

GENERAL PURPOSE STANDING COMMITTEE No. 3

Wednesday 3 September 2003

Examination of proposed expenditure for the portfolio area

ATTORNEY GENERAL

The Committee met at 5.30 p.m.

MEMBERS

The Hon. A. R. Fazio (Chair)

The Hon. G. S. Pearce
The Hon. D. Clarke
The Hon. P. T. Primrose

The Hon. J. C. Burnswoods
The Hon. P. J. Breen
The Hon. J. S. Tingle

PRESENT

The Hon. R. J. Debus, *Attorney General*

Attorney General's Department

Mr L. Glanfield, *Director-General*

Mr J. Feneley, *Deputy Director-General*

Mr A. Kuti, *Director, Financial Services*

Bureau of Crime Statistics and Research

Dr D. Weatherburn, *Director*

Legal Aid Commission

Mr B. Grant, *Director*

CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS

Corrections should be marked on a photocopy of the proof and forwarded by 30 September 2003 to:

**Budget Estimates
General Purpose Standing Committee Secretariat
Parliament House
Macquarie Street
SYDNEY NSW 2000**

CHAIR: I welcome you to this public hearing of the General Purpose Standing Committee No. 3. First, I wish to thank the Attorney General and the departmental officers for attending today. At this meeting the Committee will examine the proposed expenditure for the portfolio area of Attorney General. Before questions commence, there are a couple of procedural matters to be dealt with. We have explained to you about the microphone and the allocation of time. Part 4 of the resolution referring the budget estimates to the Committee requires evidence to be heard in public. The Committee has previously resolved to authorise the media to broadcast sound and video excerpts of its public proceedings and copies of the guidelines for this are available from the attendants in the room. I point out that, in accordance with the Legislative Council's guidelines for the broadcast of proceedings, only members of the Committee and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photos, if we get any media here.

In reporting the proceedings of this Committee, you must take responsibility for what you publish or what interpretation you place on anything that is said before the Committee. There are no provisions for members to refer directly to their own staff while at the table. Members and their staff are advised that any messages should be delivered through the attendant on duty or the Committee Clerks. For the benefit of members and Hansard, could departmental officials identify themselves by name, position and department or agency before answering any questions referred to them. Where a member is seeking information in relation to a particular aspect of a program or subprogram, it would be helpful if the program or subprogram is identified in the question.

I declare the Proposed Expenditure open for examination. Minister, would you like to make a brief opening statement.

Mr DEBUS: No, thank you, Madam Chair.

CHAIR: In that case we will go to Opposition members for questions. You have 20 minutes and I will advise you when the 20 minutes is almost up. The Hon. Greg Pearce.

The Hon. GREGORY PEARCE: Thank you, Chair. Attorney, can you tell us how you justify cutting back 14 criminal prosecution staff from the Office of the DPP when the number of cases are forecast to increase by 800 over the coming year.

Mr DEBUS: I can tell you that the Office of the DPP is being funded at record levels, that the Treasurer approved an increase of its net budget of \$5.9 million in July. That was the consequence of a considerable examination of the workings of the DPP's office by a Review Committee, including representatives of the Treasurer's office. That has led in turn to the employment of 26 additional witness assistance officers. Apart from any other increases in salaries, the Treasurer has approved a further \$2.7 million just today, which is the consequence of representations that I had made to him in consequence of that review that I previously mentioned. I am not aware that we have cut 13 jobs.

The Hon. GREGORY PEARCE: 14, I think.

Mr DEBUS: I am not aware of there being a cut of 13 jobs.

The Hon. GREGORY PEARCE: Where does the \$5.9 million come from. I will find the 14 jobs while I am asking you that. On 6 July you promised an extra \$5.9 million and you are now saying today another \$2 point—

Mr DEBUS: Yes. There has been a process which began in February, which I began, to establish a review of the DPP's budget. Obviously we have had a circumstance where the requirements of the justice system, and indeed changes to the criminal law, have been increasing demands on the DPP. It is not a question of there being cuts. The DPP is being funded at record levels, but in order to better test the budgetary needs of the office, as I say, we established a Review Committee which had officers from my department, officers from Treasury and officers from the DPP Board itself. As that review has gone on and we have continued to communicate with the Treasurer, we have received these extra amounts of money: \$5.9 million in July; and another \$2.7 million this month.

The Hon. GREGORY PEARCE: If you have had that sort of review, would it not be in the

interests of all if you were to support a bipartisan Budget Oversight Committee so we do not have a repeat of this sort of performance: \$5.9 million to avoid strikes; and another two today and whatever else is coming out?

Mr DEBUS: No, I do not believe that to be so at all. The review that has gone on is a perfectly legitimate administrative initiative. As I say, it comes out of the fact that the office and responsibilities of the DPP have been themselves increasing. The Committee that you suggest would in no way, it seems to me, add to the value that is presently provided by the Board of Management of the DPP, which has on it several outside representatives and has direct responsibility for the administration of that Office. A Budget Committee—

The Hon. GREGORY PEARCE: A Parliamentary, I am sorry, I thought that was clear.

Mr DEBUS: A Parliamentary Committee is the Committee that is quite often proposed by members of the Opposition, whoever happens for the time being to be Shadow Attorney General. I could give the same explanation for why I do not think that is a good idea that I have given on the five or six or seven occasions when the matter has been raised in the past. The Opposition's proposals for a Parliamentary Committee plainly seek not merely to deal with questions of administration but they seek to set up arrangements which would allow the Committee to interrogate the DPP over the merits or otherwise of particular prosecutions. I think that to be in fact, in principle, an objectionable proposal.

A Committee of that nature would inevitably become a forum which would place pressure on the DPP to launch prosecutions or appeals, what have you, regardless of evidence. It would be a backdoor way of establishing exactly the kind of political influence that the present administrative arrangements that guarantee the independence of the DPP seek to overcome.

The Hon. GREGORY PEARCE: I do not want to debate that with you, Attorney, but it certainly works with the ICAC and PIAC and various other sites, but let's move onwards.

Mr DEBUS: Very quickly, they are different. The proposal that has been put up by the Opposition goes well beyond the kind of powers that are proposed, that exist for the Committees on ICAC and the Ombudsman. By the way, those two organisations are of a different nature altogether. The DPP's decisions are constantly accountable through the court and the judicial process.

The Hon. GREGORY PEARCE: Can you tell me why the DPP would need public relations consultancy during 2002-03, what they were likely to be using that for?

Mr DEBUS: I think we would all concede that the DPP is a person who, whether he tries or not, achieves a certain prominence in the media. That would in turn explain his need for a journalist or a public affairs manager.

The Hon. GREGORY PEARCE: Would you think that spending nearly \$60,000 on media relations would be appropriate? Have you seen that figure?

Mr DEBUS: Yes, this is Peter Simons, Media Relations?

The Hon. GREGORY PEARCE: Yes.

Mr DEBUS: Yes, I have a record of that expenditure but can explain immediately little more about it. I could take some questions on notice about it.

The Hon. GREGORY PEARCE: Attorney, do you have a policy, such as the Minister for Transport Services policy, that all Freedom of Information requests be brought to the attention of your ministerial staff before they are answered?

Mr DEBUS: All of the agencies in my portfolio obviously process Freedom of Information applications. The act is clear in its description of the nature of the process and the time frames that have to be applied. Any Minister is entitled to know what matters are being considered by their departments. I do not think that you would be unaware that it is not appropriate for me to have a

precise role in determining an FOI application. That is obviously done by FOI officers within the respective agencies. It is appropriate that I should be aware that requests are being made. My understanding is that, in that respect, the procedures that apply in my office are really no different from those that used to apply under the Greiner Government.

The Hon. GREGORY PEARCE: I would not know. Do you or your office, are you advised of all FOIs, are you?

Mr DEBUS: I know when many FOI applications have been made. I am certainly not advised of all of them, not at all.

The Hon. GREGORY PEARCE: Would you be able to take on notice and give us a number as to, in the last year, how many of those requests were received and reviewed by your office and how many were dealt with independently by the department?

Mr DEBUS: I could take on notice a question about the statistics about FOI.

The Hon. GREGORY PEARCE: Yes, you would have to take it on notice.

Mr DEBUS: I emphasise that my office does not intervene in those matters.

The Hon. GREGORY PEARCE: Could the Director-General, perhaps, just complete those questions by indicating by whether you also receive FOI requests or notification of FOI requests, what the process is?

Mr GLANFIELD: We have an FOI Applications Officer who handles requests. I am not as a matter of course advised of all FOI applications. In many cases, I see it as an appeal on a decision that has been made by that officer. As the Minister said, from time to time it is important that people are aware of a whole range of things that are happening in the organisation, but there is no system in place that ensures that very application is either drawn to my attention or the Minister's attention.

The Hon. GREGORY PEARCE: Attorney, in taking that question on notice, could you also take on notice and advise the number of FOI requests which may have been submitted to your office with a proposed answer, where those answers were changed after being submitted to your office or you do not—

Mr DEBUS: They are not so submitted.

The Hon. GREGORY PEARCE: They are not. Thank you.

The Hon. DAVID CLARKE: Madam Chair, Attorney, I just want to touch very briefly on this festering problem of inconsistency in sentencing. Would you agree that there is a public perception out there that there are major inconsistencies in sentencing in New South Wales?

Mr DEBUS: I would agree that, throughout the history of the common law, there has been some feeling from time to time amongst members of the public that there are inconsistencies. I point out at the same time that that public perception is frequently, indeed I would say the majority of the time, the consequence of insufficient information. People hearing about a case in the media almost inevitably, most of the time, do not know nearly as much about the matter being decided as the people inside the court. The judicial officers and the jury do know. I think it has been a common discovery, when appropriate studies have been made, that shows that as soon as members of the public are introduced to the full facts and circumstances of any individual case, their idea about what a fair punishment would be begins to converge quite closely with that of the judiciary.

However, I do concede that that feeling exists in some form and that it is asserted vociferously from time to time by a variety of people, which is why one of the two main jobs of our new Sentencing Council, established only at the beginning of the year, is to prepare a report on how best to promote consistency in sentencing in the Local Court. Indeed the Sentencing Council is at work on that project now.

The Hon. DAVID CLARKE: In other words, Attorney, would it be fair to say that your position on this is that you believe that most of the public concern about apparent inconsistency in sentencing is largely misconceived or just based on misinformation?

Mr DEBUS: I think I put my position with reasonable clarity first time round, which is that the question of consistency of sentencing is a complex one.

The Hon. DAVID CLARKE: Can I take a specific example here. We have had the recent decisions by Magistrates, for instance: in one case, the award of \$300,000 in damages to a man who stabbed his sister-in-law to death, that was one. Then we had another one where we saw a man sentenced to only seven and half years, four and half years non-parole, after shaking his three-month old son to death. Would you agree that there appears to be an inconsistency here, and what do you see the way of trying to deal with these issues?

Mr DEBUS: You are now giving an example of the sort of situation that I was describing, in which opinions are formed on inadequate information. First of all, it was not a Magistrate that awarded the \$300,000. It was a Supreme Court Judge. It was a civil action. It was an action about which I expressed some concern and indicated that there would be appeals for the relevant Government agency that had been affected. On the other hand, the baby manslaughter case that you are speaking about was a criminal matter, and one in which manslaughter is a notoriously difficult area to achieve sentencing consistency. Indeed it is almost meaningless to talk about sentencing consistency in the area of manslaughter.

We had a very detailed inquiry into that very possibility by the retired Judge, Mervyn Finlay, a person well trusted by all sides of politics and indeed by the legal profession. This was an inquiry completed only half a year ago. He drew the conclusion that we could not make a hierarchy of penalties of sentences within the crime of manslaughter, simply because there were so many different sorts of behaviour encompassed within it. The question of the baby was one at least—I believe it was a Supreme Court Judge—but there was a question of the state of mind of the person involved. There is no point in arguing it out in juridical terms but there is a reflection of the Judge's opinion of the state of mind of someone committing a crime. In the first matter you mentioned, there was a Judge's assessment of some civil damages that were payable as compensation in consequence of an act of negligence by a hospital. It happens I did not much agree with that second case. The issue of consistency does not really arise there.

The Hon. DAVID CLARKE: When you say you disagreed in that second case, you came to the view that it was an inadequate sentence, unless I misunderstood you.

Mr DEBUS: No. When I referred to a second case there, I was referring to the case called Presland. The State—that is to say, the Department of Health—has appealed that matter and there are several other possible responses that have been indicated.

The Hon. DAVID CLARKE: Do you have a view on whether it was an adequate sentence or not in regard to the case involving the three-month old boy who was shaken to death by his father?

Mr DEBUS: I thought it to be the kind of case where it was appropriate for me to seek to ask the Director of Public Prosecutions to consider an appeal, and I did that. I am not sure whether the Director of Public Prosecutions has yet made a decision about whether to make an appeal or not. I think not.

The Hon. DAVID CLARKE: Attorney, given current community concern with recent sentencing decisions and inconsistencies in legislation dealing with criminals, can you explain why, in your 2001-02 annual report, the key future direction for legislation and policy of the Division is, "to review the law relating to disputes about trees," unless I have misread that.

Mr DEBUS: I mainly brought information but I am responsible for the oversight of the portfolio that makes laws about nearly everything.

The Hon. DAVID CLARKE: Just for your information, page 17 of your annual report.

Mr DEBUS: It is true that there has been an ongoing issue driven by the interest of Local Government and no doubt some other representative bodies, which is directed towards the possibility of us finding better ways to resolve disputes between neighbours about trees and fences and that kind of thing. It has not been an enormously prominent priority, at least in my mind, and the proof of that is that it has been years in the making. I passed one law within 24 hours, overnight, but this one, I swear it has been five years.

CHAIR: Mr Clarke, there is time for one more question from your position at this time.

The Hon. DAVID CLARKE: What advice have you received, Attorney, from the Bail Working Party on the operation of the Bail Amendment Act since its introduction?

Mr DEBUS: I am checking to see if there is a bit more information, but basically I await the report of that working party that goes beyond the existing recommendations that have already been passed into law.

The Hon. DAVID CLARKE: Have you received any advice at all?

Mr DEBUS: I have not formally received that advice yet.

CHAIR: It is now time for crossbench questioning. I will start with the Hon. John Tingle.

The Hon. JOHN TINGLE: Thank you, Madam Chair. Attorney, can I take you to something which may be a little different from what we have been talking about. I refer to the Merit Program. The Merit Program, the Magistrate's early referral, as a treatment is now, we are told, operating in 31 courts in New South Wales. How much value do you place on that and what plans do you have in terms of expanding through the whole court system? Is it regarded as a high priority?

Mr DEBUS: The program, I should say, is presently available in around 50 courts. I believe there are still some to go. The program is, in fact, a joint State-Federal initiative. It is one of the few areas in which Federal funding has been increasing, if I may say so. I cannot instantly tell you how many more courts the program will operate in. I can say that all of the reports that I have from the magistracy, and indeed from time to time from those concerned with the rehabilitation and treatment of drug offenders, are very positive. I suppose it will be a little longer before we are able to make what you would call an entirely valid evaluation, because the program is still rolling out. Commonsense suggests that it is in the second or third year that you would really be able to evaluate such a program properly. Obviously its real point is to stop people taking drugs. I have a piece of paper here, though, that tells me that a draft report is expected by the end of this month on the program as it operated in Lismore.

The Hon. JOHN TINGLE: That is where it started, of course, was it not?

Mr DEBUS: That was the first place. Not for the total amount, but for the program as it is operated in Lismore where it started.

The Hon. JOHN TINGLE: Its pre-corrective and preventive system, can I just refer you back to the last part of my question: is it given a high priority?

Mr DEBUS: Yes.

The Hon. JOHN TINGLE: It will continue to expand?

Mr DEBUS: That is to say, given a high priority in the sense that I have done everything I can to support it. So has my colleague and yours, the Hon. John Della Bosca, who through his involvement with the Drug Summit implementation has been quite directly involved; and so has the magistracy. Every time I talk to the Chief Magistrate, just about, he reminds me of the great significance of this program and so does the former Chief Magistrate, who was once your colleague.

The Hon. JOHN TINGLE: Thank you for that. Moving on, if I may, I was interested to read the allocation for expanding capabilities to address risks in courts. I guess in the current—of being

alert but not alarmed—this is to be expected. Is it possible for you to tell us exactly what sort of precautions you would envisage being built into a court? I presume we are talking about risk of violence and attacks on court officers and other sorts of people.

Mr DEBUS: Yes. There is a Safety Task Force, which is chaired by the Sheriff, which is looking statewide at court safety standards and making assessments of risks. It is going to be making a report at the end of October. This is in addition to a good deal of physical activity around court security. We have increased the number of Sheriff's Officers during this year and taught them all how to use capsicum spray. There has been a deal of physical work around a number of law courts, including the Supreme Court and the Darlinghurst complex, where there has been some high security arrangements made. I mean, some really high security arrangements made.

The Hon. JOHN TINGLE: Do you envisage screens and that sort of thing? Are we getting to that stage?

Mr DEBUS: In a lot of Local Courts—I could give you a long list, I could even read it out now or take it on notice—there is equipment like bail video systems. A bail hearing is a likely for a bit of trouble. You can do that by video, you reduce the possibilities of trouble. The very high security court at the Supreme Court and at the Central Local Court has the capacity to resist an armed attack.

The Hon. JOHN TINGLE: Is that the sort of risk factor that you are escalating it up to that there could be a physical or armed attack in a court? This is a very strange thing for Australian courts to taking into consideration, is it not?

Mr DEBUS: It is. It is not a comforting concept at all. I think it fair to say that there is a keen awareness that we ought to be overreacting. You may say the same of the Parliament normally, but perhaps I might ask the Director-General who has so far had an easy time of it to give you a little more detail about these questions.

The Hon. JOHN TINGLE: I suppose what I am really asking you is how serious is the risk? What are we really facing here?

Mr GLANFIELD: Just on that, can I say we have a process where we try to determine risk by location, and a lot of that has to do with the people who will be appearing before that particular court. We have eight major courts that we centralise all our committals work. They are courts where we will have, or have already, some full perimeter security including magnetometers, walk-through screening. We are employing more Sheriff's Officers. They will be used there, but also in many of the courts where in fact there is perhaps a need for just hand wands to screen people coming in. It is not seen to be such a danger. If there is a particular case on, we work very closely. We have a committee that meets regularly with the Judges and Magistrates and we will settle with them. We prefer not to disclose details of the arrangements put in place, but to ensure that the court uses, and the Judge, Magistrates and the public are safe in the way that matter is handled. So it is taken seriously, but we do distinguish between the levels of risk and there is a proper methodology for determining how high the risk is for particular venues.

The Hon. JOHN TINGLE: Just one final thing, I notice—and I am notoriously bad at reading figures—what I gather to be the increase in asset acquisitions to the Attorney General's Department has gone up by 60.4 per cent. Is that an unusual jump?

Mr DEBUS: Since I share your affliction, I will happily ask the Director-General to answer that question.

The Hon. JOHN TINGLE: It just seems to be a large figure and I wonder if in that it tells us something that we ought to know about what is being expanded.

Mr GLANFIELD: I take it your question is not assuming this is linked to your last question because although there is some additional money being provided for security—

The Hon. JOHN TINGLE: No. Totally separate, I assure you.

Mr GLANFIELD: The main increase is really a number of major new court complexes that are being built. We are also in the middle of a major court computerisation project—a multi-million dollar court project. That is really the big difference between last year and this year in terms of allocation, but just to give a quick snapshot, we have money planned for building a nine trial court complex at Parramatta, a new Children's Court complex at Parramatta as well. We have a Children's Court complex being started in the Hunter Valley; a four-court complex at Bankstown; in Blacktown we are building a new courtroom; in Nowra we are building an additional courtroom as well, and I could go on. There is a whole range of expenditure being incurred in improving the courthouse stock in the State, and it has just come to a pleasant peak this year and for next year.

The Hon. JOHN TINGLE: Is there any significance in the fact that two of the major expenditure items are both in Parramatta; the Children's Court and the court facility?

Mr DEBUS: It is simply that the Government is developing a new sector at Parramatta associated with the old hospital. So there is a justice precinct of some considerable size, and both the Children's Court and the other court complex are part of it. Obviously I have been responding to a perceived and vociferously argued need for—this was a need argued by the court user for more specialised Children's Court premises. Obviously Parramatta is good central place to have such things.

The Hon. JOHN TINGLE: It does not suggest, though, that there is a major child and adult crime wave developing in Parramatta that needs to be dealt with?

Mr DEBUS: No, it merely suggests that Parramatta continues its inexorable growth as a second CBD and that it is a really good location for the kind of courts that will attract business from all over the western two-thirds of the city.

The Hon. PETER BREEN: Attorney, I understand that the number of unrepresented litigants has increased in recent years and is as high as 40 per cent in some jurisdictions. Are you able to say what impact this increase in unrepresented litigants has had on the administration of justice generally? For example, what additional costs are involved and has any work been done to compare the additional costs involving unrepresented litigants with the increases in Legal Aid funding that might help offset that additional cost?

Mr DEBUS: I will ask Mr Grant, Director of the Legal Aid Commission, to add what he can to that sensible question. First of all, I do not think that 40 per cent is the kind of figure we are talking about. I do not have an indication that you are getting 40 per cent of unrepresented people.

The Hon. PETER BREEN: I think in the Local Court, Attorney, there might be 40 per cent.

Mr DEBUS: But at least some of it is a matter of choice. I do not suggest that some of it is, but some of it certainly is a matter of choice. I can say that the Legal Aid budget is better this year than last year. We are not suffering from a sudden reduction in the total amount of legal aid available, and given the crime figures that presently exist, we are not having a massive surge—like this year over last year—of people who have committed an offence. The major area of increase amongst unrepresented litigants is in the Family Court. But it might be appropriate if I ask Mr Grant to give you some more detail.

Mr GRANT: In relation to the question, my recollection of the 40 per cent figure is in fact that it relates to the Family Court, including the Federal Magistrates Service. I have seen that 40 per cent figure in relation to those two courts. We have done a fair bit of work along with other Legal Aid Commissions across the country in trying to identify why these people are unrepresented. Certainly one part of it is that in relation to family law matters, Legal Aid Commissions across the country are bound by Commonwealth guidelines as to who and who you cannot give aid to. So the Commonwealth stipulate the types of matters for which we can grant aid.

Just to illustrate that point, just to go to your question, it is very difficult in Sydney in particular, but New South Wales in general, to come within the Commonwealth monetary caps on property disputes. I think the figure last year for New South Wales was we granted aid in relation to property disputes in 161 cases only. They also had a component of custody and access to them as well. So we are bound by Commonwealth guidelines, and that is one reason why in those jurisdictions

there is such a large unrepresented litigant factor.

However, there are other reasons. We took a step last year in Parramatta with the Parramatta Registry of the Family Court and with the Federal Magistrates Service to put a Legal Aid duty lawyer or two duty lawyers into that court. So we would see anyone that day who was unrepresented who wanted some advice, some minor assistance, and sometimes that turns into full representation. But our duty lawyers have reported back to me at least informally that there are many occasions when people do not want any more than formal advice. They prefer to be unrepresented for one reason or another. Sometimes of course they are not eligible for legal aid for some other reason. But another factor that they have drawn out is that sometimes those people are not ready to be legally represented. They are still coming to grips for whatever reason with the separation or family dispute, and the information I have got back is some of them at least are not ready to approach a lawyer and try to bring some finality to the matter.

Through the Duty Lawyers Scheme we are picking some of those people up. We are giving them some guidance. We are acting on an interim basis. That has been so successful, and the courts have supported that so much we have now extended that to the Newcastle registry, and we are about to start up there. In relation to the family law matters, it is partly the restriction on Commonwealth guidelines. It is not so much a restriction on Commonwealth funds being available for us. It is the types of matter for which we can grant aid.?

The Hon. PETER BREEN: Is it true that the magistracy and the judiciary bend over backwards to help unrepresented litigants? That is a popular myth you often hear: it is often better to represent yourself because the court will help you out. Is that the experience of the—

Mr GRANT: Again it may depend on the jurisdiction, but the courts, I think it is fair to say, do not want to see a large proportion of unrepresented litigants because they prefer to have professional guidance to get the matter disposed of. It increases the length of matters. It increases the difficulties that judicial officers face in trying to get an even-handed approach to the particular issue before the court. I think it is also fair to say that because of the many reasons why people are unrepresented before the courts and, for example, if you take in crime, it is a fairly prominent matter at the moment that some people in very serious criminal matters who have elected not to have legal aid which has been ready and available for them and approved for some months.

Mr DEBUS: That was Michael Kinnan?

Mr GRANT: No. It is the people who will be the subject of this legislation which you are getting through Parliament.

The Hon. PETER BREEN: But Kinnan was another one, Attorney, yes.

Mr DEBUS: Two other observations of some relevance that of course there are some areas of the Local Court like the Small Claims Division where legal representation is positively discouraged. You are not really talking about that area, but if you were trying to get overall statistics, that kind of circumstance has to be taken into account. The other thing is that the relatively newly formed Australian Institute of a Judicial Administration, in which New South Wales has been very supportive of that new body, is apparently preparing to research this general subject, and I would be happy to provide you with more information about it at a later stage. I think it is a good thing if such research will occur.

The Hon. PETER BREEN: It occurs to me there must be a cost involved. I mean, for example, we passed legislation today to provide for the intervention of an officer or some other person to ask questions of a complainant in sexual offence matters. There is a cost involved in that, and again it applies specifically to unrepresented litigants, and it is just curious that there are no figures or no studies anyway, to see what the actual cost involved of all that is.

Mr DEBUS: I think that it would indeed be appropriate if that research should be carried out and we will certainly be encouraging it, but our conversation so far even demonstrates that it is a multi-faceted issue, and not all lack of representation is a bad thing although I freely concede that sometimes it is from the point of view of the litigant or from the court.

The Hon. PETER BREEN: In the same vein, this is a bit of a mad idea perhaps, but in civil litigation there are a lot of unrepresented litigants, in my experience, who approach the court with what, in objective terms, is not a very good case. It seems to me that because they are unrepresented and because they lack experience, they do not have the benefit of any independent assessment of the merits of their case. I wonder if the department has ever considered some kind of preliminary merits assessment scheme whereby unrepresented civil litigants can have independent advice, without being bound by it. I am sure it would benefit the court as well to have their case weighed up to see what the implications are and perhaps even give it a score, one to 10, as to whether or not it is a worthwhile cause.

Mr DEBUS: Bearing in mind that a certain proportion of unrepresented litigants are like a certain proportion of the people who come into our electorate offices and are simply not amenable to a rational process of that sort, bearing in mind that the ancient tradition of Chamber Magistrates has that purpose in part, and bearing in mind that informally that kind of process that you describe quite often happens at some pre-trial stage, or at some preliminary stage, I would entertain some more detailed suggestions.

The Hon. PETER BREEN: Mr Grant has an observation.

Mr GRANT: If I could just add that we do have a smallish civil law program at the Legal Aid Commission, and we spend a fair bit of time giving people advice. Anyone can get advice on their civil claim from a Legal Aid office. That does not mean we are going to act for them, and of course we do have a merit test in those matters, so frequently we will not act for them. However, we had last year over 19,000 people who received advice or minor assistance in civil law matters throughout the State. So it is fairly rigorous, but that does not come back to your question of course and totally answer people who do not come for advice and just lodge their proceedings.

The Hon. PETER BREEN: It is encouraging though if you are giving that level of advice. I mean, it is somewhere to go where people can be directed.

Mr DEBUS: And a couple more observations. The program called Law Access, which I might ask Mr Glanfield to describe in more detail, has immense potential. The kind of call centre for common legal problems which utilises information technology based at Parramatta working through the web site of the Attorney General's Department and a hot line, that really can help people a great deal in working out what to do by way of accessing the justice system at no cost. It is fair to say too that at both the level of the District Court and the Local Court there are distinct changes of philosophy that are causing the judicial officers to find more and more ways to settle matters by some kind of alternative dispute mechanism; the use of arbitrators. There is a much stronger tendency now than there was, even certainly a decade ago, to refer a matter off instead of just allowing the lawyers to conduct an endless debate; for the case manager to be in it and say, "Listen, it is very obvious that if you lot could settle these two matters you would not have to worry about anything else," and send them off to trial. Since we are on it, I would like Mr Glanfield perhaps to explain how that Law Access system works.

Mr GLANFIELD: We like to think Law Access is pretty unique. What we did is the Attorney General's Department got together with the Legal Aid Commission, the Bar Association New South Wales and the New South Wales Law Society and jointly we basically pooled our resources that were providing legal assistance in many different forms into one organisation. That organisation, as the Attorney said, provides not only a call centre operation. It provides recorded talks. It has a very detailed web site that is part of our own web site that gives a range of information and assistance about court matters as well as legal matters, but also arranges interviews with Chamber Magistrates or with lawyers, so there is the face-to-face if it is needed. They handled last year almost 74,000 inquiries.

We have arrangements, service level agreements, with all of the community legal centres, so in fact we are able through Law Access to refer people to their local legal centre, and those arrangements take account of the capacity of those local centres to handle it. So when they have received more than enough referrals that they can handle, they will let the centre know. That is entered in on the computer system and no more referrals will go to those bodies until such time as they say they can accept more

people. That way we ensure that everyone is handled. We are just trialling a new system, online appointments. When you ring in, we are able to make an appointment with a Chamber Magistrate for the person through Law Access. It is pretty unique because it is a one-stop shop for legal advice in New South Wales.

Mr DEBUS: The great majority of people who approach the justice system are doing so because they have an issue of tenancy, of family breakdown. A couple of other things are consumer issues, someone got biffed in the pub. If you can deal with those kinds of things with despatch, very often telling people not to bother or to use some alternative way of resolving the issue, then you can vastly reduce the level of frustration in the community about finding a way to get through an otherwise expensive legal system.

CHAIR: Time for crossbench questioning has expired. Do the Government members have any questions?

The Hon. JANICE BURNSWOODS: At this stage, no.

CHAIR: In that case, we might take a break for five minutes and then come back and start again with Opposition questions in the same format as we have done before.

[Short adjournment]

CHAIR: Welcome back. We will resume the hearing. We now have 20 minutes of Opposition questioning. Would either Mr Pearce or Mr Clarke start off, please.

Mr DEBUS: May I ask a favour, Madam Chair, of the Committee. Dr Weatherburn is here and I understand you would like to ask questions of him. We would be grateful if people could ask all their questions of him so that he may go to another appointment when questions are finished.

CHAIR: In that case, I will just get an indication. Do you have any questions for Dr Weatherburn, Mr Breen?

The Hon. PETER BREEN: No questions.

CHAIR: So it is just Mr Pearce and Mr Clarke. If you proceed to those questions first, thank you.

The Hon. GREGORY PEARCE: Thank you, Madam Chair. Dr Weatherburn, this might be a little inelegant but you will get where I am coming from. What period of time would you say was a minimum statistically valid period to assert a trend, upwards or downwards, in crime figures?

Dr WEATHERBURN: It is not so much a matter of the period as the number of observations you have. In other words, a month would be long enough if you are looking at daily trends. If you are looking at monthly trends, then we prefer to work with 24 months. If you are looking at yearly trends, it will be longer again still. It really depends on the counting unit rather than the time in that period.

The Hon. GREGORY PEARCE: The BOCSAR figures you put out, what is the counting period for those?

Dr WEATHERBURN: A standard period for the annual report that we would produce is a two-year period. From time to time we will look back further than that. We have done work that looks back over the decade.

The Hon. GREGORY PEARCE: Thank you. That was all I wanted to ask. I will go back to the Attorney now. Attorney, I just wanted to ask you about the Office of Protective Commissioner [OPC]. In the last annual report that I have, there is a reference to 24 recommendations made by the Public Bodies Review Committee and that some of them had not been implemented. I just wondered what those recommendations might be and what the time frame might be for their implementation.

Mr DEBUS: The answer, I am advised, is that all of those recommendations are implemented

or in the process of implementation.

The Hon. GREGORY PEARCE: If I can just take you to the Estimates Paper No. 1, Volume 3, on page 444, where we have paragraph 2215, "Human Rights Services", under the operating statement the Office of Protective Commissioner budget figure for 2002-03 was \$5 million. It is only budgeted at \$3 million in 2003-04. I am just wondering there is a link there or why you would have such a significant decrease in the budget for such an important office.

Mr DEBUS: I believe I should take that question on notice.

The Hon. GREGORY PEARCE: Particularly, I wonder whether any of the recommendations of the review which have not been implemented in any way reflect on that figure.

Mr DEBUS: I do not believe that to be so.

The Hon. GREGORY PEARCE: It seems to me to be quite an extraordinary figure for such an important office.

Mr DEBUS: We do appear to have identified the appropriate documents and Mr Glanfield can, I believe, provide some response to your question.

Mr GLANFIELD: Can I start by saying the Office of Protective Commissioner has operated similarly to the Public Trustee in the past, where many of its expenses were the subject of cross-subsidies between various clients. It has been our attempt over a number of years to ensure that any such cross-subsidies are minimised. If there is a need for Government support for smaller States, then that is the subject of specific funding. In relation to other matters which are of a commercial nature, they are the subject of pretty much commercial funding. This particular figure here was included on the basis of an undertaking for the whole of the pricing structure for OPC, to be the subject of review. That went to IPART, the Independent Pricing and Regulatory Tribunal. It reviewed the whole pricing structure for OPC at the request of the Premier.

There were a number of recommendations that it made—and although it is not in these budget figures here, it is the subject of some ongoing discussion with Treasury—but it included a significant increase in what used to be called the Community Service Obligation Payment, but basically the amount that would be funded for the OPC expenditure by the consolidated fund, relating to its undertaking smaller States and administering matters where it would be unfair for the person to pay normal-level fees. Although this shows a change, in fact in this year there will be significant additional funds that will be allocated to the OPC, but the IPART Report and Treasury's consideration of that took place during the current financial year, after the settling of these budget figures.

The Hon. GREGORY PEARCE: I am still a little confused, though. If you are saying there is going to be increased funding, how do you go from a figure of \$5 million expenditure this year to a \$3 million budget?

Mr GLANFIELD: The \$3 million was just an interim amount that was being allocated, pending the full proper review by IPART. That full review has taken place and the amount to be allocated I think is in the order of \$9 million, not \$3 million or \$5 million.

The Hon. GREGORY PEARCE: \$9 million, not \$3 million.

Mr GLANFIELD: I think that is right.

The Hon. GREGORY PEARCE: Is that right? Can you give us that answer on notice, if necessary?

Mr GLANFIELD: Yes.

The Hon. GREGORY PEARCE: I guess I am concerned. If you have had an IPART review and the result of that is that fees being charged to people who are under the care of the Office of the Protective Commissioner are increased, I would like to know that those people who are amongst the

most needy in the community are not being subjected to a new regime of commercial charges that the Carr Government is fond of imposing whenever it can.

Mr GLANFIELD: No, what I said is the case. It will be \$9 million this year. Can I just give you an example of the impact that will have, because I agree with you that it is important that this money is directed to those who are needy. For someone with a small estate, and more than 60 per cent of the Office of Protective Commissioner's clients have less than \$25,000, a client with, say, an amount of \$6,571, which is the average estate for those who fall into the category I have just referred to, of less than \$25,000, the total fees and charges that would be otherwise levied will fall from \$574 per annum to \$195; a significant a reduction in subsidy.

The Hon. GREGORY PEARCE: Minister, can I rely on these figures? What about the figure for the Public Trust Office. Is that right; the \$1.73 million?

Mr GLANFIELD: That is correct. There has been no IPART or other review of the Public Trustee.

The Hon. GREGORY PEARCE: Just generally in this section which relates to human rights services, I notice that the total expenditure looks as though it goes down by a couple of million dollars, that is not allowing for the \$9 million instead of the \$3 million. Where are the savings, shall we say, being made in that area, given that the Public Trust Office figure is a new \$1.7 million, so in fact it has been decreased by about \$4 million, 5 per cent, in the most needy area and the most—

Mr DEBUS: It is clear that because the Victims of Crime Compensation administration has been overcoming a backlog there is some reduction, a modest reduction, in the budget of that organisation. There is a very modest reduction in the expenditure of the Anti-Discrimination Board [ADB] and I think they together basically explain the reduction.

The Hon. GREGORY PEARCE: What is the total expenditure of the Anti-Discrimination Board and of the Victims Compensation Tribunal?

Mr DEBUS: As are indicated in the papers.

The Hon. GREGORY PEARCE: Where is that? Can you just show me that?

Mr GLANFIELD: That is not broken down.

The Hon. GREGORY PEARCE: It is not broken down. Can you just tell me what the figures are?

Mr DEBUS: We would have to take that on notice and give you the details.

The Hon. GREGORY PEARCE: Is it the case that the Anti-Discrimination Board's funding has been reduced by \$750,000?

Mr DEBUS: Yes, that is so.

The Hon. GREGORY PEARCE: What is the reason for that? Is that just a continuation of Bob Carr's vendetta against the Anti-Discrimination Board or what is it?

Mr DEBUS: No, the Anti-Discrimination Board obviously is one of many organisations that have had some efficiency demand placed upon them. The ADB has implemented budget reductions in a way rather carefully designed to avoid having a significant impact on its core services of providing education in resolving complaints and, indeed, providing services in the regions. Most of the reductions have been achieved by streamlining management and by moving some functions, corporate support, legal and policy services, out of the Anti-Discrimination Board and into the Attorney General's Department itself. There has been, I believe, a very small staff reduction but that is the circumstance. The ADB is being made a more efficient organisation.

The Hon. GREGORY PEARCE: All right, you have taken on notice then the figures; the

actual—

Mr DEBUS: Yes, we do take those on notice.

The Hon. GREGORY PEARCE: I am just concerned, you show here an increase in complaints lodged with the board. You show a steady flow of applications to the Victims Compensation Tribunal, so I can understand the ability to save at the Victims Compensation Tribunal, but I would have thought if there are more complaints coming in and a lesser budget, then you are going to have delays and—

Mr DEBUS: Unless you organise yourself more efficiently, and Mr Glanfield has been rather directly involved in the reorganisation and could give some more detail.

Mr GLANFIELD: We have looked, during the period I have been Acting President down there, at what is happening around the country in terms of the way in which complaints are handled by anti-discrimination and equal opportunity bodies, and there is little doubt that there is significant room for changing procedures, for enhancing the procedures for handling complaints. Firstly, to ensure that people are given much more support right up-front when they first contact the body, rather than simply putting in written complaints and waiting in turn for those to be dealt with and, secondly, ensuring that those complaints that have some substance are prioritised and dealt with quickly.

We have restructured the board to really focus on trying to resolve disputes up-front, more conciliation. In a sense, if a matter goes to the Administrative Decisions Tribunal [ADT] we see that as a failure. If we can resolve the complaint satisfactorily then that should be done up-front and we are going to have much more focus of resourcing at the coalface. The changes that have been made have really focused on, as the Attorney said, the legal area and the management level. The coalface is an area we see as being particularly important so long as streamline procedures and changes are put in place to resolve complaints promptly.

The Hon. DAVID CLARKE: Madam Chair. Attorney, I would just like to ask a couple of questions on the problem of court security. I would like to ask why is only \$1 million, of the proposed \$7.1 million to enhance court security, being spent in 2003-04 when the number of court security incidents is expected to increase by more than 45 per cent? I think in fact the number of incidents are anticipated to go up from 1,100 to 1,600.

Mr DEBUS: I will ask Mr Glanfield to deal with that detail.

Mr GLANFIELD: First of all, in relation to incidents, for many years we really did not have proper records of what was occurring in the courts. An incident can be anything from a fire alarm to an officer being sworn at, to a serious matter of someone with a knife. Basically, we expect that number to continue to increase because what we are trying to do is produce a database which is far more comprehensive of all of the potential antisocial or other events that are occurring within the court complex. Just to give you an idea, the sorts of incidents that are reported might include such things as a dog attack, a fire—even though it is accidental—it may involve someone impersonating a Sheriff, a medical emergency, offensive language, refusal to leave premises.

It is a broad concept so the fact that it is going up, we see as positive in the sense that we are trying to capture all the incidents that are happening so we make proper risk assessments, as I mentioned earlier.

The Hon. DAVID CLARKE: There are a wide variation of court security incidents. What is the break-up between the insignificant ones, the use of bad language, and the serious ones, say, knife attacks? Have you got any break-up of those incidents?

Mr GLANFIELD: I can tell you the vast majority of all these matters are minor matters but, in a sense, can I say any matter involving a threat to the personal security of someone, we would see as something significant. They are captured as well and there is a breakdown of those—but the first part of your question, can I come to that. In terms of security, as was said earlier in this session, we see that as being very important. There is a proper process in place for assessing risk and allocating resources. The \$1 million you refer to is effectively devoted—there are both capital and recurrent

funding allocations this year, but we are engaging something in the order of \$900,000 this year to employ additional Sheriffs Officers. They go through an intensive training program. In fact, we recruited earlier this year in July.

They are commencing training this month and they will be due to graduate in November 2003. It is not unlike the police issue where you need to keep on replacing people, but if you are going to add more, which is what we want to do, then you have to train a considerable number of additional people. The majority of our recurrent funding at the moment is going to the employment of additional Sheriff's Officers. In the capital side of it, we have an extensive program of improving dock security, perimeter security, the kinds of facilities that are available to ensure that the public and the judiciary are safe.

The Hon. DAVID CLARKE: What proportion of these 1,600 incidents would you say relate to matters of personal safety?

Mr GLANFIELD: As an estimate, I would have to take that on notice. It is just an estimate.

The Hon. DAVID CLARKE: Can you give an estimate?

Mr GLANFIELD: I cannot now, but I can take that on notice and attempt to estimate what that might be.

The Hon. DAVID CLARKE: How will the \$1 million allocated to the Sheriff's Office in 2003-04 to enhance court security in New South Wales courts be spent?

Mr GLANFIELD: I thought I just answered that.

The Hon. DAVID CLARKE: No, unless I misunderstood your answer, how will that be allocated? How will that \$1 million be used?

Mr GLANFIELD: It will be spent on the salaries of new Sheriff's Officers, and they will be allocated according to the risk assessments that are made about where they are best placed.

Mr DEBUS: By the time we have finished the program of appointing new Sheriff's Officers, every sitting court will have a Sheriff's Officer present.

The Hon. DAVID CLARKE: I want to touch on that as a matter of fact. How many staff are employed by the Office of the Sheriff at the moment?

Mr GLANFIELD: To give you an accurate figure, I would have to take that on notice.

The Hon. DAVID CLARKE: Does anybody here have any figures? How many courts in New South Wales are without a Sheriff's Officer?

Mr GLANFIELD: I think you would need to explain the question. The fact is that many of our courts, part-time courts, particularly in regional country areas, they provide registry services. The security of courts is not related generally to issues about registries, it is about when the court sits. So the security issues relate to the nature of the work that is being undertaken by the judiciary or the magistracy. As the Attorney said, it is our proposal that by the time we have finished recruiting additional Sheriff's Officers for—whenever a Magistrate is sitting in any Local Court in the State, there will be a Sheriff's Officer with that Magistrate.

The Hon. DAVID CLARKE: What I am asking is how many of those courts at the moment are without a Sheriff's Officer where there is a Magistrate sitting, because you have indicated that you propose to have a Sheriff's Officer at every Local Court?

Mr GLANFIELD: I would have to take on notice the position as at today and give you the precise details.

The Hon. DAVID CLARKE: Do we have a general idea?

Mr DEBUS: We can tell you that we are recruiting around 40 of these officers, but we would have to take on notice the exact figure of courts that are sitting at the present time without an officer.

The Hon. GREGORY PEARCE: You might have to take this on notice, Attorney, but what is the clearance rate for civil cases in the Local Courts in 2002-03? Did the Local Court meet the standards set out in the guide to best practice standards in court and case management of the Local Court in relation to civil cases. So it is the clearance rate under the standards.

Mr DEBUS: I think we should—for the sake of timeliness—take it on notice, but doing so with some confidence because each one of our courts is hearing cases faster than it was ever done before.

The Hon. GREGORY PEARCE: If you are going to take it on notice, you might also give us the full package which would include the percentage of civil claims still pending on 30 June 2003, whether they are small claims matters.

Mr DEBUS: Sure. It will be in the annual report, but we will take that on notice. As I say, the District Court, civil and criminal, has made quite spectacular gains in recent times. The Supreme Court is finalising trials much faster than it was only a couple of years ago, and now ranks third for trials finalised within 12 months in Australia. It finalises more trials within 12 months than the national average.

The Hon. GREGORY PEARCE: I realise that, Attorney, we are just after the Local Court, though.

Mr DEBUS: The Local Court, in Australia, was ranked second for trials finalised within six months, 85 per cent; and ranked first for finalising criminal non-appeal matters within six months, but we will give you even more detail.

The Hon. PETER BREEN: Attorney, there has been a couple of substantial defamation cases resolved in New South Wales in the last couple of years. The former Attorney General had a view about defamation law which suggested that the roles of Judge and jury ought to be reversed, that the jury ought to be assessing damages and that the Judge ought to be deciding questions of fact about the meaning and inferences to be drawn from imputations. Are there any figures available to say what the cost of defamation law is, bearing in mind that there are only few numbers of people who benefit from defamation laws? I wonder if defamation laws represent a disproportionate cost to the people of New South Wales given the small numbers of lawyers and journalist perhaps that are the overwhelming beneficiaries of these laws.

Mr DEBUS: Obviously I would have to take the question of the cost of the court case—you do not mean the verdicts, but the administrative costs?

The Hon. PETER BREEN: No, the administrative costs.

Mr DEBUS: I would take that on notice. We all know that Sydney is the defamation capital, but that being said, I do not have an impression of there being a blizzard of defamation at the moment. Indeed, you will be aware that we recently passed considerable amendments to the defamation legislation, that in turn the consequence of the recommendations of a taskforce which included Michael Sexton, the Solicitor-General, who is also, as it happens, a defamation expert—I think he wrote a textbook on it—and a representative of the Press Council, and a representative of the Law Reform Commission.

The changes we made to our law are now being considered by all other jurisdictions in Australia because we do have an agreement amongst State and Commonwealth Attorneys General that we will try—it is a little bit forlorn because people have been trying for at least 20 years—to achieve a degree of uniformity amongst the States on the basic principles of the defamation law. But still at the present time, our recently amended law is the one against which others are measuring or deliberating their own law reform amendments.

All that being said, defamation is an area in which it is quite extraordinarily difficult—positively dangerous on occasion—to try and achieve consensus amongst the major practitioners, for instance. So although the former Attorney General had the view that you describe, its opposite is held vociferously by at least half of the QCs that practice in the area.

The Hon. PETER BREEN: Yes, I hold the opposite view myself.

Mr DEBUS: Enough said, and because I have never heard you disagree with my former colleague ever before. We will keep the whole question of defamation law under notice, but the general thrust of our change and the general overt purpose of the recommendations made by that high level taskforce was to reduce the time, wherever possible, that defamation cases should take and to reduce the incidents of litigation in the first place, because we introduce the so-called offer of amends, for instance, which provides a mechanism for a publisher to make some form of apology or provide some sort of compensation before the case gets to court. The incentive to settlement, of course, is that if a plaintiff should refuse that offer and then later not succeed, they will suffer in cost terms and what have you. I feel a degree of confidence that you will see something of a drop in the number of cases and something of a drop in the length of cases that are proceeding. Everybody knows that it is probably not desirable to have too many cases like the Marsden matter, which kept Justice Levine fully occupied for more than a year.

The Hon. PETER BREEN: Which is now resolved, I understand.

Mr DEBUS: Yes.

The Hon. PETER BREEN: Apart from the question of cost defamation, there are no plans on foot to make any substantial changes to the law at this point?

Mr DEBUS: No, bearing in mind that we did make quite substantial changes, was it late last year?

The Hon. PETER BREEN: Yes, that is so. Attorney, on another matter, the Victims Compensation Tribunal, I think New South Wales is the only State where a person can make a claim without there first being a conviction on which to base that claim. Are there any proposals to review that aspect of the Victims Compensation Tribunal and are you able to say what the cost of that aspect of the tribunal is in relation to the overall costs of running the tribunal?

Mr DEBUS: I cannot say with precision, but I can say generally that the award of costs in the circumstance you have described is not of great significance in financial terms.

The Hon. PETER BREEN: I am just concerned about the fact that there are many claims, as I understand it, which would not be sustained in other jurisdictions because there is no conviction. It would be an interesting analysis to look at the number of cases and how much they represent in terms of the overall cost of the tribunal and compare that with—

Mr DEBUS: Mr Glanfield might—

Mr GLANFIELD: I just want to clarify that in fact the statistics we keep are in accordance with the Compensation Law as we apply it here, so there is not in fact a breakdown between applicants of the nature that you are seeking. That would have to be a special research project to identify by sampling a range of cases, I presume those that would fall into the category that you are describing, that in other jurisdictions may not be entitled to compensation.

The Hon. PETER BREEN: Are there any figures readily available as to the cost of our scheme compared with, say, other States?

Mr GLANFIELD: My recollection is that our scheme is the largest in Australia, but in terms of the actual comparison with other jurisdictions, we would have to look at it. You need to remember that there is a also right here in New South Wales to sue civilly in relation to injury, so not all compensation for victims is secured through the Victims Compensation Scheme. It is the same in many other States.

The Hon. PETER BREEN: Can I ask a question about the Supreme Court Costs Assessment Scheme. It seems to me that the Costs Assessment Scheme, which is a scheme for reviewing legal fees payable to lawyers, the process is run and operated by lawyers. It seems to me that law consumers have been complaining for a long time about their lack of opportunity for any kind of input into the assessment of costs when there is a dispute. For example, I understand that the process is run on the papers so that there is no opportunity to even speak directly with the cost assessors. Is there any proposal to review the Cost Assessment Scheme with a view to making it more accessible to law consumers?

Mr DEBUS: The existing scheme has as its object speed and efficiency. We are, I am reminded, looking at legislation to establish a ground of complaint against assessors if their deliberations appear to be improper or misconceived. We are considering the possibility of allowing some process of complaint which would, at least in part, meet your object.

The Hon. PETER BREEN: I am concerned that I do receive a number of complaints about the way this scheme operates, a disproportionate number of complaints, really. They all seem to focus on the same problem; that is, that there is no way of determining that the lawyer has done the work. It is a foreign country to most law consumers, what lawyers do. So when the lawyer tells the cost assessor what he or she might have done, there is really no system for checking that. There is no opportunity for the person who ultimately will have to pay the bill to even check whether the work is done. It seems to me that the whole process is in need of review, to the extent that there is no input from the law consumers, they being the people who will ultimately have to write the cheque for it.

Mr DEBUS: I will ask Mr Glanfield to answer in part, but pointing out that you cannot really set up an endless process of this nature.

The Hon. PETER BREEN: No, I agree.

Mr DEBUS: You cannot set up a process in which there is a kind of serial appeal and reconsideration. However, I think Mr Glanfield has something to add.

Mr GLANFIELD: Firstly, my understanding, as limited as it is, is that when you say it is done on the paperwork, files are reviewed by the assessors so they are able to see where it is alleged, for example, that certain correspondence was prepared, that in fact it was prepared and it is on the file. It is not just a question of looking at the bill and making some assessment. There is a recourse to primary material, as I understand, to try and verify as far as possible that the work is being undertaken. That said, it is also the fact that these assessors are very experienced practitioners who have been appointed on the basis that they will have a good general understanding of the nature of work that is required to be done for particular kinds of matters. Accordingly, not only do they have recourse to primary material on the file, but also their own experience in what may or may not be reasonable work to be undertaken in relation to particular matters. I appreciate though, in many circumstances, not everyone will be happy with the decision of an assessor.

The Hon. PETER BREEN: I do take it from the answers that there is a review process under way. Did I misunderstand that?

Mr DEBUS: You might like to write to us.

The Hon. PETER BREEN: Yes.

Mr DEBUS: Seriously, you might like to write to us.

The Hon. PETER BREEN: I will be very happy to, because as I say, there does seem to me to be a disproportionate number of complaints about it. Madam Chair, if I could ask a couple of questions in relation to disability. Are there any figures as to the cost of improved court access for people with disabilities? Is there an ongoing program to make the courts more accessible for that purpose?

Mr GLANFIELD: The Attorney General's Department has a Disability Strategic Plan. In fact, we are in our third plan now. It covers a three-year period. We have a Disability Advisory Council upon which almost all of the peak disability groups in New South Wales are represented. In fact, I chaired a meeting last night of that group and it was attended by the Police Commissioner, Ken Moroney. We take advice from that group on a range of issues. It is not just about physical access to our premises. There are issues about hearing, acoustics in buildings. It is about jury service, about the material the department produces and whether it is in a form that is accessible. It includes such issues as accessibility of our web site. That Council has advised us, and as a result of that we have a strategic plan that covers all of these matters. In terms of our Capital Asset and Maintenance Program, we do have an ongoing program where we set aside money specifically for improving physical access to buildings.

Mr DEBUS: To counters and toilets and ramps and lifts and signage and lighting and a range of other things. 13 courthouses had these kind of alterations in 2002-03; 11 courthouses are going to have them in the present financial year; and facilities of this sort often constitute around 10 per cent of the cost of major works projects. We also have what we call a flexible service delivery training program which we provide for all our staff which is to increase awareness of disability issues and we have already committed hundreds of thousands of dollars to that program over a number of years and that impacts directly on the service delivery received by people with disabilities.

Mr GLANFIELD: And I have more details if you want them.

The Hon. PETER BREEN: Yes, in particular I was approached by, I think it is called, People with Disabilities, which is the peak lobby group, so they were interested.

Mr DEBUS: Seriously, last year there were substantial improvements made at Moree, Moruya, Penrith and Woy Woy and this year, integrated major works are commencing at Blacktown, Nowra, Bankstown, Mount Druitt, Parramatta, Hunter Children's Court in the Chief Secretary's building, which is a serious matter because it is very old-fashioned.

Mr GLANFIELD: All of our new court facilities or major extensions to any court, all include in them compliance with our standards for accessibility. We do, though, allocate considerable other resources to improving other courts by putting in ramps, hearing assistance systems, and the like.

The Hon. PETER BREEN: Thank you, Madam Chair, I have no further questions.

CHAIR: Do we have any Government questions at this stage? With the time that we have left I propose to allocate half of the time to the Opposition and half of the time to Mr Breen. Mr Pearce or Mr Clarke?

The Hon. GREGORY PEARCE: Attorney, could you tell me—and you may need to take this on notice—what was the total cost of funding for videoconferencing in the year 2002-03?

Mr DEBUS: I presume I do have to take that on notice. We can say how much we have spent on installing equipment and that kind of thing.

The Hon. GREGORY PEARCE: All right, if you could give us that now and then—

Mr DEBUS: That in 2002-03, the department spent \$354,000 on the support centre for the whole network, and there is another \$656,000 allocated in this financial year to cover staffing and operating costs for the videoconferencing network.

The Hon. GREGORY PEARCE: Sorry, six hundred and whatever it was thousand—

Mr DEBUS: \$656,000.

The Hon. GREGORY PEARCE: —is the operating and staff costs.

Mr DEBUS: Staffing and operating costs and there are some sample figures here. Last year \$300,000 on installing videoconferencing in Goulburn and Newcastle, \$40,000 on upgrading the

existing system at the King Street Supreme Court, and I am told that there are now 32 courtrooms fitted with videoconferencing arrangements. They are not overall figures, obviously. We take that question on notice.

The Hon. GREGORY PEARCE: Do you have any figures on the actual use of the facilities; how often they have been used?

Mr DEBUS: I cannot say how often they were used in prisons or juvenile justice centres or police stations, but at the other end very often there is a court and we know that in the last financial year it was used more than 9,000 times; the system.

The Hon. GREGORY PEARCE: Is that the central—or is that across the 32 courts that you mentioned?

Mr DEBUS: That is across everything.

The Hon. GREGORY PEARCE: Do you know if you still have all the equipment, or is it a little bit like the computers in schools, or not in schools?

Mr DEBUS: So far as I am aware—

The Hon. GREGORY PEARCE: You are very confident that you have all the equipment.

Mr DEBUS: So far as I am aware the equipment remains where it is supposed to be.

The Hon. GREGORY PEARCE: What is the approach in terms of training, particularly court professionals, to use that videoconferencing equipment and what sort of expenditure have you allocated for that; is there a program of a certain number per year?

Mr DEBUS: I did mention a figure the arrangement, but Mr Glanfield may know more.

Mr GLANFIELD: I should explain to start with that we are the lead agency for videoconferencing for the justice system, so when we are talking about our support system, we are doing it on behalf of prisons, police—we look after the maintenance and support for the whole network. In terms of training, included within that allocation is money for training. Each agency, though, has its own programs that training is built into. The department does not provide training for the judiciary, that is a matter for the Judicial Commission and my understanding is that is within their program.

In terms of the actual use though by Judges and Magistrates of the videoconferencing, you can tell from the fact that it has been used 9,000 times that any of the resistance we had many years ago is now well in the past and it is actively used.

The Hon. GREGORY PEARCE: You mentioned the capital expenditure program a little earlier. Does the operation, upgrading and maintenance of local courthouse custody cells fall within your department's responsibilities, or is that somewhere else?

Mr DEBUS: It falls, depending upon the locality, within the responsibility of the Attorney General's Department, the Police Department and Corrective Services. It depends upon the locality and the historical use of the cells.

The Hon. GREGORY PEARCE: For the local courthouses, it would be in your department. Just on that, the Premier announced a \$600,000 rescue package for refurbishment of the Raymond Terrace courthouse cells. Where is the budget allocation for that \$600,000?

Mr DEBUS: The announcement with respect to Raymond Terrace, which was an issue that had generated some political and social heat in the Hunter area, the money was arranged outside the ordinary budget process; \$600,000 but there was, in any event, an arrangement made in which three agencies, the ones that I just mentioned, all contributed \$200,000 to ensure that the matter could be dealt with expeditiously.

The Hon. GREGORY PEARCE: Just to be clear on that, the Attorney General, Police and Corrective Services have each put \$200,000 in.

Mr DEBUS: Yes.

The Hon. GREGORY PEARCE: Just to finish on that, when will that upgrading commence and when is it due to complete?

Mr DEBUS: Planning is under way and we would expect construction to begin in a couple of months.

The Hon. GREGORY PEARCE: And finish?

Mr DEBUS: A couple of months after that.

The Hon. GREGORY PEARCE: Thank you.

Mr DEBUS: I am sorry to be so precise.

CHAIR: Thank you. Mr Breen?

The Hon. PETER BREEN: Attorney, two questions, if I may. Are there additional infrastructure costs associated with the separation of the Office of the Public Guardian from the Office of the Protective Commissioner?

Mr DEBUS: Not that you would notice. They have always had separate premises and I do not believe there has been significant costs, therefore, involved in the separation.

The Hon. PETER BREEN: I am probably looking at the wrong place here, but I notice there is a line item for the Office of Public Guardian but apparently not, that I can see, for the Protective Commissioner. Is it the same?

Mr GLANFIELD: The Protective Commissioner runs more on a commercial basis. In fact, its fees cover its expenditure except to the extent that was discussed earlier about a subsidy for small matters. The Public Guardian is entirely budget funded with that one line item that you are referring to there, that is the cost of running the Office of Public Guardian.

The Hon. PETER BREEN: My final question is: are there any additional resources required as a result of the new system of external appeals from the Office of the Public Guardian and Protective Commissioner, to the Administrative Decisions Tribunal?

Mr DEBUS: We are still recruiting people and establishing the protocols for the appeals to the ADT and I cannot say whether there will, in the end, be a little bit more cost involved. On the face of it, however, I cannot see how it would be significant. The same people will basically have the carriage of the appeal process, and although you might guess that there would be a few more appeals than there used to be, they will be much faster and more efficient. They were inclined, almost inevitably, to drag out when they were taken to the Supreme Court, the appeal process to the ADT, and this is the whole purpose of the change, will be much more efficient; much faster anyway. The best I can say is that we do not expect there to be significant budgetary consequences.

The Hon. PETER BREEN: Thank you, Attorney. Thank you, Madam Chair.

CHAIR: Thank you, Minister, and your staff and advisers for attending this evening. There may be questions placed on notice and the Committee has resolved that questions on notice, or questions that you have taken on notice this evening, should be responded to within 35 days, which is standard practice, and the Committee will resolve after they have had the answers whether they need to do anything more in this portfolio area. Thank you for your attendance this evening.

Mr DEBUS: We understand those conditions, Madam Chair, and thank the Committee.

The Committee proceeded to deliberate.
