GENERAL PURPOSE STANDING COMMITTEE No. 3

Friday 8 September 2006

Examination of proposed expenditure for the portfolio area

ATTORNEY GENERAL

The Committee met at 8.00 p.m.

MEMBERS

The Hon. A. R. Fazio (Chair)

The Hon. P. J. Breen
The Hon. D. Clarke
The Hon. R. H. Colless
The Hon. G. J. Donnelly
Ms L. Rhiannon
The Hon. I. W. West

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PRESENT

The Hon. Bob Debus, *Attorney General*

Attorney General's Department
Mr L. Glanfield, *Director General*
Mr T. McGrath, *Assistant Director General (Court Services)*
Mr A. Henn, *Manager, Finance and Strategy*

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CHAIR: I declare this public hearing open. I welcome the Attorney General and accompanying officials to this hearing. At this hearing the Committee will examine the proposed expenditure for the portfolio of the Attorney General. Before we commence I will make some comments about procedural matters. This evening's hearing will proceed without microphones due to Public Service Association work bans. In accordance with the Legislative Council guidelines 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 you must take responsibility for what you publish or what interpretation is placed on anything that is said before the Committee. Guidelines for the broadcast of the 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 to Committee members. Ministers, you and the other officers are reminded that you are free to pass notes and refer directly to your advisers while you are at the table. I ask that Hansard be given access to material placed on the public record during hearings. This is the usual practice in the House and is intended to ensure the accuracy of the transcript. Everyone should have their mobile phones turned off at this stage. The Committee has agreed to the following format for the hearing: We will take questions on a 20-minute rotational basis and we will not have a break during the 2½ hours, unless something urgent crops up. Do you anticipate that will pose any difficulties, Minister?

Mr BOB DEBUS: No, Madam Chair.

CHAIR: I advise that the Committee has resolved to request that answers to questions on notice be provided within 21 calendar days of the date on which they are sent to your office. Do you anticipate that that will pose any difficulties?

Mr BOB DEBUS: Yes, I do. There has been a general assertion during the budget estimates by my colleagues, which I also adhere to, that 35 days would be a more appropriate time line. This is a belief reinforced, I might add, by my knowledge that my office received something like 400 questions on notice in my Environment portfolio yesterday and that kind of thing is frankly absurd and puts a kind of pressure on our bureaucracy that is not reasonable, so I actually undertake to make these replies within 35 days.

CHAIR: The Committee has previously resolved to 21 days. We will consider your request at the deliberative at the conclusion of tonight's hearing and the Committee secretariat will advise you of the outcome of those deliberations. We also need to swear in witnesses from departments, statutory bodies or corporations prior to giving evidence. Minister, you do not need to be sworn as you have already sworn an oath to your office as a member of Parliament. For other witnesses, I will ask that you each in turn state your full name, job title, and agency and either take an oath or an affirmation.

LAURIE GLANFIELD, Director, Attorney General's Department, and

TIM McGRATH, Assistant Director General (Court Services), Attorney General's Department, sworn and examined, and

ALLAN HENN, Manager, Finance and Strategy, Attorney General's Department, affirmed and examined:

CHAIR: I declare the proposed expenditure for the portfolio of Attorney General open for examination. Minister, do you wish to make a brief opening statement?

Mr BOB DEBUS: I would make a brief opening statement. Our courts are the cornerstone of our justice system, obviously. They uphold the rule of law by determining the rights and entitlements of citizens who are involved in civil disputes or charged with a crime. They offer a range of services to the community like dispute resolution and counselling for victims of violent crime. The Government is overseeing an unprecedented investment in those courts and in justice agencies. In this opening statement I will just briefly provide an overview of that investment program.

In the financial year 2005-06 the Government made the largest ever investment in court and justice agency infrastructure in the history of this State. Almost $90 million was spent on capital works by my department; that is nearly three times greater than the amount spent five years ago, five times greater than the amount spent 10 years ago. The present financial year will see a new record for investment of this sort.

Spending will increase by 38 per cent to $123 million. In the first six months of 2006 I had the privilege of opening more courts than most Attorneys General open in the entirety of the terms. In February I opened the new courtroom at Blacktown Local Court, part of a $5 million refurbishment, and in April the new $11.5 million court complex at Mount Druitt. Two days later I opened the $9.6 million purpose-built Children's Court at Broadmeadow, Newcastle, and then in May the new court at Bankstown, which cost $21.2 million. I do not mind confessing to a bit of court opening fatigue after the Bankstown opening and I resolved to have a short break before opening some more courts later this year. But the fact remains that more new courts were built last year than in any year for almost a century.

In line with the Government's State infrastructure strategy we are building new courts where the demand for court services has grown. In addition to building new courts the department continues to upgrade existing courts. As members of the Committee may know the Government has committed $250 million to a court improvement program to be spent over 10 years on security, access and facility improvement. Of the $123 million that will be spent on capital works in the 2006-07 financial year, almost $75 million has been allocated for the construction of the Parramatta Justice Precinct. That precinct will become home to a total of 15 state-of-the-art trial courts, purpose-built children's courts and the Justice Precinct Office building.

There will be an unprecedented level of access to such services for Western Sydney in consequence. The Justice Precinct Office will be the first government building in New South Wales to achieve a five-star environmental rating, a point I make for the Hon. Lee Rhiannon. The Parramatta Justice Precinct will be a most significant injection of activity into the Western Sydney economy also. Something like 1,500 people will relocate to that precinct beginning October next year. Under the courthouse program across the State in the meantime just under $15 million will be spent on improvements to over 40 courthouses. I point out to that that is almost exactly the same number of courthouses closed by the Coalition in a single day when it was last in office.

The only other observation I would make in opening is that I cannot remember—and long-serving public servants cannot remember—ever having had to come to one of these hearings at eight o'clock on a Friday night in a parliamentary sitting week, and perhaps other members of the Committee will join me in a modest protest.

CHAIR: On behalf of Government members, we had no say in the timing of these meetings. Let us start with 20 minutes of Opposition questioning.

The Hon. DAVID CLARKE: Minister, does the department keep records of the number of appeals from each Local Court to the District Court or other courts?

Mr BOB DEBUS: I think the most accurate answer is that the department does not keep them in an easily accessible form but would be able to identify, with the assistance of court staff, the number of appeals that there had been in any particular jurisdiction.

The Hon. DAVID CLARKE: Would you be able to obtain those figures for us?

Mr BOB DEBUS: Yes, we would.

The Hon. DAVID CLARKE: Will you take that on notice?

Mr BOB DEBUS: Yes. Are you able to make your request with a little more precision?

The Hon. DAVID CLARKE: We are looking for the number of appeals from the Local Court to the higher courts.

Mr BOB DEBUS: Both criminal and civil?

The Hon. DAVID CLARKE: Yes.

Mr BOB DEBUS: We can obtain those figures. I am not sure whether we could do it in 21 days but we can get them.

The Hon. DAVID CLARKE: Do you keep such records in relation to magistrates? Do you have a record of how many appeals there are from each magistrate in New South Wales?

Mr BOB DEBUS: That analysis would take longer. I could not be precise about how long it would take, but I imagine it is possible to identify the magistrates from whom appeals have been made to the District Court.

The Hon. DAVID CLARKE: Would you agree that they would be fairly important figures to give an indication as to whether some magistrates have far greater appeals from their decisions than others?

Mr BOB DEBUS: Not in such a simple fashion. I would want to know more than the mere number of appeals. I would need to know about the nature of the cases that were being appealed. For instance, some sorts of criminal cases will attract appeals much more systematically than many other kinds of hearings. Indeed, Mr Glanfield has reminded me that it has not been the practice of the courts to regard the number of appeals from a magistrate to be an appropriate measure of performance by themselves.

The Hon. DAVID CLARKE: But it would be an indication of competency, would it not? It would show whether particular magistrates had a large number of appeals which were upheld, based on errors of law or inconsistency in sentencing, for example.

Mr BOB DEBUS: I do not think you can in any way automatically draw that conclusion. You need a much more complex analysis than that to judge the performance of an individual judicial officer.

The Hon. DAVID CLARKE: But the number of appeals would be a good starting point, would it not?

Mr BOB DEBUS: I cannot say that it would. I cannot say on the basis of mere numbers alone that it would be a good starting point.

The Hon. DAVID CLARKE: But it would be an important factor.

Mr BOB DEBUS: It would be a factor. I have received a note to tell me that magistrate-specific information concerning appeals is not readily available, that general statistics about appeals will be, but here is an example for you. You would have to talk about not only the numbers of appeals but the numbers of appeals that were upheld. For instance, if a particular magistrate had a number of appeals against him, all of which were dismissed by the District Court, obviously you would be looking at a circumstance where no free-minded person would be suggesting that it was evident that the magistrate made a lot of mistakes.

The Hon. DAVID CLARKE: But it would be important to show if there were a large number of appeals that were being upheld, taking into account that there are particular types of matters that may be more complex and may be generally matters that may be upheld.

Mr BOB DEBUS: I am not sure that I can add to the observations I have already made. It is clear that the raw numbers of appeals, which are not immediately available on the basis of the numbers of appeals from a specific magistrate, are proof of much at all. On the other hand, if one wants to complain about the performance of a magistrate, that may be done in New South Wales, as it may not be done anywhere else in Australia, by a reference to the Judicial Commission.

The Hon. DAVID CLARKE: But you will endeavour to get those figures.

Mr BOB DEBUS: I think I have indicated that I have had information to suggest that it will be extremely difficult to produce figures which relate the numbers of appeals to specific magistrates. It will be difficult to provide appeals that are tied to each individual magistrate, but it will be possible to provide overall figures of appeals.

The Hon. DAVID CLARKE: Can the Minister provide to this Committee records of the number of magistrates, both casual and permanent, allocated to each courthouse?

Mr BOB DEBUS: Of course you understand that the number of magistrates goes up and down.

The Hon. DAVID CLARKE: Yes.

Mr BOB DEBUS: The number of magistrates will reflect complex changes in the movements in the way in which matters are filed. I suppose information of a general nature could be provided about the numbers of magistrates who were at an individual courthouse in a general way, but I think it would presumably take a massive amount of analysis to give the information in the form that you have just sought it—a lot longer than 35 days—because there will be a different disposition of magistrates across the courts of New South Wales on every single court sitting day.

The Hon. DAVID CLARKE: Can you endeavour to get the information as best you could, maybe in some more simplified form?

Mr BOB DEBUS: Yes.

The Hon. DAVID CLARKE: What education does the department provide to magistrates who experience a high number of successful judicial appeals, especially where there are suggestions of errors of law or inconsistency in sentencing?

Mr BOB DEBUS: That depends on the individual case. Arrangements can be made through the Judicial Commission and the Australian Institute of Judicial Administration. There are systems of committees, conferences and seminars. There are bench books provided, which of course give guidance to magistrates on how to conduct individual kinds of cases. Presumably from time to time there is a degree of counselling by senior magistrates of those with less experience. There is a permanent process of judicial education, overseen by the Chief Magistrate and the Judicial Commission.

The Hon. DAVID CLARKE: It is an important matter when magistrates are experiencing an abnormally high number of successful appeals against their decisions. Can you take that question

on notice and at least give us some broad outline of the various avenues that are used to deal with this problem?

Mr BOB DEBUS: Yes. Reminding you that anybody who has a particular complaint against any judicial officer may submit it to the Judicial Commission.

The Hon. DAVID CLARKE: But there will, I assume, from time to time be magistrates who stand out as having had an abnormally high number of their decisions overturned?

Mr BOB DEBUS: I think I already indicated to you that the mere number of appeals is not proof of very much one way or the other.

The Hon. DAVID CLARKE: I am talking about successful appeals.

Mr BOB DEBUS: Yes, but what is your question though?

The Hon. DAVID CLARKE: Could you provide us with an outline of the various avenues used by the department to educate magistrates who do have an abnormally high or unacceptable level of decisions overturned?

Mr BOB DEBUS: Yes. I am responding to the fact that in some sense that is a loaded question.

The Hon. DAVID CLARKE: I am sorry, it is not meant to be.

Mr BOB DEBUS: But I have already indicated to you that within a reasonable time we can provide a general account of the way in which judicial education is carried out in a continuing fashion.

The Hon. DAVID CLARKE: Is that continuing education in respect of all magistrates or particularly regarding magistrates who have a high level of appeals against their decisions upheld?

Mr BOB DEBUS: Well, one half of that question, again, is loaded. I am saying to you that there are a range of measures that are calculated to assist magistrates to do their jobs better.

The Hon. DAVID CLARKE: So, there would be continuing education for all magistrates and there would be other special programs available to those who have an abnormally high number of appeals against their decisions upheld? Would that be the case or not the case?

Mr BOB DEBUS: I think I have dealt with this a number of times. There are processes for education of a general sort which in the particular case may well assist the magistrate who has had a particular difficulty of one sort or another. In my experience the Chief Magistrate, whoever it may be, pays the closest attention to the general conduct of the court and will respond as he or she thinks necessary in circumstances in which there is some degree of concern expressed by the profession or whoever it may be.

The Hon. DAVID CLARKE: But you are going to give us a broad outline of what those avenues are?

Mr BOB DEBUS: I am.

The Hon. DAVID CLARKE: Mr Glanfield, how many chamber magistrates were there in 2003?

Mr GLANFIELD: I do not have that information. I will have to take that on notice.

The Hon. DAVID CLARKE: Does anyone else here have that information?

Mr GLANFIELD: Can I just say in relation to the chamber magistrates, many of the chamber magistrates also hold appointment as the registrars of the court, so it is a dual appointment. In many of the country courts the registrar is registrar and chamber magistrate. We have a number of

chamber magistrates in the specific position in some of our larger courts, but I do not have that number in front of me.

The Hon. DAVID CLARKE: Could you take that on notice and get that information for us?

Mr GLANFIELD: Yes.

The Hon. DAVID CLARKE: Do you know how many chamber magistrates there are now?

Mr GLANFIELD: I will have to do the same, take it on notice.

The Hon. DAVID CLARKE: How many do you plan to have in 2007?

Mr GLANFIELD: There is no plan.

Mr BOB DEBUS: The Attorney General's Department does not have that plan. The Chief Magistrate has that plan.

The Hon. DAVID CLARKE: Is there a plan of the Chief Magistrate in regard to how many chamber magistrates there will be in 2007?

Mr GLANFIELD: There is no plan to change anything. Nothing has been agreed to change anything in relation to chamber magistrates. They provide a wonderful service to the people of New South Wales. There are other ways in which we provide legal assistance in the sense of court documentation preparation, which is the role of the chamber magistrates. We have LawAccess, which is an online call facility, now. It takes well over 150,000 calls a year. They have been working very closely with our chamber magistrates to ensure that where the information being sought by a member of the public relates more to general legal information that can be provided over the telephone or through a web site or general information, that can be handled by LawAccess. Generally we try to preserve chamber magistrates for face-to-face interviews that require the completion of court documents such as Family Court documents and the like. They fulfil a very strong service. I must say, though, that the title "chamber magistrate" is very confusing. Most people believe that chamber magistrates are magistrates but they are not and they are not always legally qualified staff either, but they are staff of the department.

The Hon. DAVID CLARKE: In other words, you have no specific plan to increase the number of chamber magistrates in 2007?

Mr GLANFIELD: I have not turned my mind to the issue to increase or decrease. We are certainly exploring ways in which we can provide the community with better services, better support for those people who need to use the courts, and that includes not only looking at what support we can give them when they have a problem but also looking at how we can simplify the court processes. We have been doing that, as you will be aware, with the civil procedure legislation that Parliament passed to standardise court procedures across Supreme, District and Local courts, to simplify it. In the criminal area we reduced something in the order of 700 criminal forms down to less than 100. With the new court computer system coming in, we will be able to simplify it even more. We are looking at a whole range of strategies of how we can improve the service generally, but I do not have any specific plan at this point.

Mr BOB DEBUS: It is important to emphasise that the term "chamber magistrate" is becoming archaic. There are chamber registrars, and the old system in which the local or circuit magistrates sometimes sat in another role no longer operates except possibly in some very small—no, I am told it does not operate at all. This is why the whole question of LawAccess is relevant. You really do not even use a system any longer that involves a magistrate sitting to give, as it were, private legal advice.

Ms LEE RHIANNON: May I get clarification? Is the chamber registrar the same as the chamber magistrate? It is not distinguished?

Mr BOB DEBUS: It is distinguished, because the chamber registrar is a clerical officer and not what we call a magistrate at all. That kind of role of providing access to the public is also now provided through a massively sophisticated computer and telephone-based system called LawAccess, which is providing a quarter of a million—I do not know what the figure is, massive numbers—of contacts each year who are asking questions about divorce law and tenancy law and how to deal with debts and all that kind of thing.

The Hon. DAVID CLARKE: Mr Glanfield, what is the total amount of money spent during the financial year 2002-03, and the years 2003-04, 2004-05 and 2005-06 on the refurbishment of the director general's office and surrounding offices in the Goodsell Building?

Mr GLANFIELD: I think I can safely say zero dollars.

Mr BOB DEBUS: Nothing.

Mr GLANFIELD: Can I take it on notice and check, but I would almost be certain it is zero. It has hardly changed in 10 years.

The Hon. DAVID CLARKE: Mr Glanfield, why have you failed to determine the shadow Attorney General's freedom of information application regarding the employment and treatment of Paul Cutbush?

Mr GLANFIELD: I have not.

The Hon. DAVID CLARKE: You say you have acted on that?

Mr GLANFIELD: You said I failed to determine it. I am saying I have not failed to determine it.

The Hon. DAVID CLARKE: Have you acted on it?

Mr GLANFIELD: I think you will find it is not a matter for me to determine. The officer who determines that is not me.

The Hon. DAVID CLARKE: Is it somebody in your department?

Mr GLANFIELD: That is right but they do not act under my direction. Under the legislation—

Mr BOB DEBUS: The Freedom of Information Act. By its terms.

Mr GLANFIELD: Effectively, I act as the internal appeal process against an unsuccessful applicant or an aggrieved applicant. But otherwise I am not aware of that matter.

The Hon. DAVID CLARKE: Can you find out?

Mr GLANFIELD: I do not know whether it would be proper for me to find out until it has been determined by that officer.

The Hon. DAVID CLARKE: Who is the officer?

Mr GLANFIELD: I would have to find out. A number of people hold the delegation.

The Hon. DAVID CLARKE: You will take that on notice?

Mr GLANFIELD: What do you want to know?

The Hon. DAVID CLARKE: Who the officer is who determines—

Mr GLANFIELD: Who determines that particular application? I am not quite sure. Is it appropriate that we should be dealing with a specific matter of that nature here? In any event, can I simply say that it will be a senior officer who holds the delegation to deal with the matter independently of me. Once that determination is made—either positively or negatively—then it will be dealt with. I think there is an issue in relation to that matter about the breadth of the original request. I did see some documentation to the extent that the request was asking for every piece of paper relating to, I think it might have been, Mr Cutbush, which would have meant all his personal files and a whole range of things. I think the focus of the application was about the more recent publicity relating to his departure from the department. But that application needs to be dealt with on its merits, and I am sure it will be.

The Hon. DAVID CLARKE: But have you not written directly to the shadow Attorney General regarding that FOI application?

Mr GLANFIELD: I would have only done that because I was signing it on behalf of whoever the officer was involved, not because I was determining the matter.

The Hon. DAVID CLARKE: Well, you have taken responsibility for it by signing the letter.

Mr BOB DEBUS: You must understand that the Freedom of Information Act lays down procedures by which applications are determined. I would be extremely surprised if the department had not followed the requirements of the Act in making that determination.

The Hon. DAVID CLARKE: You will provide us with the name of the officer who—

Mr BOB DEBUS: No, what we will undertake to do is to provide information as appropriate about the procedure. I do not think it is at all reasonable that we should promise in this forum to give you the name of the officer.

Mr GLANFIELD: Can I simply say this: as best as I know the letters I signed were simply to clarify the breadth of the application. It in no way sought to determine or deny the application; it was more to make sure that what was being provided was really what was being sought. That will be determined—it has not been determined yet, I do not think—and I think the point really is that if there is a feeling of being aggrieved by that process people should just wait a bit longer until it is determined.

The Hon. PETER BREEN: Minister, there was a gentleman outside the Parliament this evening with a placard that read, "Bob Debus, justice delayed is justice denied". I do not know whether you saw the gentleman.

Mr BOB DEBUS: I came in the back way today.

The Hon. PETER BREEN: I think he was a straggler from a sit-in outside your offices at the Chifley Centre for Roseanne Catt. I saw him earlier and then I saw him at Parliament. Is it of concern that this matter is still outstanding and that there appear to be a number of people in the community very concerned that Roseanne Catt spent 10 years in prison—wrongful imprisonment—and is still not receiving compensation?

Mr BOB DEBUS: I am giving consideration to the matter of compensation for Roseanne Beckett, formerly known as Catt. My understanding is that just at the end of last month she was asked to provide some additional information with respect to the compensation claim. That information has now been given to the Crown Solicitor and the Crown Advocate, and they will in due course provide advice to me on this question. I point out that you have again claimed, as I believe the people who were demonstrating outside the Attorney General's Department today claimed, that Ms Catt's previous convictions have been quashed and overthrown. I think it necessary in that context to point out the actual facts. On 11 September 1991 Roseanne Catt, as she was then known, was convicted on eight charges. On 18 October 1991 she was imprisoned for 12 years and three months with a total non-parole period of 10 years and three months. There was an appeal against conviction in 1993, which was dismissed. In July 2001 I referred Ms Catt's case to the Court of Criminal Appeal. I did that after having instituted an Inquiry.

Most of the people demonstrating outside the Attorney General's Department today neglect to mention that I did that and instead quite frequently publish highly defamatory emails about me, a fact that I can live with. But I do occasionally feel a degree of resentment that it is not acknowledged that I made the references that led to her release. In any event, the Court of Criminal Appeal remitted the case to the District Court to hear fresh evidence. Judge Davidson of that court presided over a hearing and reported his findings on 24 July 2004. The matter was again before the Court of Criminal Appeal on 27 October 2004. On 17 August 2005 the Court of Criminal Appeal delivered judgment. The judgment delivered was not at all in the nature of that that is commonly suggested by the people demonstrating outside the department today. That was count nine in the original case, a charge of possessing an unlicensed pistol.

In two matters the appeal by Ms Catt was dismissed: that for malicious wounding, count three; and that for assault occasioning actual bodily harm, which was count four. In the remaining matters a new trial was ordered: count one, malicious wounding; count two, perjury; count five, maliciously cause noxious thing to the taken; count six, solicit to murder; and count seven, solicit to murder. The verdict of acquittal related to an offence for which Ms Catt had been sentenced to 12 months imprisonment. That sentence was entirely concurrent with the sentences imposed on three other charges, including the two charges in which the appeal was dismissed.

Judge Davidson expressed concern about the propriety of former Detective Sergeant Peter Thomas's investigative techniques, and these concerns were adopted by the Court of Criminal Appeal—a significant matter. However, had the Court of Criminal Appeal considered this sufficient to vindicate Ms Catt it would have entered verdict of acquittal on all matters, which, as I have explained, it did not. On 22 September 2005 the Director of Public Prosecutions directed that no further proceedings in relation to the matters for which the Court of Criminal Appeal had ordered new trials should be taken.

The key basis for that direction was that Ms Catt had served all but just over four months of her total non-parole period. As I said, the compensation claim is still under most active consideration. But it is rather important from the point of view of the public perception of this matter that it be understood that the DPP simply elected not to proceed with the retrials that had been recommended by the Court of Criminal Appeal because Ms Catt was so close to the end of the period for which she had had a non-parole period set anyway.

It was a reasonable and sensible act of compassion. However, that being said, we are talking here about a claim for compensation in a circumstance that is vastly more complicated than that which is normally represented in the campaign that was manifest again today.

The Hon. PETER BREEN: On the general question of compensation for wrongful imprisonment, I understand the Government policy is that where there has been corruption or some negligence on the part of the Government or a representative of the Government then the person wrongfully imprisoned is entitled to compensation as a matter of right. Whereas if there has been a misunderstanding or error of fact in the conviction and there is no blame to be attached to the Government or a representative of the Government, in those circumstances the Government does not pay compensation.

Mr BOB DEBUS: I cannot immediately indicate to you what the Government policy is in this respect, if indeed there is one; that is, given the almost unique circumstances of any case that is in any way similar to this one, that there is a meaningful, general Government policy. However, I am receiving advice from the Crown Solicitor and the Crown Advocate. I will receive their final advice on this matter very soon. I am doing the best I can to ensure that I remain entirely detached and objective in my consideration of the claim. Hopefully in the near future there will be some resolution of the matter.

The Hon. PETER BREEN: Legislation has been passed in the ACT and Victoria in the context of human rights and responsibilities. The legislation in both jurisdictions includes a right to compensation for wrongful imprisonment. In the charter that has been circulated in New South Wales—I understand with the Government's approval—that important right to compensation for wrongful imprisonment seems to have been omitted. Does that indicate your position with regard to compensation?

Mr BOB DEBUS: To the contrary, there has been no charter circulated in New South Wales.

The Hon. PETER BREEN: You are right. A charter or a draft charter has been circulated within the Labor Party.

Mr BOB DEBUS: But not by me.

The Hon. PETER BREEN: I understand it is officially recognised in the Labor Party.

Mr BOB DEBUS: No. You may well have seen a document that people are suggesting would be the basis for such a provision. However, it is not one that the Government has in any sense endorsed. It is not one that I have even seen. So, I do not think you can draw any special conclusion about the question of compensation for people who have been wrongfully imprisoned. My own view is that, depending on the circumstances of any particular case, it is a matter that should be given the closest consideration.

The Hon. PETER BREEN: Do you not support a general right to compensation for wrongful imprisonment?

Mr BOB DEBUS: I think there is a common law right to that. It is a tort for wrongful imprisonment.

Ms LEE RHIANNON: I refer to the anti-terrorist legislation. Have the preventative detention powers been used in New South Wales yet?

Mr BOB DEBUS: No, they have not.

Ms LEE RHIANNON: I refer to the Terrorism Legislation Amendment (Warrants) Act 2005. This Act introduced covert search warrant powers. How many have been issued and have they been executed?

Mr BOB DEBUS: I am not aware.

Ms LEE RHIANNON: Is that a question you need to take on notice?

Mr BOB DEBUS: You will hardly find this surprising in reality, but I do not carry around in my head the exact number of warrants issued by judges of Supreme Court of New South Wales for certain purposes.

Ms LEE RHIANNON: I am not trying to put you on the spot; I am simply trying to get through a few questions.

Mr BOB DEBUS: The reason I am hesitating is that I am not certain whether we will have all the details, especially whether we will have them straightaway. I am not sure of the circumstances in which such details are released under the legislation.

Ms LEE RHIANNON: Can you take the question on notice? If it is not a yes or a no, can you explain why?

Mr BOB DEBUS: Indeed.

Ms LEE RHIANNON: It may now not be possible to answer my next question. Have there been any complaints about the deployment of those powers?

Mr BOB DEBUS: I am not aware of any.

Ms LEE RHIANNON: I refer to the Terrorism (Police Powers) Act 2002. Can you provide a list of occasions on which the expanded powers set out in this legislation have been used?

Mr BOB DEBUS: When I last checked, they had not been used at all. Are we speaking about the ones where the commissioner declares an area where ordinary right to search warnings are suspended?

Ms LEE RHIANNON: I think so and then he has to furnish you with a written report.

Mr BOB DEBUS: Yes, that one.

The Hon. RICK COLLESS: Point of order: Madam Chair, I think it is appropriate to remind the staff that if they wish to communicate with those at the table they should do so by way of note through the Council staff rather than approaching the table as they are at present.

CHAIR: That applies only to our staff. The Minister's staff and advisers are free to approach the table to provide notes or verbal advice.

Mr BOB DEBUS: This explains my earlier observation to the Hon. Lee Rhiannon. There was an authorisation issued by the Police Commissioner in something called Operation Pendennis, but it was not used. There has been only one authorisation under that Terrorism (Police Powers) Act, and it was not actually made operational.

Ms LEE RHIANNON: Given that it was not used, and I understand that the Police Commissioner is supposed to furnish a written report to you in the event of any exercise of the special powers, does that mean he did not have to put in a report because even though it was issued it was not used? Do you have a report about that?

Mr BOB DEBUS: My recollection of the legislation is that the report is made to me only at the end of the year; it is not made instantly. However, while I have been giving you that piece of information I have received a note that a report was made.

Ms LEE RHIANNON: Given that there is no review and complaints mechanism in this Act, will you table each written report from the Police Commissioner on the use of the special powers?

Mr BOB DEBUS: I will not give that undertaking.

Ms LEE RHIANNON: Will you consider it, or are you rejecting it outright?

Mr BOB DEBUS: This has been the case in a number of questions so far, I can give a definitive answer to that only when I remind myself of what the legislation provides in this respect.

Ms LEE RHIANNON: Section 36 requires a yearly review of this Act and specifies that the report is to be tabled in each House. It has not been tabled yet.

Mr BOB DEBUS: That will be done, but you can understand that I will not be in a position to talk about or necessarily to table a document that involves operational matters within the police force. There is the report that you speak of and, of course, the requirements of the legislation in that respect will be met.

Ms LEE RHIANNON: So, you will table it?

Mr BOB DEBUS: I am obliged to table that report, the yearly report.

Ms LEE RHIANNON: Yes, but I am about to go on to some other reports that you are obliged to table but then do not. I wanted to be confident that it will happen.

Mr BOB DEBUS: It will.

Ms LEE RHIANNON: Do you have a copy of the New South Wales Ombudsman's Review of New South Wales' police powers to use sniffer dogs? If you have that report, have you read it?

Mr BOB DEBUS: Yes, I have seen the draft report.

Ms LEE RHIANNON: So, you have read it?

Mr BOB DEBUS: To tell you the truth, I have actually read some sections of it.

Ms LEE RHIANNON: Considering it is an important report in determining the use of police resources and other matters, can you guarantee that the report shows that sniffer dogs have reduced the amount of drugs on the street?

Mr BOB DEBUS: That report, as I understand it, will be tabled in the quite near future.

Ms LEE RHIANNON: It is to be tabled because we are fortunate in the upper House to have some ability to get these reports released. Why have you not released it?

Mr BOB DEBUS: It is a report that is relatively recent. It is quite recent.

Ms LEE RHIANNON: It is quite recent but there was a delay. Unfortunately, I do not have information before me, but there was a long delay. I think the report should have been finalised a couple of years ago. Although you may have received it recently—

Mr BOB DEBUS: Well, you cannot blame me if other people took a long time to produce the report. I could not table it before it existed.

Ms LEE RHIANNON: When did you get the report?

Mr BOB DEBUS: I do not remember with precision, I really do not.

Ms LEE RHIANNON: Will you take that question on notice, please?

Mr BOB DEBUS: My staff tell me I received it in late July. That is not bad.

Ms LEE RHIANNON: So, you have had it a while. Does the Government intend to withdraw chamber registrars from Local courts and replace them with a telephone inquiry service through Law Access?

Mr BOB DEBUS: The answer is "no". We spent a long time talking about that. We are very proud of the increased access that the Attorney General's Department and the court system provides for poor and impecunious people. I will let Mr Glanfield deal with this in detail, but we are changing the mix. From time to time we have changed the mix of the provision of the service generally. But it is to make it more efficient; it is not a matter of cutting services.

Ms LEE RHIANNON: Before we go to your colleague, just to clarify, when I asked my question your first response was to say, "Yes, we have talked about it." Did you mean that you have talked about changing it over to a telephone inquiry service?

Mr BOB DEBUS: No, to the contrary.

Ms LEE RHIANNON: Okay, that is good.

Mr BOB DEBUS: The service called Law Access, which works on the net and by telephone, is used by a massive number of people now. There were 110,000 calls last year. People ring in, they state the nature of their complaint, they are then referred to someone who has expertise in that area and they are given practical advice about how they should next proceed. Most of these cases are about indebtedness, tenancy matters, domestic violence and so on. They are not meant to substitute for the chamber registrars, they just provide a vastly enhanced level of service and make a lot of the work that the chamber registrars used to do unnecessary.

Ms LEE RHIANNON: It will not change after the election?

Mr BOB DEBUS: No. I confess I am not quite sure why people are asking this question.

Ms LEE RHIANNON: There are stories going around.

Mr GLANFIELD: Could I make this point, I try to encourage my staff to think of ways in which we can do things better and provide better service. That is really what drives them. I am sure that from time to time there are all sorts of proposals that float around at various levels about how we can do it differently and rumours start. We try to be as open and transparent as we can be. From my point of view, as I said in my answer to the Hon. David Clarke's question, we try to make sure that we are delivering a better service and meeting the need, and we put a lot of time into trying to get that right. I will not say that we would never change anything.

Ms LEE RHIANNON: I do not think people are questioning the motivation of the staff, but if resources are cut they cannot do the job. That is what I am trying to get to the heart of. Are you confident it is not going to happen?

Mr BOB DEBUS: It is entirely possible that the Assistant Director General, Mr McGrath, could further elucidate this matter.

Mr McGRATH: The issue is that we have in Sydney, Wollongong and Newcastle, 17 positions of separate Chamber Registrar. In the other 160-odd locations the Registrar the Court wears the hat of Chamber Registrar. Historically the Chamber Registrar was the Chamber Magistrate and it was a position that most people aspired to and almost the preceding step before they were appointed to the Bench as a Magistrate. Over time the people who occupied the positions have not necessarily held legal qualifications, to the point that we now have a number of people in these separate positions who are not legally qualified but provide assistance generally to members of the public in terms of technical and procedural advice, providing assistance in the completion of forms and so on, as Mr Glanfield said earlier.

The situation at the moment is that there is absolutely no plan to withdraw the chamber registrar position; all we are simply doing at the present time is looking at the locations where these 17 positions currently exist. For example, we have one at Manly and one at Hornsby, but we do not have one at Fairfield. We have a stand-alone shopfront operation at Mount Druitt that has now become part of the Registrar's role at Mount Druitt. We are simply looking at the locations of these particular positions. We are also facing the situation that we have pro bono legal services provided by members of the legal profession in the communities, we have community legal centres providing the same level of service and, as the Director General and the Attorney General have both said, we have the Law Access process as well.

In the day-to-day activities in a courthouse, the Chamber Registrar by far, in terms of his or her work, would deal with applications for various types of domestic or personal violence applications, the completion or execution of powers of attorney, and the issue of search warrants. There is a Chamber Registrar specifically appointed to the Downing Centre whose prime activity from Monday to Friday is search warrant activity. They do that within the terms of their technical and procedural expertise. I just emphasise that it is simply a matter of looking at where these people are located at the moment.

CHAIR: We now go to Government questions.

The Hon. GREG DONNELLY: My question is for the Attorney General. Could you advise the Committee of the current crime prevention work being undertaken by the department?

Mr BOB DEBUS: Yes. The purpose of the Crime Prevention Division of the department is to develop policies and programs that will both prevent crime and reduce reoffending. The division's interventions are implemented through programs that are developed on the basis of evidence and which indeed emphasise the system of criminal justice. The department gives practical assistance to local councils to develop crime prevention plans. Crime prevention and planning is the exercise that gives local communities the opportunity to identify their own priority, so far as issues of crime are concerned, and allows them to take some responsibility for tackling the problems that they face on an individual community basis.

There are presently 26 council crime prevention plans—that is to say, plans agreed between the department and local government councils. Several of them have recently won national awards for the work that they entail. But there are a great many other kinds of intervention. For instance, Aboriginal community patrols now operate in 16 locations. They have proven especially effective in reducing antisocial behaviour and promoting community safety by, in effect, picking up and taking home people who might otherwise be going to cause trouble. In 24 communities the department has assisted in the creation of Aboriginal justice groups, which are a mechanism that will allow Aboriginal people to participate in the administration of justice and join them in the system instead of having them feel that the system is entirely alien to them. There are measurable falls in the crime rate in a number of communities where these justice groups have been started, including Bourke and Dubbo.

So far as court-based programs are concerned, you have circle sentencing, which operates now in nine locations and continues to have a most significant impact in each new location where it has been established by providing sentencing options for Aboriginal offenders, by providing effective support to victims of offences by Aboriginal offenders and by raising awareness of the consequences of offences on victims and within communities. Something like 130, I believe, repeat offenders have now gone through the circle sentencing program and the results have been very dramatic. We are trialling a community conferencing scheme for young adults in two places: Liverpool and Tweed Heads. That is a scheme for young adult offenders between 18 and 24 years of age and the model used is that which has been successfully used for many years now in youth justice conferencing. The first 12 months of the community conferencing for young adults pilot has had very encouraging results with high levels of satisfaction from victims as well as offenders systematically recorded.

The Magistrates Early Referral Into Treatment Program [MERIT] is a more longstanding initiative based in the local courts. It aims to reduce crime associated with illicit drug use by engaging defendants with drug problems in intensive treatment as part of their bail conditions. The program is designed to occur over a three-month bail period and for a lot of the participants in MERIT it is the first time they have actually had access to treatment. This is a program now available across approximately 80 per cent of the population of New South Wales and, again, it is, to my mind, remarkably successful in its operation. It is, in fact, a program jointly funded by the State and the Commonwealth.

One other pilot program that is worth mentioning is the Intensive Court Supervision Pilot Program, which has been conducted at Bourke and Brewarrina. That involves the magistrate in the children's court working in partnership with the Department of Juvenile Justice and the local Aboriginal community justice group, and it aims to reduce reoffending by addressing the underlying problems of health and other social problems of offenders and helping to reintegrate them into more productive community life. About a dozen young offenders have been participating in that program and, again, the results of the pilot are quite encouraging, the idea simply being that the Magistrate oversees an especially intensive program involving a range of welfare providers to re-establish a young offender's life on a much better basis.

The circle sentencing courts along with the drug courts, that I did not actually mention, the youth adult conferencing and several other programs are the first of their kind in Australia and it is significant that most of them involve actually opening up the court system to involve victims of crime in the process as well. That is particularly so for circle sentencing and the young adult conferencing programs that I have mentioned. I am very interested in the degree to which these new alternative sentencing programs actually meet with the approval of the victims.

Victims feel vindicated when they can come face-to-face—and they are not obliged to do that—with the offender, the perpetrator, and reach some kind of a settlement, psychologically and sometimes by way of a degree of compensation of some sort as well. If a kid has done something bad he goes and cleans up the victim's backyard. These things have been brilliantly successful in our pilot programs in establishing a better resolution of the problem of reoffending within a small community especially.

The Hon. IAN WEST: That goes to a number of the crime prevention work areas. Could you give us some advice as to the performance of the New South Wales courts?

Mr BOB DEBUS: I am pleased to do that because, according to the Productivity Commission's 2006 report on government services, our courts are the best performing in the country. New South Wales local and district courts were ranked first for timeliness with respect to criminal matters, and that is the third year in a row that our local court has delivered that outstanding result. Our local court is the largest jurisdiction in Australia. The New South Wales Supreme Court achieved the highest clearance ratio for criminal matters, indicating that it is addressing its backlog and reducing waiting times. But as well as dealing with cases in a timely fashion, New South Wales courts also continue to provide services that are cost-effective. We have one-third of the national population but our courts incur around a quarter of the national court administration costs. Therefore, we are efficient.

The Productivity Commission's report is that the average cost of cases dealt with by the New South Wales Supreme Court is 41 per cent below the national average. The national average cost of a Supreme Court civil case in 2004-05 was $4,800; in New South Wales the average cost was $2,800. We are continuing to reduce the costs of court cases by improving energy efficiency in courts, expanding the use of audiovisual link technology for prisoners on remand, and a great many other particular initiatives that lead to improved overall performance.

The audiovisual link technology continues to be rolled out across the State so that a prisoner seeking some preliminary hearing or seeking bail may appear in the appropriate court by way of video link, never having left the place of their incarceration. More and more courts are taking witness evidence through audiovisual links and, indeed, around 1,500 defendants appear in court in this way each month. I am told that the savings for the correctional system has been through the mere reduction in the number of trips that have to be conducted by those vans that drive prisoners around the country. It has meant a saving of $3 million a year.

The findings of the Productivity Commission also showed that the reforms that the Government introduced a year ago to several procedures, that is to say, the reforms that simplified the actual court documents through our system and standardised them so that the same documents are used in each level of our courts system, is clearly making civil disputes cheaper and faster. That harmonisation of the court rules is one of the most significant reforms that we have made in recent times. It is not the kind of thing that you read about on the front page of the *Daily Telegraph* but it is leading to a quite dramatic improvement in the way our court system is able to function and it means that the actual costs of court appearances have been lessened for both legal practitioners and their clients.

The Hon. IAN WEST: It must be much less frustrating for the person incarcerated because they do not have to travel long distances to places where their cases may not be heard?

Mr BOB DEBUS: It is true for most purposes. For instance, an offender, especially somebody who has committed only a minor offence in a remote place, is much better off if they can provide evidence from the town they live in instead of being put in a van and driven for a few hundred miles across outback New South Wales. A prisoner at Silverwater, for most purposes, is much better off being able to go into a booth and speak down the line to the court than they are being woken up at five o'clock in the morning, loaded into a truck, driven into the central court somewhere, told to wait in the cells for some hours, taken up to the court, give evidence for three minutes, taken back down into the cells and then to arrive back at Silverwater at 10 o'clock at night.

The Hon. GREG DONNELLY: There have been recent media reports about alleged political interference in the Office of the Director of Public Prosecutions [DPP]. We all understand that you cannot discuss in detail those specific allegations but can you inform the Committee of your general views about this issue?

Mr BOB DEBUS: It is a fundamental tenet of our democracy that the decisions that are taken on criminal prosecutions must be independent and must be free from political interference. An independent Director of Public Prosecutions is an essential element in a fair and transparent prosecution process. The Office of the DPP has been quite closely scrutinised over recent years, especially by some members of the Opposition. That trend has picked up of late in a way that I find disturbing. Several members of Parliament, both State and Federal, have seen fit to pick up the phone

and apparently argue the toss about certain prosecution decisions with people at the DPP and I do find that entirely inappropriate.

The DPP needs to make decisions according to law and not according to the degree of media interest or, indeed, political pressure that may exist in any particular case. It is not as if the present incumbent, Nicholas Cowdery, is shy about making that particular point. Any prosecution that is based on a political consideration is by very definition flawed and dangerous. Prosecution decisions have got to be made on the basis of the evidence that supports a charge, not on the scale of public interest in a particular case

The change that we are about to make to the double-jeopardy principle, which I concede in some respects is controversial, illustrates the absolute need for a complete disconnection between the political process and the prosecution process. Any matter involving a previously acquitted person—and there will soon be the potential for there to be such matters—will of course generate enormous community and media interest. There will obviously be some people who have suffered the loss of a loved one or who believe that an acquitted person was very lucky to escape conviction when they were originally tried.

I do not doubt the distress that will be felt by people in that situation. They are in a position that nobody would wish to put themselves in, but I do not believe that prosecution decisions can be based on the number of calls made to a media outlet. They cannot be based on how much support a politician can muster for a particular matter. The day that politics can take precedence in a criminal prosecution is the day that our system of justice will lose its integrity and the courts will lose respect as independent tribunals of fact. These things I believe in my bones.

The Hon. IAN WEST: Is that not called separation of powers?

Mr BOB DEBUS: Indeed.

The Hon. IAN WEST: Can the Attorney update the Committee on the Government's civil liability reforms and the level of insurance premiums?

Mr BOB DEBUS: The Government's changes to the legislation concerning civil liability were made in 2002 and significantly changed the regime of tort law in order to lower the cost of insurance premiums. Those changes included an indexed cap and threshold for general damages. They set about restoring the principle of personal responsibility for day-to-day behaviour. The Government took those steps because it was necessary at that time to counter steeply rising premium levels, which were beginning to be out of reach for community groups, small businesses and, indeed, for local government.

The dramatic rise in insurance costs that was taking place back in 2002 had begun to imperil a large number of community and local events. Recent figures show the continuing positive impact of the civil liability reforms through a continuing fall in the cost of insurance premiums. The latest statistics from the Australian Prudential Regulation Authority show that premiums for public liability and products liability in New South Wales fell almost 13 per cent between 2004-05. The year before that there was an 8 per cent reduction in the cost of public liability insurance, according to figures from the Australian Competition and Consumer Commission. Those reductions follow on from a steady decrease that occurred in the four years since the civil liability reforms were introduced, which means that local clubs, small business and councils are now in a vastly better position to ensure that their activities continue to play the role that is necessary for them in local life.

CHAIR: We will now have Opposition questions.

The Hon. RICK COLLESS: Minister, is it a fact that the Local Court at St James and the Children's Court at Lidcombe are to close on 9 November?

Mr BOB DEBUS: Since I see where your question is headed I will ask Mr Glanfield to give you a little detail.

Mr GLANFIELD: The Parramatta Justice Precinct involves the construction of a new six-court Children's Court. When it comes on line, that Children's Court will clearly become the central court for the handling of a large proportion of the children's work in New South Wales. It is a $39-million court that will be opening, I am pleased to say, on 13 November this year. It will become the jurisdictional headquarters for the Children's Court, and as a result of that the currently inadequate facilities at Lidcombe, Campsie and St James will be closed and the work will be transferred both to that site and to other sites. That is something that has been announced and been in the public domain for some considerable time. It is intended that Bidura Children's Court will continue to sit on a full-time basis, dealing with both care and criminal matters, and the Cobham Children's Court will also continue to sit full time, five days a week, in its criminal jurisdiction.

To specifically answer your question, St James will not continue to be run. I simply say that that facility is currently in a converted office building and has generally been regarded as an inadequate facility for the handling of children's matters. The new Children's Court at Parramatta is specifically designed for both care and criminal matters, with appropriate and considerable support for bodies that interact with the Children's Court, including the New South Wales Children's Clinic, which provides psychological and psychiatric support and assistance, and assessments for the court. So the new facility is much better. It is centrally located, easily accessible by transport and, as best as I know, with strong support for the fact that it will be opening in November

The Hon. RICK COLLESS: Does that mean that all that children's work you referred to, particularly in terms of care, from across the city will be heard at Parramatta, given that I understand also that Bidura court is to close in about 18 months time as well?

Mr BOB DEBUS: No.

Mr GLANFIELD: Bidura is not to close.

The Hon. RICK COLLESS: At all?

Mr GLANFIELD: There is no permanent date. I can say there are no plans to close it.

Mr BOB DEBUS: Not in 18 months, no. There is a rationalisation of the Children's Court specifically to close those that are least adequate at the moment and to centralise much of the children's trial activity and the children's cases at this new custom-designed facility. But there will still be children's courts in other parts of the metropolitan area and in the regions, including the brand-new one at Broadmeadow. Bidura will service the children's care hearings from the eastern and central part of the city.

The Hon. RICK COLLESS: Is Bidura likely to close within the next couple of years?

Mr BOB DEBUS: No. Campsie will but not Bidura.

The Hon. DAVID CLARKE: Mr Glanfield, did you issue a notice to your staff that stated there was no asbestos in the Goodsell Building and then after testing it was found that there was asbestos in the building?

Mr GLANFIELD: We are going back a while in relation to this, and my memory may not be perfect, but we have had a number of clear investigations done of the Goodsell Building and certificates have issued over time. There was an occasion when such a clear certificate had been given, which I relied on in letting staff know the position. Subsequently a worker discovered what may have been asbestos in a duct. We immediately told staff that it had been located, and we immediately undertook appropriate action to address that. Best as I understand, it was in fact discovered not to be a risk but nevertheless any asbestos is something we take seriously. It was in a closed area of the building. Subsequent to that we again secured a clear certificate.

The Hon. DAVID CLARKE: Are you saying that when you incorrectly advised staff that there was no asbestos you did so on the basis of a certificate that was supplied to you advising that there was no asbestos?

Mr GLANFIELD: I try to ensure that my staff are as aware as I am of the condition of their workplace. I take my occupational health and safety obligations seriously. I am only as good as the experts are. I am not an expert in the discovery, treatment or identification of asbestos in a building. So I rely, as I imagine any chief executive would, on the advise of my experts and the experts in the community. I simply say that, as best as I recall on this occasion, I did so. I informed the staff of the position in relation to the matter, and when the position changed I informed them of that as well.

Mr BOB DEBUS: That is an absolutely reasonable response. You could not ask for better than that.

The Hon. DAVID CLARKE: Following on from that situation, are you saying that when you advised the staff that there was no asbestos in the building you did so on the basis of scientific advice that had been given to you?

Mr GLANFIELD: First, I am not sure that the words you have put in my mouth are right. I would have to recall precisely what I said to staff. I think it is unlikely I would have said it in the way you have said it, namely, there is no asbestos in the building, given that in fact there is asbestos in the building but it has been treated and sealed. As you would know, if it is treated it does not mean that it has to be removed from the building, as long as it is rendered stable. So I do not think the first part of your question would have been what I did say to staff, so I guess the rest of the question does not follow. I am happy to refresh my memory and to advise you of what I did let the staff know, but I do not think anything turns on it. I would have acted simply as I said, on the expert advice that I had at the time, which would have involved an accredited asbestos certifier producing a certificate as to the presence or not of asbestos in the building following an audit.

The Hon. DAVID CLARKE: Will you supply us with a copy of the notice that you gave to staff advising whatever you did advise them regarding asbestos being in the building?

Mr GLANFIELD: I am happy to make it available if I still have it. I do not have it but the department may well have it.

The Hon. DAVID CLARKE: You will take it on notice. Will you also provide to us the scientific or medical advice you had at the time that you gave that notice to staff?

Mr GLANFIELD: I do not have a difficulty with that.

The Hon. DAVID CLARKE: What is the total amount so far spent on the CourtLink project?

Mr GLANFIELD: Page 66 of the infrastructure statement would show that as at 30 June our estimation was that we had spent $13.9 million on CourtLink phase two.

The Hon. DAVID CLARKE: When was the promise that the program would be implemented?

Mr GLANFIELD: This matter has an interesting history and I think it best if I quickly summarise it. As the Attorney referred to earlier, New South Wales has the largest court jurisdiction in Australia, and during some early tendering for this project we discovered that it is probably one of the largest in the world. Most jurisdictions, for example in America, are county based, not State based. There was considerable difficulty in identifying a supplier originally who could develop a software system for the volume that we would have. We contracted with a company.

Mr BOB DEBUS: Ours is actually one of the largest court systems in the developed world.

Mr GLANFIELD: We contracted with a company that had subcontracted out the development of the software. That company, KAZ Computer Services, is a subsidiary of Telstra at the moment. It turned out, during the course of the development of this project, that KAZ formed the view that it could not deliver under the contract and that it needed, effectively, to redevelop the platform for the software. We negotiated then with KAZ, rather than taking action against them, we renegotiated a contract with them.

The new contract, which the Attorney General signed on 15 July 2005, now provides us with a $25 million bond if KAZ fails to deliver in relation to the project. The original estimated cost of the project, some years ago, was $41.5 million all up, for all the phases. The estimated cost now, notwithstanding that we have had certainly in excess of 18 months delay in the project, is estimated to be $44.8 million. The difference of $3.3 million is because we have now insisted, and are happy to pay for, much improved data security to prevent inappropriate Internet access, because the system will be able to provide online filing of documents and payment of filing fees. It will provide on-line access to court documents, but only those that the party accessing is entitled to access, and it will also provide services such as e-bulletins and the ability to do minor mentions by the Internet. So, the new extra functionality has cost us a little bit more to add.

We have also spent a little bit more of that money, which is the difference, developing better interfaces with other justice sector agencies such as police, the Director of Public Prosecutions and Legal Aid. So, we are getting a far, far better product for pretty much exactly the same price we originally sought in the tender some years ago.

Mr BOB DEBUS: It is worth emphasising this point: That under the new contract signed last July 12 months, there are three points in the proposed schedule of delivery at which, if the system fails to pass a test that Mr Glanfield will design, the company will pay up to $25 million to the department. I never heard of such an arrangement before but it is a kind of insurance policy of an especially gratifying nature.

Mr GLANFIELD: We already have it working in the Supreme Court, in corporations and possessions matters. I was at a meeting of the regional presidents of the Law Society the other day, where the Parramatta regional president said it was the best thing he had worked with. We now have over 1,500 documents that have been filed electronically in the system. We have already delivered in that area and during the course of next year we will be delivering for Supreme Court and District Court crime and then for the civil system before the end of the year.

The Hon. DAVID CLARKE: In getting back to my original question, which was when was it promised that this project would be implemented?

Mr GLANFIELD: I do not have the year off the top of my head. I would not deny there was a delay.

Mr BOB DEBUS: We are not arguing that there was a delay of 18 months.

Mr GLANFIELD: To two years. There has been a delay, there is no doubt about that. But, first of all, we got a better product and, secondly, it is not costing us anything more.

The Hon. DAVID CLARKE: Costing is a separate thing. So, you are saying there has been a delay of 18 months to two years, approximately?

Mr BOB DEBUS: We said that several times.

The Hon. DAVID CLARKE: Could it be three years?

Mr GLANFIELD: It could be, but it depends what you are talking about. This has been broken up into stages. Initially we were simply going to develop a system for the Supreme Court and the District Court. Then we decided it would be expanded to cover the Local Court and the Sheriff's Office.

The Hon. DAVID CLARKE: What part do you say has been delayed by up to 18 months to two years, or possibly three years?

Mr GLANFIELD: No, I would say 18 months to two years for the total project.

The Hon. DAVID CLARKE: The total project has been delayed for 18 months to two years?

Mr GLANFIELD: But not because of any fault of mine. This was because the supplier was unable to deliver. I could have made the decision that I would litigate against KAZ, a subsidiary of Telstra, an organisation of some considerable resources, and we would have spent years of litigating at great expense to the community. I think I have just shown you that we negotiated what I believe was a tremendous deal—and that KAZ was happy with and Telstra was happy with, because it backed the financial guarantee—to deliver for the people of New South Wales a much better system for the same price.

Mr BOB DEBUS: A system that has no parallel in the world. I think it would be the exceptional new IT system that was delivered at exactly the time that its designers first promised any large institution.

The Hon. DAVID CLARKE: And a system that was delayed, as you indicated, possibly up to three years?

Mr GLANFIELD: There may have been delays of parts of the project for different periods. I am happy to take it on notice and provide a detailed answer.

The Hon. DAVID CLARKE: Yes, can you do that?

Mr GLANFIELD: But I do not think anything turns on it.

The Hon. DAVID CLARKE: We will look at it and see whether anything turns on it. But if you could take that on notice, I would appreciate it. Why was there such a long delay between the date that Ms Sadie Cossar—I think that name would mean something to you—submitted her grievance claiming harassment and intimidation and the date when the department was finally forced into proceeding in the Industrial Relations Commission?

Mr GLANFIELD: That was an interesting case. It was a matter that was subject to a number of different confusing aspects about what was being complained about. There was certainly some delay within the department in handling the grievance. Nevertheless, when it came to our attention that the grievance had not progressed as quickly as we would have liked, we progressed it. It was raised at the Industrial Relations Commission. It was the subject of an independent investigation, the report of which I accepted, and I guess they are the facts.

The Hon. DAVID CLARKE: How long was that delay that you have just said occurred?

Mr GLANFIELD: I think it was in terms of months.

The Hon. DAVID CLARKE: Can you take that on notice and tell us specifically how long that delay was?

Mr GLANFIELD: Well, first of all, any grievance will take some time to determine. I am happy to indicate how it might have been dealt with at odds with our normal time of dealing with matters.

The Hon. DAVID CLARKE: That is the delay between the time she submitted her grievance and the date the department was finally forced into proceeding?

Mr BOB DEBUS: That cannot possibly all be called delay.

The Hon. DAVID CLARKE: All right, the period of time that elapsed.

Mr BOB DEBUS: There was a longer period than the department might normally have taken.

The Hon. DAVID CLARKE: So, you will get us the information as to how much longer it took the department than normally would have been the case?

Mr GLANFIELD: Yes, happy to do so.

The Hon. DAVID CLARKE: Did you authorise a senior officer of the department and your executive assistant to meet with Ms Cossar and a union delegate to present anonymous and false allegations against her?

Mr BOB DEBUS: Oh, come on.

Mr GLANFIELD: I am not in a position to answer that question. That is not an appropriate question, I wouldn't think.

The Hon. DAVID CLARKE: First of all, was there a meeting with Ms Cossar?

Mr GLANFIELD: There were a number of meetings with Ms Cossar.

The Hon. DAVID CLARKE: Well, a meeting with a senior officer of your department, your executive assistant and a union delegate?

Mr GLANFIELD: I really could not answer precisely whether those people were present at any particular meeting. There were a number of meetings with her and certainly with some of my senior officers.

The Hon. DAVID CLARKE: Were any allegations made against her at any of these meetings?

Mr GLANFIELD: I honestly could not answer that. There may well have been.

The Hon. DAVID CLARKE: Could you take that on notice?

CHAIR: Can I clarify something? Paragraph 4.11 of the *Budget Estimates Guide* provides:

> A witness may object to a question or a particular line of questioning … [if he believes] …
>
> - The question seeks adverse reflection on another person.
> - The question is not relevant to the committee's inquiry …
> - … [or might be] prejudicial to the privacy or the rights of other persons …

I thought I would advise you of that, because you seem to be having some difficulty in determining whether it is appropriate to answer these questions.

The Hon. DAVID CLARKE: You did say, Mr Glanfield, that you believe that there could have been allegations made against her?

Mr BOB DEBUS: What I would be prepared to undertake is that some account will be given to the Committee of this particular matter that you raise. But I specifically do not undertake to provide information in the form that you are precisely requesting it, particularly because your questions are loaded with imputations whose effect we cannot presently judge.

The Hon. DAVID CLARKE: Can you clarify whether in those meetings there were any allegations put to her that subsequently proved to be false or that were anonymous allegations? You can clarify that, surely.

Mr GLANFIELD: I do not know the answer to that.

The Hon. DAVID CLARKE: But you will take that on notice?

Mr BOB DEBUS: I think that the answer I have given is, in all the circumstances, appropriate. We will provide an account of this matter to the Committee. But I cannot tell and cannot implicitly accept whether or not something was a said that was inappropriate or whether there was an accusation made that was later proved to be wrong. These are detailed allegations that you are

effectively asking us to confirm or deny now, and we do not. We will give an account of what went on and in that account we will make judgments about what is appropriate in terms of privacy and the law.

The Hon. PETER BREEN: Attorney, may I ask about two cognate bills of which notice has been given in the Legislative Assembly. One is the double jeopardy bill, which you have mentioned already this evening, to allow for retrial of a person wrongly acquitted. The other is the DNA review panel bill to facilitate the release of a person wrongly convicted. Is there a projected cost for these two bills and their consequential measures? Can you identify those costs in the budget papers?

Mr BOB DEBUS: Certainly there is no mention of these matters in the budget papers. I do not think it is in any way normal for the budget to reflect projected costs as a consequence of a single new procedure. It may occasionally occur but there is certainly no automatic inclusion of a line item in the budget in consequence of a change of a particular law affecting the criminal jurisdiction. Apart from saying that I do not expect that the double jeopardy changes will lead to a large number of cases, I am unable to give you a notion about what they might cost.

The Hon. PETER BREEN: The reason I ask the question is that the old Innocence Panel and some investigations that were undertaken such as those by Judge Finlay indicated the possibility of establishing a State institute for forensic services to separate the testing process from the responsibilities that police bear and that were involved with the old Innocence Panel. If, for example, there were to be proper and adequate testing of forensic material, bearing in mind the burdens that the current Division of Analytical Laboratories [DAL] has to bear—and it is overworked—if, for example, legislation were to set up such an institute, then that would be a costly measure. It occurred to me that they might be some reflection of that somewhere.

Mr BOB DEBUS: That would be a costly measure but I do not believe that the actual DNA testing potentially involved for the DNA review panel is going to involve very large numbers of samples. Work is still to be done on the legislation and then on the establishment of the proposed DNA review panel. I would hesitate to make any but the most general prediction of the amount of work that it might have. But, say it involved 100 cases a year. Given the fact that the arrangements now in place for DNA testing have been considerably improved, especially through the use of the DAL, I think the costs involved at that level will not be immense.

The Hon. PETER BREEN: I am thinking about the national analytical testing for forensic material. I am thinking about the Criminal Cases Review Commission in the United Kingdom. These are very big organisations. They employ a lot of people and they are expensive to run. To do the DNA testing properly and the review of unsafe convictions properly, and indeed to review the cases of people wrongly acquitted, and to have a comprehensive system in place that is independent of police, it seems to me that the kind of funding that would require would be a line item in the budget.

Mr BOB DEBUS: Two things: the old Innocence Panel considered ten or a dozen cases. So on the face of it we are not presuming there will be massive amounts of new work; that is, massive amounts of work beyond the kind of work that was done on DNA analysis in various ways now on behalf of the police. Secondly, there is not a line item because at the time the budget was prepared the DNA panel was only a light in my eye.

The Hon. PETER BREEN: The old Innocence Panel was not successful for a number of reasons but one of them was that the material from crime scenes has not been retained in any methodical way by police, and indeed is often destroyed at the direction of the senior investigating officer. Are you able to say whether measures are in place in this new legislation to protect samples from crime scenes so that they are available in the event of new evidence or later analysis.

Mr BOB DEBUS: Obviously, those are matters that in the first instance are for the Minister for Police and not matters that I can talk about with any particularity.

The Hon. PETER BREEN: Are you not taking over administration of those two bodies?

Mr BOB DEBUS: You are talking about the general question of retention of evidence. However, there is a moratorium in place on the destruction of evidence. It has been in place since

about 2002. Future conduct of the policy for the storage of that kind of evidence is a matter for further discussion within the Government.

The Hon. PETER BREEN: So there is nothing in the new legislation to provide for storage of either forensic material or crime scene samples?

Mr BOB DEBUS: No, the new legislation is not directed to those questions. However, there is still some consideration of the exact terms of the bill. It will require the retention of evidence in some specified classes of cases. However, the drafting is still under way. It is not possible for me to talk about the exact definitions of the kind of case in which the retention of biological samples will be required.

The Hon. PETER BREEN: One of the findings of Justice Finlay in his review of the Innocence Panel was that the police moratorium on destruction of crime scene samples was routinely ignored. I was hoping that, on that basis alone, there might be some provision in the legislation to ensure the retention of that material.

Mr BOB DEBUS: I might have been clearer about this. The Innocence Panel will not be relevant for crimes that do not involve potentially substantial sentences. The exact definition escapes me, but it will not apply to the general run of criminal cases. It will apply only to cases that attract a maximum penalty of more than 20 years. That is a much narrower group of cases than the police are considering. I guess it might be a quarter of the higher court trials that occur each year.

The Hon. PETER BREEN: Do you contemplate that the legislation will be introduced in the next two weeks of Parliament?

Mr BOB DEBUS: I do not know about the next two weeks, but it will be before Parliament rises.

The Hon. PETER BREEN: Do you expect both pieces of legislation to be passed before Christmas?

Mr BOB DEBUS: I do. We will happily discuss them with you more, even though you have changed your political allegiances.

The Hon. PETER BREEN: Not voluntarily.

Ms LEE RHIANNON: What progress has been made in implementing the recommendation made by Deputy State Coroner Dorelle Pinch in the inquest into the death in custody of Mr Scott Simpson that the Attorney General develop a protocol between referring courts and the Mental Health Review Tribunal to ensure that notification of the court's decision that a person has been found not guilty on the grounds of mental illness occurs at the earliest possible time and, at the outside, no later than seven days?

Mr BOB DEBUS: Those matters are included in the review of the Mental Health Review Tribunal being conducted by former Supreme Court Justice Greg James.

Ms LEE RHIANNON: What are the terms of reference for that review?

Mr BOB DEBUS: I cannot tell you with absolute precision.

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

Mr BOB DEBUS: The Mental Health Review Tribunal falls within the responsibility of the Minister for Health, and Justice James will be reporting to him. However, I can tell you in general terms that it is reviewing the procedures of that tribunal and, I think, contemplating the makeup of its members, and otherwise considering the way that the tribunal operates in the context of the forensic provisions of the Mental Health Act.

Ms LEE RHIANNON: Some of my colleagues who cannot be here tonight have asked questions of the Health and Justice Ministers and they are flicking them to you. We are trying to sort this one out. Do you believe that the Health Minister should have the discretion to ignore the release of recommendations of the Mental Health Review Tribunal?

Mr BOB DEBUS: These are some of the matters that are the subject of the review, as I understand it.

Ms LEE RHIANNON: Are you aware that the Health Minister has not allowed the release of any prisoners assessed by the Mental Health Review Tribunal?

Mr BOB DEBUS: No, I am not aware of whether that is true.

Ms LEE RHIANNON: Are you able to take the question about the terms of reference on notice, or are you saying that I need to go back to the Health Minister? Can you circumvent this and get them for us?

Mr BOB DEBUS: I will provide a reply insofar as I think the matters are within my responsibility.

Ms LEE RHIANNON: What is the time frame for Justice James to complete his review?

Mr BOB DEBUS: He is to do it within 12 months from when it began, and that was a couple of months ago.

Ms LEE RHIANNON: Will submissions be publicly called for as part of the review?

Mr BOB DEBUS: Yes.

Ms LEE RHIANNON: When will they be called for?

Mr BOB DEBUS: I cannot say, but no doubt you will hear.

Ms LEE RHIANNON: In a reasonable time. It is nearly three and a half years since Chris Puplick resigned as New South Wales Privacy Commissioner. When do you intend to appoint a new commissioner and give some teeth back to Privacy New South Wales?

Mr BOB DEBUS: Privacy New South Wales has not lost its teeth. It has, it is true, an acting commissioner, but he is a very effective officer.

Ms LEE RHIANNON: But from whose point of view? Not for the cause of privacy.

Mr BOB DEBUS: I am entitled to think of it from my point of view. My point of view is that he has been effectively administering the privacy provisions. I feel quite confident in saying that; he is a very good officer.

Ms LEE RHIANNON: Given that he has spoken out so little, it is useful that you have stated that so clearly. At a time when increased powers are being handed to the police, terror laws have been ramped up and video and Internet surveillance are becoming more invasive, do you not think the disabled Privacy New South Wales and weak privacy legislation in New South Wales are creating a lethal mix for privacy protection in this State?

Mr BOB DEBUS: I adamantly deny that the Privacy Commissioner is performing in an inadequate fashion. I adamantly reject that proposition.

Ms LEE RHIANNON: Is it not the case that he doing hardly anything? Perhaps that is why you are not critical.

Mr BOB DEBUS: In 2005-06, Privacy New South Wales finalised 1,589 inquiries, 163 formal advices and 111 complaints. In addition, 82 per cent of complaints and 73 per cent of formal

advices were finalised within 12 months. However, one cannot simply think about the Privacy Commissioner and his staff.

I have made a most comprehensive reference to the Law Reform Commission on privacy and, in turn, it has been agreed by Justice Wood, the relatively newly appointed head of the Law Reform Commission, that the New South Wales Law Reform Commission and the Australian Law Reform Commission will co-operate together in a most extensive review of the privacy laws of the State and the country. Do not forget that the present privacy laws are quite narrowly focused on government agencies. What I am interested in, and I am answering your question directly, is that, because of many of the changes that you mentioned, I believe that we have to move towards a considerable reconstitution of our ideas of privacy and its protection. The present law exists as a kind of archipelago throughout society, not as a set of principles that cover the activity of the community in anything like a systematic way.

Ms LEE RHIANNON: If that were the outcome I think there would obviously be some satisfaction around that, but the actions leading to the review have been of concern. What I was referring to there is a delay in meeting a legislatively required deadline.

Mr BOB DEBUS: I beg your pardon?

Ms LEE RHIANNON: A delay in meeting a legislatively required deadline to table in Parliament the report of a review of the New South Wales Privacy Act 1998 that was due almost two years ago. By 30 November 2004 you were supposed to have had that job done. It has been delayed by almost two years and then you come up with this review. I think it is understandable that people feel you have sidestepped what you were supposed to have done.

Mr BOB DEBUS: It is very hard for me to follow your question, in all truth.

Ms LEE RHIANNON: You were supposed to have handed in a report on 30 November 2004, and you were your required by law to do that. With all due respect, it is straightforward.

Mr BOB DEBUS: That particular statutory review will be tabled in due course, but—

Ms LEE RHIANNON: Can you explain why it is so late?

CHAIR: Will you let the Minister give his answer, please.

Mr BOB DEBUS: The references to the Law Reform Commission that I have mentioned to you to examine options for simplifying privacy legislation in New South Wales and nationally, to examine how the present Privacy and Personal Information Protection Act interacts with the State Records Act, the Freedom of Information Act, the Local Government Act and the Health Records Information Privacy Act—the complementarity of that reference with the reference also made by the Federal Government to the Australian Law Reform Commission. The fact that the Australian and New South Wales Law Reform Commissions are working together gives a guarantee that the kinds of matters that are being reviewed in the exercise that you mentioned are to be dealt with in far more depth and detail than would otherwise have been the case. But, in the meantime, we will be tabling the Privacy and Personal Information Protection Act review, when some particular matters have been dealt with by the Government.

CHAIR: We will now go to Government questions.

The Hon. GREG DONNELLY: I would like to turn to the issue of the matter of support of victims of crime in New South Wales. Can you please advise the Committee what is being done to support victims of crime in New South Wales?

Mr BOB DEBUS: The Government is constantly looking at that question. The Victims of Crime Bureau operates a 24-hour support line and, indeed, monitors the compliance of several government agencies with the Charter of Victims Rights. The Victims Services Agency continues to work with other government agencies and victims' support groups on a variety of initiatives. It is active in presenting information at forums throughout New South Wales. It has developed a web site,

which gives practical details on a lot of subjects, including the processes of the courts and the police, how to make a victim impact statement, where you can get counselling support services and so on. It is getting more than 40,000 calls each year through its general inquiry line. Victim compensation claims determined in 2005-06 resulted in more than $64 million being paid out to victims of crime.

The importance of support and rehabilitation in assisting victims of crime cannot, of course, be underestimated, and 4,400 applications for counselling under the approved counselling service were received in the year 2005-06 and 44,000 hours of counselling work actually paid for, at a cost of $2.5 million. At a conference for approved counsellors, conducted late last year to discuss best practice issues in counselling and supporting victims of crime, there were no fewer than 210 counsellors in attendance. There have been a number of initiatives aimed at assisting victims of crime to exercise their rights, the publication of pamphlets and brochures, and the translation of those pamphlets and brochures into 24 community languages and the development of an indigenous version of the victims of crime charter.

The Crimes (Sentencing Procedure) Act has been amended to allow a victim impact statements to be read out in the Supreme, District and Local courts by victims. The Local Court initiative is a relatively new one. I draw particular attention to the initiatives involving indigenous people. The Victims Services Agency is piloting a program with the Crime Prevention Division that will provide extra training for culturally appropriate counselling responses to Aboriginal victims of crime. A DVD is being produced especially for young Aboriginal females who are missing. The Families and Friends of Missing Persons Unit provides funds to a brilliant Aboriginal organisation, Link-Up, to enhance its search database in relation to missing Aboriginal people, including some of the Stolen Generation. There is continuing emphasis through these measures on victims of crime and their rights.

The Hon. IAN WEST: In regard to the recent review of the New South Wales Judicial Officers Act, can you update the Committee on the reforms made to that Act, and in particular the complex process?

Mr BOB DEBUS: It is true that there was a review of that Act conducted jointly by Mr Glanfield and the heads of each of our court jurisdictions on the 20th anniversary of the relevant legislation. Those changes were passed earlier this year and what they do, importantly, is clarify the complaints handling procedures and introduce new provisions relating to impairment. Where the head of a jurisdiction considers that a judicial officer may be suffering psychological or medical impairment, then the head of jurisdiction may refer that matter to the Judicial Commission without it being dealt with as a complaint. That is to say, until the change it was not possible to compel a judicial officer to have a psychological or medical test and now it is. I think that is appropriate and desirable.

The amendments also provide for the development of guidelines relating to complaints handling and the examination of complaints by the Conduct Division of the Judicial Commission, and those guidelines have recently been completed. One of the most important changes in this respect is that the Judicial Commission will no longer be obliged to classify complaints as either minor or serious. That requirement, which existed in the original Act, led to a good deal of dissatisfaction because the Judicial Commission found itself saying that a complaint was minor if it felt unable to say that it was extremely serious. It meant that a whole lot of complaints, to the degree they were proven somewhere in between minor and extremely serious, kept being called minor. That will not happen any longer.

The Hon. GREG DONNELLY: Could I now turn to the issue of court security? Could you advise the Committee on measures that the Government is taking to ensure our courts are safe?

Mr BOB DEBUS: It would be fair to say that they are considerably safer than they have been. The airport-style x-ray screening facilities have now been installed at 24 courts across the State, there is closed-circuit TV at most of our courts, and perimeter and electronic access security is to be improved in another 20 courts during the present financial year. We have improved the training of sheriff's officers and given them some new powers. In particular, sheriff's officers can now issue fines and make arrests within the court. There are now 300 full-time sheriff's officers and 55 are to be recruited over the next three years.

Sheriff's officers monitor scanning equipment and security cameras, they respond to security incidents, they have got the power to detain and search anyone suspected of carrying a weapon, and it is important that we keep them all. If the Coalition's plan to cut 29,000 public sector jobs were actually implemented, we would lose about 63 sheriff's officers, which would not be a good thing.

The Hon. IAN WEST: In regard to good neighbourly relations—pets, parking, providing fences, trees, seem to be top of the pops—but in terms of trees, can I ask what steps have been taken to help neighbours resolve disputes?

Mr BOB DEBUS: Just last month I released an exposure bill, which will offer a simple and inexpensive process for resolving disputes about trees. As you suggest, next to noise complaints, the most common cause of neighbourhood legal disputes is arguments about overhanging trees. They are the kinds of disputes that not all that rarely escalate into expensive court battles. These new laws, which I might say will replace procedures that are 600 years old in dealing with the problem—a whole law involving abatement—instead, neighbours will be able to use a new scheme under which the owner of a property can apply to the Land and Environment Court for a special order if their property is facing damage from a tree. The new laws will mean that an owner can take action before their property is actually damaged rather than waiting for the damage to occur.

Under the existing 600-year-old common law, you could only take action if the damage had occurred, which is not the most rational way to approach a problem of this nature. An owner can take action if the tree is posing a threat of injury to somebody. The way it will work is that the Law and Environment Court will have the ability to order a whole range of measures: the trimming or lopping of a tree's branches or roots, the removal of the tree, the payment of costs associated with having the tree trimmed or lopped or removed and the payment of compensation for damage to property if that has actually occurred. The Land and Environment Court will be able to levy fines of up to $110,000 for a failure to comply with a court order.

The new laws are, of course, designed to assist people when the process of mediation has failed. Mediation obviously remains the preferred course of action for the resolution of such a dispute. But the simple procedures of the Land and Environment Court that have been established over recent years, often involving a Land and Environment Court assessor turning up on site and offering a solution immediately, I think, is going to bring a significant amount of benefit to people in this State. I know that when I talked about this new legislation on the radio there was an avalanche of phone calls—talkback participants wanting to know what they could do about this or that overhanging tree problem.

The Hon. GREG DONNELLY: Moving on to the matter of sexual assault reform, can you please advise the Committee of reforms which have been made to improve the prosecution process for victims of sexual assault?

Mr BOB DEBUS: This is an extremely important issue, obviously enough. Sexual assault carries with it shame and fear of repercussions from the offender, lifelong scars from which complainants find it often very difficult to recover. The Government has made a lot of legislative amendments in the last few years, including the prohibition of accused who are self-represented from cross-examining a complainant; the establishment of remote witness facilities, allowing complainants to use CCTV to give evidence; allowing the admission of a complainant's original evidence at a retrial following an appeal; very importantly, creating a positive duty on a court to disallow improper questions—that is to say, making it a positive responsibility of a judge to prevent harassing cross-examination; closing a court when the victim gives evidence in sexual offence proceedings; introducing new rules governing the service of sensitive evidence; prohibiting a child complainant from being called at committal; improving the case management of sexual assault trials by introducing what are called pre-trial binding directions, which means, for example, that a judge can rule on the admissibility of evidence of witnesses in a particular case before a trial begins.

That is part of a number of measures that have been introduced to ensure that the trial goes more quickly. In December 2004, because I continued to be concerned about the way in which some sexual assault cases were being conducted and the dissatisfaction being felt in the community, I set up the Criminal Justice Sexual Offences Task Force, which had the role of advising me on ways to improve the responsiveness of the criminal justice system in relation to these matters. That task force

included a whole range of government and non-government agencies or relevant non-government agencies as well as a whole range of people from the criminal justice system and NSW Police. It was one of the most comprehensive reviews ever undertaken in this area.

It looked at a number of significant matters—the law on consent, the nature of jury directions given in sexual assault cases, what is called tendency and coincidence evidence, services that are provided to victims of sexual assault and what approaches might be adopted to improve the responsiveness of the system and to reduce the trauma that sexual victims, particularly once a case has reached the courts. I will be introducing a bill, hopefully as early as the next week of parliamentary sittings, to implement a large number of the recommendations of that task force.

The task force made some recommendations relating to the improvement of services for victims of sexual assault and those matters will be dealt with separately, with a special committee being formed to look at that. The changes that I will be bringing in the week after next will go quite a considerable distance to completing the process of reform that we began a number of years ago but, as we have learned more and more about the exact impediments to the rapid dispatch of cases on the one hand and the ways in which we may reduce the trauma experienced by sexual assault victims on the other, I think you will find that the bill to be introduced in the next week of sittings will be the conclusion of a very comprehensive overhaul of the law.

The Hon. IAN WEST: Will you update the Committee on the latest information with respect to the construction of the Parramatta Justice Precinct?

Mr BOB DEBUS: Yes, we have touched upon this several times during the hearings. The budget to build the new Parramatta Justice Precinct, partly on the site of the old health facilities at Parramatta, is on budget and ahead of schedule. The Children's Court will be open by the end of this year and there will be six multi-use courtrooms in an environment—and this is extremely important—specially designed to ensure that children involved in care and protection matters are as comfortable as possible. There will be a children's clinic on site as well as offices for the Department of Community Services and counselling services, and separate and secure rooms for parents, protected witnesses and victims support groups.

The second building in the precinct, the Justice Agencies Office, will be running by the end of next year. That will be the new headquarters of the Attorney General's Department, but it will also house shopfronts for the Registry of Births, Deaths and Marriages for Victims Services, for Legal Aid and for the Office of the Protective Commissioner. The third element of this precinct is the Western Sydney Trial Complex. Originally this was to open by mid-2008 but it is actually ahead of schedule. That includes eight state-of-the-art trial courts and the parole board court. That will bolster Parramatta's position as the third largest legal centre in Australia. When the tender contract was signed by Multiplex in August 2005 the projected total cost of the precinct was $330 million. Today the projected cost of the precinct is $330 million, which is a pretty sound outcome.

CHAIR: We will divide the remaining time between the Opposition and the cross bench. The Opposition has three minutes.

The Hon. DAVID CLARKE: Mr Glanfield, getting back to the matter of Sadie Cossar, is it true that you refused to provide her with a copy of the independent investigator's report?

Mr GLANFIELD: It is not my practice to always provide copies of investigation reports. In fact, this investigation report arose out of the Industrial Relations Commission proceedings that she commenced. It was undertaken by an independent person. I acted upon it. I think she may have requested a copy of it, to the best of my recollection; it may or may not have been provided to her. I am not sure.

The Hon. DAVID CLARKE: Can you take on notice whether she did request a copy from you?

Mr GLANFIELD: Sure.

The Hon. DAVID CLARKE: Was there any reason why you could not have given her a copy of that report?

Mr GLANFIELD: It is just generally not the practice to provide these reports because the nature of them is that they are dealing with grievances and comments made by not only the parties to the grievance but others, and it raises all kinds of privacy issues generally, but we would always try to make available the relevant parts of any such report that might be useful for the officer who has made the complaint so as to understand the nature of the decision. And, can I say, I accepted fully the recommendations of the independent investigator.

The Hon. DAVID CLARKE: Did you provide her with any part of the investigator's report?

Mr GLANFIELD: I honestly cannot recall.

The Hon. DAVID CLARKE: Will you take that on notice?

Mr GLANFIELD: Yes, I am happy to.

The Hon. DAVID CLARKE: I asked questions earlier regarding a meeting or meetings with Sadie Cossar and departmental officers. Mr McGrath, is it correct that you were one of the officers present?

Mr McGRATH: I have met with Ms Cossar on a number of occasions but I would take objection to the question at this stage along the lines of your earlier statement in relation to the guidelines of privacy of other people. I take the question on notice and I would be quite happy to provide an answer to the Committee in accordance with the undertaking given by the Attorney and by the Director General earlier.

The Hon. DAVID CLARKE: That is you object to the question being asked as to whether you attended a meeting or meetings with Sadie Cossar?

Mr McGRATH: I indicated I have met with her on occasions, yes.

The Hon. DAVID CLARKE: From your recollection were any allegations put to her that were from other sources.

The Hon. GREG DONNELLY: Point of order: The guidelines are pretty clear. At 4.11 on page 20 it states that objection may be taken by witnesses if disclosure of information required by the question would be prejudicial to the privacy or rights of other persons. This line of questioning goes to that very issue so the objection should be acknowledged and accepted.

CHAIR: Yes, if a witness objects along those lines, the question is out of order and it is not necessary for the witness to answer it. However, it is a moot point because the time has expired.

Ms LEE RHIANNON: Minister, you have explained that you referred the Privacy Act to the New South Wales Law Reform Commission for review. The question must be asked: why the double review? A review is soon to be tabled and now there will be this Law Reform Commission review. Why is it necessary to have two reviews and, since the Law Reform Commission will not report until at least 2008, is this just the excuse you need to put off making a decision about whether you are going to fully resource Privacy NSW, kill it off or transfer its functions to the Ombudsman?

Mr BOB DEBUS: I repeat that the law of privacy is one that is very narrow in its application. It affects essential government departments and agencies.

The issue of privacy in our society is a massive one.

Ms LEE RHIANNON: Why did you not table it in 2004?

Mr BOB DEBUS: Why did I not table what?

Ms LEE RHIANNON: People believe you have been committed to it, Minister, but why did you not table it in 2004?

Mr BOB DEBUS: I do not recall with precision when I actually received this report. I do not believe I had it in 2004.

Ms LEE RHIANNON: Is it not part of your job as Attorney General to make sure you get these reports and table them?

Mr BOB DEBUS: My job is to do the best I can, in all the circumstances in which I find myself, to see that the administration of my department and my agencies is working effectively—

Ms LEE RHIANNON: Are you referring there to political constraints?

Mr BOB DEBUS: —and I believe that the Privacy Commission is doing quite well. I am saying to you that in due course the review to which you refer will indeed be tabled, with the Government's response to it. But the questions I am referring to the Law Reform Commission are vastly more important. They are just of another order.

Ms LEE RHIANNON: It is really good to hear you say how important it is. But the time factor is of concern. It seems that the earliest we are going to get this report—let alone the actions—is 2008.

Mr BOB DEBUS: The Law Reform Commission is being asked to make an extremely important, detailed and difficult inquiry. It is impossible to conceive it reporting quickly. It is not conceivable that the Law Reform Commission can do this kind of work in anything but an extended period.

Ms LEE RHIANNON: So you are committed to Privacy NSW and not pushing it off to Ombudsman?

Mr BOB DEBUS: I have never been anything but committed to Privacy NSW. What do you mean "pushing it off to Ombudsman"?

Ms LEE RHIANNON: You must be aware that one of the strong concerns around the place is that Privacy NSW is being run down, and it could well end up disappearing and some of its functions being picked up elsewhere.

Mr BOB DEBUS: I totally reject the proposition that Privacy NSW is being run down. I utterly reject it. At a bureaucratic and clerical level, it has actually improved its performance quite considerably. I would defy anyone to show how, in any way at all, it is being curtailed in its work.

Ms LEE RHIANNON: We will come back to it. Thank you, Minister.

CHAIR: Minister and officials, thank you for your attendance here tonight. I am sure you will be pleased to know that the time for this hearing has expired.

(The witnesses withdrew)

The Committee proceeded to deliberate.