

GENERAL PURPOSE STANDING COMMITTEE No. 3

Friday 17 September 2004

Examination of proposed expenditure for the portfolio area

ATTORNEY GENERAL

The Committee met at 9.00 a.m.

MEMBERS

The Hon. A. R. Fazio (Chair)

The Hon. P. J. Breen
The Hon. A. Catanzariti
The Hon. C. J. S. Lynn

The Hon. G. S. Pearce
The Hon. J. S. Tingle
The Hon. H. S. Tsang

PRESENT

The Hon. R. J. Debus, *Attorney General, and Minister for the Environment*

Attorney General's Department

Mr L. Glanfield, *Director General*

Mr A. Kuti, *Director, Financial Services*

Mr J. Feneley, *Assistance Director General, Policy and Crime Prevention*

Mr T. McGrath, *Assistant Director General, Courts and Tribunals*

Legal Aid Commission

Mr B. Grant, *Chief Executive Officer*

CORRECTIONS TO TRANSCRIPT OF COMMITTEE PROCEEDINGS

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

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

CHAIR: I declare this meeting open to the public and welcome you to this hearing of General Purpose Standing Committee No. 3. First, I wish to thank the Minister and the departmental officers for attending today. At this meeting of the Committee we will examine the proposed expenditure for the Attorney General's portfolio area. Before questions commence, some procedural matters need to be dealt with. I point out that, in accordance with the Legislative Council's guidelines for the broadcast of proceedings, which are available from the clerk, only members of the committee and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photos.

In reporting the proceedings of this Committee, you must take responsibility for what you publish or what interpretation you place on anything that is said before the Committee. There is no provision for members to refer directly to their own staff while at the table. Members and their staff are advised that any messages should be delivered through the attendant or the committee clerks. For the benefit of members and Hansard, departmental officials are requested to identify themselves by name, position and department or agency before answering a question referred to them. I declare the proposed expenditure open for examination. Minister, do you wish to make a brief opening statement?

Mr BOB DEBUS: No, I do not. However, I offer you my commiserations on the report overnight of the death of Johnny Ramone.

CHAIR: Thank you. Although he was a Republican, so I am not as sad as I was when Joey Ramone passed away.

The Hon. GREG PEARCE: How much money is allocated from the Attorney General's budget for the provision of legal advice to Ministers and to the Government generally?

Mr BOB DEBUS: As I understand it, there is no budgeted allocation. Rather, expenditures occur through the year according to circumstances, and the department's budget is supplemented accordingly.

The Hon. GREG PEARCE: Will you provide the actual figures for the past five years?

Mr GLANFIELD: I draw the honourable member's attention to the provisions shown on page 341, which are known as protected items. Under the heading "Witnesses expenses", \$482,000 has been budgeted for the coming year and \$370,000 has been budgeted for legal assistance claims. Those allocations cover the ex gratia scheme for public servants and Ministers and representation before the Independent Commission Against Corruption [ICAC] and the Police Integrity Commission [PIC]. In the past year we spent \$62,000 on witness expenses and \$20,000 on legal assistance claims.

The Hon. GREG PEARCE: Can you provide the breakdown of those expenses for the past five years?

Mr BOB DEBUS: Obviously we will have to take that question on notice.

The Hon. GREG PEARCE: What provision, if any, has been made in the current budget to cover the legal expenses incurred by the Premier and other Ministers in ICAC proceedings relating to the contempt issue and Orange Grove? What amounts have so far been spent and allocated?

Mr BOB DEBUS: All applications for legal and financial assistance for people appearing before the ICAC are considered within the provisions of section 52 of the ICAC Act. In consequence of the operation of that provision, the department makes recommendations to me about legal assistance. I cannot recall ever having departed from one of those recommendations. Again, Mr Glanfield will be able to explain the exact budgetary situation, which I think fits within the parameters I have described.

Mr GLANFIELD: I refer to the same provisions. In fact, the \$482,000 for witness expenses that I referred to earlier is the provision for the coming year. However, that is a standard provision we make each year. Either we underspend—as we did last year by \$420,000—or the amount is topped up by Treasury as a protected item depending on expenditure.

The Hon. GREG PEARCE: What has been expended so far on the Premier's dealings with ICAC and on Ministers' and government officials' dealings in relation to Orange Grove?

Mr GLANFIELD: As far as I am aware the answer is nil at this stage because we have not received any bills relating to that situation. It is an ongoing matter and there is usually quite a delay before the lawyers submit their bills. I am not aware that we have paid any bills at this point in relation to Orange Grove.

The Hon. GREG PEARCE: Has any fee agreement been entered or budgeted?

Mr GLANFIELD: Standard rates are set. The guidelines are in the Premier's memorandum 99/11.

The Hon. GREG PEARCE: Is that a public document?

Mr BOB DEBUS: I am prepared to table it.

Mr GLANFIELD: They are the same guidelines that have applied over many years. The right to legal representation before the ICAC is dealt with in section 52, which states that a person who has a substantial and direct interest in the investigation can receive legal assistance. That covers Ministers, other members of Parliament and the like.

The Hon. GREG PEARCE: Do I take it that, if we ask questions on notice about bills that will be submitted, in due course you will provide the amounts as they are expended, or do we have to wait until the estimates hearings next year?

Mr BOB DEBUS: Subject to the ruling of the Chair, I suggest that it would be appropriate that they be produced next year as expenses that have been incurred this financial year.

The Hon. GREG PEARCE: So you think Orange Grove will still be going this time next year?

Mr BOB DEBUS: I think it is a dead letter now. However, as the Director General has explained, it takes the lawyers some time to prepare bills and to submit them. That is just the ordinary course of things.

The Hon. GREG PEARCE: Can you provide information about the legal fees paid by the Government in defence of Premier Wran when he was fined for contempt for comments he made about Justice Lionel Murphy? I know that was a long time ago, but I assume the bills have been paid.

The Hon. HENRY TSANG: Point of order: Is that question in order? This Committee is dealing with this year's budget.

The Hon. GREG PEARCE: We want to compare figures.

CHAIR: Order! The honourable member is speaking to a point of order.

The Hon. HENRY TSANG: Can honourable members ask questions about expenditure in 1850? If so, I want to know how much was spent by the Attorney General on legal costs in 1850.

Mr BOB DEBUS: The answer is that I probably will not be able to provide the answer. I make no specific undertaking to provide an answer in respect of Premier Wran's expenses.

The Hon. CHARLIE LYNN: He is not asking about the expenses; he is simply asking about the arrangements made.

The Hon. GREG PEARCE: No, I asked about the expenses.

Mr BOB DEBUS: I cannot give a guarantee to produce that level of detail. However, I will investigate it.

The Hon. GREG PEARCE: Thank you.

The Hon. CHARLIE LYNN: Did the background briefing and preparation of the following bills originate in the Attorney General's Department: the Bail Amendment Bill 2003; the Civil Liability Amendment Bill 2003; the Criminal Appeal Amendment (Double Jeopardy) Bill 2003; the Bail Amendment (Firearms and Property Offences) Bill 2003; the Crimes (Sentencing Procedure) Amendment (Standard Minimum Sentencing) Bill 2002; and the Bail Amendment (Repeat Offenders) Bill 2002? Did the Premier's Department provide any input for the preparation and drafting of the bills? If so, what was the extent of that input?

Mr BOB DEBUS: I suggest that the basic work on all of those bills was done within the Attorney's General Department. One would expect that, in the ordinary course of proper government, there was consultation with other relevant departments and the Cabinet office during the final preparation of Cabinet minutes and so on. However, the essential work on all those bills was done within the department, either by the Criminal Law Review Division or the Legislation and Policy Branch.

The Hon. CHARLIE LYNN: You cannot recall whether the Premier's Department provided any input into the proper preparation and drafting of those bills?

Mr BOB DEBUS: The generic procedure in such a circumstance is for a Cabinet minute to be prepared. In some of those cases I think a discussion paper may have been prepared beforehand. Before the matter goes to Cabinet, the minute is circulated. In many of the cases you mentioned, I would expect the Minister for Police had something to say, and quite possibly other Ministers, as well as the Cabinet Office. That is absolutely standard procedure. In the end, Cabinet would have made decisions on the basis of the minute and the discussion that surrounded it.

The Hon. GREG PEARCE: The question is really where the bills originated. These seem to be matters that go to the administration of justice in the legal system. The question is whether the bills originated from work done by the Attorney or the Premier.

Mr BOB DEBUS: I think it is fair to say, as I have said, that all the basic work on those matters was done within my department.

The Hon. GREG PEARCE: What is the process for commencing work on those sorts of bills?

Mr BOB DEBUS: It depends on circumstances, self-evidently. You have given me a long list of pieces of legislation, some of which are quite significant but all of which have had most of the relevant work done in my department. There has been merely a normal kind of commentary by other parts of the Government, and the Cabinet minute, and then the bills were prepared.

The Hon. CHARLIE LYNN: Attorney, when will the statistics for 2003 produced by the Bureau of Crime Statistics and Research for New South Wales criminal courts be released?

Mr BOB DEBUS: I am not certain. Somebody else may know.

The Hon. CHARLIE LYNN: Can you give us an indication?

Mr FENELEY: I can certainly check and let you know.

Mr BOB DEBUS: We will make a phone call and let you know before this session has finished.

The Hon. CHARLIE LYNN: Has the Bureau of Crime Statistics and Research considered releasing more frequent updates of criminal court statistics, similar to the quarterly updates of crime trends that are now provided to the public on the bureau's web site?

Mr BOB DEBUS: I do not believe it has, but I will ask the director-general to make a further observation about it.

Mr GLANFIELD: It is obviously something that can be looked at, and it has been looked at. The last time I discussed with the director the matter of making reports available more frequently, his principal concern was that if the period of time is too short you would get quite a distortion of trends because in some cases the numbers are very small. With murders, for example, there are generally about 200 a year. Looking at fortnightly or even monthly reports can be quite distorting in terms of trends. The view of the director, as an experienced statistician and criminologist, is that you need to have a reasonable period of time to be able to draw conclusions and to publish statistics that are not misleading. But it is certainly something that we are happy to have a look at to see whether more frequent reports can be made available.

The Hon. CHARLIE LYNN: Could you not show the trend and the statistics for that period of time?

Mr GLANFIELD: The long-term trend at the moment tends to be trends over a couple of years. So, if you are reporting on, say, a fortnightly or monthly basis, compared with the length of the trend you may get wild gyrations in the figures which tend to make it a little more meaningless.

The Hon. CHARLIE LYNN: If you had both, anyone who was interested in the figures would be able to take the figures you have produced and balance them against the trends?

Mr GLANFIELD: I have to confess, I am not an expert in statistics and how misleading it might be. I am simply saying that the last time we looked at it, the view was expressed that it did raise concerns about the usefulness of publishing in too brief a period of time, and that there was benefit in having a reasonable period of time to reflect the trends that did not need an enormous amount of explanation.

Mr BOB DEBUS: It is also fair to point out that the data is received in quite complex form, and it takes time to analyse all the returns from the courts in the first place. I confess I have never heard anybody suggest that there would be any benefit in reporting more frequently than the bureau presently reports. I have not heard anybody ask for it, at least in a persuasive fashion, including the Productivity Commission.

The Hon. CHARLIE LYNN: I understand that Dr Don Weatherburn believes that by providing more frequent updates on crime the public and media would get a better understanding of what is happening, but that the question is whether a similar policy of regular updates should be applied to court statistics.

Mr BOB DEBUS: I think you will find that Dr Weatherburn thinks that he is reporting on crime statistics about as often as he sensibly can. He does that against the occasional demand, sometimes from members of the Opposition, that he report much more frequently, but he always responds by saying that to report more frequently will actually give a distorted view of what is happening with crime and the shorter intervals will distort the general trendlines that appear from the kind of intervals of reporting that he presently manages. That being so, I cannot see that he thinks that it would be better to report more frequently on the statistics of court delays or court hearings themselves.

The Hon. GREG PEARCE: I refer to the budget for the Office of the Director of Public Prosecutions [DPP]. Could you explain how the DPP will find the \$2.15 million in savings that the Treasurer has required?

Mr BOB DEBUS: That matter is still under discussion.

The Hon. GREG PEARCE: What are the options?

Mr BOB DEBUS: A number of options are under discussion. Finally it will depend on negotiations, which are not yet complete, as to what particular action is taken.

The Hon. GREG PEARCE: What are those options?

Mr BOB DEBUS: There are an infinite number of options.

The Hon. GREG PEARCE: There cannot be an infinite number of options. There is not an infinite number of expenses in the DPP; only a certain number of items are expenditures. What options are being considered? For example, it could be fewer staff, or it could be different staff paid less money, or it could be different premises. The office has a very limited number of expenditures.

Mr BOB DEBUS: Or it could be savings in corporate services, or it could be—

The Hon. GREG PEARCE: How much is available in corporate services? What is the expenditure in corporate services?

Mr BOB DEBUS: That is presently under investigation: the reform of processes that the DPP applies to the everyday conduct of the work of his office. The corporate services savings—

The Hon. GREG PEARCE: How much was spent on corporate services last year?

Mr BOB DEBUS: The corporate services of the DPP are not listed as an individual item.

The Hon. GREG PEARCE: What figure would you be working on as the expenditure last year that could be cut this year?

Mr BOB DEBUS: I await advice from the DPP about the detail.

The Hon. GREG PEARCE: What is the current staffing of the Office of the Director of Public Prosecutions as at 30 June 2004?

Mr BOB DEBUS: The DPP has 94 crown prosecutors and 617 equivalent full-time positions.

The Hon. GREG PEARCE: How many of those positions would need to go to achieve that \$2.15 million in savings?

Mr BOB DEBUS: That is not a real proposition.

The Hon. GREG PEARCE: So that has not been considered?

Mr BOB DEBUS: It depends exactly how you go about saving.

The Hon. GREG PEARCE: That is what we are trying to ascertain.

Mr BOB DEBUS: Yes, but we do not know the answer to that yet. I do not know the answer to that yet.

The Hon. GREG PEARCE: But you do know the options that have been considered?

Mr BOB DEBUS: I do know that many options have been considered, and I await advice about which will be chosen.

The Hon. GREG PEARCE: And that will be a matter for the DPP, will it?

Mr BOB DEBUS: Yes.

The Hon. GREG PEARCE: How many solicitor trial advocates does the DPP currently employ?

Mr FENELEY: 17.

The Hon. GREG PEARCE: What is the current ratio of Crown Prosecutors to solicitor trial advocates?

Mr BOB DEBUS: 17 to 94.

The Hon. GREG PEARCE: What is the budget for solicitor trial advocates positions for 2004-05?

Mr BOB DEBUS: I will take that on notice. I doubt if the budget is cast exactly in those terms. I can tell you that around about a third of the total DPP budget is applied to the Crown Prosecutors.

The Hon. PETER BREEN: Attorney, could I just take up the question that Mr Pearce asked in relation to legal representation for the Premier at the ICAC hearing into alleged contempt charges? I think Mr Glanfield suggested in his reply to that question that the fees for the Premier's representation were included in the projected figure for legal assistance of some \$370,000. Is it not a fact that the Premier was actually represented by the Crown Solicitor and that the legal representation office only pays \$1,000 a day, which would hardly cover the Premier's fees? I think the Crown Solicitor is the representative.

Mr GLANFIELD: The question I thought I was asked was directed to Orange Grove. The question of contempt in relation to the nurses health inquiry is a different issue. What you say is true, the Crown Solicitor, with counsel, were representing on that contempt issue.

The Hon. PETER BREEN: I just understood that that was the question.

The Hon. GREG PEARCE: That was the question. There were two questions.

Mr BOB DEBUS: There were two questions.

The Hon. PETER BREEN: But it is the case, is it not, that the Crown Solicitor represents the Premier in relation to the alleged contempt charge. He is not covered by the legal representation?

Mr GLANFIELD: That is right. But in relation to Orange Grove there is private representation.

The Hon. PETER BREEN: In the response to that question I think you suggested that there would be figures provided. Will those figures include the fees of the Crown Solicitor or the costs of the Crown Solicitor involved in defending the charges?

Mr GLANFIELD: We can provide that information.

The Hon. PETER BREEN: At the budget session last year I raised the question of legal fees. You indicated at the time that there did not appear to be any groundswell about problems with legal fees. Subsequently the Chief Justice made some comments about them and I think, as a result, there has been an inquiry set up. It seems to me that the inquiry consists of more lawyers, with respect. I think Mr Glanfield is one of the members of the panel that will be undertaking a review; I think Mr Steve Mark is another representative. There is a suggestion that there is not really any community input into this process in that we are going to have a case of the mice weighing up the cheese. Is it possible to get other representation on that panel and is it possible to indicate when the panel might begin to issue terms of reference and conduct proceedings?

Mr BOB DEBUS: As you say, the Chief Justice raised the issue and some other people had begun to do so. I believe there has actually been a seminar, or at least the University of New South Wales has published a document on the whole question of legal fees. The committee that you speak of is in fact preparing a discussion paper which will go out to the public, and I will undertake that you will be one of the first to receive it. So, in other words, there will be that opportunity for public input.

The Hon. PETER BREEN: You do not think there would be any advantage in having a law consumer or someone from the community on the panel as well as lawyers?

Mr BOB DEBUS: I do not particularly, but we are quite deliberately ensuring that there is public input into the debate that is being generated.

The Hon. PETER BREEN: I understand that there is a separate inquiry about the Supreme Court Costs Assessment Scheme. Can you indicate the nature of that inquiry and whether or not there will be any overlapping of the two inquiries?

Mr BOB DEBUS: I will ask Mr Glanfield to just give you the detail of that, but I feel sure that the two exercises will be properly articulated.

Mr GLANFIELD: We are well aware of the need to ensure that the legal fees of the new panel and the work being done on the legal costs assessment process, first, work together and, two, not overlap unnecessarily, although there are some issues that perhaps will be relevant to both inquiries. The Legislation and Policy Division of my department is looking at the review of the Costs Assessment Scheme and seeking submissions. As the Attorney said in relation to the panel, we have already received quite a few submissions from interested committee members, but we will be going through a public consultation phase in relation to the discussion paper. We propose to do the same in relation to legal costs, and we will endeavour to get public input into the proposals that might be developed.

The Hon. PETER BREEN: Will an issues paper be published for the costs assessment scheme inquiry?

Mr GLANFIELD: I cannot answer that, but I would hope that we would be producing something that would enable there to be some input on some proposals for reform. That would be what we would normally do. Whether it is an issues paper or a discussion paper I am not sure at this stage.

The Hon. PETER BREEN: Can I again flag the problem of law consumers feeling locked out of these processes. The costs assessment scheme in particular is one where you do not even get to speak to the person undertaking the process of assessing the fees. So if there is an inquiry, and again there is no input from the community, there is this residual resentment, if you like, that again it is the lawyers working out the system and not allowing the opportunity for the law consumer to have any input.

Mr BOB DEBUS: There is a body called the Legal Professional Advisory Council. I am not sure if you regard that as being representative, but it is having an input into this whole costs debate. I met with the council just the other day. It consists of mainly non-lawyers. It was a group set up some years ago in the context of legislation that John Hannaford introduced: the whole reform of the legal profession that happened at that time, the beginning of changes to complaints and that kind of thing. So that body is engaged. But it is always something of a difficulty identifying who is a legal consumer. In the public, potentially everybody is. So the most important thing is to ensure that people with an identified interest—self-identified or otherwise—get to be able to make an input.

The Hon. PETER BREEN: In general terms it is the people who pay the lawyers' fees who are the ones who need to have some input into the process, and often they feel excluded; there is no question about that. I must say I have not heard of that organisation. Is it administered through the Attorney's department?

Mr BOB DEBUS: Yes, it is serviced by them.

Mr GLANFIELD: It is a statutory body. It is set up under the legal professional legislation. It is the Legal Professional Advisory Council.

The Hon. PETER BREEN: I will certainly make further inquiries about that.

Mr BOB DEBUS: In response to a question asked earlier and an undertaking that I made to get some more information, the criminal court statistics will be released next week by the Bureau of Crime Statistics and Research [BOCSAR]. The note that I have confirms the general position that I was previously putting. I take it this is advice received from the bureau itself by telephone in the last few minutes. They say there has indeed been no real demand for more frequent reporting, but that it would be a massive drain on their resources to validate data on a quarterly basis. So that is consistent with what I was saying to the Hon. Greg Pearce a little while ago. But the specific information is that the statistics, by coincidence, will be out next week.

The Hon. PETER BREEN: A welcome coincidence.

The Hon. JOHN TINGLE: The budget documents referred to the installation of high security bulletproof docks at Central Local Court, Downing Centre, and Burwood—which, for me, has some fairly hair-raising implications—and also the provision of perimeter security at eight courthouses. What led to these unusual improvements, and can I ask why, in particular, at Burwood?

Mr BOB DEBUS: I refrain from giving too obvious a response to the Hon. John Tingle. I will ask Mr Glanfield to explain why he particularly chose Burwood. I think he had to choose somewhere.

The Hon. JOHN TINGLE: I realise that. I am just wondering why Burwood, that is all.

Mr BOB DEBUS: You have a situation where in more recent times there have been identified threats in the case of particular criminal trials. You had a few incidents where prisoners have jumped out of the dock of the court, quite startling all concerned, run into the street and been recaptured only after some difficulty. You have from time to time in more recent years actual threats associated with some of the more violent gang activities around this city, and it is in those circumstances, and in the face of the general heightened awareness of terrorism, that these measures have been taken. The highest security docks are at the Central Court; they are actually bulletproof. But the need to provide a number of other courts obviously is a reflection also of some of the unfortunate ways in which our society has changed. Perhaps Mr Glanfield can explain why indeed he chose Burwood. I would quite like to hear the answer myself.

Mr GLANFIELD: We have a court security committee that has judicial officers on it; it is chaired by the Sheriff.

Mr BOB DEBUS: Who is a retired Army officer of some distinction.

Mr GLANFIELD: We have tasked it with identifying priorities in security around the State. Perimeter security, which is security similar to airport security, has been targeted to our principal courts where we undertake most of our serious committal work, that is, committal for very serious crimes. Burwood is one of those courts that hears a large proportion of serious indictable offences for committal. There are a number of other courts, as you said, where we have a significant serious offending population being dealt. We have additional money in the budget this year and our intention is to continue to enhance security across the State over the next year.

In the current climate I think it is true to say as well that we see our major courts as courts that should be secure for not only judicial officers and court users but all community members where there are witnesses or even offenders. Burwood, as I said, is simply one of those courts that was targeted by the committee as being in need of high security.

The Hon. JOHN TINGLE: What drew my attention was the word "bulletproof". It is such an unusual departure—and I concede there is an obvious answer as to why these security upgrades have happened, but I wonder what inferences we draw about particular areas of the State or of Sydney

where these upgrades are made. You have partly answered my next question, that the budget papers indicate perimeter security upgrades will cost about \$10.8 million, I think. I was about to ask you what the criteria actually are—and I am not arguing about the cost—that say, "We will do it at that court and that court but not at that court." You may have answered this but I want to be quite clear in my own mind: Is it a question of the gravity of the cases that are held there or is a particular location or particular parts of Sydney or particular geographic areas considered to be a higher security risk than others?

Mr BOB DEBUS: Decisions are taken on a strategic basis that there needs to be a geographical distribution of courts that have this capacity. The other courts that have high security docks are Wollongong, Gosford, Byron Bay, Liverpool, Parramatta and Campbelltown. Therefore there is a scattering across the State and across the metropolitan area.

The Hon. JOHN TINGLE: So it is more a question of dispersal rather than a question of concentrating on particular areas.

Mr BOB DEBUS: The fact that three of the seven courts at Burwood have been turned into high security docks does not imply that there is an especially dangerous population in the Strathfield municipality.

The Hon. JOHN TINGLE: That is exactly why I asked the question. It sounded strange, that is all.

Mr BOB DEBUS: I concede that the citizens of Strathfield and Burwood are quite notably law-abiding.

The Hon. JOHN TINGLE: Without labouring the point, can I just ask you, with regard to the docks being bulletproof, whether intelligence has been received that possibly someone could come in and start spraying bullets at a defendant at some stage?

Mr BOB DEBUS: Obviously, this is a circumstance in which the most abundant caution is appropriate. I can only say that in more recent years there have been incidents serious enough, and very occasional intelligence alarming enough, to suggest that we should no longer be taking this matter in any way lightly.

The Hon. JOHN TINGLE: Don't take any chances.

Mr BOB DEBUS: I am not saying that there has been, as it were, an immediate and completely identified threat of a violent attack in a court. That is not the case, but at a slightly lower level there have been sufficient alarming pieces of intelligence and sufficient acts of casual individual violence around the place for us to think that this is appropriate.

The Hon. JOHN TINGLE: Forward caution. Can I ask you about the Magistrates Early Referral into Treatment [MERIT] Program? I was about to say it obviously has merit, but I did not want to make a pun. I have been interested in this because it has recently been instituted where I live. Can I ask why it seems to be taking quite a long time to extend it to other courts after its original trial, which I think was at Lismore, if I remember correctly. If I read the budget papers correctly, it is still operating at only 20 courts in New South Wales. Is there a cost factor in setting up these early referral programs and, if not, why it is it not available in every Local Court?

Mr BOB DEBUS: I think it is fair to say that that program is being rolled out consistently across the State now. It is a joint Commonwealth-State funded program but Mr Feneley, the Assistant Director-General of the department is a great expert on MERIT and I will ask him to give you some more detail.

Mr FENELEY: Certainly there is a plan to continue to roll it out but there is a fairly high cost in terms of training and getting the organisations ready to be available in any particular area. I think the reach, though, of MERIT across the State—rather than just in terms of court numbers but in terms of its reach catchment area—is up around the 70 per cent area, but I can confirm those details

and provide the Committee with an update on that specifically. It is not a light matter to introduce MERIT into a new Local Court because you must have the services available in that area.

The Hon. JOHN TINGLE: You have to have housing facilities, detoxification facilities and all that sort of thing. That would be part of the cost, would it?

Mr FENELEY: That is right. It is not necessarily a new cost but a matter of the organisations in the area aligning themselves with that service.

The Hon. JOHN TINGLE: I noted it has been well received where I live. What is the cost, Attorney, if there is a cost, of operating the new New South Wales Sentencing Council? Who is on it, how does it tap into community opinion, and has it made any recommendations to you? If so, have they produced any significant changes to sentence practising policy? That is a multibarrelled question but I think they all fit together.

Mr BOB DEBUS: Yes. The Sentencing Council is chaired by retired Supreme Court Judge Abadee. It has as its membership a number of community representatives, including three representatives of victims groups—Martha Jabour, Ken Marslew and Howard Brown, each of them representing well-known victims groups. It also has Professor Larrisa Behrendt from the University of Technology, an Aboriginal person most expert in questions of law and social policy as they particularly relate to Aboriginal people. There is a community representative from Maitland and also the Director of Public Prosecutions [DPP] and the Senior Public Defender, Peter Zhara, and a policeman, a commander who is well known in the field. He also represents NSW Police on the board of the Victims Bureau.

Together they have been, as is their brief, looking at a number of matters to do with sentencing about which they are providing advice to me. They are looking at how best to promote sentencing consistency in the Local Court. They have been looking at the question of whether it is appropriate to abolish prison sentences of less than six months. This is an extraordinarily diverse membership, obviously, and, I must say, in my meetings with them I have been gratified and not a little surprised at how well they have learned to work together with each other.

The reports that have been made are under consideration and will become public in due course. They look not only at individual matters that they have, themselves, decided to explore or which I have referred to them but they are also charged with generally giving the Government advice on the whole question of mandatory minimum sentences. They have been in operation, I guess, for about a year now, and during the next year the breadth of their activity will become much more obvious.

The Hon. JOHN TINGLE: Thank you, Attorney.

Mr BOB DEBUS: The community representative whose name had momentarily escaped me is Robin Cottrill-Jones from Maitland. I also have a little more information on the Legal Profession Advisory Council for the Hon. Peter Breen, should he wish it, including the names of those who are presently members of it.

CHAIR: Would you like that document to be tabled?

Mr BOB DEBUS: Yes.

Document tabled.

The Hon. CHARLIE LYNN: Attorney, has the Newcastle office of the DPP been audited, either internally or externally, to examine allegations of corruption made by a whistleblower?

Mr BOB DEBUS: I am not aware of that.

The Hon. CHARLIE LYNN: Is anyone else aware?

Mr BOB DEBUS: Nobody at the table is aware.

The Hon. CHARLIE LYNN: Could you take that question on notice? I will give you another couple of questions to take on notice in regard to that question. If it is the case, what were the allegations made by the whistleblower? What actions were taken by the Newcastle office of the DPP following the allegations, and if an audit did occur, will the Attorney General make public the details of the audit? Is the person who made the allegations still employed by the Newcastle office of the DPP and, if not, under what circumstances did this person's employment cease?

Mr BOB DEBUS: We will take all of those questions on notice.

The Hon. GREG PEARCE: Attorney, what is the process for the appointment of magistrates?

Mr BOB DEBUS: People may come to notice in a number of ways—by making a submission on their behalf or having submissions made about them by somebody else. People are then, generally speaking, interviewed by the Chief Magistrate and appointed by me from a relatively short list of individuals who have been through that process of interview.

The Hon. GREG PEARCE: To what extent are their different backgrounds taken into account? Is there an informal understanding of some description that various areas will be represented in the magistracy? How do you make that sort of decision?

Mr BOB DEBUS: Again, that assessment is made most importantly, if informally, by the Chief Magistrate. Chief magistrates are always aware of the kinds of individuals who would be appropriate at any particular time to appoint. Of course, a good magistrate is going to have a general knowledge of a quite wide area of the law. A good magistrate is going to have an appropriate personality. I would guess that that is the most important thing of all: to have an appropriate temperament and demeanour to deal firmly but fairly, and efficiently, with the great mass of work that pours through the Local Court on any particular day. We also, of course, bear in mind matters such as gender balance. We bear in mind the need, from time to time, to make sure that someone from the country is appointed. In fact, the last two appointments were a female and a person from the country.

The Hon. GREG PEARCE: Do you have any statistics or comparative figures on backgrounds, particularly looking at the area of policing and criminal law experience as distinct from other generalist experience?

Mr BOB DEBUS: There are 138 magistrates. Some of them have been appointed a long time. Most of those who have been appointed while I have been in office have had at least some experience in the criminal law. Some of them have actually been appointed out of the criminal law administration. By the way, because I am embarrassed that I had temporarily forgotten the name of the police officer on the Sentencing Council, I must tell the Hon. John Tingle that it is Commander John Laycock, a distinguished officer who is very experienced in these kinds of matters.

The Hon. GREG PEARCE: The topic of majority juries was in the news this morning. It is my recollection that this issue has been around for a very long time.

Mr BOB DEBUS: Yes.

The Hon. GREG PEARCE: Why did the Government not do something about that a long time ago?

Mr BOB DEBUS: It is a matter about which there are, in fact, quite sharp differences of opinion amongst people of expertise and commitment. It is that very fact that has caused us to attempt, once and for all, to resolve the matter by having the kind of inquiry by the Law Reform Commission that will hopefully establish some kind of a consensus. I am aware that some people have been on the radio saying exactly as you have, that it is a matter that should have been resolved long ago and it is easy. Nevertheless, the moment it was announced, the Chair of the Criminal Law Committee of the Law Society vociferously opposed it, and this morning Professor Michael Chesterton, who may well be the most informed academic scholar in the country on the whole question of juries and their behaviour also went on the radio to say that he did not agree with it.

The truth is that it is a matter that raises quite high passions and about which there is even conflict about the possible statistical consequences of a change in the law. Some people say that there will be more acquittals, some say that there will be more convictions, and some say that there will be more of neither. It all leads us to think that it is perfectly sensible to settle down some sort of consensus on the matter once and for all.

The Hon. GREG PEARCE: My real concern is the time that it seems to have taken for you to do anything about that. The Director of Public Prosecutions [DPP] is on the record way back in 1999 as saying that majority verdicts were essential in cases that are held up by one juror. Many other people are on the record as saying that the issue has been dealt with. Mr Iemma made a statement in the House in April 1997 that the Attorney General's Department was deliberating on the issue. I simply wonder why it has taken more than seven years to get to some way forward.

Mr BOB DEBUS: We can offer no further explanation to that which I have mentioned. It is not as if the Government has not been rather actively engaged in law reform in the criminal law and elsewhere over recent years. As I said, this is a matter that has rather frequently brought about sharply conflicting views and we have decided to bite the bullet.

The Hon. GREG PEARCE: I return to the DPP budget cuts. The DPP was reported in July as having written to you warning that the cuts would cause a legal crisis, and he was supposed to have made comments about P-plate learner lawyers. Did you receive that sort of correspondence from the DPP, and what is your response to it?

Mr BOB DEBUS: It was not the DPP who referred to P-plate lawyers; it was Mr Andrew Tink who referred to trial solicitors as P-plate lawyers, although most of them have 10 years experience in trials.

The Hon. GREG PEARCE: Can you address the other part of the question, which is the assertion that the DPP wrote to you warning of a legal crisis if the cuts were to go ahead?

Mr BOB DEBUS: I do not recall the exact correspondence, but the DPP certainly—

The Hon. GREG PEARCE: So you do not dispute that.

Mr BOB DEBUS: —is concerned that he is able to maintain an appropriate level of service. So am I. That is why we are still in some negotiation about the question.

The Hon. GREG PEARCE: But it seems that the negotiations are going nowhere. We spoke at length about this earlier in the hearing. You do not seem to have any idea as to even what the options are.

Mr BOB DEBUS: Nothing has happened since we last discussed them at this hearing.

The Hon. GREG PEARCE: You do not seem to have any idea as to what the options are, from what you said earlier in the hearing.

Mr BOB DEBUS: What I said was that I am awaiting his propositions, and I do not wish to pre-empt that.

The Hon. CHARLIE LYNN: I refer to domestic violence issues. Where is the domestic violence court model to be located, and what is the justification for deciding on that location?

Mr FENELEY: The final arrangements for the model, which has just been confirmed, at this stage do not have a confirmed city or metropolitan location, although we are close to an agreement on that between the agencies, and then we will need to get an agreement on a country location. Understandably, that is based on an assessment by all the agencies involved on need in the metropolitan area and need in rural New South Wales. We would expect to have a resolution, particularly in relation to the metropolitan area, within the next three to four weeks, because we want to get the program up and running. I would expect that in a similar time we should have a resolution of the country location.

The Hon. CHARLIE LYNN: Can you advise us of the options currently being considered?

Mr FENELEY: We tried to take into account the statistics we have and an understanding from the agencies on where they are able best to deliver the services. So at the moment the partners in the model, including the Department of Community Services [DOCS], the police service, Corrective Services and the Attorney General's Department and the courts, need to take advice from the agencies that need to deliver the services that support the model before we settle on a final location.

The Hon. GREG PEARCE: You said you will settle it in three or four weeks. What are the locations currently being considered?

Mr FENELEY: In fact I cannot tell you the locations, but certainly within the metropolitan area there are four or five that have been under consideration. I just cannot give you the detail of that at the moment.

The Hon. GREG PEARCE: Why not?

Mr FENELEY: I simply cannot recollect that because we have considered quite a few of them.

The Hon. GREG PEARCE: Would you mind taking that on notice?

Mr FENELEY: Absolutely, yes. As far as the country locations go, we want to ensure that we find a location that, firstly, we can service in terms of the Department of Community Services and Corrective Services programs that must go with it but also that meets the needs of Aboriginal communities. So we would be looking at locations—

The Hon. CHARLIE LYNN: Would you be looking at just one country location?

Mr FENELEY: At this stage yes, because the funding will cover those two locations for the trial.

The Hon. CHARLIE LYNN: Are you talking northern New South Wales, west and south?

Mr FENELEY: It is only one for the metropolitan area and one for country New South Wales.

The Hon. CHARLIE LYNN: Do you regard that as being adequate?

Mr BOB DEBUS: It is a trial.

Mr FENELEY: Once we have reviewed the outcome of the trial we will then know whether to expand it.

The Hon. CHARLIE LYNN: What additional resources will be put in place as part of the court model, and how much funding will be allocated to the court?

Mr FENELEY: Most of the resources are being applied by the agencies themselves. Corrective Services is providing essentially a perpetrator program in terms of the models that are currently available. DOCS is providing support for the victims of domestic violence. As members may be aware, the model itself involves a much more aggressive approach at the outset in terms of collecting evidence in order to take some of the strain off the victims of domestic violence so that they are not left with the onerous choice of having to decide whether they will be the ones who give evidence against a partner. The police are taking a much more exhaustive approach to the collection of evidence when they investigate domestic violence. It is hoped that that will then leave them in a position to lay charges if necessary without having to rely just on the victims.

Support then needs to be provided to the victims so that if at all possible they can be kept in the accommodation they are in, rather than having to move, and provide them with the support they

need to go through the process. At the court end, the court will be working in conjunction with the agencies. It is intended that the perpetrator will then need to go through a perpetrator-style program in order to bring about some change in their behaviour.

The Hon. CHARLIE LYNN: Are you satisfied that the police put the issue of domestic violence on a proper priority with regard to specialist people or that some are perhaps assigned to part duties and light duties which may downgrade—

Mr FENELEY: Not at all. I think the police see this as an extremely high priority. Certainly in terms of the multi-agency team that we have working on this, the police are very enthusiastic about applying some specialist additional resources in terms of equipment—that is, evidence-gathering material—to be able to do this job even better than they have been up until now.

The Hon. CHARLIE LYNN: With regard to the model, can you advise what would be the catchment area of the court? For example, if south-western Sydney were chosen, what other courts would feed into that court?

Mr FENELEY: No. It will involve one court in a particular area, and I think the model provides for one police command.

The Hon. CHARLIE LYNN: Is this court model to be for applications and defended hearings for apprehended violence orders [AVOs]? If there is a charge matter, will that also be dealt with at the same time?

Mr FENELEY: The underlying system in terms of applications for AVOs and charge does not actually change. The difference is that you might say it is a pro charge model in that it is a more aggressive collection of evidence with a view to taking action, rather than leaving it to the victims to decide whether they will be available to give evidence. Other than that, the availability of AVOs and the types of applications that would be made will not change.

The Hon. CHARLIE LYNN: I mentioned the training and development of specialist magistrates and prosecutors. Will there be specialist magistrates and prosecutors attached to this court? If so, will there also be a specialist police component to handle the briefs related to the matters?

Mr FENELEY: There is a special component of this in terms of training for police who are involved in it. To some extent we have tried to find a command that has expertise in this area. Certainly, police will have a specialist resource that will be responsible for putting together training packages and ensuring that the police involved in this get the support they need. From the court end, the court has quite a deal of experience in this area and a magistrate has worked on the program with us from its inception.

The Hon. CHARLIE LYNN: Can you advise whether private matters will be dealt with in this model? If so, will there be extra legal aid resources to assist in those matters?

Mr FENELEY: I am sorry, I do not understand the question. I am not exactly sure what you mean by private matters.

The Hon. GREG PEARCE: Will it be possible to initiate private prosecutions?

Mr BOB DEBUS: Do you mean without the police?

The Hon. GREG PEARCE: Yes.

Mr FENELEY: I think I need to take that on notice. As I said, there will not be any reduction in the options that are available at the moment. A lot of the program, particularly from the victim's point of view, is designed around ensuring that there is appropriate support available. I cannot see any reason that that support would not be available within the catchment area.

The Hon. CHARLIE LYNN: Will the current funding of the court assistance scheme operating at the chosen court be increased to cover the increase in people in need of protection?

Mr FENELEY: There is certainly no change in the court assistance scheme. One issue we are exploring is whether the court assistance scheme itself can expand to take responsibility for managing the additional aspects of this in relation to victim support.

The Hon. CHARLIE LYNN: If the model is successful is it the Government's intention to set up more specialist courts throughout New South Wales?

Mr BOB DEBUS: That is my sincere hope.

The Hon. CHARLIE LYNN: How many would you see, for example, in country New South Wales?

Mr BOB DEBUS: Obviously we must wait for two things to occur: one is the trial, and the other is the normal budgetary process. If such a court were very successful, obviously there would be a strong incentive for us to so dispose of legal resources that we created in considerably more courts of this nature. It will depend on the normal processes of assessment and, as I said, budgets. We would not be doing it unless we had some hope that this will be a project that is worth expanding considerably.

The Hon. CHARLIE LYNN: Can you provide us with an idea of what the expected costs are for the court?

Mr FENELEY: The additional budgetary costs, I can give you that figure; I just cannot give you a figure off the top of my head. At the moment the agencies have had to reallocate resources internally to support the project. Certainly, the bulk of the resources at this stage come as a consequence from the agencies making a commitment to do that because of their belief in this model. So we would need to reassess the budget consequences once we assess whether the model is an appropriate one, but at this stage the bulk of the costs are being borne by the Department of Community Services and Corrective Services in terms of providing specialist programs.

The Hon. CHARLIE LYNN: Will you take that on notice to give us an idea?

Mr FENELEY: Yes.

Mr BOB DEBUS: It is the case that domestic violence matters make up an extraordinary proportion of the work of some police patrols and therefore the work of some Local Courts. So there will be some quite complex questions of funding and, indeed, potentially of reallocation of funds that will have to be considered once the trial is complete, assuming it is successful.

The Hon. PETER BREEN: I would like to ask some questions about the protected disclosures legislation. In a recent report the Ombudsman said the legislation failed to achieve two of its three objectives. In the current matter before the ICAC, that is the alleged contempt charges in relation to the Premier, one of the issues raised by all counsel—and those submissions by counsel have been made public—is that the whistleblower nurses do not really have proper protection. According to the press and according to statements he made from the bench, Assistant Commissioner Clark referred the matter to the Ombudsman. But the Ombudsman does not have any authority to deal with a question before the ICAC that relates to a Minister or a member of Parliament. If that matter did go to the Ombudsman's office it obviously will not be dealt with. So there is a question about what happens to whistleblowers in the system, such as the nurses, who have important information. What measures do you see as being appropriate to protect them so they are not exposed to the kinds of allegations currently being made in the ICAC?

Mr BOB DEBUS: They are questions of a fairly fundamental policy nature. I believe this legislation is within the responsibility of the Premier and not the Attorney General: that is to say, not only the Ombudsman's legislation but protected disclosures legislation. Although I do not wish to be evasive about it, I do not think it is appropriate that I should discuss it here since none of the legislation involved is within my direct responsibility.

The Hon. PETER BREEN: But is it not a matter that you as Attorney would wish to consider? That is, questions are being raised in the community about the level of protection for whistleblowers, and although the Ombudsman's jurisdiction and the ICAC jurisdiction all come under the umbrella of the Premier—

Mr BOB DEBUS: Yes.

The Hon. PETER BREEN: —that does not deal with the problem, that is, that the whistleblowers do not have protection. It seems to me, anyway, that some measure should be in place or some policy implemented whereby the whole question of whistleblowers is looked at, perhaps in much the same way as the issue of legal fees that I raised last time. There is a problem in the community with regard to whistleblowers, and if the Premier's various departments do not deal with it I would have thought there is some obligation on the Attorney, as guardian of the citizens and their rights, to make sure proper measures are in place?

Mr BOB DEBUS: You concede a number of the propositions you just made are tendentious, including the one that the particular individuals you referred to are not properly protected. I think it appropriate for me to merely answer by saying that although you are correct to suggest that in the most general way I should have concerns with the rights of citizens, it is not appropriate for me to discuss the issue at these hearings when, after all, every one of the pieces of legislation you are speaking of—and I think essentially there are three—is within the portfolio of the Premier.

The Hon. PETER BREEN: I would like to ask you a question about the Innocence Panel, which has been suspended for more than a year. My understanding is that the reason it was suspended was that victims groups were not properly protected. I could never understand that, given that they had representation on the panel, but nonetheless that was the explanation offered at the time. Subsequently an inquiry was undertaken in relation to the Innocence Panel. One of the recommendations of that inquiry was that the panel be transferred from the jurisdiction of the Police Department to your jurisdiction. Personally, I thought that was a very good recommendation. I never liked the idea of the Innocence Panel being run out of a back room at police headquarters. Is it your intention to take over the Innocence Panel; is there proposed legislation in the system; and do you think that the people in gaol who are innocent—and there could be some 1 per cent of the gaol population, according to most observers—will have a better opportunity to articulate their causes before the new panel given that the previous panel was not successful at all from the point of view of people wishing to prove their innocence?

Mr BOB DEBUS: You have not left much for me to say except that a proposal to establish the Innocence Panel within my portfolio is before Cabinet at the moment.

The Hon. JOHN TINGLE: Attorney, I refer back to the matters Mr Lynn was talking about. Do these proposals flow from the fairly long review of the AVO legislation that your department has carried out—I know a report has been made on that—or is that a separate entity?

Mr BOB DEBUS: I think these proposals flow from those deliberations and others. They flow from some discussion about the whole issue of dealing with domestic violence that led to some announcements before the last elections—discussions with community groups about how best to respond, not only in the area of the black leather law of apprehended violence orders but in the area of social policy as it comes to bear on this extraordinary difficult and widespread problem. Domestic violence is one of critical issues of the social policy at the present time. When you source back the other sorts of problems and the other sorts of social dislocation that flow on from domestic violence, you see that a successful, or at least a more successful, methodology for dealing with it at its source could have quite massive social benefits. Mr Feneley has something to add to that.

Mr FENELEY: Only that I think there is increasingly a recognition that with problems of this sort, unless the agencies act collectively—and often in anything that involves court activity, and the court represents the partner in developing all those proposals—it is hard to get a really successful outcome unless you get that sort of connected activity. Some of the elements of this proposal have been around. I think there has been increasing recognition of a couple of things. One is the level of support the victims need and the situation they are placed in without having to make the election whether they are going to be essentially bringing a prosecution or support a prosecution. That is a

terrible position to put someone in. There has been the concern, I suppose increasingly, about the fact that all the models tended to see the victim—just to take the traditional case we are more familiar with—as the female partner who may have young children and may be forced to leave the home and go into a shelter.

That has been the past, and there has been increasing awareness that it would be beneficial if that could be changed so if it is at all possible the victim and children could be kept in the home and other arrangements made as necessary for the perpetrator. There have been trials and some experimentation around the world with perpetrator programs on whether they are beneficial. At the moment you might say that around the world the jury is still out, but one thing we do know is no matter whether they are successful in changing the behaviour of the perpetrators, they are enormously helpful for the victim because the victim can think that at least the perpetrator has had a chance. They have been given some options and some skilled resources to try to change their behaviour, and if they do not it might just make it easier for the victim to at least feel better about the decision she has to make.

The Hon. JOHN TINGLE: That having been said, are we likely to see legislative changes flowing from the report? Are we likely to see an amending bill for the AVO law, and if we are, when are we likely to see it? I understand from the report there are recommendations that may lead to legislation.

Mr BOB DEBUS: We have the apprehended violence order legislation under permanent review. It will remain so. It is in its nature an extraordinarily difficult phenomenon to deal with, for reasons that Mr Feneley explained.

The Hon. JOHN TINGLE: You do not have any changes in the pipeline?

Mr BOB DEBUS: Yes. We have amendments in preparation now that follow the Law Reform Commission's review, which was tabled in June.

The Hon. JOHN TINGLE: That is the one I am talking about.

Mr BOB DEBUS: I might say, they are procedural, as I understand it. They will not be introducing dramatic change. They are a consequence of a lot of detailed examination, not least by the police, and they are calculated to ensure that the orders will work with the greatest level of efficacy.

The Hon. JOHN TINGLE: Can I ask you then, to quantify the problem, has any analysis ever been made of the amount of time taken up, particularly in the Local Court, by AVO matters? For instance, would I be wrong in saying—because I have been told this—that at Bankstown court something like 30 per cent of the court time is taken up on those matters?

Mr BOB DEBUS: I cannot confirm your proposition with precision, but it is certainly the kind of figure that does occur. At a number of Local Courts around the State I would guess the figure is even higher.

The Hon. JOHN TINGLE: The point I am getting at is if we can finetune the legislation perhaps we can take some of the load off the courts.

Mr BOB DEBUS: Yes, and that is exactly the kind of direction that these changes are moving in. It is the same as the matrimonial causes jurisdiction—the Family Court jurisdiction. You are dealing with circumstances in which personal relationships are already fractured, and you cannot work on the basis that everybody will simply behave rationally, whatever that might be in any particular circumstances. So you will always have a system that has to continue to deal with disrupted lives. What you can do is try to arrange it so that it has the best chance of achieving reconciliation between the parties involved or otherwise achieving a decisive kind of change.

The Hon. JOHN TINGLE: Minimising the damage?

Mr BOB DEBUS: And thereby, either way, minimising the damage.

The Hon. GREG PEARCE: On that same theme, Attorney, do you have a violence against women unit in the Attorney General's Department?

Mr BOB DEBUS: Yes, I think we still have it, but it is moving to the Department of Community Services.

The Hon. GREG PEARCE: How many people are involved?

Mr BOB DEBUS: Twenty-four, 25.

The Hon. GREG PEARCE: Why has the decision been made to move it to the Department of Community Services?

Mr BOB DEBUS: I think this is a quite sensible proposition. I will attempt to describe it to you in a general way. Within the Department of Community Services there is now a communities division, which includes the program Families First, a program called Strengthening Communities, the program that used to be run out of the Premier's Department called Community Solutions, the Office of Children and Young People, and also the old area assistance programs—WSAAS and similar programs around the State. I absolutely support the proposition that all of those social policy initiatives of the Government should be co-ordinated as far as possible—

The Hon. GREG PEARCE: Sorry, to pick up that point—

Mr BOB DEBUS: That is absolutely the point. That is why the violence against women unit within the Attorney General's Department is moving across to the Department of Community Services.

The Hon. GREG PEARCE: So you see violence against women as a social issue, a welfare issue, rather than a criminal issue?

Mr BOB DEBUS: Self-evidently it is both. But the violence against women unit within the Department of the Attorney General has always been funded by a range of departments.

It was located within the Attorney General's Department but was also funded in part by the Department for Women, the Department of Community Services and, I think, a few others as well, such as Police. So although the Department of the Attorney General was of itself a satisfactory home, as it were, for that unit of people, it was never self-evidently the place that you would automatically choose to locate such a unit, which for the most part actually deals with social programs within the Department of Attorney General. It actually administered grant programs and supported individual workers throughout the State—fantastic workers, I might say, just fantastic people—but they were not doing a job that was more than accidentally legal. They were doing a job that involved the conduct of the community program. At this point when we have got a strong emerging division within the Department of Community Services that is absolutely directed at the whole question of strengthening families and communities and early intervention—all of that range of activity—then it is no more than commonsense that the changeover should happen.

The Hon. GREG PEARCE: I would have thought in terms of priorities and perceptions and the message being sent, to move the Government's major initiative on violence against women to a welfare type department—one which is stretched massively already—rather than emphasise it as a criminal issue would be disappointing to many people in the community.

Mr BOB DEBUS: I can only say if they are disappointed they are wrong. It is not true to say that the Violence Against Women Unit and strategy within the Attorney General's Department was always predominantly criminal anyway. As I have just explained, its dominant purpose was always to administer social programs. It seems to me that it is entirely sensibly relocated into a new department which, by the way, has got substantially increased funding for many purposes and which is bringing together a variety of programs, not just from my department but from the Premier's Department, that concern themselves with early intervention and social policy so that a coherent program can be delivered on a geographical basis across the State.

The Hon. GREG PEARCE: Under the heading "Outputs" in subprogram 19.1.1, Justice Policy and Planning Unit, one of the major outputs is "advisings provided to the Attorney General and Director-General". They have decreased from 3,880 in 2001-02 to a projected 1,792 this year. They have virtually halved. Would you explain the reasons for the significant change in that output?

Mr BOB DEBUS: I will ask the Director-General to do so.

Mr GLANFIELD: I should point out the change you are referring to is the difference between the year 2001-02 and the following three years, including the projected figure for this year. The problem is that in 2001-02 and previous years we were counting as advisings matters that in a true sense were perhaps not in that category. Since then we have focused much more on what is truly advice as distinct from perhaps correspondence or response to correspondence. So there is no decline proposed for this year over last year; nor indeed was there a decline last year over the year before. The change was made back at the end of 2001-02 where we decided that we needed to focus much more on keeping statistics on matters that could properly be categorised as legal advice or advice.

The Hon. GREG PEARCE: Do you obtain advisings from external consultants?

Mr GLANFIELD: On matters of legal policy, very rarely.

The Hon. GREG PEARCE: On similar issues that would be dealt with by the Justice Policy and Planning Unit?

Mr GLANFIELD: We would very rarely seek—I cannot even recall any examples of seeking advice on a legal policy matter outside the department. Of course, we do regularly use the Law Reform Commission and other advisory bodies to consider issues of some complexity or controversy or where there needs to be perhaps a more extended consultative process. But we do not engage paid consultants in that area.

Mr BOB DEBUS: Can I just mention for the sake of completeness on the question of domestic violence, Mr Grant of the Legal Aid Commission has just pointed out to me that in so far as criminal court actions are concerned the Legal Aid Commission conducts a domestic violence court assistance program, which in 2003-04 helped 25,000 women. There are 33 separate schemes operating in 52 court locations around the State. That program, which is involved directly in helping women in court, remains and is lodged appropriately with the Legal Aid Commission.

CHAIR: I visited a program run at Burwood court. The police take the women who have been assaulted into a room where counsellors talk to them and explain the process. Is that what you are talking about?

Mr BOB DEBUS: Bill Grant of the Legal Aid Commission could answer that.

Mr GRANT: Yes, it is. It is basically community organisations that are funded through this program at locations the Attorney mentioned. There are 33 schemes at 52 different locations throughout the State. We do provide ongoing support on domestic violence days, if I can use that term, at the court usually for women going through that process. The total funding that is available in that program is \$3,240,000 in this financial year.

The Hon. GREG PEARCE: Attorney, I am interested in the way that your resources seem to be shifting from front line to policy and support. The Justice Policy and Planning Unit has an extra 23 staff for 2004-05. Since 2001-02 it has increased by extra 35. Human Rights Services loses six staff, the Supreme Court loses seven, the District Court fifteen, the Local Court seven and the Industrial Commission five. Would you explain that approach and why those front-line delivery units are losing staff while your policy units are growing?

Mr BOB DEBUS: The losses that you describe are infinitesimally small against the total number of staff involved. At the policy level there has been significant and, I believe, entirely beneficial restructuring within the department. Mr Glanfield, I am sure, could give you a more precise response.

Mr GLANFIELD: Firstly, can I say that the increase in the Justice Policy and Planning Program is primarily directed to service provision, not policy, because within that program there is the Aboriginal Justice Advisory Council and, more particularly, the Crime Prevention Division. I will come back to that in a minute and some of the very important Aboriginal justice initiatives for which the Government has allocated additional funding.

The Hon. GREG PEARCE: Are you saying staff are going to those programs?

Mr GLANFIELD: Yes. I will come back and give you some detail on that. Generally, on the issue of reductions across programs, including this program, some of these initiatives are offset by other savings. The way the budget is set up is all corporate support costs are spread across all the programs. At the moment in that area—together with the Legal Aid Commission, the Public Trustee Office and the Protective Commissioner—we have a very intensive corporate services reform initiative. We expect during the course of this year to be able to deliver considerable savings in corporate support, back room, IT and HR areas. That is reflected in the reduction across the programs. In the case of some programs there are some other minor adjustments but, as the Attorney General said, they are relatively minor.

For example, in Privacy the Attorney General took the decision to create a full-time senior Privacy Commissioner position. We combined a junior position with a part-time position to create that. So there is one loss, but the net effect for Privacy in our view is to have a much more committed and senior officer to promote Privacy. Going back to the Aboriginal initiatives, there is considerable funding included in that program and therefore staffing for more community justice groups. There is funding for an additional 10 community justice groups, which are groups set up in the communities with Aboriginal elders and senior people looking at community issues and giving advice within the community on what initiatives might be developed. There will be an additional five circle sentencing programs added to the existing programs.

There is also an Aboriginal sexual assault task force, the support staff of which will be undertaking some research targeting particular offences where Aboriginal people seem to be over-represented. Considerable funds and, therefore, staffing are dedicated to the late-night community patrols, and there is an extra \$792,000 dedicated to creating additional patrols as well as the 10 that already exist. I think there was reference earlier to intensive court supervision programs, which will be run at Bourke and Brewarrina. They are funded and they have obviously some staff implications as well. Probably one of the most innovative things being pursued in that program is the creation of the Tirkandi Innaburra Aboriginal outstation, which is down near Griffith. It is being established and it will have staff to support what is effectively a diversion program for Aboriginal youth at risk.

The Hon. GREG PEARCE: There is a great deal of detail in those programs. Would you take it on notice and give us the budget and number of staff for each of the programs?

Mr GLANFIELD: We will provide more detail about the programs and the budgets.

The Hon. GREG PEARCE: Including staffing?

Mr GLANFIELD: Yes.

The Hon. PETER BREEN: Attorney, I want to ask you a question about the way crime statistics are kept. It seems that the Bureau of Crime Statistics conducts annual reviews on trends. Yet when it publishes its quarterly reviews it does not take into account what is happening in terms of trends in that quarter, so that there are anomalies in the figures. For example, in the recent figures published for the June quarter the categories of sexual assault showing a 7 per cent increase and robbery with a firearm showing a 6.2 per cent increase were recorded as "no significant upward or downward trend". The category of stealing from a dwelling showing a decrease of 5.1 per cent was recorded as "a significant downward trend". So a 5.1 per cent decrease is a significant downward trend and a 7 per cent increase is recorded as no significant trend. Because the annual figures are looked at for the purpose of assessing each quarter, there appear to be anomalies as a result. Would you indicate whether or not that is a problem that has been identified in terms of the recording of crime statistics?

Mr BOB DEBUS: I cannot say that I can but Mr Glanfield may be able to make some relevant observation.

Mr GLANFIELD: I will attempt to explain, but I am not an expert statistician. There is a professional approach to making those decisions. It takes into account, for example, variation over time. If the statistics indicate a large variation over time, but that variation is a regular trend, it would not necessarily be seen as a significant change. However, if a steady trend changes dramatically, that is significant. Simply looking at the percentage does not explain the whole picture. It may be a percentage of a very small number of cases that fluctuate wildly.

I referred earlier to murders, of which there are very few. If during one quarter there were 10 murders but only two in the previous quarter, it would look like a significant change. However, in the long term it would still be in line with a trend and therefore would not be identified as significant despite the fact that the percentage change was large. If we had 10,000 cases and the incidence increased to 12,000 or 13,000 cases, and that was out of the ordinary, it might be identified even though it was a much smaller percentage. Simply looking at the percentage to determine whether it is significant is misleading. I am sure that if you were to call Dr Don Weatherburn he would be happy to explain the scientific approach taken to reach those conclusions. It is a scientific method rather than a subjective method.

The Hon. PETER BREEN: I understand that, but the quarterly statistics suggest an anomaly because moving 7 per cent in one direction and 5 per cent in the other direction produces a completely different interpretation of the trends.

Mr BOB DEBUS: As explained, there are established methodologies. I freely confess my prejudice: I do not think there is any better group in the business than Don Weatherburn and his staff. I have a working presumption that his statistical assumptions are appropriate.

The Hon. PETER BREEN: I have no doubt that they are, and I am also one of his great admirers. However, without information about the annual trends, these statistics appear to contain anomalies.

Mr BOB DEBUS: We are happy to undertake to ask Dr Weatherburn to provide a further explanation of these issues in his next report.

The Hon. PETER BREEN: Thank you.

Mr BOB DEBUS: We will draw his attention to this discussion and ask that he provide a further explanation to account for this situation.

The Hon. PETER BREEN: I also understand that the quarterly review of crime statistics does not include drug offences or indictable traffic crimes. Apparently, as a result of other requests, in future Dr Weatherburn will incorporate drug offences but not indictable traffic offences. From my point of view indictable traffic offences are a serious category of crime that should be identified. Is there any prospect of having them included in the quarterly reviews?

Mr BOB DEBUS: The honourable member will be aware that Dr Weatherburn recently conducted an exemplary inquiry into high-range PCA offences as a specific initiative over more than a year. I will take that and the other questions on notice and provide a response with Dr Weatherburn's assistance.

The Hon. PETER BREEN: Thank you very much.

The Hon. GREG PEARCE: What is the unexpired term of the lease for the Drug Court at Parramatta?

Mr BOB DEBUS: There is no lease; it is part of the Parramatta court precinct.

The Hon. GREG PEARCE: So there would be no difficulty in moving it to new premises. Is that planned?

Mr BOB DEBUS: I am not aware of a plan.

Mr GLANFIELD: I am not sure whether the honourable member is referring to accommodation for Drug Court support staff located in other premises as an overflow. The court and its principal participants are housed in the Parramatta courthouse and there is no plan to move them.

The Hon. GREG PEARCE: I am referring to comments made by Acting Senior Judge Milson in February about cramped conditions. Do you have plans to deal with them?

MR GLANFIELD: I thought we had addressed that issue by finding additional space to accommodate court support staff. The court has a range of counsellors and support staff from various departments who work with it to ensure the provision of appropriate services. They do not all need to be housed in the Drug Court. We made some adjustment to address that concern earlier this year.

The Hon. GREG PEARCE: I refer to CourtLink phase two. The cost has increased by nearly \$5.3 million, which is a 33 per cent increase. What has happened? What is the reason for the increase? Does it relate to an expansion of the program or an overrun?

MR GLANFIELD: CourtLink will have a number of phases. Phase one involved the modification and development of the software. Although base software had been prepared, it was too simple to serve our purposes; that is, a multi-court case management system. It also involved the Supreme Court criminal area. Phase two, which is referred to in these budget papers, involves the development of the Criminal Court system for Supreme Court and District Court and elements of the civil parts of the program. Over the past year or so, we have had considerable support from the Chief Justice, judges of the Supreme Court and the District Court and the Chief Magistrate. A committee including representatives of the legal profession and court administrators has also been assisting.

We have witnessed the substantial transformation of court rules and forms. For example, we have been able to reduce about 700 different criminal forms across those jurisdictions to fewer than 100. It would have been wonderful if we had done this a number of years ago. However, because it has occurred now it has been necessary to change some parts of the system, and that has involved costs. A committee has also looked at finalising uniform court rules relating to civil matters across the Supreme Court, the District Court and local courts. Legislation will be introduced to reflect the streamlined civil procedure.

The system is essentially on budget. The additional costs reflect the changes we decided were advantageous in streamlining rather than simply continuing to computerise the system as it was. The cost is about \$4 million to \$5 million. However, taken across the program—which will cost a total of about \$45 million for the entire service—we do not think it is excessive. CourtLink is already working, so we know it is not a lemon. It is operating for adoptions and cost assessments in the Supreme Court and in Court of Criminal Appeal matters and Supreme Court criminal matters. It has been in place for about a month and we have had no reports of any problems. It is a little behind schedule, but it is delivering. The cost relates to improving the system rather than cost blowouts.

The Hon. GREG PEARCE: Was phase one done by an outside consultant?

MR GLANFIELD: It is all contracted. Initially the contract was with Aspect Computing. However, it was taken over by the KAZ Group, which is a subsidiary of Telstra. It is delivering the system design. The original system that is being modified was developed by Corum Business Solutions from Western Australia.

The Hon. GREG PEARCE: Does the entire figure relate to consultancies?

MR GLANFIELD: Yes. It is all money we are paying out. Obviously the department is absorbing some recurrent costs. Departmental officers are assisting in designing the specifications and working with the consultancy team, but that is all accounted for elsewhere in the recurrent budget.

The Hon. GREG PEARCE: Is the \$5.3 million extra subject to documentation? Is there a change-of-scope document for the consultant?

MR GLANFIELD: All of those changes are the subject of discussion and documentation. There would be documents sitting behind to reflect the changes. We have used a phased approach. Phase three includes sheriffs and local courts, and we will negotiate with KAZ about that. I am anxious not to disclose details of the financial arrangements that might prejudice our ability to negotiate.

The Hon. GREG PEARCE: What sort of outside, independent advice do you get to test the arrangements you are organising and the increased payments?

MR GLANFIELD: Outside consultants, including staff from Deloitte, have provided probity of decision-making and oversight of decision-making assistance. Of course, the Crown Solicitor has been acting for us with regard to contractual variations.

The Hon. GREG PEARCE: I refer to the court backlog maintenance program. When it first appeared in 1996-97 it was due to be completed in 2005 at an estimated cost of \$31.8 million. This year's budget papers indicate that it is due to be completed in 2008 at a cost of \$59.5 million, which is an increase of almost \$28 million. What are the reasons for the extension and the increase?

MR GLANFIELD: One could say that maintenance is a continuous burden.

The Hon. GREG PEARCE: We will assume that courts will continue to be maintained after 2008. I am concerned about this program.

MR GLANFIELD: We have continued to add tasks to the program. We have been able to justify that to Treasury and have received additional funds. One of the problems across the public sector is that the value of our asset base is very high and the funding to provide maintenance is not. The Government tries to allocate as much funding as it can. However, in terms of industry standards, we never have enough money for maintenance. As indicated in the budget papers, this year we have secured funding for a 10-year, \$250 million upgrade program. The figure is only \$3 million this year, but it increases substantially over the next few years. As we start to wind down the backlog maintenance program we will increase the general maintenance program.

We have some very old heritage courts and a considerable amount needs to be spent to repair them to the standard the community expects. As stated earlier, there is a significant community demand for specialist rooms—domestic violence rooms, safe rooms, court assistance rooms and legal profession rooms. Most old courts do not have those facilities, particularly in rural areas. The maintenance program is not simply about restoring roofs, fixing windows or painting; it is about increasing the functionality of the courts. We have a cyclic maintenance program for all courts outside Sydney. The principal courts in Sydney all have facility plans. It is all structured and planned.

The Hon. GREG PEARCE: I assume that the backlog maintenance program, as its name suggests, refers to outstanding maintenance that has not been carried out in the past?

Mr GLANFIELD: You could call it a maintenance program, in the sense that all maintenance seeks to restore access to a more serviceable state. We call it a backlog maintenance program because, in originally arguing our case to Treasury, we said we have a significant backlog of maintenance that needs to be done and we would like to catch up on it. Obviously, over six or seven years, other courts that were not identified at that stage are now in need of maintenance. So it is a rolling program. What you call it is not the real point; essentially, it is maintenance.

The Hon. GREG PEARCE: I am trying to understand the concept of catching up. The program is now larger than it was when it started, so it sounds as though you are going backwards instead of forwards.

Mr BOB DEBUS: But, to the contrary, whatever the semantic ambiguities—

The Hon. GREG PEARCE: They are not semantics. A lot of money is involved. The question is whether you are catching up.

Mr BOB DEBUS: Whatever the semantic ambiguities about the words used, the fact is that the amount of money being spent on court maintenance and improvement is actually going up, not down.

The Hon. GREG PEARCE: It is going up, rather than down, but it is not keeping up with the need. That is the issue.

Mr GLANFIELD: But things do not stay the same. So we now have occupational health and safety requirements in relation to fire safety that we did not have years ago.

The Hon. GREG PEARCE: But that is not backlog maintenance, is it? Rather, it is a new requirement, is it not?

Mr BOB DEBUS: It is what you say it is.

The Hon. GREG PEARCE: The Aboriginal outstation at Griffith, Bankstown Court, Blacktown Court, Hunter Children's Court, the Metropolitan Children's Court at Parramatta, Mount Druitt Court, and the Sydney trial complex all have delays or cost blow-outs, and in many cases the amounts that have been spent are much less than was spent in previous years, as the budget papers show. Can you explain why there are cost blow-outs and delays in relation to almost all your projects?

Mr GLANFIELD: First I wish to make a general comment. When a business case is initially made for a capital project, it is done on current-day costs. Obviously in the budget process there is quite often a delay, perhaps of more than a year. So, even to start with, in all of these projects there is always an inflator beyond what was originally estimated, to take into account what is called building price index [BPI] increases. In most of those projects—Mount Druitt Court, Hunter Children's Court and Bankstown Court—the BPI increases are taken through to the end of the projects. So we have now included in the building cost the inflated costs that are expected both in relation to the gap between the initial estimate and the allocation of resources that will occur over the next couple of—

The Hon. GREG PEARCE: You are saying that when you estimate the costs initially, you do not include an obvious inflation figure?

Mr GLANFIELD: You do not know what it is. That is standard practice.

The Hon. GREG PEARCE: It is standard practice across government, is it?

Mr GLANFIELD: That is my understanding. In relation to the three projects I have referred to, the original allocation did not include the allocation for the purchase of the site, simply because the price had not been settled. In relation to Bankstown, we needed to purchase the police site. There had not been agreement on the price to be paid. When that price was settled—and it was several million dollars—it was included, which is why it is reflected here. Similarly in case of the Hunter there was a need to purchase the site from the Department of Juvenile Justice. At Mount Druitt there was a need to purchase the land from the council. At the time the project was foreshadowed, we knew we needed to buy the land. But if we put in these figures for the amount we were prepared to pay, that would have been the minimum that we would have paid and it would not have been commercially sensible. So the bottom line is that it is now included once the deal has been settled.

Mr BOB DEBUS: It is standard procedure.

Mr GLANFIELD: In relation to the increases for the Metropolitan Children's Court, we are in the course of doing preliminary work there. A whole range of archaeological issues arose. The court is located on a very significant heritage site at Parramatta. The dig identified foundations and other matters that needed to be protected, so there were additional costs there. In addition, because of the need to accommodate the children's clinic and a number of court counsellors and psychologists, the size of the project expanded to take account of that, rather than have them separately accommodated. So there are explanations for each of these projects, and I am happy to provide the detail on notice.

CHAIR: Minister, you referred to Premier's guidelines.

Mr BOB DEBUS: Yes. I will table that document.

Document tabled.

(The witnesses withdrew)

The Committee proceeded to deliberate.
