whether Justice has a particularly top-heavy senior management structure of non-correctional centre staff.

The Hon. JOHN HATZISTERGOS: Is this in probation and parole? I do not understand the question.

Ms SYLVIA HALE: I was talking about the ratio of active hands-on correctional staff as opposed to bureaucrats and pen pushers, if you like.

The Hon. JOHN HATZISTERGOS: Senior managers, are you talking about?

Ms SYLVIA HALE: No, just the general breakdown.

The Hon. JOHN HATZISTERGOS: Are you talking about superintendents?

Ms SYLVIA HALE: If you took all those who are employed in Justice and said this percentage is employed in a hands-on capacity and this percentage is employed in administration, would that breakdown be roughly 50:50?

The Hon. JOHN HATZISTERGOS: I do not know what you are talking about.

Ms SYLVIA HALE: I cannot make it any clearer. I thought the English language was in two-syllable words.

The Hon. JOHN HATZISTERGOS: The problem is that someone is giving you this information, or, worse still, you have worked it out for yourself, and you do not understand it and you are asking me to explain something you do not understand. Let me say a few things to you that you may understand. The jail has not only custodial staff; it also has teachers, it also has programmed staff; it also has Justice Health staff. It also has superintendents and assistant superintendents. I do not know what you call hands-on and hands-off. If you are talking about general managers and superintendents, and that sort of thing, we have actually reduced those numbers. A number of our general managers now look after more than one complex. That was part of the negotiations we did with The Way Forward: we agreed to a revised salary arrangement whereby we operated in clusters and we reduced those numbers.

If you are talking about people in probation and parole, I do not regard them as pen pushers. I think it is insulting if you are calling probation and parole officers—who are working there to try to facilitate the welfare and rehabilitation of offenders post-release—as pen pushers. I think it is really quite offensive.

Ms SYLVIA HALE: I would have thought that if you describe them that way, that is up to you—

The Hon. JOHN HATZISTERGOS: You said pen pushers.

Ms SYLVIA HALE: I asked you to distinguish between those who are in that sort of administrative—

CHAIR: Ms Hale, the time for your questions has expired. The Minister can answer the question, but you cannot ask further questions.

The Hon. JOHN HATZISTERGOS: You talk about administrative staff as being pen pushers. I do not know whether that means a probation and parole officer who might be preparing a report for the State Parole Authority. You might say that that person is a pen pusher. I do not. I think it is an essential part of the system to have someone detailing a report that can assist the authority to make a determination as to whether an offender should be paroled, or alternatively, the Serious Offenders Review Council as to whether that person's classification should be reviewed. Quite frankly, I would be disgusted to hear that any prisoner would believe that those people are not essential in any modern prison system to ensure their proper rehabilitation.

The Hon. GREG DONNELLY: Minister, what is the latest information on the threat posed by inmates seeking to undermine the good order and security of the New South Wales correctional system?

The Hon. JOHN HATZISTERGOS: There are currently more than 9,750 inmates in full-time custody in New South Wales. Of these, the Commissioner of Corrective Services has designated 101 as being either "high security" or "extreme high security" inmates. In other words, for the purposes of correctional centre

management, around 1 per cent of the inmate population, in the opinion of the Commissioner, constitutes a danger to other people or a threat to good order and security. In some cases, that danger is considered to be extreme. Of the 101 inmates designated as high security or extreme high security, 39 are high security and 62 are extreme high security. There is some movement of inmates between the two designations according to circumstances prevailing at the time.

Over recent times, the Commissioner of Corrective Services has expressed to me his grave concerns about a very small number of inmates, who are disrupting the good order and security of the New South Wales correctional system by attempting to influence, engage and persuade others to undertake illegal activity. These inmates present an extraordinary level of risk within the correctional system, given their capacity to network and recruit contacts to incite or organise illegal activity both outside and inside the correctional system. Given the extraordinary level of risk posed by these inmates, it is necessary to take extraordinary security and management measures to protect others in the correctional system, as well as curb the threat posed to the community at large.

The Government will be moving to provide the legislative framework for a more stringent management regime over and above those already in place for high security and extreme high security inmates. The new designation will be called Extreme High Risk Restricted [EHRR]. The proposal will affect only a small proportion of the 1 per cent of inmates identified by the Commissioner as presenting a greater than normal security threat. The inmates most likely to require an EHRR designation are anticipated to be among a small group of those who are already designated as extreme high security. Extreme high security inmates constitute approximately 0.6 per cent of the inmate population.

The Commissioner has found that the current management regimes for high security and extreme high security inmates work well for the vast majority of our most dangerous inmates, but fall short of providing the necessary management measures to deal with this small group of extremely subversive individuals. It is expected that inmates who warrant the EHRR designation will come to the Commissioner's notice as a result of adverse intelligence, significant disciplinary issues and subversive activities which seek to undermine the management and security of the correctional system. Having regard to the very small number of inmates currently designated, it is anticipated that few inmates will be designated as EHRR.

Many of the measures we are considering as part of the management regime for EHRR inmates are already used in the correctional system. It is, however, proposed that EHRR inmates will also be subject to additional security measures. The proposed regime for EHRR inmates will establish, as a starting position, a management system under which they will have access to fewer of the "withdrawable privileges" that are available to inmates who are well-behaved. Inmates designated as EHRR will lose further aspects of their liberty on top of those they have already forfeited due to their decisions to, firstly, commit crimes against our community and, secondly, to refuse to play by the rules during their period of incarceration. Examples of these measures include: no contact visits, except in extenuating circumstances—

Ms SYLVIA HALE: This is appalling. This is back to the 19th century. This is an absolute punitive approach.

CHAIR: Order! It is not appropriate for you to make comments like that during the budget estimates hearings.

Ms SYLVIA HALE: It is difficult to keep quiet when you listen to this.

CHAIR: You could leave the room.

The Hon. JOHN HATZISTERGOS: Visit conversations to be conducted in English, or one of the other languages approved by the Commissioner; outgoing mail to be in English or one of the other languages approved by the Commissioner; no access to the Official Visitor; the Department of Corrective Services to be the sole contributor to their account; limited to one social phone call each week, or such additional calls a the Commissioner deems appropriate.

The Commissioner believes the potential for an inmate to be designated as an EHRR inmate, with the associated greater level of security and restrictions, will deter inmates from allowing themselves to be recruited by fellow inmates to engage in subversive activities, and consequently will contribute to the maintenance of good order and security within the correctional system. These are serious measures to deal with serious threats.

The Government will continue to work to ensure the safety of those within the correctional system as well as the broader community outside.

CHAIR: That brings to a conclusion the examination of the portfolio of Justice.

(The witnesses withdrew)

The Committee proceeded to deliberate.

GENERAL PURPOSE STANDING COMMITTEE No. 3

Friday 17 October 2008

Examination of proposed expenditure for the portfolio area

INDUSTRIAL RELATIONS

The Committee met at 12.05 p.m.

MEMBERS

The Hon. A. R. Fazio (Chair)

The Hon. J. G. Ajaka
The Hon. G. J. Donnelly
The Hon. M. J. B. Gallacher

Ms L. Rhiannon
The Hon. R. A. Smith
The Hon. H. M. Westwood

PRESENT

The Hon. J. Hatzistergos, *Attorney General, Minister for Justice, and Minister for Industrial Relations*

Office of Industrial Relations

Ms P. Manser, *Deputy Director General*

Mr D. Jones, *Assistant Director General, Industrial Relations Service Delivery*

CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS

Corrections should be marked on a photocopy of the proof and forwarded to:

**Budget Estimates secretariat
Room 812
Parliament House
Macquarie Street
SYDNEY NSW 2000**

PATRICIA MANSER, Deputy Director General, Office of Industrial Relations, and

DON CLARK JONES, Assistant Director General, Industrial Relations Service Delivery, Officer of Industrial Relations, affirmed and examined:

CHAIR: We will allocate a 20-minute time rotation of crossbench and Government members.

The Hon. MICHAEL GALLACHER: Minister, earlier in the week we had WorkCover falling under the portfolio of Finance. Do I assume that the Occupational Health and Safety Act still fits within the purview of your portfolio?

The Hon. JOHN HATZISTERGOS: No. What do you mean earlier this week? It never did.

The Hon. MICHAEL GALLACHER: Well, we used to do industrial relations and John Della Bosca used to do—

The Hon. JOHN HATZISTERGOS: No, it was always in the portfolio of Finance. It is just that he was the Minister for Finance and the Minister for Industrial Relations, or he was the Assistant Minister for Finance on the last occasion. No, I do not have responsibility for WorkCover or for the Occupational Health and Safety Act.

The Hon. MICHAEL GALLACHER: On 12 October 2008 the Treasurer, Eric Roozendaal, said that job cuts were on the table in relation to the public sector.

The Hon. JOHN HATZISTERGOS: Yes.

The Hon. MICHAEL GALLACHER: As the Government attempts to address its \$1 billion, for want of a better term, black hole in the State budget.

The Hon. JOHN HATZISTERGOS: Yes.

The Hon. MICHAEL GALLACHER: On 14 October 2008 the Premier, Nathan Rees, indicated in the budget estimates hearings that senior public SES positions would be cut by 20 per cent.

The Hon. JOHN HATZISTERGOS: Yes.

The Hon. MICHAEL GALLACHER: Can I start by saying, is the Government considering forced redundancies?

The Hon. JOHN HATZISTERGOS: I am not aware that the Government is changing its position in relation to redundancies over and above what it has already announced.

The Hon. MICHAEL GALLACHER: Forced redundancies would fall within the purview of your responsibilities within industrial relations?

The Hon. JOHN HATZISTERGOS: No. That would be a matter for the Premier and Cabinet. We do not deal with management of the Public Sector Employment and Management Act. That Act comes under the purview of the Premier.

The Hon. MICHAEL GALLACHER: But in terms of industrial relations generally, forced redundancies would be quite a significant shift in policy for your Government up until this point, is that correct?

The Hon. JOHN HATZISTERGOS: There have been some changes in relation to redundancies, as I understand it, which are outlined in some earlier instruments—they have been published and are publicly available—but they do not fall within my responsibilities and I am not in a position to comment on them.

The Hon. MICHAEL GALLACHER: So therefore, I take it, you are not in a position to categorically rule out forced redundancies?

The Hon. JOHN HATZISTERGOS: I have answered your question; I am not aware of any proposal to change so far as that issue is concerned over and above what has already been announced publicly.

The Hon. MICHAEL GALLACHER: How will the proposed SES cutback impact within the Industrial Relations portfolio?

The Hon. JOHN HATZISTERGOS: I answered a question generally across Government, and that announcement was made a couple of days ago. The directors-general have the responsibility of implementing those. Obviously discussions are taking place across agencies and an assessment is being made taken depending upon how many SES positions there are in particular departments. Ultimately, that would be a matter at this stage for the Director-General of Commerce to resolve with the Director-General of the Cabinet Office. We are a pretty lean ship in the Office of Industrial Relations.

The Hon. MICHAEL GALLACHER: Lean or mean?

The Hon. JOHN HATZISTERGOS: Lean.

Ms MANSER: Both, lean and mean.

The Hon. MICHAEL GALLACHER: Ms Manser, as to the announcement by the Premier about the 20 per cent cut, what do you envisage in your area?

Ms MANSER: There are three SES positions in 146 establishment positions within the Office of Industrial Relations. Whatever happens, it will be a matter for the Director-General of Commerce to work through with the officers that come under his responsibility.

The Hon. MICHAEL GALLACHER: Minister, when you attend the Workplace Relations Ministers Council at a national level on the issue of occupational health and safety, bearing in mind that in other States occupational health and safety falls within the purview of Industrial Relations and some other areas, are you accompanied by the Minister for Finance or is it an area that you cannot touch upon at all?

The Hon. JOHN HATZISTERGOS: That is a decision the Premier has to make. I am not aware at this stage that he has allocated or changed allocations in relation to those matters. In other jurisdictions, all I can say is that the relevant Minister in Victoria, I understand, is a WorkCover Minister who attends for the WorkCover section. It would be open to the Minister for Finance to come along and do that section of the meeting. It is a separate section. In the same way that corporations are now attached to the Standing Committee of Attorneys General, not all Attorneys General have responsibility for corporations. In the Commonwealth I think it lies with Minister Sherry, so he sits in for that part of the meeting. I would imagine Minister Tripodi would do that section of the meeting. If I were asked to attend in relation to that aspect of it, I would have to be given appropriate instructions as to what positions he wished to take in relation to any issues. That has not occurred yet. There has not been a Workplace Relations Ministers Council and there will not be one for a few weeks.

The Hon. MICHAEL GALLACHER: I am not asking for an opinion, probably more of an observation. Do you see the change in the Western Australian Government having an impact on future reforms in relation to the harmonisation of occupational health and safety across all jurisdictions? Given that occupational health and safety is a workplace safety issue but also has an impact on how work is done at the State level, do you see that as an issue?

The Hon. JOHN HATZISTERGOS: I am not trying to be obtuse but it is not an area that I have really delved into as part of my induction into the Industrial Relations portfolio, or, indeed, as Attorney General, in any detail. My mind has not even wandered to Western Australia to think about what they may or may not be contemplating. I am really not in a position to pass any comments on those aspects. If the Minister for Finance has not had his estimates inquiry, you might put some questions on notice to him about those issues.

The Hon. MICHAEL GALLACHER: Minister, given the changing dynamics of industrial relations over the past 12 months at a national level and as a result of the New South Wales versus Commonwealth High Court decision about the role of the States in industrial relations, could you indicate to the Committee what you see as the future of the New South Wales industrial relations system?

The Hon. JOHN HATZISTERGOS: That is a very good question and I wish I had an answer for it. At this stage, as you know, consultations are taking place in Canberra—or you may not be aware of that—over the next couple of weeks in relation to the proposal. We do not know a lot of detail in relation to particularly the roles of the State commissions and how they see themselves operating, whether it is based on the same constitutional powers that the previous WorkChoices regime was founded on or whether they are proposing a more cooperative approach in terms of the involvement of the jurisdictions. There are consultations taking place in Canberra between the various stakeholders over the next two weeks. I anticipate that we will get some form of information later in the month in advance of the ministerial council, which will be held in Melbourne. At this stage I wish I could answer your question but I just do not have sufficient confidence to know the details of what Canberra is proposing to put in terms of the involvement.

The Hon. MICHAEL GALLACHER: Does the Commonwealth participate in the Workplace Relations Ministers Council at a national level?

The Hon. JOHN HATZISTERGOS: Yes.

The Hon. MICHAEL GALLACHER: When was the last time the council held a meeting?

The Hon. JOHN HATZISTERGOS: I have not been to one, not for workplace relations. I understand they have met about three times this year, but I have not been attending. This will be my first time.

The Hon. MICHAEL GALLACHER: That will be in the next couple of weeks?

The Hon. JOHN HATZISTERGOS: No, the consultations are taking place in Canberra. The ministerial council is on 5 November.

The Hon. MICHAEL GALLACHER: Immediately following that meeting, Minister, will you be in a position to indicate not to this Committee but to the House what is being proposed and the future of the New South Wales industrial relations system?

The Hon. JOHN HATZISTERGOS: I will answer your question and I will give you some more information. I do not know that I can commit to being able to respond immediately. It depends upon what is being asked. I think it is inevitable, frankly, that whatever is going to be asked will have to be taken to Cabinet for a decision. At the moment I cannot see that not being the case. I may be able to express some opinions on it, I do not know. I need to find out the detail. This will be very complicated legislation and I imagine it will be very extensive. The provision of an immediate response on all issues is, I think, unlikely ahead of us being able to look at the legislation. I am told that the consultations that are taking place this week will not result in us being given a draft Act. Moreover, whatever the Commonwealth determines it is going to do, even notwithstanding the ministerial council, it is going to have to be navigated through the Senate. So there are a lot of potential variables.

The Hon. MICHAEL GALLACHER: The Western Australian change of government is now a new dynamic that may limit harmonisation. You said earlier that you considered it would probably be cooperative—but it may not. What will happen if it is not cooperative?

The Hon. JOHN HATZISTERGOS: They have been involved in negotiations, I understand, over the last couple of weeks. A number of options are open to the Government and that was recognised in the Forward with Fairness policy that the Commonwealth provided, which had the objective of achieving the national system for the private sector either by way of referral powers from the States to the Commonwealth or by some other form of harmonisation, such as agreed legislation. With any legislation there is always uncertainty about the parliamentary process. It is not only a question of what is navigated centrally; it is also a question of what is navigated in our Parliament. Quite frankly, I would need to look at the final form of legislation before deciding what approach I would recommend to Cabinet and for Cabinet to recommend to the Parliament. The timetable that the Commonwealth has for its new regime is 1 January 2010. We will work with the Commonwealth on that timetable. Certainly our positions will be known so that any scheme it wants to commence on that date will be able to be realised. I cannot at this stage say with any certainty what my views are on any specific aspect.

The Hon. MICHAEL GALLACHER: I take that on board. However, the New South Wales v Commonwealth High Court decision was primarily looking at private enterprise. What position will you take with regards to the public sector in terms of any future industrial relations reforms? In effect, do you intend to

keep them in New South Wales or are you of a view that you would open to negotiations to see if they were to fall under a Federal scheme?

The Hon. JOHN HATZISTERGOS: When you talk about a Federal scheme you are making a number of assumptions: firstly, that the Commonwealth proposes to put them in a national scheme, and I am not sure that that is something they would necessarily put forward.

The Hon. MICHAEL GALLACHER: Can I just interpose there? It was just the advertising that Mr Rudd and Ms Gillard put forward did have public servants involved in that and they did not distinguish in the advertising Federal public servants. So on that basis I am therefore assuming that quite possibly they could be looking at State—

The Hon. JOHN HATZISTERGOS: There are other things that happened out of that. Of course, the other thing you need to consider is the role of statutory corporations, some of which compete against the private sector, and where they stand in the system. I think that it would be best if there were a cooperative or a harmonised system that involved the States and Territories and the Commonwealth working together. I am not in a position to be able to tell you that that is or is not achieved. I am not sure what approach Ms Gillard has; I have not spoken to her about these specific issues. She has written to me and asked me to meet with her, and I certainly intend to take that up, but at this stage I cannot say with confidence that that is their position as you assume it to be because that is not the advice I have been getting. But it might be that it is different. There are other issues apart from that. There is also the issue of the role of local government and community organisations, incorporated associations, partnerships and so on.

The Hon. MICHAEL GALLACHER: Part of the reason why I am asking these questions is obviously because of the lack of information, and equally, listening to you this morning and now this afternoon, you appear to have about as much information as we do, and that does, of course, concern me given that we are entering into a time of economic uncertainty and we are now entering into a period of industrial uncertainty as well. Your own words were uncertain.

The Hon. JOHN HATZISTERGOS: I am not sure the Commonwealth has finalised all aspects of its position, which is why it is undertaking these consultations over the last week and next week down in Canberra with the various stakeholders. It has published some information, and that is available to you. Over and above what has been published I am not in a position to comment. There is a lock-up that is on in Canberra at the moment involving various stakeholders. There are members of the Office of Industrial Relations and other jurisdictions who are participating in that lock-up, but I do not have any information that I can share with you as to a position that has been taken by the Federal Government and I am not certain that this point in time that they have made any further Cabinet decisions that they are able to share with others. I envisage that out of this process they will do that or at least they will formulate a position that they intend to take to the ministerial council.

The Hon. MICHAEL GALLACHER: I am sure you can appreciate the interest that exists with both employees and employers in this whole area of workplace reform and workplace safety, and if the Stein report and the Government's reaction to your draft legislation then introduced is an indication of the way in which the Government sees with its own eyes reforms that have to take place but then vote against it when it is actually put into the House under the guise of waiting for the Federal government to act, what is your response, therefore, to that same level of concern that exists in terms of industrial relations? Are you simply going to wait for the Feds to act, irrespective of the fact that you yourselves recognise that there are cases of disadvantage in New South Wales that need to be addressed?

The Hon. JOHN HATZISTERGOS: We have acted. When the WorkChoices legislation came out we passed legislation, with your support, to protect our front-line workers from the unfair WorkChoices legislation. We also introduced the child protection legislation that provided additional assistance. We also passed legislation in relation to facilitating the use of the Industrial Commission by persons who otherwise would not have been entitled to. And we also, of course, aggressively argued the case against the WorkChoices legislation before the High Court. All of those matters have been dealt with.

The Hon. MICHAEL GALLACHER: Historically though.

The Hon. JOHN HATZISTERGOS: Yes, but we have responded. It is not a question of saying we have not responded; we have responded. We did respond to those specific initiatives. We disagreed, and all the

other States and Territories disagreed, and we acted. I do not think anyone should assume that we will just roll over for whatever is put on the table on a take it or leave it. I do know that the work safety laws went through the Parliament the other day and the Senate—the States' House—moved amendments to take out the role of the States and Territories in those laws. Senator Abetz, apparently, from Tasmania, said the States should have no role in any of this. So much for the States' House.

So do not say that we have not been responding; we have been, but obviously there is a national view that permeates even into the Senate about the roles of the States and Territories. At this stage all I can say is that we are working cooperatively; we are not trying to be obstructive. We did engage George Williams; we did produce a model that other States and Territories have embraced, and that has been before the Federal Government as a possible way of getting a harmonised system. We have not got a detailed response from Canberra in relation to those specific issues, but I cannot at this stage give you further information about thinking of Canberra. I may be able to do so after I have met with Ms Gillard.

The Hon. MICHAEL GALLACHER: On the whole area of workplace issues and workplace safety, given that there is this uncertainty, what confidence can you give to employees and employers that you will encourage Mr Tripodi to reintroduce the workplace safety legislation that the Government did that was the subject of the Stein report.

The Hon. JOHN HATZISTERGOS: I have not even looked at that. At the moment I have been consulting with the stakeholders. I have met with various officials on a number of aspects in my department; I have had a number of meetings with some of the stakeholders in Unions NSW; and I am meeting other business leaders to formulate thoughts and things. No-one specifically has mentioned this to me as being an issue that I should take up with Minister Tripodi and I have not had a discussion with Minister Tripodi about it.

CHAIR: We will now go to the crossbench for questions.

Ms LEE RHIANNON: Minister, I want to ask you about conciliation and arbitration in New South Wales in light of what is happening Federally with industrial relations law changes. Is it conceivable that some New South Wales workers would be worse off with the new industrial relations system at a Federal level compared with WorkChoices?

The Hon. JOHN HATZISTERGOS: I have not done that analysis. The detail is still coming out. I have some concerns.

Ms LEE RHIANNON: What are the areas of your concerns?

The Hon. JOHN HATZISTERGOS: Not specifically about whether they would be worse off than under WorkChoices—not those concerns. I still have concerns, particularly in relation to vulnerable people, that the current system the way it is proposed is not going to embrace particularly casuals and a whole range of people who are in areas where there may be a high turnover of staff, and their capacity to be able to bargain and to have their issues discussed with their employers is more constrained than otherwise it would be. They are just my preliminary thoughts in relation to those issues. I still have some concerns about that.

Certainly, model awards have come out of Canberra in a number of industries—14 priority industries that the Australian Industrial Relations Commission in its Award Modernisation Decision of 20 June has released in 14 areas to provide some sort of safety net for a whole range of these people. But the concept that individuals in some of these industries will be able to collectively bargain with their employers is something that I am not sure how it is going to work out, particularly if they are not unionised. I do not know what capacity some of these workers have to negotiate. I am not saying that they are worse off. The National Employment Standards have been released and the 14 priority industry awards are available. Over and above that, individual workers are expected to do a deal. Obviously their capacity to do that will be variable.

Ms LEE RHIANNON: You said you have concerns and that you will be doing the analysis. Can you explain the process? Are you still waiting for the details about those 14 areas?

Ms MANSER: The process that the Australian Industrial Relations Commission is undertaking involves modern awards for virtually all industries and occupations, and that will obviously take time. We are generally not accustomed to the process being used. The commission's own judges and commissioners are writing a modern award and inviting comments from people who might be interested. That could be anyone, but

obviously it will interest people in the industry, such as unions and employer groups. The first tranche—that is, the 14 awards that the Minister has referred to—has been released, and there will be others.

Ms LEE RHIANNON: They are already out?

MS MANSER: The drafts have been released for comment. They are available publicly for comment for the industries that the Australian Industrial Relations Commission regarded as a priority. There are other tranches to come for other occupations and industries. I imagine that there will be horse trading as people submit their views about each of the awards. That is one aspect of what the Federal Government is doing. New South Wales is involved in making submissions to the Australian Industrial Relations Commission on each of the awards already released and we will stay involved in that process as it proceeds.

Ms LEE RHIANNON: Are you releasing those submissions?

MS MANSER: The submissions are all on the Australian Industrial Relations Commission's website. We can provide a link.

Ms LEE RHIANNON: At the last estimates I asked you about the tender process with regard to procurement. I know that comes under the Department of Commerce, but I understand that it also comes under your umbrella to some extent.

Mr JONES: In December 2006 the Government announced its policy. The arrangements apply to one trial in particular, which is the courier and other delivery services contract. There are three contracted organisations, one of which covers two companies. In effect, four corporations are involved in that process. There were other tenderers, but they were not assessed as being compliant with the Government's minimum requirements for industrial relations, which involves not only the employees of corporations but also subcontractors and their employees.

The Office of Industrial Relations has commenced a round of further reviews of not only the employees involved in those organisations but also the employees and subcontractors working for those organisations. The benchmark is the relevant State award, being principally the Transport Industry (State) Award and the Courier and Taxi Truck Contract Determination. Those two industrial instruments increase their rates on 20 December. Our present thinking is that we will look at the work performed under the contract by each of those contractors in December, leading up to the rate change, and also in January next year. We will ensure that people are being paid their correct rates now and also in the future.

Ms LEE RHIANNON: Is this all part of the pilot process? Is the pilot process finished?

Mr JONES: The pilot process has two elements. One is the review of the tender operation. It is a three-year tender with two single-year extensions, making it a five-year tender process. The other half of the Government's trial arrangement was that the Office of Industrial Relations was to undertake inspections of 500 contractors involved in the supply of goods. It would not involve the construction area or federally funded projects.

Ms LEE RHIANNON: Why not those involved in construction? It would appear that you have singled out one industry. Is there a reason for that?

Mr JONES: It is a limited trial.

Ms LEE RHIANNON: I appreciate that.

Mr JONES: My advice to the Minister at the time was that there were non-compliance areas in certain industries. I thought that security guards, cleaners other and people like that probably demanded our immediate attention, so those industries were selected over a large number of other industries. We are looking at manufacturing as well and the supply of hospital garments and so on.

As of 30 June this year, we had started 417 investigations of these contractors and 357 had been completed. While things vary across different areas, the inspectors have identified fair levels of compliance and contractors are overwhelmingly prepared to cooperate with the audits and to resolve differences. The investigations have covered the employment of 6,900 workers, including 6,100 employees, and have identified

268 breaches of New South Wales industrial relations legislation in 194 workplaces. That included 49 employers who were underpaying their staff.

By working with those employers—the majority of whom are corporations and therefore not subject to our enforcement powers—the officers have supervised the direct repayment of \$63,200 in remuneration to employees who have been affected by the underpayments. Of course, the ongoing impact of that is much larger because people are now getting the correct rates of pay. We think we will be close to having commenced all 500 investigations by the end of this year and that they will be finished next year when the courier contract will come up for renewal or extension. At that stage we will be able to report.

Ms LEE RHIANNON: Is it the pilot process that will take five years?

Mr JONES: The courier contract is over three years with two single-year extensions.

Ms LEE RHIANNON: We know how important it is and it sounds really good. If I am missing something, please tell me. It appears to be taking a long time for it to become a full-scale process across government.

Mr JONES: We think we have identified the key areas where underpayments are most likely to occur. That is in the security, cleaning and clothing supply areas.

Ms LEE RHIANNON: You said that you personally recommended areas. Is that simply a subjective judgement, or do you have quantitative data to work out which areas are the most underpaid?

Mr JONES: We have quantitative data. While the policy for procurement rests with the Treasurer, we publish up-to-date data on our website of what we call industry benchmarks for compliance levels. The areas we picked, such as transport, are some of the worst performing areas. We publish information about all of the investigations we have done or groups of investigations we have done under each of the contracts. We show the percentage of employers who we think are complying and those who are not. We also provide what we call our industry benchmark, which is judged against all our investigations over the past two or three years so that we can provide a view about whether we are working in areas in which there is non-compliance more generally.

Ms LEE RHIANNON: Minister, I refer you to the state of the New South Wales Industrial Relations Commission. How busy is it these days given the changes at the Federal level? Will you be retaining all the commissioners?

The Hon. JOHN HATZISTERGOS: The workload has dropped off significantly.

Ms LEE RHIANNON: To what degree?

The Hon. JOHN HATZISTERGOS: The Annual Report of the Attorney General's Department should have identified the clearance rate, which is well above 100 per cent. It is doing more work than what is coming in.

Ms LEE RHIANNON: I am sorry, I thought you said it was dropping off?

The Hon. JOHN HATZISTERGOS: Yes, but it has cleared a backlog. The new work that is coming it is not making up for the work that has been cleared. That is what we call the clearance rate. The amount of work has declined quite significantly.

Ms LEE RHIANNON: Will you retain all the commissioners?

The Hon. JOHN HATZISTERGOS: One of the commissioners is due to retire.

Ms LEE RHIANNON: Will that person be replaced?

The Hon. JOHN HATZISTERGOS: No, because there is not a need.

Ms LEE RHIANNON: Because of the reduced workload or it is anticipated that it will continue to drop?

The Hon. JOHN HATZISTERGOS: The reduced workload does not justify that replacement. We have looked at options for giving additional jurisdiction to members of the Industrial Relations Commission and we have done that in a number of instances.

Ms LEE RHIANNON: When you say additional jurisdiction, that means they work in areas other than the Industrial Relations Commission?

The Hon. JOHN HATZISTERGOS: We try to do things that are compatible to what they have done. Justice Haylen is the head of the Legal Services Division in the Administrative Decisions Tribunal, doing disciplinary cases. Two of the judges of the Industrial Commission are doing work on the Medical Tribunal, so they are doing disciplinary work with medical practitioners. That commenced relatively recently. We are looking at other options in relation to how we can engage some of the other members in areas that are compatible with their skill and expertise.

Ms LEE RHIANNON: Are there any other anticipated changes as well as reducing the number of commissioners on the Industrial Relations Commission?

The Hon. JOHN HATZISTERGOS: In what sense?

Ms LEE RHIANNON: I cannot answer that. That is what I am asking. The number of commissioners will decrease. Will any other changes occur in the New South Wales Industrial Relations Commission?

The Hon. JOHN HATZISTERGOS: Obviously that will depend on what happens with the national proposals that are put forward. Can I go back to your earlier question, by the way, about whether workers are better or for worse off under the new scheme. While I still have concerns about workers that I have identified, I cannot ignore the fact that Forward with Fairness has led to significant benefits for workers, particularly the increase in a number of conditions, the unfair dismissal laws, those sorts of issues that have been the subject of the new legislation. The restoration of the unfair dismissals, the abolition of AWA's and 20 minimum standards, including 10 national employment standards, represent a significant advance on what we previously had. But your question was directed to everyone and it is in that context that I still have some reservations in relation to those workers I have identified, as to whether I believe the proposed system will adequately cater for their needs, and that is where I worry. But I cannot answer any further questions in relation to the Industrial Relations Commission, if you ask me about where it will sit in the national framework. A number of the members of the commission have dual commissions; members of the Australian Industrial Relations Commission and members of the New South Wales commission and the industrial court.

Ms LEE RHIANNON: Do you see an ongoing role for the New South Wales Industrial Relations Commission or will we end up like Victoria where we do not have one or we have something very weak?

The Hon. JOHN HATZISTERGOS: Victoria referred all its powers to the Commonwealth. We are not envisaging doing that.

Ms LEE RHIANNON: Are you a strong backer of the New South Wales Industrial Relations Commission?

The Hon. JOHN HATZISTERGOS: It depends what you mean by strong backer?

Ms LEE RHIANNON: Just retaining it.

The Hon. JOHN HATZISTERGOS: I support all the judicial system. I am a strong supporter of the New South Wales judicial system, and the Industrial Relations Commission is part of that. Obviously there are interests one has. The government is a litigant before the Industrial Relations Commission. I do not want to derogate its independence and its role as an adjudicating body between the respective parties. The members of the Industrial Relations Commission as individuals have skills. What I have tried to do, bearing in mind that some of their workload has diminished, is to give them additional work that is compatible with their skills. I thought disciplinary work, seeing they do disciplinary work anyway with the commission, is compatible. Justice Haylen is doing work at the Administrative Decisions Tribunal as head of the Legal Services Division. He is also the chair of the Greyhound and Harness Racing Appeals Tribunal, which he was on before but he has now

become chairman of that. As I said, two other members of the commission will be doing work in the Medical Tribunal. I am grateful to all of those judges and to the President for being so amenable to serving other areas.

Ms LEE RHIANNON: At the estimates hearing last year we spoke about the issue of bullying in the workplace. Again, I know a lot of this has been dealt with by WorkCover, which comes under the Department of Finance, but I was hoping it was something you were also giving attention to. There have been numerous surveys showing how rampant bullying is in many areas. Can you outline specific programs you have to counter this problem?

Ms MANSER: It is certainly true that WorkCover has responsibility for bullying as an occupational health and safety issue. As you know, it has a policy which it has promulgated widely in relation to people's capacity to raise those issues and complain. Certainly it is an issue that we do not have any enforcement powers on but when we talk to people in our seminars and workshops and the information and education that we give out over the phone and on our website we address the subject. You are right, there seems to be a prevalence of it being reported by people. So, we address those issues through some of those areas where people raise them as issues in the workplace.

Ms LEE RHIANNON: How do you resolve the contradiction or just the plain challenge that there has been considerable reports of bullying in WorkCover and WorkCover is the body that is supposed to be helping other workplaces manage and eliminate this?

The Hon. JOHN HATZISTERGOS: I am not in a position to comment on what happens at WorkCover. It is not an agency we have responsibility for.

Ms LEE RHIANNON: No, I am not saying it is but this is where we have this contradiction. How do we do something about bullying in the agency that is responsible for managing bullying programs?

Ms MANSER: I cannot speak for WorkCover, obviously, because it is not part of our jurisdiction. But it is fair to say that the public sector workforce has had policy documents supplied to it about bullying issues and has processes for people to use to raise those issues beyond the person they feel is bullying them, in the same way as it is being promulgated generally by WorkCover for private sector workplaces.

The Hon. HELEN WESTWOOD: Minister, will you please advise the Committee about the compliance and information services provided by the Office of Industrial Relations to employers and workers in New South Wales?

The Hon. JOHN HATZISTERGOS: During 2007-08 the Office of Industrial Relations expended \$10.4 million on compliance activities and an additional \$2.2 million on specialist business advisory services. This equates to 81 per cent of the office's front-line services. The major part of the office's expenditure was directed towards delivering this Government's commitment to inspect 50,000 New South Wales workplaces over a four-year period, in order to ensure that minimum employment standards are understood and applied by employers and employees alike. During 2007-08 this resulted in inspections of 13,630 New South Wales workplaces. Almost 90 per cent of the inspections were targeted towards industries and areas where non-compliance with minimum employment standards is considered to exist. The remainder of the investigations arose from employees making formal complaints to the Office of Industrial Relations. These inspections covered the working arrangements of approximately 58,000 workers, two-thirds of whom were employed on a part-time or casual basis. A further 2,300 employees were either apprentices or trainees.

The investigations uncovered 10,400 breaches of New South Wales industrial relations legislation in 3,000 workplaces, including 1,730 workplaces who were underpaying their workers. As a result, approximately \$4 million was recovered directly for affected employees. The ongoing impact of these investigations is much greater as the employees now receive the correct pay rate.

These results emphatically validate the direction of the Government's targeted workplace compliance program. From an employee perspective, a far greater number of vulnerable employees are now receiving their lawful entitlements. The targeting of inspections towards workplaces that employ the unskilled, the young and those on a casual basis make this a commendable result. The targeted workplace inspection program is equally important for employers. Many of the employers who are inspected are unaware that they are breaching the statutory minimum employment standards, and so welcome an early opportunity to resolve these deficiencies.

In most instances, employers will voluntarily comply with the law, once that breach has been identified and explained. Nonetheless, inspectors fined or prosecuted 84 employers during the year. One such prosecution undertaken in December 2007 involved a hairdressing and beauty salon in Lismore operated by a Ms Leisa Ann Manitta, trading as Hair Transformers. This matter involved a young person who had been first engaged as an apprentice and then subsequently as a fully qualified hairdresser. Following a complaint to the Office of Industrial Relations, an investigation of the employer was undertaken into the employee's wages and leave entitlements.

The prosecution commenced by the Office of Industrial Relations for underpayment of wages and entitlements was successful, with the court finding all offences proved and recording convictions. In addition to orders in favour of the worker for nearly \$10,000, the employer was penalised and fined \$4,450 for breaches of the New South Wales Hairdressing Award, Industrial Relations Act, Annual Holidays Act and Long Service Leave Act.

A second prosecution undertaken during the year involved a company named Pryturn Pty Ltd, which was operating a video rental shop in Castle Hill. The Office of Industrial Relations investigation involved two employees engaged as casual shop assistants under the Shop Employees (State) Award. Both employees had worked for the employer for more than five years. The office's investigation identified that the employer had both underpaid and not paid the employees the relevant award rates, including penalty rates for Saturdays and Sundays, overtime, public holiday work and holiday pay in relation to the Annual Holidays Act. The employer had also failed to provide complete wage and time records.

The New South Wales Chief Industrial Magistrate found the employer guilty on all 10 charges, covering seven award breaches, two Annual Holiday Act offences and one obstruction charge. The court took into consideration the employer had no prior convictions but noted that the offences had taken place over many years and the employer had failed to take active steps to comply with the award. Accordingly, the Chief Industrial Magistrate imposed penalties and fines of \$3,200 on the company and ordered it to pay the two employees a combined amount of \$6,744 in remuneration. It is appropriate to note that in all except one matter prosecuted by the Office of Industrial Relations during 2007-08, the case against the employer was found by the court to be proven.

The targeted workplace inspection program also protects good employers from unfair competition from those other workplaces that underpay their staff. During 2007-08 a major compliance initiative was undertaken in the Tweed Heads area, which was illustrative of the results that can be achieved through a comprehensive targeted compliance strategy. In August 2007, 117 employers in the Tweed Heads area were inspected over a two-day period. Of these, 53 workplaces were identified breaching minimum employment standards, including 18 underpaying their staff—\$31,325 was recovered for employees as a direct result of this campaign. Due to ongoing concerns about the level of compliance demonstrated by some employers, 29 of the workplaces inspected have been identified for subsequent inspections during 2008-09.

Such compliance activities extend right across New South Wales. In a similar series of inspections in Oberon, a first year apprentice hairdresser working for a hairdressing salon received \$373 in back pay after it was found that her employer had not passed on the 2007 State Wage Case increase. In a restaurant in the same town six casual employees, including two 17-year-olds, received \$6,490 in back pay arising from an underpayment of the award rates of pay. I am advised that the employer had started operation of the business in October 2007 and was paying what she thought was a "fair" rate.

In a third investigation in Oberon five casual employees of a takeaway food shop received \$8,050 in back pay after being identified as receiving less than the award rates of pay. These investigations demonstrate the great value in the office's ongoing statewide compliance program. As I have noted earlier, approximately 10 per cent of the office's workplace investigations occur as a result of complaints made to its inspectors. In one such complaint, a baker from Yamba alleged that he was not paid his correct wages and penalty rates. The office's investigation revealed that not only was he incorrectly classified as a part-time employee, the employer had also failed to pass on an annual wage increase. To rectify the underpayment, the employer entered into a payment plan, paying \$6,399 to the employee in instalments over a three-month period.

These are a sample of the many thousands of positive results generated through compliance campaigns undertaken by the Office of Industrial Relations and clearly demonstrate that the money spent on these activities is well spent. It brings value to employers and employees and delivers fair competition in the marketplace for businesses. The core of the Government's workplace compliance activities is based on education, encouraging

voluntary compliance and using coercive powers only when necessary. This strategy is only possible if the workplace compliance activities are backed up with comprehensive and practical information services.

The Office of Industrial Relations has a range of activities and services that are designed to integrate with and support its compliance activities. These services focus on keeping employers and workers informed of their industrial relations rights and obligations in order to ensure that they are in a position to comply with those obligations. The centrepiece of the office's information services is its website, which received around 2.8 million visitors during 2007-08. It is worth noting that the office's website consistently ranks in the top 20 of all New South Wales government websites. The Office of Industrial Relations continued to develop its online presence to assist employers and employees to understand their rights and obligations at work. These have proved to be popular with 1.5 million visits to Awards Online and the Check Your Pay calculator allowing users to check wages and entitlements.

A particular focus for the office is young workers, to ensure that they receive the best possible start to their working lives. During 2007-08 there were 66,000 visits to the Office's Young People at Work website, which provides information and practical support to young people entering the workforce. To augment the office's website, a telephone advisory service provides information freely to employees and employers. During 2007-08, this service handled over 180,000 calls and emails. In the majority of cases this service was used by employers, who were checking the information provided through the office's Internet and on-line services.

Another key advisory activity undertaken by the Office is its Workplace Advice Service, which conducted 181 industrial relations-related presentations for 3,000 participants in 2007-08. This service provides practical workplace information to assist employers to understand their legal rights and obligations in New South Wales. Ensuring vulnerable workers, especially young people and those from culturally and linguistically diverse communities, are informed about their employment rights is another important function of the Office of Industrial Relations. In 2007-08, over 5,400 people attended 220 presentations conducted through TAFEs and community organisations throughout the State.

Information sessions specifically for women returning to work were introduced in 2007 and are proving very popular, particularly in regional areas where access to such services is often more challenging. The majority of these sessions are delivered through New South Wales TAFE Work Opportunities for Women courses and feedback from participants and course coordinators remains consistently positive. Another major initiative undertaken by the Office in 2007/2008 was the development of a free online community newsletter, Work Smart, which provides timely information about workplace issues, industrial relations laws and Office of Industrial Relations resources and services to anyone working with vulnerable workers or job seekers in New South Wales. Written in plain English, the content is easy to understand and can be used directly with clients and students. Work Smart has been very well received and is rapidly becoming a key vehicle for connecting with and delivering information to key community stakeholders.

The demand for the office's services continues undiminished, with employers and workers alike eager to hear more about developments at both State and Federal levels. Employers may receive advice about good policies and practices in order to maximise business efficiency, while workers who are uncertain about their rights can get access to accurate information. These compliance and information services continue to demonstrate that the Government remains committed to delivering value to the workers and employers of New South Wales.

CHAIR: I conclude the hearing and thank the Minister for his marathon performance this morning I also thank staff from the Office of Industrial Relations, ministerial staff and advisers.

(The witnesses withdrew)

The Committee proceeded to deliberate.