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GENERAL PURPOSE STANDING COMMITTEE No. 3

Friday 19 October 2007

Examination of proposed expenditure for the portfolio area

ATTORNEY GENERAL, JUSTICE

The Committee met at 9.05 a.m.

MEMBERS

The Hon. A. R. Fazio (Chair)

The Hon. J. G. Ajaka
The Hon. D. J. Clarke
Ms S. P. Hale
The Hon. E. M. Obeid
The Hon. C. M. Robertson
The Hon. R. A. Smith

PRESENT

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

Attorney General's Department
Mr L. Glanfield, *Director General*
Mr B. Grant, *Chief Executive Officer, Legal Aid Commission of New South Wales*

Department of Corrective Services
Ms R. Booby, *Director, Restorative Justice Unit, NSW Department of Corrective Services*
Mr G. Schipp, *Deputy Commissioner, Corporate Services*
Mr R. Woodham, *Commissioner, Corrective Services*

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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 hearing open to the public and welcome the Attorney General and accompanying officials. At this hearing, we will consider the proposed expenditure of the portfolio of the Attorney General and Minister for Justice. Before we commence, I will make some comments about procedural matters. In accordance with the Legislative Council's guidelines for the broadcasting of proceedings, only Committee members and witnesses may be filmed or recorded. People in the public gallery should not be the primary focus of any filming or photographs. In recording 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. The guidelines for the broadcast of proceedings are available on the table by the door.

Any messages from attendees in the public gallery should be delivered through the Chamber and support staff or Committee clerks. Attorney, you and your accompanying officers are reminded that you are free to pass notes and refer directly to your advisers while at the table. The Committee has agreed to the following format for the hearings: Attorney General's for the first two hours and the remaining time for Justice. Catering will be available for the Attorney General's witnesses and table and Committee members at 11 am in the members lounge next door. Minister, do you anticipate that will cause any difficulties?

The Hon. JOHN HATZISTERGOS: No.

CHAIR: Attorney General, I advise that the Committee will inform you later during the hearing about the time for answering questions on notice; we will discuss that a bit later. All witnesses from departments, statutory bodies or corporations will be sworn prior to giving evidence. Attorney General, you do not need to be sworn, as you have already sworn an oath of office as a member of Parliament. All other witnesses can take either the oath or the affirmation.

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

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

The Hon. JOHN HATZISTERGOS: Yes, thank you. Perhaps I could make a brief opening statement on the Attorney General's Department and after 11.00 a.m. I will give a short statement on Justice, bearing in mind it is the format you have adopted. It is fitting in a budget estimates hearing that I supply the Committee with a report on the state of the Attorney General's Department, and thus provide some context for the discussion that will follow.

I am pleased to report that the 2007-08 annual budget for the Attorney General's Department has once again been increased to $716.2 million. This represents a 9.6 per cent increase compared to 2006-07. The Attorney General's Department plays a vital role in access to justice, the protection of rights and public safety, and this increase in expenditure will help build on the budgetary achievements of the last financial year.

I am proud to say that the Productivity Commission *Report on Government Services 2007* found the New South Wales courts to be amongst the most efficient in the country. The report found the New South Wales District, Local and Children's courts were No. 1 in Australia for timeliness with which they dealt with criminal matters. This was the fourth year consecutively that the Local Court has led the nation in this key measure of productivity. A few key achievements of 2006-07 include the progressive construction of the Parramatta Justice Precinct, which is on budget and ahead of schedule, with the six-court Children's Court completed last year and the remainder of the project not far away before the end of this year. Another achievement was a successful trial conferencing program for young adult offenders at Tweed Heads and Liverpool. This program enables some young offenders, 18-24 years of age, to engage in dialogue with victims. Owing to its success, the program, in accordance with our commitments prior to the election, will be expanded throughout New South Wales.

The notable achievement was the successful trial of the Domestic Violence Court Intervention program in Campbelltown and Wagga Wagga. The program involves working with local domestic violence support services to improve evidence collection, help victims to prepare for court and provide support services. Annual recurrent funding of $2.1 million will be provided from 2007-08 to continue the program. To minimise the potential trauma faced by vulnerable witnesses, major upgrades of remote witness facilities at seven courthouses were undertaken in the year past, and a new Victims Assistance Scheme commenced, improving rehabilitation support to victims of crime.

Finally, I am pleased to report to the Committee that the Attorney General's Department revenue for 2006-07 exceeded budget by 4 per cent at the end of the year,

whilst expenditure came in under budget by 1 per cent. In 2007-08 the budgetary increase is targeted on a number of initiatives including: $3.5 million for the maintenance contract for the Parramatta Justice Precinct; $500,000 for stage 2 of a court security program; $500,000 for increases in judicial salaries; and $300,000 to continue programs to reduce the representation of Aboriginal people in legal processes, particularly through mediation and diversionary programs.

> For capital works expenditure, perhaps the most significant achievement in the year past was the Children's Court, a court that is the largest and most technologically advanced facility in the State and the first of the new buildings on the site of the Parramatta Justice Precinct. It was opened in November last year by the Premier and has state-of-the-art security with around 100 close-circuit television cameras, X-ray machines and walk-through metal detectors. In criminal cases, vulnerable witnesses can provide evidence from outside the courtrooms without having to confront defendants.
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> A total of $103.8 million is budgeted for capital projects in 2007-08. An amount of $88.4 million has been provided for works in progress, which includes $17.8 million for the strategic court upgrade program and $2 million for the continued development and implementation of Courtlink Phase II, now called JusticeLink. I would like to bring to the Committee's attention that in the last quarter of 2006-07 a total of 6,929 documents were filed electronically by law firms. In addition, $2.9 million has been allocated for the Justice Agencies Video Conferencing Project, which extends the sector video conferencing networks to courts, Legal Aid Commission offices and corrections facilities in rural and regional centres. An amount of $57.8 million has been allocated for the continued development of the Parramatta Justice Precinct in cooperation with the Department of Commerce; and $5.2 million has been allocated for various capital projects of the Registry of Births, Deaths and Marriages. Major new works comprise $5 million for the rollout of remote facilities in New South Wales courts.

Finally, I want to provide the Committee with a brief snapshot of the magnitude of the work undertaken by the department. The department is responsible for around 168 courthouses. The department engages in over eight million face-to-face telephone and online client interactions each year. There are approximately 500,000 matters registered with the courts each year. The Attorney General and the department are responsible for 20 to 30 per cent of the legislative changes introduced to each sitting of Parliament, and over 200 acts are allocated to the Attorney General. There are 700,000 transactions per annum in the Registry of Births, Deaths and Marriages alone, and some 4,400 new justices of the peace applications are processed each year. More than 131,000 customers were provided assistance through LawAccess in the year past, while LawAccess online assisted 207,763 users.

Committee members can see from this picture that I have hastily painted that the 2007-08 budget is good news for the people of New South Wales. It translates to continued delivery of these excellent public services and ensures that access to justice remains a New South Wales Government priority into the future. I am happy to take any questions.

CHAIR: Thank you. We will commence 20 minutes of Opposition questioning.

The Hon. JOHN AJAKA: Would you agree with the statement that New South Wales crown prosecutors have a reputation for being the best and most professional group of prosecutors in Australia?

The Hon. JOHN HATZISTERGOS: I agree that the Crown Prosecution Service provides a good service, but I believe it could provide an even better one.

The Hon. JOHN AJAKA: So do you consider there might be a problem with the service being provided by the Crown prosecutors? Do you feel that the service being provided by them is not the best?

The Hon. JOHN HATZISTERGOS: I do not know. I have not done an analysis of the other court prosecution services. However, I do not think that the Commonwealth Director of Public Prosecutions is necessarily an inferior service to that provided by the New South Wales Director of Public Prosecutions. I do not believe that the Victorian Director of Public Prosecutions is necessarily inferior. I certainly do not believe that other States necessarily have an inferior service to what we have.

The Hon. JOHN AJAKA: You would not consider the service given by our Crown prosecutors to be an inferior one.

The Hon. JOHN HATZISTERGOS: No, but I believe it could be a better one too.

The Hon. JOHN AJAKA: Could you outline to the Committee the number of on-contract and temporary appointments of prosecutors at the Director of Public Prosecutions?

The Hon. JOHN HATZISTERGOS: I do not have that with me. I think it is around 10 or so. That information is publicly available.

The Hon. JOHN AJAKA: You do not know offhand at this stage.

The Hon. JOHN HATZISTERGOS: It is around 10. I can find out for you.

The Hon. JOHN AJAKA: Do you know how long each acting Crown prosecutor has been acting?

The Hon. JOHN HATZISTERGOS: It varies. For the last 2½ years, the Government has made the decision that it would not appoint any persons to life appointments. That will continue to be the situation, and that is why the legislation is before the House.

The Hon. JOHN AJAKA: It has been several years since Crown prosecutors were appointed with tenure.

The Hon. JOHN HATZISTERGOS: When you say "with tenure" you mean "with life". I regard "life" as abhorrent and anachronistic. It does not exist anywhere else. That is why there is legislation before this Parliament to change it. It does not apply just to the Crown prosecutors; it applies to the Director of Public Prosecutions and to various other positions. I am interested in the line of questioning you are taking, because your party stood at the last election with a policy of bringing greater accountability to the Director of Public Prosecutions.

I have a document here called "Higher standards, better services, better ballots, restoring faith in the legal system and making the Director of Public Prosecutions accountable". This is the system that you talk about as being the best in the country now, and you make these criticisms about the Director of Public Prosecutions and decisions that were taken by the Director of Public Prosecutions. You state:

(**unsourced)

> Compounding the problem is the perception that cases are often abandoned for no apparent reason ...

And:

> ... the office of the Director of Public Prosecutions report stated that there was emphasis on case screening and plea negotiation in the Local Court in order to reduce the number of trials. Without more accountability and transparency, community confidence in the Director of Public Prosecutions's role as the defender and gatekeeper of the criminal justice system would decline.

This is the policy with which your party went to the Government. You actually went out and said that you were going to reduce the term of the Director of Public Prosecutions to seven years.

The Hon. JOHN AJAKA: Is it not a fact that the Coalition did not seek a withdrawal of tenure for Crown prosecutors?

The Hon. JOHN HATZISTERGOS: You sought it for the Director of Public Prosecutions.

The Hon. JOHN AJAKA: We did not seek it for the Crown prosecutors.

The Hon. JOHN HATZISTERGOS: You sought it for the Director of Public Prosecutions and you tried to label everything that was going on in the Director of Public Prosecutions' office at the foot of the Director of Public Prosecutions somehow, like the Crown prosecutors. I cannot see the distinction. A report has been done in relation to this and I invite you to read it.

The Hon. JOHN AJAKA: Minister, when did you make the decision in relation to tenure for Crown prosecutors?

The Hon. JOHN HATZISTERGOS: The decision has not been taken. The Parliament has to approve the legislation.

The Hon. JOHN AJAKA: When did you personally first consider it?

The Hon. JOHN HATZISTERGOS: This is an issue that has been around for some time. I was not the Attorney General before, but perhaps I should briefly recap some of this history for you.

The Hon. JOHN AJAKA: Can you supply us with copies of the documents?

The Hon. JOHN HATZISTERGOS: I will briefly recount this history for you because I think you need to know about it. It is unfortunate that you have been thrust with these questions.

The Hon. JOHN AJAKA: There is nothing unfortunate about it.

The Hon. JOHN HATZISTERGOS: You are a relatively new member of the coalition, and I respect that.

CHAIR: You will be brief.

The Hon. JOHN HATZISTERGOS: I will attempt to be brief. When you were last in Government, you yourselves attempted to put the Crown prosecutors on contracts; however, you tried to sneak that through in the middle of the night in a miscellaneous bill. You were not even upfront about it. You tried to extend the acting term from one year to five years. You tried to put that in a little amendment in a miscellaneous bill, hoping that no-one would pick it up. That effort floundered.

All of them came up here on a vigil to protest about the fact that they had not been involved in the discussions or the consultations. That issue was not pursued. There have been a number of criticisms about life tenure. I have made such criticisms and I do not apologise for making them. By the way, the shadow Attorney General was part of the vigil at the time and was opposed to what you were doing.

The Hon. JOHN AJAKA: This inquiry is in relation to your Government.

The Hon. JOHN HATZISTERGOS: I am getting to that. The issue of tenure has been debated for some time and it is about all of these offices. You went to the election and said that you were going to restore faith in the legal system and make it accountable. Even the former Opposition leader wanted parliamentary committees to inquire into all these decisions and all sorts of things. We made a commitment. We made it quite clear that we were not going to appoint any more Crown prosecutors on life tenure, or other statutory officers for that matter.

The Hon. JOHN AJAKA: You would agree with me that it has been 2½ years since you appointed—

The Hon. JOHN HATZISTERGOS: That is correct. If that legislation is not passed, that will continue. No-one will be appointed to life tenure whilst I am Attorney General. I want to make that quite clear. The choice is this: we either move to a system that is in line with what exists in every other jurisdiction, adapted for our purposes, or we continue to have a situation where people will be appointed on an acting basis. I regard the acting basis as unacceptable and that is why this proposal has been put forward.

The Hon. JOHN AJAKA: Why has it taken 2½ years to bring forward this legislation, if it has been 2½ years since you have appointed a Crown prosecutor—

The Hon. JOHN HATZISTERGOS: Other issues came into play here. We can debate this in the legislation. There were proposals to reduce the number of overall Crown prosecutors that required temporary appointments because of criminal case conferencing.

The Hon. JOHN AJAKA: Will you tender copies of all submissions and correspondence received in relation to this, including a copy of the report by Greg James QC?

The Hon. JOHN HATZISTERGOS: The Greg James report has been made available and it will be made available to you on request. The individual submissions that have been prepared will not be released for obvious reasons without the concurrence of those who have provided them. They are cabinet documents, in any event.

The Hon. JOHN AJAKA: Why the recruitment age of 65 years for Crown prosecutors?

The Hon. JOHN HATZISTERGOS: All of this discussion is in the James report. Whoever has asked for the James report has a copy of it. If you want a copy of that report, we will make one available to you.

The Hon. JOHN AJAKA: You will not tender it or produce it today?

The Hon. JOHN HATZISTERGOS: I am happy to make it available to you whenever you want it. It is not a secret. It has been published in the newspapers. The answer to your question is that Mr James makes it clear in the report that the position of the Solicitor General and the Director of Public Prosecutions is somewhat differentiated by the fact that they have pensions and the status of Supreme Court judges and, therefore, the retirement age should be different for them compared to Crown prosecutors.

The Hon. JOHN AJAKA: Following the resignation of Greg Smith SC, now the member for Epping and the shadow Attorney General, the vacant position of the Deputy Director of Public Prosecutions was advertised in February 2007. As I understand it, recruitment proceeded and a recommendation was made. Despite this the position has been filled only on a temporary basis and, as I understand, it has had several short-term extensions. Given that the position is second only to the Director of Public Prosecutions and the vital administration of the office, why have you not filled the vacancy permanently?

The Hon. JOHN HATZISTERGOS: The vacancy will be filled when the legislation has been endorsed by the Parliament.

The Hon. JOHN AJAKA: Notwithstanding the vital role of a Deputy Director of Public Prosecutions, is it not to be filled permanently until this legislation is approved?

The Hon. JOHN HATZISTERGOS: I am not prepared to make a life appointment. I want to make that quite clear to you and your colleagues. If you want to ask all these questions, which are aimed at some sort of Director of Public Prosecutions caucus between you and the shadow Attorney General, do so by all means; but I am not prepared to recommend life appointment. Once the legislation is passed by the Parliament, an appointment will be made in the proper process by the cabinet.

The Hon. JOHN AJAKA: There has been no life tenure appointment while you have been Minister, as I understand it. Does that apply also to magistrates and judges et cetera?

The Hon. JOHN HATZISTERGOS: No, because they are constitutionally protected, as you know, through legislation, the referendum that you made. They do not have life anyway; they have a retirement age of 72.

The Hon. JOHN AJAKA: They have tenure until retirement age.

The Hon. JOHN HATZISTERGOS: Of 72.

The Hon. JOHN AJAKA: If a magistrate is appointed at, for example, 35 or 40 years of age, he basically has 30 years.

The Hon. JOHN HATZISTERGOS: But these people we are talking about have appointments for life. So what is 72? It is life.

The Hon. JOHN AJAKA: You are saying that in a normal situation a Crown prosecutor should be appointed for only 10 years but it is okay to appoint a magistrate for 40 years.

The Hon. JOHN HATZISTERGOS: No.

The Hon. JOHN AJAKA: Do you not see that magistrates should be in the same position as Crown prosecutors?

The Hon. JOHN HATZISTERGOS: No. That is dealt with in the James report.

The Hon. JOHN AJAKA: Can you provide the Committee with staffing levels at the Director of Public Prosecutions over the last four years, including the percentage of permanent Crown prosecutors and temporarily engaged prosecutors?

The Hon. JOHN HATZISTERGOS: I will give you the staffing profiles for all of the Director of Public Prosecutions. Its budget has gone up quite considerably over the last four years.

The Hon. JOHN AJAKA: Do you really believe that it is better to engage, on a temporary basis, Crown prosecutors who are not adequately protected by tenure?

The Hon. JOHN HATZISTERGOS: They are protected by tenure. Under our legislation, they have a seven-year term.

The Hon. JOHN AJAKA: A 10-year term?

The Hon. JOHN HATZISTERGOS: A seven-year term.

The Hon. JOHN AJAKA: Do you see that in the same light?

The Hon. JOHN HATZISTERGOS: The Commonwealth advertised on the weekend; Mr Ruddock advertised on the weekend for three years. I am not sure that inferior people have come out of the Commonwealth Director of Public Prosecutions. They advertised on the weekend for three years.

The Hon. JOHN AJAKA: Do you consider that Crown prosecutors to date who have life tenure are inferior because they have life tenure?

The Hon. JOHN HATZISTERGOS: Their tenure is not affected.

The Hon. JOHN AJAKA: So you consider that a Crown prosecutor with life tenure would be in the same category or be able to perform their functions in the same way as a Crown prosecutor who is appointed for seven years or 10 years.

The Hon. JOHN HATZISTERGOS: Yes, because the legislation says so. They have exactly the same power.

The Hon. JOHN AJAKA: Then why would you need to change the life tenure?

The Hon. JOHN HATZISTERGOS: Because there has to be continuous performance improvement. It is good for an organisation to be able to ensure that people perform. We do not have life tenure; you could argue that we should have it. If you want to have an efficient system, it is important that there be opportunities for performance management and performance improvement.

The Hon. JOHN AJAKA: But why temporary and not permanent appointments?

The Hon. JOHN HATZISTERGOS: I do not regard seven years as temporary. You talk about judgements and so on. Let us be clear on this. I think it is insulting for you to suggest that somehow the judgement and acts of Crowns who have been appointed as acting Crowns would be impaired by the fact that they are acting for short terms. In fact, the legislation says that they have exactly the same powers and functions as a Crown. The other thing you have to remember is this: all of these people are subject to the ICAC legislation. They are all subject to the rules: the Bar rules, the court rules and the normal discipline provisions that exist under the Legal Professional Act, supervised by the Legal Services Commissioner and the various authorities.

I am fascinated by your obsession with wanting to protect life tenure for people. I do not know of any other positions that have life tenure, with the exception of the Queen. Perhaps you can draw one to my attention, if you are aware of it.

The Hon. JOHN AJAKA: I will ask the questions. Minister, you are well aware that you have been appointing them as temporary, not permanent.

The Hon. JOHN HATZISTERGOS: Acting.

The Hon. JOHN AJAKA: And you have only been appointing them in a temporary position for 12 months. With the proper running of the justice system in this State being of vital importance, why would you appoint Crown prosecutors on a temporary basis for 12 months? This is over 2½ years.

The Hon. JOHN HATZISTERGOS: Because the alternative is to appoint them for life, and I do not regard that alternative as one that I am prepared to embrace. If you read the James report, you will see that it gives you very strong reasons why. There was consultation with this proposal. Unlike your proposal—which, as I said, was done in the dead of night for five years—this has been the subject of consultation with heads of jurisdiction, with the Bar, with the Law Society, with the Crowns, with the Director of Public Prosecutions, the public defender, the solicitor-general, the Crown advocate and the victims groups. The outcome is in the James report, and that is the legislation that is before the Parliament. My position is very clear. I am not prepared to support life tenure. You can have your views and we can go on about this forever, but I am not sure it will make much difference.

The Hon. JOHN AJAKA: I am asking you about temporary appointments for 12 months. You would agree with me that it is far easier for you to sack a 12-month acting Crown prosecutor—

The Hon. JOHN HATZISTERGOS: I do not do that.

The Hon. JOHN AJAKA: or not renew his acting position in 12 months. Would you not agree with me that that would pressure an acting Crown prosecutor to deal with you or anyone else in a different manner than a Crown prosecutor who has been permanently appointed?

The Hon. JOHN HATZISTERGOS: I do not understand what you are attempting to suggest. Are you attempting to suggest that somehow a person is going to corrupt their behaviour in order to curry favour with me?

The Hon. JOHN AJAKA: My question to you is very simple: for 2½ years you have not appointed one permanent Crown prosecutor.

The Hon. JOHN HATZISTERGOS: That is right.

The Hon. JOHN AJAKA: They have been appointed on a temporary basis only. Because I am new to this chamber—as you have so nicely indicated—I would like you to explain to me why in 2½ years the only Crown prosecutors you have appointed have been temporary for 12 months. Why have you not appointed a permanent Crown prosecutor?

The Hon. JOHN HATZISTERGOS: Firstly, I did not appoint those people during the last 2½ years; I have been in the job for only a relatively short time. Every recommendation that has been made to me by the director in relation to acting Crown prosecutors I have actioned. I have not rejected any of his proposals for acting appointments. Indeed, I have made it quite clear that they should be for 12 months, because that is the maximum period allowed.

We can go on about this forever, but I do not regard life tenure as appropriate—I have made that quite clear and I am quite public about it—nor did you prior to the last election in the proposal that you put forward for a nonrenewable term of seven years for the Director of Public Prosecutions. It does not exist anywhere else, and you have not identified to me any other position. If you read the James report, you will see that is what it says. I do not believe that there is any more mileage to be gained from pursuing this line. We will have a debate about it in the Parliament next week. You can put your position and advocate your support for life appointments then. You will not get my support. I have made it quite clear that I do not support acting appointments ongoing for a one-year basis. That is why I am putting forward this legislation to provide for seven-year appointments, which is more than twice as long as the Commonwealth is currently offering.

The Hon. JOHN AJAKA: Mr Sheahan, the previous Attorney General, from your own party, stressed the importance of tenure, as did Mr Paul Whelan and Mr Peter Anderson, so as to avoid interference. Why are you taking a different approach?

The Hon. JOHN HATZISTERGOS: The James report—which you have not read and you have not asked for, but we will provide it to you—on life appointments says:

(**unsourced)

> New South Wales appointments to a fixed age were regarded as discriminatory on the grounds of age, notwithstanding that others, including judges, have a statutory retirement age. But that is not an argument in favour of appointing persons for the whole of their natural or working lives or leaving them alone the option of deciding how long they might continue in their appointment. Judicial independence is an entirely different concept to the concept that applies to the performance of statutory duties of these office holders. The term of judicial appointments provides no valid comparison. Appointments for the whole-of-life or until an advanced retirement age for such office holders without performance review did not militate in favour of conscientious performance nor career advancement.
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> Appointments of this kind carry with them the perception of favouritism by way of conferring an unreviewable life-time benefit. They are unjustified where independence is otherwise sufficiently safeguarded and where recruitment of those of sufficient merit is practicable. In the submissions and in my discussions it was generally accepted that, if appointments were not to be renewable, a 10-year appointment was appropriate—

That is for the Director of Public Prosecutions—

> and, if renewable, a seven-year appointment with performance review. Some submissions suggested shorter periods. Some submissions supported appointment until a retiring age. It is consistent that the terms of appointment, including renewable appointment, should terminate at the new retirement age.

The Hon. JOHN AJAKA: The Government outlined in its 2006-07 budget:

> Criminal case processing reforms are expected to provide enhanced justice outcomes through greater charge and sense and certainty and to significantly reduce the costs associated with late pleas of guilty.

Has the Government discontinued this initiative with the office of the Director of Public Prosecutions?

The Hon. JOHN HATZISTERGOS: No.

The Hon. JOHN AJAKA: Does the Government have any figures as to the success or failure of these reforms?

The Hon. JOHN HATZISTERGOS: Only the figures that the Director of Public Prosecutions has provided.

The Hon. JOHN AJAKA: Do you have those figures with you?

The Hon. JOHN HATZISTERGOS: I have some information.

The Hon. JOHN AJAKA: Can they be produced today?

The Hon. JOHN HATZISTERGOS: Yes. We will get them for you, if we can. I also have other information.

CHAIR: The time for Opposition questioning on this segment has expired. Going to the cross-bench, do you have some questions, Mr Smith?

The Hon. ROY SMITH: My question is on the Administrative Decisions Tribunal. I could not find any figures in the specific arrangements. If at some time I could have some costings for the operations of the tribunal itself, I would appreciate it. I am specifically interested in figures relating to appeals, published and unpublished, involving firearm owners against decisions made by the Commissioner of Police or the Firearms Registry through his delegate. How many appeals has the tribunal had to deal with on firearms related issues?

The Hon. JOHN HATZISTERGOS: Thank you for giving me notice of this question. I can give you some information. As advised in the last 12 months, there were 40 applications filed against decisions made by police under the Firearms Act 2006. The tribunal disposed of 40 applications during this time. Of these applications, the tribunal set aside 12 decisions. One was varied and two were remitted back to the police for reconsideration. Of these 15 applications, the Commissioner of Police filed one appeal. The appeal was upheld and went back to the tribunal for rehearing. In the remaining 25 matters, 16 decisions were affirmed, one did not appear, two were held not to be within

the tribunal's jurisdiction, two were settled and dismissed and four were withdrawn and dismissed.

In the previous 12 months, 60 applications were filed against decisions made by the police under the Firearms Act 2006; 62 applications were disposed of in that period. Out of those applications for review, 14 decisions were set aside, one decision was varied, one was set aside and remitted back to police for reconsideration and four were remitted back to the police for reconsideration. Out of these, the Commissioner of Police filed one appeal, and the appeal resulted in consent orders being made. In the remaining 42 matters, 25 decisions were affirmed, one was dismissed, one was held not to be in the tribunal's jurisdiction, four were settled and dismissed, and 11 were withdrawn.

The Hon. ROY SMITH: I also ask for figures on the issue of apprehended violence interim orders and orders that were confirmed, in light of criticism about the number of apprehended violence orders and privileged apprehended violence orders that have been issued in recent times.

The Hon. JOHN HATZISTERGOS: Thank you again for giving me notice of this question. I can advise the honourable member that the latest statistics regarding the number of apprehended violence orders and apprehended personal violence orders granted are available on the Bureau of Crimes Statistics and Research[BOCSCAR] website. In 2006-07, in New South Wales, there was the granting of 19,768 apprehended domestic violence orders and 6,046 apprehended personal violence orders. The Bureau of Crimes Statistics and Research does not record the number of applications made. However, the figures obtained from the Local Court indicate that, in 2006, there were 119 applications for apprehended domestic violence orders made in the Murwillumbah Local Court. Of these, 64 proceeded to hearing and 63 orders were made. The Local Court does not keep statistics for apprehended personal violence order hearings in 2006. Eighty-six applications were made at Murwillumbah Local Court.

In relation to apprehended personal violence orders, the Crimes Act 1900 was recently amended to permit courts to refer matters to mediation at a community justice centre at any time when considering whether to make an order or after making such an order. However, some matters cannot be referred for mediation and these were outlined in section 562N(2) of the Crimes Act.

> Section 562M(3) of the Crimes Act already provides for an authorised officer to refuse to issue process if satisfied that the application could be more appropriately dealt with by mediation or other dispute resolution. Community justice centres provide training and ongoing feedback to magistrates and chamber registrars to assist them in identifying the matters that are suitable for mediation.

Courts must treat all applications seriously as domestic violence is a crime that causes long-term damage to individuals, families and the community. Provision exists under apprehended violence order laws to deal with vexatious and frivolous complaints. For example, where a complainant applies directly to the court for an apprehended violence order without the assistance of police, the complainant may be liable for a costs order made against him or her if the court decides the complaint was frivolous or vexatious in nature. Alternatively, if police are being asked to bring a complaint, they retain the

discretion to refuse to take action when they believe that the allegations were made without substance.

It is acknowledged that apprehended violence order laws cannot and do not eliminate violence in all cases and need to be part of a broader approach to policing and preventing domestic violence. Research conducted by the Bureau of Crimes Statistics and Research found that the vast majority of protected people on apprehended violence order led to a reduction or cessation in abusive behaviour. The ongoing review and updating of laws that concern domestic violence demonstrate the Government's commitment to the issue of domestic violence and to ensuring that apprehended violence orders are as effective as possible.

I am advised by Mr Glanfield that expenditure for the ATT is in the Human Rights Service program on page 5.15 of Budget Paper No. 3, Volume 3.

The Hon. ROY SMITH: Thank you. If you do not have these figures in front of you, you might be prepared to take this question on notice. Under justice policy and planning regulatory services, legal and support services and justice support services, a number of grants have been made for a significant amount of money in the form of grants, both recurrent and non-recurrent, to non-profit organisations. Can I have some advice as to what those grants are for and what organisations they are for?

The Hon. JOHN HATZISTERGOS: We will take that on notice.

Ms SYLVIA HALE: A report into the legislative review of the Privacy and Personal Information Protection Act 1998 was due on 30 November 2004. Can you explain the delay, three years later, and the failure to table the report?

The Hon. JOHN HATZISTERGOS: I actually think that has been tabled. Yes, it has been tabled.

Ms SYLVIA HALE: Can you give me the date on which it was tabled?

The Hon. JOHN HATZISTERGOS: Lee Rhiannon asked me about it and I made some inquiries. I am sorry, I may not have communicated with your office about it. I am pretty sure it has been tabled. We will get you a copy of it.

Ms SYLVIA HALE: Thank you. It is more than four years since the last full-time permanent privacy commissioner resigned; he resigned on 2 May 2003. Is it correct that there has been no move to appoint a full-time permanent privacy commissioner in the interim?

The Hon. JOHN HATZISTERGOS: Yes. I would like Mr Dickie to stay on, but he has indicated that he wants to retire at the end of this year. Members should be aware that Work Privacy NSW has continued under Mr Dickie. The acting commissioner

has been the full-time commissioner since June 2004, and the organisation has continued to function.

Ms SYLVIA HALE: Do you have any plans to abolish the office and its functions?

The Hon. JOHN HATZISTERGOS: No.

Ms SYLVIA HALE: Will you be appointing a replacement?

The Hon. JOHN HATZISTERGOS: We intend to advertise at an appropriate time.

Ms SYLVIA HALE: Will it be permanent replacement rather than an acting replacement?

The Hon. JOHN HATZISTERGOS: Yes. As I said, the issue here is that Mr Dickie was not able to stay on permanently. We wanted him to stay on because, as you know, some major reports on privacy are coming out next year; however, unfortunately he has indicated that he wants to leave at the end of this year. We have accommodated his arrangements. I have just been advised that the report you are referring to was tabled on 19 July. We will arrange to have a copy delivered to you.

Ms SYLVIA HALE: Thank you. Turning to the issue of domestic violence, I understand a review was undertaken in relation to services dealing with domestic violence. Has the review been completed; if so, are the findings of the review publicly available?

The Hon. JOHN HATZISTERGOS: I will take that question on notice at the moment. I might come back to you on it, if I can.

Ms SYLVIA HALE: My question is not only whether those findings will be made available but also will some indication be given of when the Government's response to those findings can be expected?

The Hon. JOHN HATZISTERGOS: I will come back to you on that. I have some information on it but I do not think it answers your question, so I will not waste your time.

Ms SYLVIA HALE: Why has the Government not committed to the establishment of a 24-hour a day seven-day a week domestic violence multi-agency project?

The Hon. JOHN HATZISTERGOS: I am not aware of that. I am not sure what agency you are referring to.

Ms SYLVIA HALE: It is a multi-agency. I believe there is a proposal for a multi-agency domestic violence project.

The Hon. JOHN HATZISTERGOS: I am not aware of this issue. A lot of this is being coordinated through the Premier's Department. I am not sure that it would necessarily fit in with our responsibility, bearing in mind if it is multi-agency it tends to be coordinated at a different level. Again, I will take that on notice. If you could give me the details of where you heard of this initiative, we will follow it up for you.

Ms SYLVIA HALE: I will get back to you. There was an election commitment to expand the domestic violence court assistance scheme with five new locations mentioned. Have those locations been selected? How much money has been allocated to the expansion of the scheme?

The Hon. JOHN HATZISTERGOS: Is this the court assistance scheme?

Ms SYLVIA HALE: Yes.

The Hon. JOHN HATZISTERGOS: That is currently operating in 33 areas.

Ms SYLVIA HALE: Yes, but there was an election commitment to expand it to an additional five new locations.

The Hon. JOHN HATZISTERGOS: I will get more information on that and come back to you.

Ms SYLVIA HALE: Thank you. What efficiency savings target has been imposed on court services in the current budget year?

The Hon. JOHN HATZISTERGOS: Mr Glanfield might be able to respond to that.

Mr GLANFIELD: I cannot give you the precise figure, but across the whole of our court services program we have been endeavouring to improve the efficiency with which we are operating. Most of our efficiency savings are coming from the corporate services area. We are not really focusing in any way on reducing our front-line services. There are some changes in workload from time to time in court. For example, in the Land and Environment Court one commissioner position has not been filled. It is part of an efficiency saving there; that is simply because that position was not needed, and the chief judge agreed with that.

We have tried to ensure that the savings are coming from a more efficient provision of corporate services across the whole of the department. That includes, for example, bringing together the corporate services from some of the disparate parts of the agencies within A-Gs, including public trustee and protective commissioner. We have

entered into service level agreements to ensure that the standards continue but the resources are not duplicated. That is primarily where savings are coming from.

Ms SYLVIA HALE: It is my understanding that you were hoping to make savings of something like $4½ million in the area of court services. Does that figure sound correct to you?

Mr GLANFIELD: That does not sound correct to me. However, in most of our areas across the department, we have been able to allocate additional resources to where they are needed. If there have been savings in some of the areas of the department which have lead to the figure that you have there, they would not be affecting service delivery. As the Minister said earlier, court performance in New South Wales leads the country and has done so for a number of years. So the performance of all our courts is second virtually to none.

The Hon. JOHN HATZISTERGOS: Going back to a previous question, I have some information for you on the Women's Domestic Violence Court Assistance Scheme. We did make a commitment—you are correct—to provide an additional $2.55 million for the program from 2009-10. This will mean that we will be able to help more women and children to obtain legal protection and family law violence and access to social welfare services, such as counselling and financial assistance. Funding for the program of $4.18 million will be provided by the Government in this year's budget to be administered by a specialist unit within Legal Aid New South Wales. I am advised that at the moment, in terms of the five new locations, we are assessing the demand in order to decide where these locations would best be placed. That decision at this point has not been made, but we are currently in the assessment process.

Ms SYLVIA HALE: Just returning to court services, is it your intention to close or scale back any existing court registries, remove Local or District Court sittings from any places where sittings currently occur, scale back court sittings or change sitting courts and registries to other service delivery formats? Are any of those moves included amongst your plans to make budgetary cuts?

The Hon. JOHN HATZISTERGOS: Is this about court closures?

Ms SYLVIA HALE: It is about the general operation of the courts. Are you going to close or scale back any existing courts or court registries, remove Local or District Court sittings from any places at which sittings currently occur or scale back—

The Hon. JOHN HATZISTERGOS: We do not make those decisions on sittings; they are made by the chiefs, the heads of jurisdiction. There are no plans to close courts in New South Wales. Comments were made by the shadow Attorney General about the Government planning closures and dumbing down the criminal justice system. They are just misleading and untrue. I imagine that is what you are referring to.

It is true that under the previous Government there were massive closures. There were 39 closures of courts in a single day—on one day they closed 39 courts. A number of regional areas were affected by those decisions. However, this Government has already rebuilt the court system. We have opened new courts and rebuilt old ones, and we are continuing to do so. We have opened the new $5 million court at Blacktown; $9.7 million for Broadmeadow Children's Court; an $11.5 million complex at Mount Druitt; and $21.2 million at Bankstown. We have built additional courtrooms at Moree and Orange. Currently we have Nowra as well. We have our Courts 2010 project, which is $250 million over 10 years to upgrade our court facilities, including improving access for court users and jurors with disabilities.

It is true that in some locations in more remote areas the volume of work has not been constant, and we have staff at those particular complexes. We have sought to go out with outreach programs, particularly to Aboriginal communities, with chamber registrars, to provide services in those communities—for example, instalments and paying fines or matters of that kind. That helps to sustain those positions in those offices.

Ms SYLVIA HALE: Can you nominate some of those?

The Hon. JOHN HATZISTERGOS: Yes. We issued a press release about it a couple of months ago. We identified that we were taking this initiative in order to sustain those services in those towns and to go out and provide more assistance to those communities where travel was more problematic.

Ms SYLVIA HALE: One of the problems with the Government's press releases is that they never come to members of Parliament. They may go everywhere else, but they never come to the offices of members of Parliament.

The Hon. JOHN HATZISTERGOS: Mine are on the Attorney General's website.

Ms SYLVIA HALE: Well after the event, often.

The Hon. JOHN HATZISTERGOS: They are there now. If you cannot find it, you know my office; we are always helpful.

Ms SYLVIA HALE: Thank you. Given that there has been a 1.1 per cent increase in the number of new Local and Children's Court criminal matters between 1998-99 and 2005-06, an increase in the average number of times a matter goes before a court before it is finalised as the judiciary more intensively case manages individual matters, additional recurrent funding given to the Department of Corrective Services to handle the increased inmate population in correctional centres and the increased number of people on remand—and the staff in the department has received a four per cent increase in salary this financial year—why is the amount budgeted for employee related expenses for court services only 1.2 per cent more than that budgeted for in the 2006-07 financial year?

The Hon. JOHN HATZISTERGOS: There are a lot of things that you need to—

Ms SYLVIA HALE: I am just saying that obviously there is an increased workload. The things that I nominated are indicative of the increased workload on staff.

The Hon. JOHN HATZISTERGOS: Do not forget that the courts are now getting more and more efficient. The Local Court in particular, which you made reference to, has been leading Australia for the last four years consecutively. A lot of that has to do with the fact that we are using technology more than we have in the past; there is videoconferencing and matters of that kind, which mean that case disposition sometimes does not take as long. Your question suggests that we are doing things the same way we did them four years ago, which is not quite accurate.

Ms SYLVIA HALE: But you are in a situation where more work is being expected of the employees of the courts. You also anticipate that there will be an increased workload due to the increasing authorised police strength. Are you expecting your employees to do a lot more with virtually less money or the same static amount of money?

The Hon. JOHN HATZISTERGOS: I am not expecting them to do it in the same way they did it four years ago, and that will change more and more.

Ms SYLVIA HALE: So what is the principle?

The Hon. JOHN HATZISTERGOS: Are you asking me what the secret is to our having achieved the most efficient local court system for the last four years?

Ms SYLVIA HALE: My concern is that there has been a short-changing of everyone involved in the court system in the services available to them and the amount of work that is expected of the employees.

The Hon. JOHN HATZISTERGOS: I do have some material on this and I will provide it to you.

CHAIR: The time for cross-bench questioning has expired. We will now go to Government questions. Do you have any questions?

The Hon. EDWARD OBEID: Can you provide an update on key law and order reforms that have been introduced since the election?

The Hon. JOHN HATZISTERGOS: The Government does take a tough approach to fighting offending conduct. We believe that the best way to stop people engaging in criminal behaviour includes having a strong and effective criminal justice system that forces offenders to face the consequences of their actions. Since we have

been in Government we have not been afraid to take actions, make the hard decisions and introduce reform that has led to more serious criminal offending being the subject of a jail term and to keeping those persons who do offend in jail for a longer time.

I want to provide some examples of this. We have introduced standard minimum sentences for a range of offences. We have created new offences and increased penalties for drive-by shootings, firearm possession, gun theft and sale. We have created the extended supervision order and continuing detention order regime for serious sex offenders so that there are either monitored or forced to stay in custody. Because of these reforms, we now have the strongest sentencing regime in Australia. The Judicial Commission's 2007 report "Full time imprisonment in New South Wales and other jurisdictions" found that New South Wales had the highest statutory maximum penalty available for sexual assault and the equal second highest for robbery and burglary offences. The Judicial Commission also found that the proportion of offenders in New South Wales sentenced to full-time imprisonment is higher than other jurisdictions. For sexual assault, 96 per cent of offenders are sentenced to full-time imprisonment; for robbery, 83 per cent of offenders are sentenced to full-time imprisonment; for serious robbery offences, 86 per cent of offenders are sentenced to full-time imprisonment; and for burglary offences, 78 per cent of offenders are sentenced to full-time imprisonment.

According to the Bureau of Crime Statistics and Research, offenders were being sent to prison for longer periods in 2006 than when the coalition was in Government in 1993 across a number of offence categories. For example, in 1993 the average sentence for murder was 12 years; by 2006 it had gone up to 17 years. There are also significant increases in the average length of prison sentences for people convicted in the Local Court for assault, sexual assault, sexual assault involving children, fraud and dealing with trafficking in opiates.

The results of the Government's tough approach to cutting down on criminal behaviour have been clear, but the fight against crime is an ongoing battle. That is why earlier this year the Government went to the election with a range of new commitments to get even tougher with criminals and to make them pay for their offending behaviour. We are keeping to these commitments, and in just over six years we have already introduced a raft of important reforms that will improve the operation of the criminal justice system to make sure that serious criminal offenders are convicted and kept behind bars for longer.

One of the key commitments made by the Premier during the election campaign was to increase sentences to match community expectations. Accordingly, we have introduced into Parliament a range of additional sentences that will attract standard minimum terms. These initiatives have been strongly supported by victims of crime and their representatives. For example, in the June 2007 edition of *Police News*, Martha Jabour from the Homicide Victims Support Group had this to say:

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

The legislation that has been introduced this week also included a number of aggravating factors that judges will be forced to take into account when sentencing. The new laws will include an important reform that will make offenders acknowledge the hurt and damage they have caused their victim. This reflects the community's expectations that, if offenders want remorse considered as part of their sentence, they should take real responsibility for their actions. They will therefore be required to provide evidence in court that they have understood and accepted the consequence of their actions. This important reform has also received strong support from the victims of crime.

Earlier this week Ken Marslew from the Enough is Enough Anti-Violence Movement had this to say on Radio 2GB:

> A lot of these guys don't understand the damage they've done … when they do, it can have a powerful effect… restorative justice can have some very powerful outcomes ….

I was also very flattered to hear Mr Marslew say, 'Mr Hatzistergos has some guts; he's taking the system on.' The Premier also went to the election earlier this year with a commitment to introduce new laws to protect victims of domestic violence. In line with this commitment, we have recently announced that we will be introducing a new specific offence of domestic violence. This will mean that anyone who commits a domestic violence assault will now have it recorded against their name as part of the permanent criminal record.

Currently perpetrators are charged with various types of assault that already exist in our courts. However, this new law will make it clear that an offence involving domestic violence is domestic assault. This will make it easier for police to track down habitual offenders and leave a permanent stain against the name of anyone who commits this kind of cowardly offence. We also made a firm commitment during the election campaign to get even tougher in our fight against the scourge of graffiti vandalism. Graffiti is not only unsightly—it can be dangerous, encourage other kinds of criminal activity, and cleaning it up is a very costly exercise.

During the campaign the Premier made a number of specific promises relating to graffiti. In keeping with these commitments, earlier this week we introduced tough new laws to give police the power to confiscate spray cans from juveniles if they do not have a lawful excuse for having them. These offences will apply even if the juvenile in question is yet to commit an offence. This means that, by being able to take away a graffiti vandal's tool of trade, police will be able to prevent graffiti offences from occurring in the first place.

The Premier has also promised that the Government's anti-graffiti action team will bring together representatives from various Government agencies, public utilities and industry to undertake a review of all the legislation to stop graffiti vandalism, including consideration of a complete ban on the sale of spray paint. In keeping with this commitment, I have recently asked the team to commence this review. They are now accepting submissions from the public.

Another crime that the Government has been quick to crack down on since the election is rock throwing. We believe that rock throwing is dangerous and stupid, and we agree with the community that people who throw rocks are not just cowards but also criminals who should face tough outcomes. Accordingly, we recently passed new laws to increase the penalty for committing the offence that rock throwers are commonly charged with. Under these changes, the penalty for recklessly causing grievous bodily harm has been increased from seven to 10 years, and from 10 to 14 years when done in company. These new penalties send a strong message that, if you recklessly commit a violent offence like throwing a rock at someone's car, you risk a lengthy term of imprisonment.

The Government is also committed to protecting our children from the advances of perverts and paedophiles. We know that these offenders will try to exploit our kids' trust whenever they can. That is why we are concerned about reports of paedophiles using 'My Space' and other popular websites to seek out their victims. We have responded by initiating new laws that target these offenders who seek to groom their potential victims. These laws will now make it an offence for paedophiles to communicate with children in order to commit a sexual offence. We are also targeting paedophile behaviour before an offence is committed. Perpetrators who lure children with enticements to lower their guard and make them more vulnerable to abuse will also be guilty of an offence. These offences will be punishable by terms of imprisonment of up to 10 years.

The Government has had tremendous success in convicting serious criminals, keeping them locked up for longer and reducing rates of crime, and our determination in this area will continue. Since the election we have kept our promises and the message from the Government could never be clearer.

The Hon. CHRISTINE ROBERTSON: Can you tell us the latest information on initiatives taken by the Government to reform the laws of sexual assault and help protect the victims of this crime?

The Hon. JOHN HATZISTERGOS: Thank you very much. Sexual assault leaves its victims traumatised for life, including inflicting physical and emotional wounds that never go away. However, tragically, it is a crime that in the past has gone often unpunished where victims have been put on trial themselves and the perpetrators have escaped prosecution. The Government has given this the highest priority in the reform of the law of sexual assault, as well as the care and treatment of victims and investigation and punishment of its perpetrators.

This week I met with the President of the New South Wales Bar Association and a number of his colleagues to discuss the way barristers cross-examine victims of sexual assault. I wrote to him about the urgent need to stop the kind of questioning—which has led to adverse attention in many media circles—which has led to victims being humiliated in court when they courageously enter the witness box and testify to their experience of rape. Despite positive changes in the community towards the crime of

sexual assault, the behaviour, regrettably, of some members of the legal profession when questioning a victim continues to be profoundly disturbing.

Several recent cases of cross-examination have been brought to my attention and I am shocked about what I have been informed of: a young girl was in the witness box and cross-examined for three days where consent was not an issue; and a defence barrister asked for the adjustment of the CCTV cameras in a courtroom in order to show the victim's dress—the fact that she was 6½ months pregnant in circumstances completely unrelated to the offence before the court at that time. This is disgusting behaviour and I abhor it. I am pleased to say that a number of people in the legal profession, including its leadership, equally abhor it. Questions were repeatedly being asked about the way the young girl dressed, her character and behaviour.

This is not new. This has been going on for some time, as you would be aware. The New South Wales Department of Women issued a report, which I referred to in Parliament. A number of cases were referred to in that report. A hesitant, tentative victim stumbling over her words was asked by the defence counsel, 'Is English not your first language?' In another case of a woman who had been sexually assaulted, the defence turned its focus to evidence identifying that the woman's children had been removed from her care in recent years.

We have already placed a duty on judges to intervene and stop abusive and improper questioning, but more needs to be done in this area. There needs to be a change of culture amongst professionals who are involved in these cases. It has to be made clear to all legal representatives that this behaviour is totally unacceptable to the community. I have asked the Director of Public Prosecutions to give me running reports on any further instances of this kind of behaviour that any of the prosecutors come into contact with. I will be preparing a dossier on those particular cases and, if necessary, drawing it to the attention of the appropriate authorities.

I have also asked the Bar Association to amend its rules to put a duty on barristers to take into account vulnerability of witnesses when asking questions, and not to cross-examine in a way that is harassing, intimidating, offensive, oppressive, humiliating or repetitive, with any breach of these rules being investigated and prosecuted as professional misconduct. When I announced these initiatives, Tegan Wagner, a young and very brave victim of sexual assault, spoke out publicly about them. She said:

> This is a positive step forward, it's fantastic …it is really impressive. They are the ones who are cross-examining us and they are the ones making us feel bad about ourselves. They are in a sense raping us all over again, mentally, in the witness box.

Ms Wagner endured three days in the witness box and faced 1,971 questions by defence counsel alone. It is recognition of the struggle of Ms Wagner and the thousands of others like her that the Government has been fighting to change the way these legal representatives behave in court.

The Bar Association has responded to my proposals, and I am currently considering its response. Any reforms must address questions from barristers that belittle and insult witnesses and the practice of intimidation and harassment during cross-examination. This is behaviour that retraumatises sexual assault victims by putting them through their ordeal all over again, and it is behaviour that has to be stopped. These changes are part of the Government's years of work in reforming sexual assault laws and criminal processes. It is guided by the report and recommendations of the Sexual Assault Task Force, a group of legal experts, victims' counselling services and prosecutors brought together by the Government to advise on how to fix the prosecution of sexual assault. The Government has implemented the majority of the task force recommendations and is continuing to review and do further work on the way the justice system deals with sexual assault cases.

There are promising signs. A report released this week by the Australian Institute of Criminology found that 85 per cent of the population now believe that, in sexual matters, no means no. It was backed up by comments of victims groups. Karen Willis, from the NSW Rape Crisis Centre, stated:

> People are no longer thinking the way a woman dresses or behaves, or what she does somehow means that sexually assaulting her is okay. And I think in general people are rejecting those sorts of ideas. So when they're used as excuses in sexual assault matters offenders aren't getting away with it anymore and juries are going "that's not good enough".

That is what she said last month on 2SM. These changes in community attitudes are also reflected in the rates of convictions in sexual assault cases. The Bureau of Crime Statistics and Research has found that, between 1993 and 2006, the percentage of people in prison after being convicted in the Local Court for sexual assault increased by more than 30 per cent; in 2006 the conviction rate for sexual assault in the District and Supreme courts was 49 per cent. Although these statistics are promising, there is still more work to be done. While the Government is moving ahead with transformation of sexual assault law, it is regrettable that we do not hear too much on this subject—and, indeed, not enough from the Opposition.

A media release issued on 11 September of this year that focused on the issue of sexual assault and the matters I have raised was sought to be trivialised in an attempt not only to guarantee Crown prosecutors jobs for life but also to blend the two together. It is regrettable that that action was taken. This is a stand-alone topic that I believe should be above politics, frankly, and it should not be sought to be compromised in the way that that press release sought to do.

One of the major changes recommended by the task force was the introduction of a statutory definition of consent and an objective fault test that would stop the accused from escaping conviction simply because he believed, unreasonably, that the victim consented. A new bill, as you know, relating to these issues will be introduced into Parliament. Studies have found the current law of consent to be difficult and complicated for jurors to understand. These new laws will lessen the confusion for jurors and remove the ambiguity by not leaving it up to the courts to interpret. Under current laws there is no requirement for verbal agreement, and consent obtained after persuasion is sometimes

regarded as consent. The Government regards this as unacceptable and that is why this bill will define what constitutes consent.

It will also provide an objective test in relation to the current situation, which is focused on the position of the offender. I hope that by doing this we will reduce the area of juror confusion and increase the number of persons who plead guilty. I certainly hope that it will reduce the trauma that victims are currently undergoing. I am pleased that Karen Willis from the NSW Rape Crisis Centre has fully backed this initiative. She indicated:

> The NSW Rape Crisis Centre … applauds the move to introduce an objective fault test for ascertaining a defendant's mistaken belief as to consent…
>
> The Centre is also supportive of the proposed definition of consent in relation to sexual assault. This definition provides clarity for juries and will serve to educate the community about permissible sexual behaviour. The definition makes it clear that consent cannot be achieved by trickery, lies, application of drugs or alcohol, deceit, manipulation or any other means.
>
> Consent is only consent when it is given freely and voluntarily by a person who has the capacity to consent.

The Government is committed to easing the trauma that victims have had to endure. As I have said, the Government already has a number of initiatives in the pipeline, adding to those which we have already taken, including prohibiting an accused from personally cross-examining the complainant; establishing remote witness facilities that allow complainants to use CCTV to give evidence; closing the court when the victim gives evidence; reforming jury warnings and directions by judges if there is a delay in the reporting of an assault by a victim; allowing transcripts to be used in retrials, so victims do not have to give their evidence repeatedly; and creating the duty on judges to not allow improper questions.

The Hon. EDWARD OBEID: Can you please advise the Committee of what are shown as the current trends in sentencing offenders?

The Hon. JOHN HATZISTERGOS: Yes. Thank you very much for this question. An analysis of sentencing patterns in nine major offences conducted by the Bureau of Crime Statistics and Research [BOCSAR] shows no trends towards leniency in sentences handed down by NSW criminal courts over the past decade. Between 1993 and 2006, the likelihood of convicted offenders being sentenced to prison increased considerably for several major offences.

The average duration of prison sentences over the last 13 years has also increased. According to Bureau of Crimes Statistics and Research, the average sentence for murder has increased in the last three years. As I indicated, in 2006 the average sentence was nearly 17 years, an increase of over 41 per cent from 12 years in 1993. Between 1993 and 2006 there was a significant increase in the percentage of people sentenced to prison in higher courts for assault, robbery, break and enter, fraud, and dealing and trafficking in opiates. In particular, between 1993 and 2006, the percentage of people in prison after being convicted in higher courts of robbery rose from 71 to 77 per cent, assault rose from 43 to 61 per cent, and break and enter rose from 61 to 76 per cent. In the Local Court between 1993 and 2006, there was a significant increase in the percentage of people

sentenced to prison for assault, sexual assault against children, and break and enter. Between 1993 and 2006, there were significant increases in the average length of prison sentences for people convicted in the Local Court of assault, sexual assault, the sub-set of sexual assault involving children, fraud and dealing with trafficking in opiates.

I have already referred to the Judicial Commission's report "Full time imprisonment in New South Wales and other jurisdictions" that found that we had the highest statutory maximum penalty available for sexual assault and, equally, the highest for robbery and burglary offences. Comparing the imprisonment rates per 100,000, New South Wales had a higher rate than the Australian average—the New South Wales rate was 170 compared to the Australian average of 156—and also a higher rate than those in New Zealand, Canada and England. In New South Wales, the proportion of offenders sentenced to full-time imprisonment is higher than other jurisdictions for sexual assault, robbery, and more serious robberies, and higher than both Australia and international jurisdictions for burglary offences.

The former shadow Attorney General was asked about this issue on 17 January, prior to the election. His reply was that we must 'ensure that the system of sentencing for criminals is restructured'. Then he was asked whether he had any initiatives and there was not one.

CHAIR: We will now go to 20 minutes of Opposition questions.

The Hon. JOHN AJAKA: I have heard the answers to the questions that The Hon. Eddie Obeid and The Hon. Christine Robertson put to you. Having regard to the answers and given that the Government has also increased the police forces budget by 4.4 per cent and that the budget for legal aid has been increased by 9.5 per cent, which would likely lead to more charges and prosecutions with better representations through legal aid, how can you justify reducing the budget of the Office of the Director of Public Prosecutions by 3.3 per cent? Does that not create a strong possibility of undermining successful prosecutions?

The Hon. JOHN HATZISTERGOS: No.

The Hon. JOHN AJAKA: With the 3.3 per cent decease in the budget of the Director of Public Prosecutions, how do you justify your resourcing of the Director of Public Prosecutions when page 5-50 of your budget estimates reveals that Crown representation in the Supreme Court will remain stable, trials registered and completed in the District Court will decrease, but sentences registered and completed in the District Court will increase?

The Hon. JOHN HATZISTERGOS: I think you have partly answered your own question; however, in any event, let me provide you with some information. As with all Government agencies, the Office of the Director of Public Prosecutions has been asked to make efficiency savings. However, the claim that the Director of Public Prosecutions' budget has been slashed is incorrect. In real terms, leaving aside the funding for the

Criminal Case Conferencing program, the Director of Public Prosecutions' budget has been increased by 2.4 per cent for 2007-2008, which is broadly consistent with the CPI. Last financial year, the office of the Director of Public Prosecutions was given $5.465 million in funding for a new criminal case conferencing program. The trial and its funding are continuing until the end of 2008, but the Government will be introducing legislation in this session to support the trial, so it is not just an administrative trial. It will then continue into 2008 as a partly legislated trial.

According to the Office of the Director of Public Prosecutions' own annual reports, staff numbers since 2002 have increased by 14 per cent. The Office of the Director of Public Prosecutions' budget has grown $22.4 million over the last five years, which is an increase of 31 per cent. The overall number of Local, District and Supreme Court matters that the New South Wales Office of the Director of Public Prosecutions receives each year has decreased by almost 5 per cent since 2001-02. The number of appeals that the Office of the Director of Public Prosecutions has conducted in the Court of Criminal Appeal and in the High Court has also decreased substantially. While there has been an increase in the total numbers of District Court matters that the Office of the Director of Public Prosecutions receives, this reflects a rise in appeals and not a rise in trials or sentences; they have also decreased. These statistics are consistent with research on recorded incidences of crime in New South Wales, which reveal that nearly every major category of crime either has been either or is remaining stable. As you would be aware, the Treasurer has asked the Auditor General to provide him with a report on efficiency and operation of the office. The Auditor General's report is expected in April next year.

The Hon. JOHN AJAKA: Has the length of trials over the last five years not increased substantially when compared—

The Hon. JOHN HATZISTERGOS: It has increased, but not substantially.

The Hon. JOHN AJAKA: My next question is to the director general. Given that last year you explained, as I understand it, that CourtLink Phase II would be completed by this year, could you please explain to the Committee, firstly, why it has been renamed JusticeLink and, secondly, why it has been delayed until 2008?

Mr GLANFIELD: It is a success story now. In August we introduced JusticeLink—I will explain the name in a minute—into Supreme Court crime and it is working successfully. I explained last year the difficulties we had originally with this matter. The original software tendered by KAZ Computer Services was found by them not to be capable of the customisation they expected, or to have the ability to handle the volumes that the New South Wales system requires. They put to us that they could not perform the contract. We had the choice at the time either to litigate, to sue them for failure to deliver under the contract, or to negotiate with them the possibility of delivering a new product. They put to us that they felt they could develop the product. It is very complicated, it is difficult, but they felt they could do it. Given that they had then become

a subsidiary of Telstra, we decided that they had the backing and support to do it. We entered into a new contract in 2005.

The Hon. JOHN AJAKA: Is this with KAZ?

Mr GLANFIELD: This is with KAZ. We entered into a new contract in 2005 to deliver the computer system that would cover the Local Court, District Court and Supreme Court. It will be one of the first in the world that enables one single file to follow electronically a matter from wherever it starts in the court system right through to conclusion, also allowing electronic filing and allowing online access for practitioners. We already have electronic filing in the Supreme Court as well, as part of the delivery of the product, subsequent to the 2005 contract working in the Possessions and Corporations list. Over 7,500 matters have been filed over the last year or so. Solicitors who have been surveyed say that it works exceptionally well for them.

The criminal side, as I said, was introduced into the Supreme Court in August. We currently have, in user acceptance testing, the District Court model. That is very much nearing the end. We will probably have the product ready to implement before the end of this year, but we need to work with the courts and their vacations to make sure that we implement it at an appropriate time.

Over 80 per cent of that product for the District Court is based on Supreme Court software, which is already, as I say, functional and working. Yes, there have been some delays, as I indicated last year. We are probably six to eight months behind in the current contract. But the important fact is that the product is being delivered. We are very happy with the product we have and it is going to transform the way we do business in New South Wales. We are not paying any more to KAZ for the system. They are still contractually bound to the original amount we contracted well back before 2005.

The Hon. JOHN AJAKA: Was KAZ the original contractor or was it Aspect Services?

Mr GLANFIELD: We contracted with Aspect Services, but they were taken over by KAZ Computer Services, a bigger organisation. But the problem that arose for both of them was the fact that Aspect had tendered a system that was developed by Quorum, a Western Australian company. That is a system that works in some courts around the country, but it was the Quorum product that KAZ believed simply could not be modified to enable it to handle the volumes of matters that are dealt with in the New South Wales system.

The Hon. JOHN AJAKA: When do you believe that the system will be running in its entirety?

Mr GLANFIELD: In a sense, there is never going to be an end to this. I should come back to the question that you asked at the start, and that was why we changed the name to "JusticeLink". It turned out that a company in America had the title "CourtLink"

for some of its software, and we were not aware of that at that time. So there was a legal reason why it was perhaps easier to do it. The other thing is that we are trying to make sure that all the other legal agencies—Director of Public Prosecutions, Legal Aid, police, corrections—are all involved in being able to access the system and use it electronically for, for example, electronic briefs from police going directly to the Director of Public Prosecutions and then to the courts system. We will continue to modify the system over the years, but certainly we hope to have the core system in for the Local Court, District Court and Supreme Court by the end of 2008. We are doing it for both criminal and civil, but we will be progressively ensuring that there are increased applications for the profession and the public to be able to access the information and to use it in a more efficient way.

The Hon. JOHN AJAKA: What was the initial cost estimate for this when it first started?

Mr GLANFIELD: I do not have that figure, but the initial contract price that would have been stated, which is probably what you are referring to, has not changed. We are not paying KAZ any more than we contracted to pay Aspect.

The Hon. JOHN AJAKA: Can you take it on notice and produce the information as to the—

Mr GLANFIELD: The actual contract amount we have paid?

The Hon. JOHN AJAKA: Yes, from the beginning. Is the program you are now anticipating will be completed the same program as when it was first contracted or have you applied some—if I can use the word—"add-ons" to it?

Mr GLANFIELD: As part of the negotiations, I think we have gained a much better product. The technology has changed dramatically from what was originally sought in the tender. Just with the simple interface, if I can use that expression, the useability of the system takes account of changes in the whole web environment. The users of the system will now find a much simpler system to deal with. In fact, my staff in the Supreme Court who have been working on it have indicated that, compared with some of the earlier versions of the Quorum product they looked at, the new system is just fantastic. It is much simpler and much easier to use. If you are asking me whether we have a better product than we originally thought we would get out of Aspect, the answer is yes. However, as I say again, we are not paying more to KAZ for it.

The Hon. JOHN AJAKA: Can you tell me how much has been expended to date on the project?

Mr GLANFIELD: It is in the budget papers in the infrastructure.

The Hon. JOHN AJAKA: Can you take that on notice?

Mr GLANFIELD: I will take it on notice, but it is in the budget papers.

The Hon. JOHN AJAKA: Was the contract first entered into by way of a tender process?

Mr GLANFIELD: Yes. If I recall, we went through I think three—certainly two—tender processes. The first tender process we went into we found that no-one was capable of delivering what we wanted. That was interesting. We thought there would have been American software that was suitable. However, as it turns out, most of the court systems in America are smaller than ours. They are based on state- or even county-level court systems. The interaction with police agencies is entirely different in the States; there are multiple agencies within states. We found that most of the software in other parts of the world was fragmented and did not have the capability. We did go to tender on a number of occasions. The final contract we entered into—Aspect was a competitive tender—was at that time overseen by the State Contracts Control Board and was subject to all the usual business cases.

The Hon. JOHN AJAKA: Are you able to tell me what safeguards there were to ensure there was no bias in the process?

Mr GLANFIELD: I can ensure you that all the probity aspects were looked at very, very carefully. We had an independent valuation process.

The Hon. JOHN AJAKA: Apart from the changes initially from Aspect to KAZ and then, as I understand it, to KAZ again, how many new contracts or extended contracts have been entered into?

Mr GLANFIELD: I had absolutely no control over the fact that Aspect Computing presumably was made an offer that they could not refuse and the owners of Aspect sold to KAZ. That was just the private sector at work. Equally, when KAZ was taken over by Telstra, again I had no control of that. However, at the time we certainly sought assurances in relation to the continued security of our contract obligations.

As I said earlier, we did not contract with Quorum. We had always protected ourselves from Quorum, with it being a small developer, so that we were not at risk. In terms of contract changes, as I said, we entered into a fresh contract in 2005. I am not aware if there were any modifications to the contract over the period—nothing, if there were, that was substantial—but the contract we are working under at the moment is the 2005 contractual arrangements.

The Hon. JOHN AJAKA: You said earlier that you had no control over, for example, KAZ taking over Aspect or Telstra taking over KAZ. Do you not have provisions in your contract where you, as the ultimate customer, have a form of estoppel or a form of right to ensure that, if you contract with one particular company, they are the company delivering the product, as opposed to their simply transferring it over.

Mr GLANFIELD: In fact, they did not. The people who worked on this project all the way through are the original Aspect people who became KAZ employees, who became, you could say, Telstra employees, but they are all run as subsidiaries. I am not sure whether you are suggesting that I should have been terminating the contract. There was a valid contract in place and we had in place arrangements to ensure that those obligations were always met.

The Hon. JOHN AJAKA: My question to you was: does your contract have provision to allow you, as a form of safeguard, to relook at the contract if another company is going to take over the company that successfully won the tender?

Mr GLANFIELD: The contractual arrangements did not change. I do not know the answer to your question but, in any event, I do not think it is relevant.

The Hon. JOHN AJAKA: Can you take the question on notice?

Mr GLANFIELD: I do not think it is relevant. The fact of the matter is that there was a valid contract at all times.

The Hon. JOHN AJAKA: I would ask you to take on notice whether there is any provision in the contracts to allow you at least to have that safeguard. I would like to know about it.

Mr GLANFIELD: If it is a safeguard.

The Hon. JOHN AJAKA: Do you personally have any relationship with either Aspect Services Pty Ltd or KAZ Technology?

Mr GLANFIELD: None whatsoever.

The Hon. JOHN AJAKA: Are you aware of whether any of your managers had any relationship personally with either Aspect Services or KAZ?

Mr GLANFIELD: Not at all.

The Hon. JOHN AJAKA: Did you enter into any direct negotiations with either Aspect Services or KAZ?

Mr GLANFIELD: Personally, no. Did we enter into contractual arrangements?

The Hon. JOHN AJAKA: No, just you personally?

Mr GLANFIELD: Personally, no.

The Hon. JOHN AJAKA: Have you personally had any social contact with anyone from either Aspect Services or KAZ Technology outside of this professional relationship?

Mr GLANFIELD: Not that I am aware of.

The Hon. JOHN HATZISTERGOS: Can I answer a question? You asked me before about the Crown prosecutors and their inferiority or superiority compared to other jurisdictions. The only figures on terms of performance that I can provide you with are performance on trial verdicts for the Crown. I am happy to provide you with those comparators, if you want me to. In the New South Wales District Court, 49.5 per cent of defended trials result in trial verdicts for the Crown; for the Commonwealth, it is 68 per cent of defended trials; in Victoria, it is 58.4 per cent of defended trials; in South Australia, it is 51 per cent of trials in Adelaide and 53.19 per cent of trials in circuit matters; in Western Australia, it is 53 per cent of convictions after trial; and the Northern Territory has 94 per cent findings of guilt in the Supreme Court and 92 per cent convictions after trial or hearing, but bear in mind that it is a much smaller system. In the United Kingdom Crown Prosecutors Service, 67 per cent of defended trials result in verdicts—and we do not have figures for the Supreme Court.

Whilst those figures might suggest that New South Wales is lower in terms of outcomes of convictions, it is only one factor. As has been mentioned by the Western Australian Director of Public Prosecutions in his report, when he does these indicators, it is not the role of the Office of Director of Public Prosecutions to secure convictions at any cost but rather to fairly and effectively present the evidence to the jury or the court. Nevertheless, he says it would be surprising, perhaps a cause of concern, if the conviction rate was consistently below 50 per cent. I just draw those comparators to your attention.

The Hon. JOHN AJAKA: Given the comments of Justice Ipp, the key architect of your Government's civil liability reform measures, that your legislation is 'inconsistent, unbalanced and unfair for injured people', has your department had any review of the legislation?

The Hon. JOHN HATZISTERGOS: We do reviews. Is this the Civil Liability Act? I think he was referring to tort law reform more broadly in his paper. He has done a couple of papers that I am aware of. I only have responsibility for the Civil Liability Act; I do not have the Motor Accidents Act or the Workers Compensation Act. They are vested in the Minister Assisting the Minister for Finance. I should make that point at the outset.

Between 1999 and 2003, the Government introduced important reforms to the law of civil liability and compensation. The reforms were aimed to ensure the rights of injured people to receive compensation while striking a balance between the level of compensation and the ability of the rest of the community to pay for that compensation. In addition, the reforms aim to strike an appropriate balance between personal responsibility for one's conduct and the social expectations of proper compensation and

care. The Government believes reasonable balances have been achieved through the Civil Liability Act, currently in operation in New South Wales. The Government's reforms were necessary to deal with the insurance crisis that was crippling small business, community groups, sporting organisations and local councils.

The reforms, however, were also a response to problems regarding insurance and about reducing premiums. The reforms were principled reforms that went to the heart of the Government's concerns about matters relating to liability in this area. A number of claims have been made about this legislation. You may not be aware that General Purpose Standing Committee No. 1 of the Legislative Council inquired into this issue and reported on it on 8 December 2005, making 26 recommendations. The Government has responded to those recommendations by partially restoring Sullivan v Gordon damages for gratuitous services provided by a claimant and providing a cap on the hourly rate of calculated damages, and by industrial related personal injury claimants that may recover the cost of nursing and domestic services provided by family and friends.

We fully considered the other remaining recommendations and declined to implement them. We are working with other Australian governments through committees such as the Council of Australian Governments, Standing Committees of Attorney General and Treasurers Committee to ensure as far as possible that there is a nationally consistent approach to tort law reform.

CHAIR: We now go to cross-bench questions. The Hon. Roy Smith, do you have any questions?

The Hon. ROY SMITH: No.

CHAIR: We will go to Ms Sylvia Hale.

Ms SYLVIA HALE: How many times have preventative detention orders been made in New South Wales since the power was introduced?

The Hon. JOHN HATZISTERGOS: Do you mean continuing detention orders?

Ms SYLVIA HALE: Yes. I think they are commonly referred to as preventative detention orders.

The Hon. JOHN HATZISTERGOS: I know about them. There was obviously Tillman. There was Winters.

Ms SYLVIA HALE: I am talking about the anti-terrorism legislation and preventative detention.

The Hon. JOHN HATZISTERGOS: Sorry, I thought you were talking about sex offenders. I will have to take that on notice.

Ms SYLVIA HALE: Could you at the same time detail the circumstances for each incident and whether any complaints have been lodged regarding those incidents?

The Hon. JOHN HATZISTERGOS: Is this is in New South Wales?

Ms SYLVIA HALE: Yes. Again, this is a range of questions on anti-terrorism. The Terrorism Legislation Amendment Warrants Act 2005 introduced covert search warrant powers. How many of these warrants have been issued in New South Wales since the power was introduced?

The Hon. JOHN HATZISTERGOS: I think you will find—and I am pretty sure if it—that is to be the subject of a report. I will take that on notice.

Ms SYLVIA HALE: When you are doing that, I would be interested in knowing how many have been issued, how many have been executed, whether any complaints have been made about the deployment of those powers and when you plan to review these powers.

The Hon. JOHN HATZISTERGOS: Okay.

Ms SYLVIA HALE: Have the expanded powers under the Terrorism Police Powers Act 2002 been used in the last 12 months?

The Hon. JOHN HATZISTERGOS: These questions are proper. I know I administer the legislation, but the actual actioning of them is for the police.

Ms SYLVIA HALE: But I understand that the Commissioner of Police is required to furnish you and the Minister for Police with a written report in the event of any exercise of these special powers.

The Hon. JOHN HATZISTERGOS: I am not aware that he has provided me with such a report. I am happy to take these questions on notice and to respond to you.

Ms SYLVIA HALE: I will go through these questions. I am asking you whether these expanded powers have been exercised. Last year you explained that only one authorisation had been given and that this authorisation had not been operationalised. Are you concerned that the Attorney General at the time argued so strongly that these powers were needed yet it appears they have not been used once since 2002?

The Hon. JOHN HATZISTERGOS: I am not sure what debate you had with Bob Debus last year. All of these powers are, as you would be aware, important powers. They are not powers that one would anticipate would be used with any sense of regularity. They would be used in circumstances where it would be appropriate to use those powers, and I am not sure whether those circumstances have necessarily arisen with any great degree of frequency. However, I am happy to take those issues on notice.

Ms SYLVIA HALE: There is no review and complaints mechanism in the Terrorism Police Powers Act to address community concerns about the lack of public accountability in this act. Will you table each written report from the Commissioner of Police on the use of the special powers? If the special powers of the Terrorism Police Powers Act have been used, will you table the Commissioner's—

The Hon. JOHN HATZISTERGOS: I am happy to take these questions on notice, even though there is no statutory obligation for me to do so.

Ms SYLVIA HALE: Section 36 of the act requires a yearly review of the act and it specifies that the report be tabled in each House.

The Hon. JOHN HATZISTERGOS: I think that is different from what you asked me for before. In any event, I will look at those issues.

Ms SYLVIA HALE: No report, as far as I know, has been tabled yet. Has a review of the act been conducted; if not, why not and, if so, when will the report be released?

The Hon. JOHN HATZISTERGOS: Of the Terrorism Police Powers Act?

Ms SYLVIA HALE: Yes, referring to section 36 of the act. Perhaps you can take those questions on notice.

The Hon. JOHN HATZISTERGOS: The review is currently under way.

Ms SYLVIA HALE: Good.

The Hon. JOHN HATZISTERGOS: I will get you a detailed answer.

Ms SYLVIA HALE: How much of the Public Purpose Fund has been spent on expanding the Legal Aid Commission's means test to enable more socially and economically disadvantaged people to have access to legal aid?

Mr GLANFIELD: The Public Purpose Fund has responded to a number of submissions from the Legal Aid Commission seeking additional funding to do that over the last few years. Each submission made by the Legal Aid Commission has been supported, and additional funds have been made available. As to the precise amount of the additional allocation from the fund for that purpose, we will need to take that on notice, but it has considerably improved the means test.

Ms SYLVIA HALE: Could you also provide some indication of the number of people who have benefited from the expansion of the provision of funds? Is there a correlation between the amount of money that has been available and the number of people who have now been able to access the fund?

Mr GLANFIELD: Certainly I can assure you that the number of people who have benefited as a result of the loosening up of those tests is considerable. I do not have specific figures with me, but we could take that on notice.

Ms SYLVIA HALE: Thank you. How much of the Public Purpose Fund has been spent on the Regional Solicitors Scheme?

Mr GLANFIELD: Again, this was an initiative of the Legal Aid Commission to try to ensure that there were in the regional areas of New South Wales—

The Hon. JOHN HATZISTERGOS: We will ask Mr Grant to address this issue.

BILL GRANT, Chief Executive Officer, Legal Aid Commission of New South Wales, sworn and examined:

Ms SYLVIA HALE: Mr Grant, do you want to expand on what has been said about the legal aid means test or about the Regional Solicitors Scheme?

Mr GRANT: The actual figures would have to be taken on notice. We have increased our means test twice substantially, the last means test increase being in September this year. It has brought our means test back to comparable levels with 1995. There had not been a significant increase in the legal aid means test for about eight or nine years. With the two increases, which were supported by the trustees of the Public Purpose Fund, we now have a means test that is fairly equivalent to the national means test across the country.

With the Regional Solicitors Scheme, which was supported by the Law Society of New South Wales, the Public Purpose Fund—from recollection, the figure was about $700,000—enabled us to get 10 solicitors into regional New South Wales. We have difficulty at the moment having the requisite number of private practitioners to undertake legal aid work.

Ms SYLVIA HALE: Have you undertaken any assessment as to the effectiveness of the scheme?

Mr GRANT: The Regional Solicitors Scheme has just commenced. In fact, I do not think we yet have 10 solicitors on the ground in regional New South Wales; we probably have about seven or eight. We have had private firms—it is not a legal aid staffing initiative—engage a solicitor; we contribute to their employment costs and then require a certain amount of legal aid work in return for that subsidy. It really has not yet commenced, so we are not a position to comment on figures.

Ms SYLVIA HALE: When would you expect to do an assessment?

Mr GRANT: It will probably take us about 12 months to do an evaluation. The Public Purpose Fund trustees, although generous, are exacting and they will require us to do a pretty thorough evaluation.

Ms SYLVIA HALE: Were these two programs previously funded from Consolidated Revenue? Did the funding for, say, the expansion of the means test and whatever previously come out of Consolidated Revenue?

Mr GLANFIELD: No. I think it is important to point out that there is a combination of sources of funding for the Legal Aid Commission, both Federal and State—and also from the Public Purpose Fund, which forms part of the State. Its budget has been enhanced significantly by State Government contributions and also by the Public Purpose Fund. I think Mr Grant could give you the details of that. However, these moneys were not a substitute—and the public trustee is very conscious of that—for what would have been Consolidated Fund expenditure for the Legal Aid Commission.

Ms SYLVIA HALE: I am basically inquiring whether, as a result of establishing these two activities, there have been any cuts to other areas of legal aid.

The Hon. JOHN HATZISTERGOS: Yes, but the significant funding cuts to legal aid have occurred at the hand of the Commonwealth. They have made real decreases in funding to legal aid. In fact, the last agreement on Federal-State funding that applied to legal aid radically changed the funding. In fact, when they got re-elected, the funding areas that they slashed—this is just appalling but it is true, and I think the Opposition should take note of this—were in the work for war veterans, child support and migration; there was no indexation provided for any of those areas. They cut all those areas and shifted all the funding towards funding persons accused of terrorist offences. They unilaterally slashed the funding, as I said, in those areas. They effectively shifted much of those costs on to the State or discontinued those areas. The arguments of the funds to continue to owe a duty to special people such as war veterans was ignored. It just basically turned its back on these people.

At the same time the New South Wales Government increased its funding to $9.8 million in this financial year, which is a massive increase of 230 per cent over the last 11 years. So, in the same period, the Commonwealth funding for legal aid has been reduced by $80.2 million in real terms. That is, if the Commonwealth funding levels of 1996 and 1997 had been maintained and increased by the consumer price index each year, legal aid would have received total additional funding of $80.2 million for the Commonwealth over the 11-year period. So we have increased our funding commitment to offset, in part, that reduction and to ensure the legal services for socially and economically disadvantaged people.

The issue that I have referred to, taking that money away from war veterans and child support areas, led to a situation where their policies were skewed towards those people who face serious terrorism charges, which they could not avoid under the High Court's decision in Dietrich. Since 2004, it has all fallen into the type—

Ms SYLVIA HALE: You do not have to persuade me that the Commonwealth is on the nose.

The Hon. JOHN HATZISTERGOS: Since 2004 there have been 14 matters where people have been charged with terrorism offences, and all of these were granting funding of Federal legal aid. I am not saying that those people should not be represented, by any means; but I object to the fact that it has been done at the expense of war veterans, those people in need of child support and migrants.

Ms SYLVIA HALE: I agree. I now turn to the Government's response to the "Breaking the Silence" report. In that response the Government promised extra funding for victims services for indigenous people. How much additional funding has been provided for victims' services programs for indigenous people?

The Hon. JOHN HATZISTERGOS: We will have to take that on notice.

Ms SYLVIA HALE: I understand there has been no additional funding. If there has not been, can you explain why?

The Hon. JOHN HATZISTERGOS: When you say how much funding has been provided, do you mean additional funding?

Ms SYLVIA HALE: You promised extra funding.

The Hon. JOHN HATZISTERGOS: I think those issues have been the subject of public comment already. We can provide you with information about what we provide in this area. I have detailed notes here, but I might just take it on notice rather than waste your time.

Ms SYLVIA HALE: Okay. What action has been taken by your department and what specific budgetary expenditure has been allocated for the 20 recommendations in the New South Wales inter-agency plan to tackle child sexual assault in Aboriginal communities which are identified as being within the scope of the Attorney General's Department?

The Hon. JOHN HATZISTERGOS: I have a note and I can read it out to you. If there is any further information you require, you can put it on notice. We have invested a great deal of time, effort and funding to ensure that any child at immediate risk of harm can be assisted by relevant agencies. We recognise, however, that it is futile having systems in place if communities are reluctant to report these terrible crimes. That is one of the reasons why we established the Aboriginal Child Sexual Assault Taskforce. We wanted Aboriginal communities to speak out about abuse, tell us how we could work together to improve the system. There was a strong response from Aboriginal communities who wanted to stand up and stop violence against children. The taskforce

report was released in July 2006 and a comprehensive response to the recommendations was released in January this year.

The 88-recommendation five-year plan will help to ensure that Aboriginal people have better access to services. The plan aims to reduce the incidence of child sexual abuse and to reduce disadvantage and dysfunction in Aboriginal communities. There is not an easy solution to this terrible scourge of child sexual abuse, so the response to each location will be different and will require a balance of law enforcement, child protection, community leadership, early intervention and prevention initiatives.

The department has progressed a number of significant initiatives arising from the taskforce report. Our legislative reforms have included the reform of apprehended violence order laws to increase the safety of victims of domestic and family violence and sexual assault. We are committed to further developing the legislation to create a domestic violence offence and we are allowing victims to provide evidence via alternative methods, such as CCTV or screens. We are improving the court process for victims by providing Aboriginal cultural training for 100 prosecutors and witness assistance officers who support children and their families through the court process by March 2008. We are undertaking a $12 million capital works project to ensure that the majority of courts have access to remote witness facilities so that children do not have to see their abuser in court.

The Government is also working to improve services to Aboriginal victims of child sexual assault by the Victims Services Bureau by conducting Aboriginal cultural competency training for its counsellors across the State to ensure that they are able to provide culturally relevant counselling to Aboriginal victims and their families, establishing an Aboriginal coordination position to ensure that the service is able to meet the needs of Aboriginal victims and creating a telephone line for Aboriginal victims of crime and their families. I look forward to reporting on those matters in due course.

CHAIR: That concludes the time available for cross-bench questions. We now have five minutes for Government questions. Does the Government have any questions?

The Hon. CHRISTINE ROBERTSON: No.

CHAIR: As the Opposition has had 20 mintues already, we will go to back to Ms Sylvia Hale for five minutes.

Ms SYLVIA HALE: On the last question, I have here at least 20 areas that would be relevant to the Attorney General's Department in terms of specific budgetary expenditure. I will put them on notice and perhaps you could answer them individually.

The Hon. JOHN HATZISTERGOS: That is no problem.

Ms SYLVIA HALE: I have no more questions at the moment.

CHAIR: We will now go to the Opposition for the last few minutes of questions.

The Hon. JOHN AJAKA: In your opening remarks, you said that the Parramatta justice precinct was on budget and ahead of schedule; however, when I compare the figures for the 2006-07 budget with those for the 2007-08 budget, there appears to be a $1.56 million cost blow-out. When you indicate that it is on budget, do you consider a $1.56 million blow-out as being on budget?

The Hon. JOHN HATZISTERGOS: I am not sure what you are referring to.

Mr GLANFIELD: It is difficult to identify the full budget position by just looking at the Attorney General's Department allocation. It is actually spread across other agencies, including health, which has a clinical facility on site, and also Commerce—that is, the office building itself is a Crown property portfolio building and we will be renting it. What you see in our papers is the split between the program by Commerce and Treasury. We would have to come back to you with the detail on that, but as far as I am advised there is no funding blow-out or cost blow-out with the project. There have been very few variations to the project at all.

The Hon. JOHN AJAKA: When the 2006-07 budget papers talk of $101,995,000 and the 2007-08 budget papers now talk of $103,555,000, a $1.5 million difference, is it the Government's position that $1.56 million is not a blow-out and is delivering something on budget? Is that the position of the Government?

Mr GLANFIELD: I am saying that I would have to look at the basis for that variation. It may simply be a reallocation of funding within the project itself.

The Hon. JOHN HATZISTERGOS: Between the agencies.

Mr GLANFIELD: Between the agencies.

The Hon. JOHN AJAKA: This might be a good question to take on notice: are statistics maintained of the success or otherwise of appeals from the Local Court to the District Court? If one looks at the rate of any variations, have any programs been put in place for the further education of magistrates if it appears that far too many appeals are successful, so that one has the perception that the initial convictions or sentences made by magistrates are completely incorrect?

The Hon. JOHN HATZISTERGOS: I am advised that the figure is around 50 per cent. These questions were asked last year. I think David Clarke may have asked those questions and I referred to them. It is difficult to make those sorts of comparisons on an appeal, as you would know, having practised as a lawyer, and as David Clarke and certainly Greg Smith would know. An appeal to the District Court from the Local Court is an appeal de novo. That means that the conduct of the court case in the District Court can be on an entirely different basis to the way the matter was run in the Local Court. That is the system we have. It is problematic to view the outcome of an appeal as

necessarily reflecting adversely on the conduct or the competence of the judicial officer who heard the case initially.

I did hear remarks, however, from Mr Rapke QC, who conducted the appeal in the Local Court in the Power matter and also the appeal in the District Court. He has passed on, through the department to me, that he was very impressed by the conduct of the magistrate who heard the initial case. Notwithstanding the fact that there was a slight variation in the outcome of the sentence, he was very fulsome in his praise of the conduct of the chief magistrate. I think anyone who fairly reads that decision would agree. I am very proud of competence of our magistrates. I think they do a very, very good job. They do a lot of work. As I said, I think it is difficult to draw those sorts of conclusions. The judicial commission exists to provide assistance and guidance to the courts and judicial officers to ensure they are on top of their work. As I said, I am very proud of their performance. It is reflected not only in anecdotal remarks, such as the one I have referred to, but also in the efficiency with which the court discharges its business and, overall, by the standard of those persons—and I am sure you would agree, through your own professional experience.

CHAIR: That concludes the time we have available for the portfolio of Attorney General. We will now have a 10-minute break. When we return, we will resume with the Justice portfolio.

(Short adjournment)

CHAIR: I declare the second part of our hearing this morning open. We will just deal with the matter of swearing in the witnesses, because the Minister is not required to be sworn in.

UNCORRECTED

RHONDA BOOBY, Acting Assistant Commissioner, Offender Services and Programs, Department of Corrective Services, sworn and examined:

BRIAN KELLY, Assistant Commissioner, Inner and Outer Metropolitan Regions, Department of Corrective Services, sworn and examined:

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

RON WOODHAM, Commissioner, Department of Corrective Services, sworn and examined:

CHAIR: The Committee has agreed that the format for the hearing will be that we will have questions on 20-minute rotations, starting with the Opposition.

The Hon. JOHN HATZISTERGOS: Can I make a brief opening statement.

CHAIR: Oh, yes.

The Hon. JOHN HATZISTERGOS: I did foreshadow this. We are here to answer questions about the budget papers relating to the Department of Corrective Services. I have the pleasure of returning to this portfolio after some time in another portfolio. I am pleased to see the department is continuing to carry out its vital work in our criminal justice system. That role, which the bare numbers of the budget papers do not fully convey, is to safely and securely manage offenders both in custody and in the community and to provide rehabilitation programs to reduce the rate of re-offending. That ultimately serves and protects the interests of the community as a whole, not simply the offenders.

This year there have been significant changes and developments in the department's activities. In recognition of the fact that the department supervises twice as many offenders in the community as it holds in custody, the department has shifted resources and services into the community. Programs were moved into the community setting, increasing rehabilitation focus for community service and section 12 bonds. Additionally, 34 psychologist positions have been moved from correctional centers into the community, a major boost for psychology services for offenders in the community. But by no means does this indicate that there has been any slackening of the department's security focus. This year we have seen the establishment of two new units to bring new levels of community supervision—the Special Visitation Group [SVG] and the Offenders Compliance Monitoring Unit [OCMU], both of which I can answer questions on later today. There have been significant achievements in our correctional centres. We had a record low level of escapes, with no escapes from secure custody. We opened a new 600-bed correctional centre at Wellington and have seen the fruition of a project which I know was very close to the heart of the previous Minister.

We saw a major investment in mental health facilities, with the completion of a $14 million 10-bed mental health screening unit for women at Silverwater and work is well under way on the $53 million 85-bed Long Bay Prison hospital and the 40 acute mental health beds. We increased the number of correctional centres offering traineeships, so that offenders can get real skills from six to 11. This is a small selection of the highlights in a very large portfolio. I will not have time to cover all the highlights, but I am happy to take the Committee's questions.

CHAIR: Thank you, Minister.

The Hon. DAVID CLARKE: The Opposition has received some complaints in relation to possible improprieties in the promotion of an employee who worked as Commissioner Woodham's driver who has been promoted from a grade 5 position to a new position—I think possibly grade 12—which has involved a considerably accelerated promotion. Have any of these complaints come to your attention at all?

The Hon. JOHN HATZISTERGOS: I am aware of an anonymous allegation that was made. I am becoming aware of those allegations. I understand that was also made to a number of other sources. That was referred to the director general of the Department of Premier and Cabinet, which was standard procedure for allegations relating to matters of that kind. I am advised the director general will refer the allegations to the Independent Commission Against Corruption. I understand that after considering the information, ICAC referred the matter back to the Department of Premier and Cabinet, and the director general of Premier and Cabinet has been reviewing the matter.

The Hon. DAVID CLARKE: When was it referred back from ICAC?

The Hon. JOHN HATZISTERGOS: The referral was very shortly after the allegations were received. I do not have a precise date.

The Hon. DAVID CLARKE: Do you have an approximate time?

The Hon. JOHN HATZISTERGOS: I know that it was sent to you because it was CCed to the shadow Minister. It was anonymous. I think the Premier's department also had it themselves. It was virtually within a very short time frame referred to the ICAC. They then referred it back. I have not seen the correspondence referring it back. That is a matter that you will have to ask the director general of the Department of Premier and Cabinet.

The Hon. DAVID CLARKE: Is there any time frame that you envisage we would be getting a decision on the final outcome, one way or the other, on this issue?

The Hon. JOHN HATZISTERGOS: As I understand it, there has to be a report back to the ICAC on it. The director general of Premier and Cabinet is responsible for that.

The Hon. DAVID CLARKE: Thank you. Are you aware of this complaint, Commissioner?

Commissioner WOODHAM: Yes.

The Hon. DAVID CLARKE: How long have you been aware of the complaint?

Commissioner WOODHAM: I cannot tell you how many days.

The Hon. DAVID CLARKE: Is it days, weeks or months?

Commissioner WOODHAM: It is weeks.

The Hon. DAVID CLARKE: Could it be months?

Commissioner WOODHAM: It **c**ould be close to a month.

The Hon. DAVID CLARKE: Did you take any action on it yourself when it came to your attention?

Commissioner WOODHAM: No. What I did was inform the director general, firstly, that it was absolutely false and, secondly, that I would cooperate fully with any inquiry.

The Hon. DAVID CLARKE: Did you raise it with the director general or did the director general raise it with you?

Commissioner WOODHAM: The director general raised it with me.

The Hon. DAVID CLARKE: You did not bring it to his attention. Did you hear about it before it was raised by the director general with you?

Commissioner WOODHAM: The director general was the person who informed me of what the allegations were.

The Hon. DAVID CLARKE: Before he raised it with you, you had never heard about this allegation at all?

Commissioner WOODHAM: No.

The Hon. JOHN HATZISTERGOS: We cannot really comment on the details of it, keeping in mind that the matter is still being examined and has to be the subject of a report back. By the way, that is what we do as a standard matter in any issues relating to allegations of this kind. The process followed is to go through the director general. The director general makes the appropriate follow-up.

The Hon. DAVID CLARKE: Thank you. What was the cost of setting up the office at Campbelltown that you now use?

The Hon. JOHN HATZISTERGOS: You have asked us a question about that on notice and we have supplied that information. The commissioner can answer that as well. You have asked some detailed questions on notice about this issue. You may not be familiar with it, but the costing is in there. When you say 'setting up the office', the Campbelltown Periodic Detention Centre has been converted into a transitional centre and has been utilised by the Special Visitation Group, which we intend to say more about later on today. The commissioner spent some time down at Campbelltown when that group was being established. But, as the answer to the questions that you asked of me states, there were no separate costs.

The Hon. DAVID CLARKE: I want to come back to this issue, but just before I do on the question I just raised: when you spoke about the director general, were you talking about the director general of the Attorney General's Department or of the Premier's Department?

The Hon. JOHN HATZISTERGOS: No, the director general of the Department of Premier and Cabinet.

The Hon. DAVID CLARKE: Getting back to this question of Campbelltown, commissioner, where is your main office?

Commissioner WOODHAM: Henry Dean Building in the city.

The Hon. DAVID CLARKE: But you now have an office at Campbelltown as well; is that right?

Commissioner WOODHAM: That is not correct.

The Hon. DAVID CLARKE: It is not correct?

Commissioner WOODHAM: No.

The Hon. DAVID CLARKE: Do you spend time at the Campbelltown premises?

Commissioner WOODHAM: I have spent time at the Campbelltown premises.

The Hon. JOHN HATZISTERGOS: These were the questions—you may not be familiar with this; your researchers may not provide you with it—LA questions and answers No. 19 on 30 May 2007 were asked by Mr Smith in the other House. There were a large number of questions. Most of what you are asking, if not all, is contained in the answers provided.

The Hon. DAVID CLARKE: Good, thank you. Has the Ombudsman finalised his investigation into issues surrounding the photographing of Rodney Adler while at Bathurst Correctional Centre and related matters?

The Hon. JOHN HATZISTERGOS: Photographing of Mr Adler?

The Hon. DAVID CLARKE: These were the photographs that were flashed around in the media taken of Rodney Adler while he was in the correctional centre. Are you familiar with that, Commissioner?

Commissioner WOODHAM: No.

The Hon. JOHN HATZISTERGOS: I am not aware that he did an investigation into the photographing of Mr Adler at the correctional centre at Bathurst.

The Hon. DAVID CLARKE: Are you aware that—

The Hon. JOHN HATZISTERGOS: There was some photographing, which I understand was precipitated by a periodic detainee of Mr Rivkin, when he was in periodic detention at Silverwater. That was facilitated through a media outlet. There was a criminal investigation which resulted in some charges being brought. But I am not familiar with the Ombudsman in viewing any photographs—in fact, I am not actually aware there was a complaint made about the photographing.

The Hon. DAVID CLARKE: What was the outcome of the Rivkin investigation incidentally?

The Hon. JOHN HATZISTERGOS: The police investigated that. There were charges brought against an inmate. Apparently he was provided a camera by a media outlet. That resulted in charges being brought against that inmate. This was some time ago. This is just on the basis of my recollection. There were some recommendations that the media people might be investigated, but I do not know what happened out of that.

The Hon. DAVID CLARKE: I am advised that there were some photographs that appeared of Rodney Adler. Minister, would you be prepared to look into that matter?

The Hon. JOHN HATZISTERGOS: I am just trying to think. You are saying Bathurst. I do recall seeing some photographs at Kirkconnell. They were photographs of him when he was working out in the open. They were not outside the gate. Is that the one you are talking about? Do you remember there were some photographs?

Commissioner WOODHAM: Yes.

The Hon. JOHN HATZISTERGOS: Is that the one?

The Hon. DAVID CLARKE: Yes, that may well be.

The Hon. JOHN HATZISTERGOS: That was at Kirkconnell.

The Hon. DAVID CLARKE: I might expand that to any correctional centre.

The Hon. JOHN HATZISTERGOS: I am not aware of the Ombudsman having raised that. There are other issues that the Ombudsman did look at, but I am not aware of that specific one. I am happy to take that on notice.

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

The Hon. JOHN HATZISTERGOS: Yes, sure. Again, that wasn't in the centre. My understanding of that one, if I recall correctly, is that he was out doing forestry work.

The Hon. DAVID CLARKE: But it would be a matter of concern, even if it was taken of a prisoner out on forestry work.

The Hon. JOHN HATZISTERGOS: It would be a matter of concern if it was on correctional land. As you would be aware, Corrective Services did stop some photographers from the newspapers who were attempting to take photographs on St Heliers without authorisation, and the police were called. Generally speaking, media outlets in particular understand the rules and regulations and act appropriately, but sometimes when they have freelance photographers other things might happen. I will take those issues on notice and come back to you.

The Hon. DAVID CLARKE: Thank you very much.

The Hon. JOHN HATZISTERGOS: Just on that, we were aware of an incident at St Heliers, seeing as you said 'any jail', where we believed that there was a photograph taken of Mr Adler as he was coming to the fence to be photographed. We were never able to verify that was the case in the sighting of people. But a number of these prisons are fairly open and taking a photograph of a person whilst they are in the centre through the fence—

The Hon. DAVID CLARKE: I suppose it would also be a matter of concern as to how photographers knew of the whereabouts of Mr Adler whilst he was in the custody of Corrective Services.

The Hon. JOHN HATZISTERGOS: We were concerned about it too. I understand that at the time Mr Adler was questioned about it as to how he was located at a particular location at St Heliers where a photograph was allegedly taken of him. And he denied any knowledge, as I understand it, of having been involved in it. As you know, he had a number of infringements for different matters whilst he was in custody. That was one of them.

Again, getting back to the front of your question, I am not aware at present of an Ombudsman's investigation into photographs concerning Mr Adler.

The Hon. DAVID CLARKE: Dealing with another matter involving photographs, can the Minister explain how photographs of serious offenders within the high security facility at Goulburn appeared in the *Sun Herald* on 22 April this year?

The Hon. JOHN HATZISTERGOS: That was the subject of some complaints and the Ombudsman looked at those issues. I understand the commissioner responded to that and the Ombudsman was satisfied with the responses.

The Hon. DAVID CLARKE: What was the outcome of that breach, if indeed there was a breach?

Commissioner WOODHAM: I gave the photographs to the *Sun Herald*.

The Hon. DAVID CLARKE: I am sorry?

Commissioner WOODHAM: I gave the photographs to the *Sun Herald*.

The Hon. DAVID CLARKE: You gave the photographs to the *Sun Herald*?

Commissioner WOODHAM: Yes.

The Hon. DAVID CLARKE: Of offenders in a high security facility at Goulburn?

Commissioner WOODHAM: Yes.

The Hon. DAVID CLARKE: What was the purpose behind that?

The Hon. JOHN HATZISTERGOS: That was fully explained to the Ombudsman at the time, and I understand that the Ombudsman was satisfied with the response.

The Hon. DAVID CLARKE: Could you explain now?

The Hon. JOHN HATZISTERGOS: I do not have the details of the correspondence.

The Hon. DAVID CLARKE: Sorry, I actually meant the commissioner.

Commissioner WOODHAM: The photographs were released in the public interest, particularly about the conversion of hardened criminals, some of the worst Australia has ever seen, converting to Islam for the wrong reasons. They were getting paid from outside to pray. We call it 'pay to pray'. They were getting money supplied to

them from certain organisations outside the correctional centre. We put a stop to that. It was in the public interest to let it be known, because there was a lot of conjecture about the conversion to Islam inside maximum security jails for the wrong reasons. That is a phenomenon that has occurred overseas. Some people who went on to commit terrorist offences were converted in prison, like the Shoe Bomber. We were very concerned about it and we moved in and stopped their activity and organisation, and I put it out in the public arena.

The Hon. DAVID CLARKE: In fact, would you agree that it was quite outrageous that the incidents happened in the first place?

Commissioner WOODHAM: We cannot control what happens in people's minds. We have a lot of control physically over them and where they are, who they mix with and how they are placed.

The Hon. DAVID CLARKE: I am not talking about what happened in their mind. I am talking about the actions that took place.

The Hon. JOHN HATZISTERGOS: Can I just answer these questions so that you are across this: sometimes in Corrections, when information comes to the attention of correctional authorities, it is important to monitor the developments and to progress them. I am not going to go into the details of the investigation of this matter, but it was kept under close scrutiny. We wanted to find out a lot of information about what was going on. Unfortunately—and I know you are not one of these people—there are a lot of people who are very idealistic about some of these offenders, and we have seen some of them in recent times who go out championing their causes. A couple of them have taken us to the UN in Geneva, which is going to hear some special case about these people. I have no sympathy for them—none whatsoever. Quite frankly, if they did not want exposure in relation to what they were being involved in they should never have got involved in the first place.

It is very simple. You do not get involved, you do not get exposed, and you do not get disciplined accordingly. I know Greg Smith recently went down to the super max and said he felt sorry for these people. I do not feel sorry for them whatsoever. These people, in combination—all of them—have committed some 48 murders. Some of them are multi-murderers. The fellow who is in charge of this, who everyone runs out and expresses some sympathy for, has corrupted a prison officer, who was involved in an ICAC investigation to get a mobile phone in, organised to corrupt a psychologist, or was involved in the corruption of a psychologist incidentally, and conspired to murder a Crown witness—all in custody.

His capacity to be able to continue to engage in activity which threatens the good order and security of a system has no boundaries. I have made it quite clear, and you will be hearing about this in due course. All the do-gooders will come out, David, when we do things like this and say to put him into strict custody. They will all come and say how repressive you are, how terrible it is and how shocking it is.

Ms SYLVIA HALE: And that is true. You could not have put it better.

The Hon. JOHN HATZISTERGOS: You have one of them here—and how sorry they feel for these people. I do not feel sorry for them. They are the authors of their own misfortune. I am not going to protect the privacy of people who behave in this outrageous manner. I have no problem with people taking up religion in custody, none whatsoever. But I am not going to allow religion to be used as a camouflage, which is what has been happening in this case.

The Hon. DAVID CLARKE: Have any people been charged as a result of these incidents outside of the prison system?

The Hon. JOHN HATZISTERGOS: More information has been supplied to appropriate law enforcement authorities about those issues. You will have to ask them those questions. But this did not develop because we were able to stop it from developing. As I said, when you start having these networks formed in prisons with various people owning obligations to one another, then your mind can just wander as to where that might lead.

The Hon. DAVID CLARKE: Thank you. Minister, how many prisoners who received life sentences prior to the introduction of truth in sentencing and who have had their sentence re-determined are likely to be considered for parole within the next 12 months?

The Hon. JOHN HATZISTERGOS: I do not know. We have reports that detail that sort of information.

The Hon. DAVID CLARKE: Would you take that on notice.

The Hon. JOHN HATZISTERGOS: Yes, we will try and take that on notice. The Department of Corrective Services is not responsible for truth in sentencing.

The Hon. DAVID CLARKE: Can the Minister also provide the names of such prisoners?

The Hon. JOHN HATZISTERGOS: They would be matters of public record anyway, would they not?

The Hon. DAVID CLARKE: I do not know that that would be the case.

The Hon. JOHN HATZISTERGOS: They are. All of the judgments are printed. I am happy to provide information that is not on the public record. All the judgments are out there. You can go and read them. You can find out when they are going to be—

The Hon. DAVID CLARKE: Except that I think it would be beneficial to this Committee if we had a complete list of them before us.

The Hon. JOHN HATZISTERGOS: Do you want me to go out and research it for you?

The Hon. DAVID CLARKE: I think that the commissioner, no doubt, or your department—

The Hon. JOHN HATZISTERGOS: I will take the question on notice, but generally I do not do research for members of Parliament. We are very busy. When we have this information out there in the public we expect you to go and do your own research, but we will take it on notice.

The Hon. DAVID CLARKE: Minister, how many prisoners who received life sentences prior to the truth in sentencing have not yet applied to have their sentences re-determined?

The Hon. JOHN HATZISTERGOS: Again—

The Hon. DAVID CLARKE: I do not think that information is on the public record.

The Hon. JOHN HATZISTERGOS: No, it is not. But it is a matter of public record, because there are judgments that are available that can give you that information. So you look at those people who have life sentences where you have not heard it, and you can just assume that they have not had their sentences re-determined. Again, that is a matter of public record.

I go back to the issue that there was apparently a photograph taken of Rodney Adler in Bathurst. It was taken from the road, and the newspaper crew was cautioned by the officers of Bathurst. It was a newspaper group. I am not aware that the Ombudsman was involved in it, but again I will take that question on notice.

The Hon. DAVID CLARKE: Thank you. How many murderers have completed their non-parole period and are currently in prison but may be considered for release before March 2008?

The Hon. JOHN HATZISTERGOS: That is an impossible question to answer. When you say 'they are going to be considered', they are eligible for parole if they have completed their minimum term. As you would be aware, because I am sure you are across this area, they come up before the Parole Authority at the end of that 12 months. The Parole Authority can then grant parole or decline to give parole. If the Parole Authority refuses parole, the question of whether they are paroled again or not is dependent on them making an application. They have to wait at least 12 months to make

another application. It is not a matter for us to predict what they are going to do. They have to make an application for parole.

This is different from what was previously the case. Previously the Parole Authority would set a date where the case would be reviewed, but under the new law which we passed and you debated—because I was in the chamber at the time—after the first refusal of parole, at the end of 12 months the offender has to make an application. They have to wait 12 months and then make an application. I cannot predict whether they will make an application. I know some will not. It may surprise you to know this, but I will tell you because I think it is important that you and your colleagues are aware: one of the concerns I have in the correctional system—it is increasing, unfortunately—is that there are some offenders who, regrettably, are not interested in parole. That may surprise you but it is true. There are offenders who are prepared to wait and do their full time in custody and get out. You may ask yourself why. The answer is simple: they prefer to come out unconditionally without any restrictions on where they live, where they go or what they do. They prefer to do their full time and come out then, rather than be under the new regime that we have, which is the Special Visitation Group and the Offender Compliance Monitoring Unit. That is their preference. That is of concern to me when that happens, because it means at the end of their sentence potentially these people can be left out, after a lengthy period in custody, in a world which is very, very foreign to the one that they left when they came into custody, without appropriate structures in place to prevent their re-offending. That should be of concern to all of us.

The Hon. DAVID CLARKE: The solution?

The Hon. JOHN HATZISTERGOS: There is not an easy solution to it. The solution is to try, wherever possible, to ensure that they address their offending behaviour whilst they are in custody and place themselves in a position where they can obtain parole and obtain some supervision, so that they come out and be contributing citizens. There have been examples where that has happened.

But as we do it, and we keep putting pressure on some offenders and put them through the test, you will get the situation where some of them will just not be up to it. This is the problem when you have people in custody for a lengthy period of time. You have a situation where their whole life is controlled for them. They do not have to worry about budgets, where to sleep or work. All their routine is controlled for them. Then they come out of a world which they have left, very different to what it was. The commissioner can tell you stories—I have seen them; I read about them all the time—where we take people out on day trips after a lengthy period in custody and they collapse in shopping centres. They see the lights. They see the automatic telling machines. They see all these things in a world that did not exist when they were there. They ask to be taken back to the correctional centre.

We had a woman—you might say I predicted it—who came up for parole relatively recently. She was in the last six months of her sentence. She was very, very problematic—we couldn't encourage her to get parole and to address her issues. The

Parole Authority released her on parole in a place which we believed was going to give her the best opportunity to be able to reintegrate into the community before the end of her sentence. She was reluctant. Pressure was put on her. The authority gave her six months before release parole so that she could do it. She lasted six weeks. She rang up the department and said, 'Take me back in. Take me back in. I can't cope.' That is the problem that we are confronting as a community, and we have to be concerned about that.

The Hon. DAVID CLARKE: Thank you, Minister.

The Hon. JOHN HATZISTERGOS: And she did—she went back in.

CHAIR: We now go to cross-bench questioning. Do you have any questions, Mr Smith?

The Hon. ROY SMITH: No.

CHAIR: We will go to Ms Sylvia Hale.

Ms SYLVIA HALE: Minister, in light of what you said, isn't that a condemnation of increasingly lengthy prison sentences in so far as they do leave people who have been in jail for long periods unable to cope with the outside world? Isn't that more an argument for reduced sentencing rather than heavier sentencing?

The Hon. JOHN HATZISTERGOS: No, it is an argument in favour of parole. It is an argument of ensuring that offenders, wherever possible, are able to be released into the community under supervision and not abruptly discharged at the end of the sentence. I know it is popular amongst some people to say that they should do their full time in custody, but the flipside of that is that those people are abruptly released into the community without supervision and support.

Under our through-care policy, if an offender comes into custody, we try and make them structure their time in custody so that they can address their offending behaviour, so they can have appropriate skills and structures in place to be able to support them following their release. If you work to a plan, with a lengthy sentence, you should be able, for example, to bring yourself from maximum security down to medium and so on, then to work through your prerelease programs and eventually have structures in place—it does work. We have seen a number of offenders who have committed serious crimes make successful parolees. But, unfortunately, there are some for whom that will not work, and you have to continue to try with those people to address their offending behaviour. I know it is not easy. What I am saying to you is that the job of the Department of Corrective Services at the end of the day is to faithfully administer the orders of the court. We do not get a choice as to who comes into prison. We do not get a choice about how long they are in prison. We have to faithfully administer those orders. What we try to do is structure that sentence so it is usefully spent by the offender so that they are in a position, once they come out of jail, to be able to live a life in the

community which will not result in re-offending and which will be constructive in the community.

Ms SYLVIA HALE: Are you aware of a study by Kariminia and others that shows that prisoners are at heightened risk of suicide and death from overdose in the immediate post-release period? If you are aware of this being a problem, what measures are you going to put into place to assist people within that six-month period following release?

The Hon. JOHN HATZISTERGOS: I will ask Rhonda Booby to respond to that question.

Ms BOOBY: We have a number of strategies to address these sorts of issues. They begin when the person is in custody. When people are in custody, if there is any sign whatsoever that they are subject to risky behaviour we have what is called a Risk Intervention Team or a Risk Assessment and Intervention Team [RAIT], where custodial officers, psychologists and welfare officers will meet and develop a full case management strategy in relation to the particular inmate. People who are going to commit suicide or who are at risk of suicide when they are released from custody will usually exhibit some sorts of signs of problematic behaviour whilst they are in custody. The use of the Risk Intervention Team and the Risk Assessment and Intervention Team can address the sort of behaviour that leads to this when they get out whilst they are still in custody.

We also have a very thorough case management process where inmates' case management plans are reassessed every six months with a team of custodial staff and professional staff. The reason we have custodial and non-custodial staff is that the custodial staff are the ones who can see the inmates 24 hours a day. They are the ones who see them when they come back from visits. A lot of the issues that pertain to prisoners have to do with family issues. The custodial officers are the ones who see the visits happening and see the inmates when they come back. So the custodial staff, welfare staff and psychological staff are involved in the case management of inmates and also work one-on-one with inmates.

Ms SYLVIA HALE: Do you keep statistics on people who self-harm or overdose in that post-release period?

Ms BOOBY: We cannot keep statistics on all of them. As the Minister said, a number of people are released not to supervision, so we actually do not have any contact with people once they are off supervision. If the people are on parole, then we would have statistics. I cannot give them to you, but we treat them as an issue that we are concerned about.

I just wanted to say something more, though. I talked about what we do with people in custody, but we are now moving resources into the community to both supervise and support offenders much more in the community. The Special Visitation

Group and the Offender Compliance Monitoring Unit will be visiting inmates on a 24-hour seven-day-a-week basis, so that if there are any issues arising in the person's home then they will be alerted to that. We are also moving psychologists into the community so that if one of these teams visits an offender at 9 o'clock at night and there are issues in the home or family issues, then they will have a psychologist with them, if they predicted the issue. If they did not predict the issue, the psychologist will be on the end of a phone, and they will be able to get assistance from the psychologist because there are issues happening with this particular offender in their home.

Ms SYLVIA HALE: Is there any evidence to show that these random and unannounced visits actually decrease the risk of offending behaviour?

The Hon. JOHN HATZISTERGOS: Is this the Special Visitation Group?

Ms SYLVIA HALE: Yes.

The Hon. JOHN HATZISTERGOS: We have just commenced it.

Ms SYLVIA HALE: You will be doing an analysis, presumably of the effectiveness of this.

The Hon. JOHN HATZISTERGOS: Obviously.

Ms SYLVIA HALE: Within 12 months or 18 months?

The Hon. JOHN HATZISTERGOS: We need to have a reasonable time period in order to conduct it. We have just started it. The commissioner has been heavily involved with it. It has been running from Campbelltown. We also need to spread it around. I will be talking about this later. We will be moving around and establishing Special Visitation Groups around the State. At the moment it is largely a Sydney centric thing.

Commissioner WOODHAM: They do regular urinalysis and breath analysis testing on all of the offenders as well.

Ms SYLVIA HALE: Could you provide the total cost, that is, the establishment, capital and running cost, of the scheme?

The Hon. JOHN HATZISTERGOS: Of the Special Visitation Group?

Ms SYLVIA HALE: Yes.

The Hon. JOHN HATZISTERGOS: Or of the Offender Compliance Management Unit?

Ms SYLVIA HALE: Of the Special Visitation Group.

The Hon. JOHN HATZISTERGOS: Eventually we will be bringing them together. We will take that on notice and give you that information.

Ms SYLVIA HALE: Take it on notice. Thank you. I gather there was a major restructure of the department in 2005-06 with a view to integrating many aspects of the department's operations. I am interested in the savings that have been made by deleting the head office executive leadership structure for Community Offender Services. I believe two senior executive management positions have been established in head office Corrective Services with responsibility for strategic advice and leadership of Community Offender Services; is that correct?

Commissioner WOODHAM: Yes.

Ms SYLVIA HALE: Could you tell me the names of the people who occupy those positions?

Commissioner WOODHAM: Yes. Community Offender Services is the main area you are interested in, I would say. First of all, when you talk about re-integration—

Ms SYLVIA HALE: Sorry, I just want the names of the people who are now occupying those two positions.

Commissioner WOODHAM: Lee Downes is the executive director of probation and parole.

The Hon. JOHN HATZISTERGOS: You will find that information in the annual report.

Ms SYLVIA HALE: And the name of the second person?

Commissioner WOODHAM: What position was that?

Ms SYLVIA HALE: The second executive management position with responsibility for strategic advice and leadership. There is a second position. Who occupies that? You have referred to Ms Downes. Who is the second person?

Commissioner WOODHAM: John Gilmore.

Ms SYLVIA HALE: John Gilmore?

Commissioner WOODHAM: Yes.

Ms SYLVIA HALE: Minister, are you familiar with John Gilmore?

The Hon. JOHN HATZISTERGOS: Oh, yes.

Ms SYLVIA HALE: Why is that?

CHAIR: You knew the answer to the question you asked.

Ms SYLVIA HALE: I just wanted to confirm—

CHAIR: It is just a waste of time.

Ms SYLVIA HALE: He was previously your chief of staff?

Commissioner WOODHAM: Yes.

Ms SYLVIA HALE: Can you tell me what particular expertise Ms Downes had in order that she should occupy this position?

Commissioner WOODHAM: She is very experienced.

Ms SYLVIA HALE: In Community Offender Services?

Commissioner WOODHAM: She is very experienced in that area. She started off as the executive director of probation and parole of the inter-metropolitan area, and moved from that position into head office. She is a very strategic and very capable person.

Ms SYLVIA HALE: What was Mr Gilmore's experience in this role or led to his being given this role?

Commissioner WOODHAM: He won that position by competitive selection and he, in his former position, got to know—

The Hon. JOHN HATZISTERGOS: There was a question about this in Parliament some time ago.

Commissioner WOODHAM: —the operations of the department in a detailed way.

Ms SYLVIA HALE: These appointments were made and publicly advertised. The appointments were a very open process?

Commissioner WOODHAM: No, it was out of a hat.

Ms SYLVIA HALE: Was the position that Ms Downes occupied advertised? Did she apply for that—

Commissioner WOODHAM: I told you Ms Downes—

Ms SYLVIA HALE: in a merit selection process?

Commissioner WOODHAM: Don't talk over me. You just asked me a question. Can I answer it, please?

Ms SYLVIA HALE: Sorry.

CHAIR: Order! Can we have less chit-chat across the table, please, and just questions from Ms Hale and answers from the witnesses.

Commissioner WOODHAM: Ms Downes was appointed as executive director of probation and parole in the inner- metropolitan area and then transferred at that level to head office.

Ms SYLVIA HALE: There was no merit selection process?

Commissioner WOODHAM: And that position in the inner-metropolitan has been re-advertised and filled.

Ms SYLVIA HALE: Re-advertised and filled by her—no, the position she previously occupied.

Commissioner WOODHAM: Yes.

Ms SYLVIA HALE: Was her appointment subject to merit selection? Was it advertised?

Commissioner WOODHAM: No. We have moved people around.

The Hon. JOHN HATZISTERGOS: No.

Commissioner WOODHAM: We moved people around—

The Hon. JOHN HATZISTERGOS: Public sector guidelines—

Commissioner WOODHAM: We move people around at rank and we rotate. I have just rotated 11 senior probation and parole managers. It is our policy to rotate and it is healthy to do it.

Ms SYLVIA HALE: Commissioner, in light of your statements that the custodial and community operations were to be combined in the new integrated structure as the explanation of the deletion of the position of Senior Assistant Commissioner, Community Offender Services, and the restructure of the regional management to place the Community Offender Services executive directors under regional assistant

commissioners, can you now advise how the current head office structure is more cost effective?

Commissioner WOODHAM: Firstly, there were seven regional offices: four custodial and three probation and parole. I amalgamated the operations and have brought that back to four regional offices. That is a big saving to start with. Secondly, the executive directors' probation and parole was a poor cousin of the service.

The Hon. JOHN HATZISTERGOS: It is about bringing the two together.

Commissioner WOODHAM: We brought the probation and parole service into a situation now where the executive director is the second in charge of not just probation and parole of the region but the whole region. And they have access to the budget and funding that they have never had before.

The Hon. CHRISTINE ROBERTSON: Hear, hear!

Commissioner WOODHAM: And with the assistant commissioners they can move money around. They have never been able to do that before. In some ways they were very underfunded in the past and now they are not.

Ms SYLVIA HALE: How many of the assistant commissioners have experience or expertise in Community Offender Services? Can you tell me what that expertise is?

Commissioner WOODHAM: You have assistant commissioners that have a custodial background. If you look at Queensland, the person in charge of probation and parole is a custodial officer. They have just delegated probation and parole to the custodial officer to pull it into gear, into shape. We have very experienced custodial officers in those positions; however, they are then charged too for the first time ever and have to devote as much attention to probation and parole as they do to the custodial responsibilities they have. Not one of those assistant commissioners is not aware of all the issues that every probation and parole office in the State has to address.

Ms SYLVIA HALE: Am I to take you as saying that all of the assistant commissioners have a custodial background but none of them has a Community Offender Services background?

Commissioner WOODHAM: Look, I am from a custodial background. I have spent two years working with probation and parole.

Ms SYLVIA HALE: I am not talking about you. I am talking about your assistant commissioners.

Commissioner WOODHAM: I am just—

The Hon. JOHN HATZISTERGOS: Some of them are excellent people.

Ms SYLVIA HALE: They may be excellent. I have no idea. I was just asking about the level of expertise and their experience in this particular area.

The Hon. JOHN HATZISTERGOS: Can I just say what we are trying to achieve here. This is not just a question of money. This is actually a question of trying to get some through-care. You have made the point about offenders being in custody for a longer period of time and then being out in the community. We want to be in a situation where we can manage those transitions and stop re-offending as far as possible. That means our custodial officers have to have experience in community corrections and vice versa. That is what we are trying to achieve here.

Ms SYLVIA HALE: Given the importance that you are now attaching to that, what is the representation of the Community Offender Services on the board of management?

The Hon. JOHN HATZISTERGOS: You keep talking about silos. We are trying to break these silos down.

Ms SYLVIA HALE: Okay. But what representation does the Community Offender Services have on the board of management?

The Hon. JOHN HATZISTERGOS: I hope the whole board of management focuses on community corrections. We don't give them representation—

Ms SYLVIA HALE: But if none has a background, surely it is appropriate for someone with a fairly extensive background in those services to be on the board of management—

The Hon. JOHN HATZISTERGOS: All of them—

Ms SYLVIA HALE: to advise the others on how they should be responding.

Commissioner WOODHAM: Firstly, the assistant commissioners are in charge of the probation and parole in the region. They are all represented on the board of management. So is the person in charge of the Corrective Services Academy, who is a former manager of probation and parole. Jo Quigley is a member of my board of management. Regionally the custodial and probation and parole managers meet on a regular basis. Then twice a year they all come together in a larger conference.

Ms SYLVIA HALE: I believe there are also a number of acting, rather than permanent, team leaders—senior project officers—who have been appointed. I think there are *Ms Hashsham, Ms Williams and Ms Kersie. What are their positions, titles, responsibilities and levels of remuneration?

Commissioner WOODHAM: They are in project positions, which is a generic position. Can I have the three names again?

Ms SYLVIA HALE: They are the acting team leaders: senior project officers *Hashsham, Williams and Kersie.

Commissioner WOODHAM: They are all experienced probation and parole officers.

The Hon. JOHN HATZISTERGOS: You might not like this, but you will eventually find it is a situation where we will be giving some of these officers enhanced powers. When they knock on doors and can visit these people will have—

Ms SYLVIA HALE: When that happens—

The Hon. JOHN HATZISTERGOS: You may not like it but I am sure the community will.

Ms SYLVIA HALE: What is the level of remuneration? What are the substantive grades of these officers?

Commissioner WOODHAM: Nine/10.

Ms SYLVIA HALE: What was the process for their appointment to these promotional opportunities? Was it an open public merit process or were they moved within?

Commissioner WOODHAM: Yes, moved within. One was 11/12, which was *Ms Hashsham. That was done by competitive selection. The others were appointed by expressions of interest for a three-month period, short term, and placed in position.

Ms SYLVIA HALE: With regard to the appointments of other members of the Special Visitation Group, commissioner, can you advise on the recruitment process to join that group?

Commissioner WOODHAM: Yes. Everyone in there has been on an expression of interest or selected by merit selection in a proper structured selection committee.

Ms SYLVIA HALE: In every case would the supervisors—

The Hon. JOHN HATZISTERGOS: They were temporary, were they?

Commissioner WOODHAM: They were temporary appointments.

Ms SYLVIA HALE: In every case, prior even to their temporary appointment were the supervisors of the probation and parole officers selected for these positions

contacted to determine their opinion as to their suitability for these positions? You can take that on notice if you would like.

Commissioner WOODHAM: I was involved in that process, so to my knowledge they were, yes.

Ms SYLVIA HALE: So you are saying yes, they were all contacted.

Commissioner WOODHAM: To my knowledge, yes.

Ms SYLVIA HALE: Can you advise on the recruitment process employed, the qualifications, the experience and responsibility of the psychologist employed to work with the Special Visitation Group?

Commissioner WOODHAM: Just ask that again, please.

Ms SYLVIA HALE: This is in relation to the psychologist. Could you advise on the recruitment process employed, the qualifications, the experience and the responsibilities of that person? You can take it on notice if you wish.

Commissioner WOODHAM: I do not think I need to.

Ms SYLVIA HALE: You know their qualifications?

Commissioner WOODHAM: Rhonda is in charge of the psychology area. She might be able to add a bit to it as well. She is a fully trained psychologist and former probation and parole officer. She is in the visitation group and has done some great work in the visitation group with visiting families as part of that group, and also referring some of the family members and offenders that we walk in on with unannounced visits to the proper care in the community. We are in the process of bringing 50 psychologists out into the community into the probation and parole area over the next few months.

CHAIR: The time for cross-bench questions at this stage has expired. We will now go to Government members for questions.

The Hon. CHRISTINE ROBERTSON: Attorney, could you provide an update on laws and programs relating to sex offenders?

The Hon. JOHN HATZISTERGOS: The Government is working hard to protect the community from the evils perpetrated by sex offenders. The range of offences and their penalties for sex offenders and child sex offenders have evolved incrementally over the years. New offences have been added, old offences have been modified and penalties have been changed.

Commonwealth offences have also been created for such things as child grooming over the internet, sex tourism and child pornography. That is why it is time that we

looked more broadly at the entire framework of sex offences and penalties to ensure that we have a consistent, comprehensive and effective scheme to deal with the full range of criminality. Given the development of legislation overseas to protect the community from the threats posed by serious sexual assault and violent offenders, it is time to see what we can learn from those experiences.

Today I can inform your Committee that the reference has been forwarded to the New South Wales Sentencing Council regarding sex offences. I have asked the council, headed by former Justice Wood, to review the penalties currently attaching to sexual offences, and in particular sexual offences against children, including child pornography. These are the terms of reference: firstly, whether or not there are any anomalies or gaps in the current framework for sexual offences and their penalties; and, secondly, how any perceived anomaly or gap may be addressed. This will examine things such as whether the current range of offences properly covers the range of criminality and offending or whether new offences might be needed. It will also examine the consistency of the range of penalties in relation to the range of offences and their respective seriousness.

Thirdly, the council will advise on the use and operation of statutory maximum penalties and standard minimum sentences when sentences are imposed for sexual offences and whether or not they are set at appropriate levels. Fourthly, they will consider the use of alternative sentencing regimes incorporating community protection, such as the schemes used in Canada, the United Kingdom and New Zealand. I want the council to examine the relative merits of these overseas schemes to assess whether they can be used to better protect the community here.

The fifth term of reference is to consider possible responses to address repeat offending committed by serious sexual offenders. In particular, I want the council to advise whether second and subsequent serious sex offenders 'should attract higher standard minimum and maximum penalties in order to help protect the community'; if so, I wanted them to advise what these penalties could be. The unfortunate reality is that the depravity of some of these dreadful criminals knows no end. If we need this kind of sliding scale to increase sentences to better protect the community from serious repeat offenders, then we should carefully consider it.

The sixth term of reference relates to the so-called 'good character' by offenders as a mitigating factor to seek a shorter sentence. This term of reference was suggested by Mr James Wood himself, as chair of the Sentencing Council. I understand that this is an issue that he personally had an interest in from his time as the royal commissioner. The pattern of offending for paedophiles involves abusing a position of power, trust and authority—such as that of a teacher, a priest or a scout master—to gain the confidence of parents and to seek access to children. Given this, how is it then appropriate that convicted paedophiles may be able to use their status or position, the very position by which they gain access to their victim, in order to receive leniency in their sentence?'

Furthermore, due to the nature of their criminal activity, many of these paedophiles become adept at leading a double life. To the outside world they may appear

to be successful, respectable citizens of so-called 'good character'; however, all the time they are hiding their abhorrent criminal tendencies. The fact that a convicted paedophile, who has successfully led a double life, may outwardly appear to be of 'good character', it may be argued, should have no bearing on the seriousness of the offence that they have committed or the need for a sentence which will allow their participation in treatment programs in custody.

The seventh and final term of reference for the Sentencing Council is whether or not it is appropriate that the special circumstance of sex offenders serving their sentence in protective custody should form the basis of reduced sentences. When sentencing for child sex offences, the courts often apply discount because they believe that a sex offender they will serve their sentence in protective custody. Is this reduction in sentence for protective custody effectively operating as a discount on all the penalties set down by Parliament for child sex offences? I am concerned that some sentencing judges may not be fully aware of the real nature of the custody for sex offenders in this day and age.

In a Court of Criminal Appeal case from 2000, one judge described offenders in protective custody as being 'isolated, kept in circumstances of virtual solitary confinement'. Last week I was at the Metropolitan Special Programs Centre at Long Bay where many sex offenders are held, and these kinds of assumptions do not reflect current correctional practices. Protective custody is different from strict protection. A great many sex offenders, even in protective custody, have access to programs, the usual time out of cells, the usual privileges, exercise and outdoor areas—just like other inmates.

Should judges seek submissions from Corrective Services to ascertain the real nature of the custody the offenders will be held in before these discounts are given? These are some of the issues that the council may consider. I am sure that the council will give all of these issues very careful and thoughtful consideration. I look forward to their report on this important area, which will be by June of next year.

The treatment of convicted sex offenders, both those in custody and those in the community, is also vitally important. The Department of Corrective Services has developed a comprehensive set of programs for managing sex offenders. The department focuses its energies and resources on known and convicted sex offenders in custody and those who have completed their sentences and are in the community.

I remind the Committee that since returning to this portfolio I have vigorously applied for continuing detention orders for those offenders who have not addressed their offending behaviour whilst they have been in custody and otherwise would expect to be released at the end of their full term of imprisonment.

The community is much better protected if known and convicted high-risk offenders are treated whilst still in custody. The department has developed a range of highly effective programs for these offenders, which are also used with moderate and high-risk offenders. Research by psychologists has shown that, for men who have

undergone the CUBIT treatment program, there is a 75 per cent reduction in sexual offending against the expected re-offending rate based on risk levels.

CUBIT is a residential therapy program accommodating 40 moderate and high-risk sex offenders. Participants are required to take responsibility for their offending behaviour, to identify their offending cycle, to examine victim issues and to develop a relapse prevention plan. Offenders receive treatment for up to 10 months, and never less than six months.

CORE is similar to CUBIT but is a moderate intensity treatment program that targets the core issues common to sex offenders. Participants in CORE are not required to reside in a particular sex offenders section of the prison and can undertake CORE in conjunction with their regular institutional activities such as education programs. This is a five-month program. PREP is the pre-treatment program aimed at increasing offender motivation and reducing resistance towards treatment. Offenders are required to attend 12-14 sessions to complete the program.

Understanding Sexual Offending [USO] is an eight-session program that aims to challenge denial and minimisation about sexual offending and to increase offenders' readiness to participate in treatment. The department also conducts maintenance programs for graduates of CUBIT. These programs are held both in custody and in the community. The Goulburn High Security Program is a specific program developed to provide ongoing treatment to high security sexual offenders who have previously been discharged from CUBIT. Services provided to sex offenders in the community are uniquely aimed at maintaining treatment gains made while in custody through participation in the programs already outlined. They also assist offenders in implementing relapse prevention strategies in a community context.

The department provides a maintenance program for released low-risk sex offenders through its Forensic Psychology Services. This program operates using experienced psychologists working in cooperation with probation and parole officers who supervise the offenders in the community. Forensic Psychology Services also offer treatment groups in the community. Offenders in the community attend on a weekly basis. This program is based on the CORE program and helps offenders take responsibility for their offending behaviour, identify an offending cycle, and examine victim issues. These programs are so important and effective that the State Parole Authority makes attendance at them a strict condition of parole.

In the case of both custody and community based offenders, the department works closely with both Justice Health and the New South Wales State-wide Community Forensic Mental Health Service. Since the introduction of the Crimes (Serious Sex Offenders) Act 2006 the department has adopted procedures to identify those inmates whom the legislation intended to target and to assess whether applications for either continuing detention or extended supervision orders should be made. The legislation was intended to catch that small handful of hard core, high-risk offenders in the last six of

months of their sentence, who have either refused to do any sex offender treatment whilst in custody or who need ongoing maintenance and supervision following release.

The Hon. EDWARD OBEID: Can you provide the Committee with the latest information on legal visitors to New South Wales prisons?

The Hon. JOHN HATZISTERGOS: Lawyers occupy a privileged position. They are afforded certain rights and protections in the carriage of their duty: confidentiality of communications and immunity from negligence actions for court work, to name two. But with all those privileges come certain responsibilities. As lawyers their first and overriding duty is to the court and to the legal system, even ahead of their duty to the client. Unfortunately, there have been some recent examples of lawyers who have lost sight of ethical obligations in their contact with offenders in prison. In prisons, lawyers are afforded special privileges, such as frequent and extended visits to meet with their clients, a lower level of supervision and monitoring of their visits. Inmates are allowed more frequent and unmonitored phone calls to their lawyers. These are special privileges which are given to allow the lawyers to properly represent their clients and to maintain confidentiality and legal privilege.

Spending so much of their time interpreting the law and arguing about the law, it is not perhaps surprising that a very small minority of lawyers think that the law does not apply to them. The elite Corrective Services task force, Task Force Con-Targ, investigated the conduct of eight lawyers in correctional facilities over the year until June of this year. The department has brought to my attention intelligence about some of the activities, and it does paint a disturbing picture. A number of lawyers have been found in possession of mobile phones and SIM cards which they had not declared. After denying in one case that there was any contraband, one legal practitioner was caught in the possession of high dose morphine tablets as a result of a metal detector scan. One solicitor was found with syringes and a bottle of an unidentified clear liquid. When challenged by a female correctional officer, who was just doing her job, he became intimidating, threatening and violent. The practitioner in question discussed the matter with his inmate client, leading to that prisoner making derogatory and demeaning comments to the officer.

Another lawyer had been visiting an inmate when a letter from her was intercepted. It was signed—this was something that was asked to be taken out of the prison—'lots of love XXX'. On further investigation it became apparent that the inmate had no further charges or appeals and that the legal practitioner did not have a proper lawyer/client relationship.

When I was last in this portfolio there was also a case of a lawyer who tried to smuggle marijuana into the prison concealed in packages of legal papers. I am also concerned that some legal clerks have been sent to prison on behalf of lawyers. This may suit the lawyer's business interests, but these clerks have none of the ethical and professional obligations that lawyers do and none of the accountability. More concerning

is that family members and associates of inmates have on several occasions used the cover of claiming to be legal clerks to gain privileged rights of lawyers.

Believe it or not, this is not the worst behaviour we have seen. The Department of Corrective Services has become aware of a lawyer who has redirected or diverted phone calls from an inmate onto his criminal associates on the outside. Those phone calls appear to relate to criminal activities. They have done this to take advantage of the protection given to legal phone calls that officers do not monitor or record such calls. The lawyer has been banned from accessing New South Wales correctional centres, and the appropriate authorities have been advised, including the Legal Services Commissioner and the police.

This kind of behaviour will not be tolerated. There is no place in the legal profession for legal practitioners who abuse their privilege, and I aim to stamp it out. I should make it clear, however, that this only applies to a small minority of lawyers who are flouting the rules—a few who, regrettably, are spoiling it for the rest. I am sure the legal profession is as concerned as I am about these operators. In response to these problems I have asked the Department of Corrective Services to have a working party with the Law Society and the Bar Association to look at these issues. They have met and they are making progress. The working party is looking at issues including: sanctions for breaches of correctional services rules beyond those that already exist, identification of legal practitioners, the use of legal clerks, the recording and monitoring of phone calls, the diversion of legal phone calls and the supervision of visits. I can assure members of the Committee that we will make changes where required to stamp out these unethical acts. This is a small group of lawyers who are aiding and abetting those people who, frankly, would want to challenge the safety and security of our system. If they refuse to change their ways, they may find that the consequences will be similar to those of their clients.

The Hon. CHRISTINE ROBERTSON: Could you please let us know what changes have recently occurred regarding the management of offenders on parole and in the community? We have heard quite a bit about it but I am sure there is more.

The Hon. JOHN HATZISTERGOS: One of the most important tasks the Department of Corrective Services has is the management of offenders who have served their sentence and are released onto parole or who have been sentenced to a community based order. The Offender Compliance Monitoring Unit [OCMU] is one of the New South Wales Department of Corrective Services' most important watchdogs. This unit is responsible for monitoring offenders in the community by conducting compliance checks and writing assessment reports. The OCMU is staffed and operated by a highly skilled group comprising custodial officers, probation and parole staff, and staff who support them. The OCMU conducts compliance checks on inmates participating in external leave programs including: work release programs, stage 2 periodic detainees, officers serving their sentence by way of home detention, and other community service offenders.

Compliance monitoring is based on regular and unannounced monitoring of offenders. A high degree of monitoring is conducted for special management inmates and for sponsored work sites. When intelligence indicates compliance issues with a particular offender, additional overt and covert measures are employed. Offenders are usually subject to compliance checks by officers through face-to-face and telephone contact by officers. They also employ covert means through visual surveillance and electronic monitoring. Offenders are also subject to breath tests by OCMU to ensure they are complying with their orders. The OCMU is also responsible for electronic monitoring of home detention offenders, offenders in external leave programs, some offenders in the compulsory drug treatment centre, some parolees and a number of significant offenders on community supervision orders.

The OCMU has significant and important work in the work release program additional to that of monitoring. The OCMU assists inmates with finding employment, conducting checks on potential employers and sites, taking inmates for interviews and, of course, ongoing compliance monitoring. Recently, as has already been discussed, the department established a new crack squad to manage offenders in the community who require intensive management and supervision. The Special Visitation Group [SVG] has been operational since May 2007 to target offenders who are proven to be unsuitable to be monitored by OCMU. The SVG, as it is known, targets those offenders who have assaulted or threatened probation and parole officers and who have a history of violence. The SVG also monitors offenders who are placed on indefinite lifetime parole. The SVG officers are specially trained officers. The offenders themselves may present particular difficulties to compliance officers, including physical violence, when faced with police action.

The aim is to keep these offenders constantly looking over their shoulder and too afraid to even put a foot out of line. The SVG raids these types of offenders 24 hours a day, seven days a week. They conduct unannounced visits and covert surveillance. Offenders never know when they are likely to receive a knock on the door from the SVG. The SVG officers ensure that offenders are forced to comply with court orders and conditions of their sentencing. Regular and random drug testing and breath analysis are used to monitor drug and alcohol intake, along with random urinalysis, to ensure offenders are not breaching their orders.

The SVG has a particular focus on sex offenders who have been the subject of extended supervision orders imposed by the Supreme Court. Ultimately, however, the SVG staff will manage and supervise high-risk offenders on any community based order deemed necessary by the commissioner. The SVG officers can recommend the taking of breach action and initiate breach action on offenders in the community who are found not to be complying with orders imposed on them by the courts or the State Parole Authority. Once breached, offenders are liable to find themselves back in custody. The SVG works in collaboration with probation and parole to enhance case management of high-risk offenders in the community. The aim of the department is to reduce recidivism.

The SVG is getting results. Since May 2007 we have been operating the SVG in Bankstown, Burwood, Liverpool, Blacktown, Hurstville, Parramatta, Fairfield, Wollongong and Campbelltown. The commissioner has informed me about the work that has been undertaken. So far there have been 462 visits. The SVG has looked at 280 offenders and currently has 150 active offenders who it is monitoring. The SVG currently conducts home visits on 49 sex offenders.

In the period between 7 June 2007 and 31 September 2007 the SVG conducted 277 breath analysis tests during visitations: 271 offenders returned a negative result indicating no alcohol consumption in the period prior to the visit, while six offenders returned a positive result for alcohol consumption in the hours prior to their visit. In the period between 7 June 2007 and 31 September 2007 the SVG conducted 61 urinalysis tests: 25 offenders returned a positive result for the presence of illicit substances. Some of those offenders have had their orders revoked; others are in the process of revocation. The SVG has been instrumental in breaching 21 high-risk offenders in the community. The commissioner himself has exercised his special powers to suspend parole and bring a person back into custody on six occasions. The SVG continues to gather crucial information that is used to assist in the management of these offenders, as well as to provide intelligence to appropriate stakeholders and other law enforcement agencies, in particular the child protection register.

The Hon. DAVID CLARKE: Commissioner, given recent reports revealing smuggled letters out of the high security facility at Goulburn have shown that security in the super max has been contravened, what investigations have been undertaken in relation to this breach of security?

The Hon. JOHN HATZISTERGOS: That is just wrong. There was no breach. You are picking that up from the newspaper, which is a pretty lazy way of constructing a question. I do not care if these people want to write letters out complaining about their conditions. Ivan Milat wrote me a letter saying that he did not like the conditions and that he will commit suicide if I do not move him. I do not care if he wants to write letters like that. It does not worry me. He can whinge all he likes. We do not monitor that sort of thing.

If a person is writing correspondence which is offensive to victims or is a threat to the safety and security of the correctional system, that is different. But let me remind you, because I am a nice guy, that I allowed the shadow Attorney General recently to visit Goulburn. He went there and this is what he said about the super max: 'Society is entitled to feel secure and if I were a Goulburn resident I would feel very safe about the super max.' I do not care if they want to write these letters to people. Milat has written me more letters. I do not care. It is not going to change anything. So there was not a security breach.

The Hon. DAVID CLARKE: In response to that, Minister, You do not care what Ivan Milat writes, but that is not the issue. The issue is: how did the letters get out?

The Hon. JOHN HATZISTERGOS: They were allowed out.

The Hon. DAVID CLARKE: You are saying that there have been no breaches?

The Hon. JOHN HATZISTERGOS: No. What is the breach?

The Hon. DAVID CLARKE: You are saying that all the newspaper reports have been thoroughly investigated and they are all wrong.

The Hon. JOHN HATZISTERGOS: We knew about those letters. Those letters had been sent to us as well.

The Hon. DAVID CLARKE: So you can assure us that all of these newspaper reports have been investigated and they are all found to have no substance?

The Hon. JOHN HATZISTERGOS: David, perhaps you can tell us what the security breach is. What is it that you find so offensive to security about those letters having gone out? I do not find anything offensive to security about those letters having gone out. They were a chronicle of complaints from offenders which happen regularly. These people are entitled to write to me, and they write to me. I understand some of them have written to newspapers before. I was speaking to a journalist yesterday. She said she has received them. So what? It is not going to change anything as far as I am concerned. If you can tell me where security was threatened, I would be interested to find out because I cannot see it.

The Hon. DAVID CLARKE: Minister, can you assure us that all the allegations that have appeared in the media about breaches of security in respect of letters and other smuggled items out of Goulburn have all been investigated and found to have had no foundation in substance?

The Hon. JOHN HATZISTERGOS: I will do better than that. I can give you the assurances of the shadow Minister: 'Society is entitled to feel secure and if I were a Goulburn resident I would feel safe about the super max.' There is your assurance from the shadow Minister.

The Hon. DAVID CLARKE: The shadow Minister does not have control over the jail, unfortunately.

The Hon. JOHN HATZISTERGOS: No, but he has seen it. He is highly regarded by your colleagues and was a highly regarded member of the bar prior to his coming to Parliament. There has been no security breach. The letters were not smuggled in. But if you can tell me what you find inherently offensive to security about that correspondence, please do, because I cannot. We do not care. We have a corrective services line that allows prisoners to contact us about their complaints. They have contact with the Ombudsman and with legal advisers and, as I said before, they are privileged. They can complain. If they want to write to some prisoner action group, some other

group or a former prisoner to whinge about their conditions, they can. I am not going to sit here and lose sleep over the fact. I get these complaints all the time about prisoners. Do you want me to give you a list of some of the whingeing that has come out of the super max? We had one offender, a multi-murderer, complain that he did not get two showers a day; we only gave him one shower. Another complaint was that the pies did not have halal meat in them.

Ms SYLVIA HALE: If you have religious convictions presumably that is an important consideration.

The Hon. JOHN HATZISTERGOS: These people have all the time in the world. If you are in the super max you have a lot of time on your hands and writing letters is a favourite past-time of some of them.

Ms SYLVIA HALE: Particularly if you have removed all the reading material for months on end. *[Time expired]*

CHAIR: It is Opposition question time.

The Hon. DAVID CLARKE: How much has the Department of Corrective Services spent on consultancy fees since January 2006?

The Hon. JOHN HATZISTERGOS: They are in the annual report.

The Hon. DAVID CLARKE: The figures for 2006 up to the present?

The Hon. JOHN HATZISTERGOS: They will be in the next annual report. We can take it on notice, but we provide these things in the annual report. Consultants are required to be put in the annual report. They were in last year; they will be in next year's.

The Hon. DAVID CLARKE: How much has been paid to former members of the department during this period?

The Hon. JOHN HATZISTERGOS: I do not know, but they will be in the annual report presumably. I presume you are talking about Vern Dalton, are you?

The Hon. DAVID CLARKE: There may be others.

The Hon. JOHN HATZISTERGOS: Vern Dalton was also a former chief of staff to one of your former colleagues, Virginia Chadwick, just to be clear on that because I know Sylvia Hale likes to have the full profile of the people you are talking about out in the open.

Ms SYLVIA HALE: They often have very interesting connections.

The Hon. JOHN HATZISTERGOS: I thought you might just mention Vern Dalton—is that who you are referring to?

The Hon. DAVID CLARKE: What I am asking for is how much has been paid to former members of the department during this period.

The Hon. JOHN HATZISTERGOS: I imagine that is Vern Dalton; that is what you are referring to.

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

The Hon. JOHN HATZISTERGOS: I think I have answered your question but if there is additional material for me to supply, I will take it on notice.

The Hon. DAVID CLARKE: The question to take on notice is: how much has been paid to former members of the department during this period? Can the Minister provide the names of these former employees and the amount each has been paid?

The Hon. JOHN HATZISTERGOS: As I said, a lot of that information is provided in the annual report. I am not going to give you advance information as to what is going to be in the annual report but it will come in the normal process. The Parliament obliges the department to provide an annual report every year. We go to great expense and trouble in providing that annual report and we have to submit that to the Parliament. I take the view that, if we have to provide all this information in an annual report, we should not give some people advance notice of what might be in it. You should get that information at the same time so, subject to that qualification, we will take it on notice.

The Hon. DAVID CLARKE: Yes, the names of the former employees and the amount that each has been paid.

The Hon. JOHN HATZISTERGOS: Do you have any particular employees?

The Hon. DAVID CLARKE: I would like to see the information that comes back from you, Minister.

The Hon. JOHN HATZISTERGOS: I have answered your question, but we will take such aspects of it as are appropriate on notice.

The Hon. DAVID CLARKE: How many senior executives have left the Department of Corrective Services since 30 June last year? Have they been replaced and by whom?

The Hon. JOHN HATZISTERGOS: That will all be in the annual report. It was last year and it will be this year. I am not sure if that report is ready yet, but it is being prepared.

The Hon. DAVID CLARKE: Getting back to the question I just asked as to how many executives have left, have they been replaced and have their responsibilities been reallocated?

Commissioner WOODHAM: Yes.

The Hon. DAVID CLARKE: Or is that something that will appear in the report as well?

The Hon. JOHN HATZISTERGOS: To the extent that appointments have been made, yes, that will be identified in the annual report.

The Hon. DAVID CLARKE: Minister, are you disbanding the Legal Services Branch of the Department of Corrective Services?

The Hon. JOHN HATZISTERGOS: I have amalgamated it.

The Hon. DAVID CLARKE: You are amalgamating it?

The Hon. JOHN HATZISTERGOS: Yes, I have. There is a separate unit which will be carrying out these services within the Attorney General's Department.

The Hon. DAVID CLARKE: Which unit has it been amalgamated with?

The Hon. JOHN HATZISTERGOS: An opportunity has been identified to provide enhanced legal services to the Commissioner for Corrective Services by implementing a shared service arrangement between legal service divisions of the Attorney General's Department and the Department of Corrective Services. An agreement has been reached between the two department heads to combine and to rationalise two agency legal divisions. Certain legal advice will be provided to the Commissioner for Corrective Services from a shared legal service within the Attorney General's Department. The commissioner has provided funding to the director general of the Attorney General's Department equivalent to the employee and operating expenses for seven staff, including three legal officers. A number of officers from the service have commenced reviewing current files. I should add Juvenile Justice is in that as well.

The Hon. DAVID CLARKE: Have any staff in the Legal Services Branch been retrenched or is it intended that they be retrenched?

The Hon. JOHN HATZISTERGOS: I am advised, no.

Mr SCHIPP: No, none have and none will be.

The Hon. DAVID CLARKE: Given the fact that both the head of the Legal Services Branch and his deputy have left or are in the process of leaving, are you concerned at the loss of experience within that branch?

The Hon. JOHN HATZISTERGOS: No. Firstly, the branch will not continue to exist; it will be in the shared unit being set up in the Attorney General's Department. A lot of the advice work that was being done for Corrective Services was done through the Crown Solicitors Office. So we had a situation where the Legal Services Branch was instructing the Crown Solicitors Office to do a lot of work in this area. It seemed rational to be able to bring those areas together. We discussed it very early on when I was appointed Minister. Juvenile Justice agreed to be part of it as well; they saw the benefits of it. Gerry Schipp might be able to give you some more information.

Mr SCHIPP: The Executive Director of Legal Services, Paul Nash, is currently on leave prior to retirement. So he has not actually left the organisation and is still undertaking some representations on behalf of the department. Murray McPherson, the Director of Legal Services, has indicated that he will also be proceeding on leave prior to retirement, so he has not left the organisation either but will be proceeding on a number of months leave. There have been extensive discussions with the officers in the Attorney General's Department that will be taking on the responsibilities. We are in the process at the moment of transferring the files. The two branches are working fairly closely in moving that information from the department's Legal Services Division to the new shared services arrangement. As the Minister mentioned, in a lot of cases the work is briefed to the Crown Solicitors Office, so the transition should not affect that process.

The Hon. DAVID CLARKE: Minister, why was the department's capital expenditure budget cut by 24.2 per cent or $31 million?

The Hon. JOHN HATZISTERGOS: It was not. That is not correct. I think you have to look at the initiatives that we have completed in the last year and the initiatives that are coming forward. We have just finished the construction and the commissioning of Wellington Correctional Centre, which was a major project in the budget of the Department of Corrective Services. The next major jail that we will be doing will be the South Coast Correctional Centre, which is at least two years away. This year we are spending $97 million on capital works in Corrective Services with an overall capital budget of $665 million. We have commitments to the 1,000-bed project that you would be familiar with, which involves amongst other things the expansion of Cessnock Correctional Centre—the master planning for which is complete and early works packages have been documented. We have already announced the South Coast Correctional Centre, which, as I indicated, is about two years away. Completion is due in 2008. When this correctional centre is up and running it will create about 200 jobs and bring $10 million into the community with 350 construction jobs. That is the next major jail we will be undertaking and we have just completed Wellington.

The Hon. DAVID CLARKE: You can assure us that the capital expenditure budget of the department has not been cut at all or not cut by 24.2 per cent?

The Hon. JOHN HATZISTERGOS: I think I have answered those questions but Mr Schipp might provide some further detail.

Mr SCHIPP: As the Minister said, a capital project that goes over three or four years, such as the construction of a jail like Wellington, only requires a certain amount of money in the early years for the acquisition of the property and the documentation of the tender. Once the project is under construction, significantly more money is spent and paid over to the constructing authority. In the case of Wellington, which was a $126 million project that commenced some four years ago, only a few million dollars was spent in the early years with the bulk of the money spent last financial year and in the early part of this financial year as the project was completed. At the same time with the 1,000 beds currently in the pipeline, the south coast jail, which is the major component of that, will be going out to tender shortly. Construction will not commence for six months or so and will then take two years to construct. So the major cash outflows for that project will be towards the end of the project rather than the beginning. On the basis of that, the cash flows of the capital program go up and down each year. Last year was a fairly high cash flow year. This year was a relatively low cash flow year and, as the projects move from planning into construction, the cash flow will increase.

The Hon. DAVID CLARKE: So you can assure me that the answer to my question is definitely no?

Mr SCHIPP: Perhaps if you can repeat the question I will give you the assurances.

The Hon. DAVID CLARKE: Yes. Was the department's capital expenditure budget cut by 24.2 per cent or $31 million?

The Hon. JOHN HATZISTERGOS: No, it was planned expenditure. You do not have a cut when you plan it. The expenditure has been planned in this way to account for our needs.

The Hon. DAVID CLARKE: It has dropped,

The Hon. JOHN HATZISTERGOS: It varies from year to year but it varies for the reasons I have indicated. It is not correct to describe it as a cut.

Mr SCHIPP: The cash flow requirement this year is less than what was required last year, based on the program of works to be undertaken.

The Hon. JOHN HATZISTERGOS: Bear in mind, because you may not be aware of this in terms of the immediate future, that we have the forensic hospital currently under completion, which is the health facility. The forensic prisoners who are currently at Long Bay—they are the people found not guilty on the grounds of mental illness—will be moving out of the correctional system and into Long Bay during the first part of next year. The ACT will have completed their prison by the middle of next year and most of the ACT offenders will leave the New South Wales system to go into that.

The Hon. DAVID CLARKE: Mr Schipp, is it correct to say that there has been a decrease of 24.2 per cent or $31 million. Is that a more correct way of putting it?

Mr SCHIPP: The required cash allocation for the program has been allocated. We only require a certain amount of cash this year based on the building program and the stage of the program that we are at, and that cash has been provided.

The Hon. DAVID CLARKE: You required $31 million less than you did the year before?

Mr SCHIPP: That is right, because we have a number of projects that are currently in the early stages and we have just completed a number of large projects.

The Hon. JOHN HATZISTERGOS: You are not suggesting there is overcrowding, are you?

The Hon. DAVID CLARKE: I am not here to give opinions.

The Hon. JOHN HATZISTERGOS: You should reflect on that. When Mr Yabsley was the Minister and the coalition were last in office they did run out of space and they were running around telling judges, 'Please put these people in periodic detention,' and at one stage you got the containers off the wharves to put them in. I think we have moved on from those days.

The Hon. DAVID CLARKE: When will construction of the South Nowra jail commence?

The Hon. JOHN HATZISTERGOS: I indicated an answer to that, and in any event it is in the budget papers, which I am sure you have read. We will be going to tender very shortly on it. We will commence construction in 2008 with completion in 2010. It is in the budget papers.

Just on the overcrowding issue because it is very important: remember when we had the APEC event that we had to find 500 places to accommodate protesters at the Commonwealth's request and, amongst other things, we agreed that we would not require offenders to have the overnight stay during periodic detention. But the shadow Minister suggested that, instead of doing that, we should have them all in stadiums like the Sydney Football Stadium and Telstra stadium and put them there.

The Hon. DAVID CLARKE: Sorry, I missed that. Who suggested that?

The Hon. JOHN HATZISTERGOS: The shadow Minister. Fortunately we did not get to that.

The Hon. DAVID CLARKE: Has any correctional centre in New South Wales had their budget reduced in the current financial year?

The Hon. JOHN HATZISTERGOS: Possibly.

The Hon. DAVID CLARKE: Can you be a bit more specific?

The Hon. JOHN HATZISTERGOS: We have just closed John Morony 2 because we have opened Wellington. We move prisoners around all the time, we increase numbers and we vary. John Morony 2 has just been closed and it is going to be refitted, so you could say its budget has been decreased.

The Hon. DAVID CLARKE: And possibly Berrima as well. *[Time expired.]*

Ms SYLVIA HALE: Returning to Goulburn super max, amongst the complaints that you so blithely dismiss are complaints that have come from solicitors and from families as well as from prisoners. They include cancellation of visits without justification, under-age visitors being subjected to unreasonable and illegal strip-searches, as well as the air-conditioning in winter being constantly set on cold when the temperature in cells drops to below zero. Have you investigated any of those complaints; if so, what has been the outcome of those investigations?

The Hon. JOHN HATZISTERGOS: Firstly, they do not have air-conditioning. So this complaint about turning the air-conditioning down during winter is rubbish because they do not have it. So that is your answer to that one.

Ms SYLVIA HALE: So they have windows or what?

The Hon. JOHN HATZISTERGOS: They have forced air. It is not temperature controlled. We do not have air-conditioning for offenders.

Ms SYLVIA HALE: Does the temperature in those cells drop to below zero?

The Hon. JOHN HATZISTERGOS: I do not know. It might.

Ms SYLVIA HALE: Do you consider that to be a reasonable condition in which to maintain people?

The Hon. JOHN HATZISTERGOS: You asked me the question about whether we deliberately turn the air-conditioning down, and the answer is no because there is no air-conditioning. Sometimes it is cold.

Ms SYLVIA HALE: What about the unreasonable and illegal strip searches?

The Hon. JOHN HATZISTERGOS: We do not do that.

Ms SYLVIA HALE: You are saying you have investigated that, and that does not occur.

The Hon. JOHN HATZISTERGOS: Firstly, correctional officers do not strip-search. If we want to strip-search a visitor we have to get the police in to do it. I am glad you mentioned this issue, because this is something that I am aware of. I am aware that a young child came into a correctional centre at Goulburn—I do not think it was in the super max but it certainly was in Goulburn. There was a change room and the mother went in to change the nappy of the child. The offender went into the prison at the same time and was under surveillance, and we found that on the child's cavities were drugs. Yes, prison officers did go in there and stop it—and good on them. I think it is outrageous that people can bring young kids like that in, secrete drugs in their cavities—

Ms SYLVIA HALE: That is one instance.

The Hon. JOHN HATZISTERGOS: It is one instance. It is one that I am aware of. It was an outrageous act that you could subject the safety of a child to that sort of practice on the part of both the offender and the mother concerned. Yes, we did contact the authorities. But we do not have powers ourselves to strip-search young people or indeed anyone else. We do strip-search prisoners before and after visits in maximum and medium and randomly in minimum security. But for members of the public, if we have those suspicions—if a person has had the scent found on them—or we feel that we need to go further, we have to get the police in.

Ms SYLVIA HALE: Following up on your previous remarks about forced air, is it correct that prisoners in the super max have no access to fresh air or to natural light?

The Hon. JOHN HATZISTERGOS: That is incorrect.

Ms SYLVIA HALE: When do they have access?

The Hon. JOHN HATZISTERGOS: They have always had it.

Ms SYLVIA HALE: How often? Is it constant 24 hours day? I am talking about access to natural light and to fresh air. Or is it only for a very restricted period?

The Hon. JOHN HATZISTERGOS: They do not have access to natural light in the evening, so when you say it is all the time, that is not right. We had an upper House inquiry into this, Sylvia. I think Lee Rhiannon went there—I cannot recall off the top of my head—and a number of members of the public. I was happy to facilitate—

Ms SYLVIA HALE: I think she was refused access to the super max.

The Hon. JOHN HATZISTERGOS: There was a parliamentary inquiry. I am always happy to allow parliamentary inquiries that are investigating these issues. But we have had a look at that. We have about 14 different watchdogs in Corrective Services. We have the Ombudsman, the Auditor General, parliamentary committees, the coroner—you name it, they are all around and they all look at these issues. You can have a look at

the upper House report. Read it and you will see it. Mr Smith went there. I do not think he is a person who would be shy—

Ms SYLVIA HALE: You are talking about access—

The Hon. JOHN HATZISTERGOS: He can tell you that there is access to sunlight. They have access to a small courtyard attached to individual cells. There is a day room, which is a privilege that they have to earn, outside their cells that they can associate with. There is a small running track and a half basketball court that they can exercise in. I am not pretending that this is the lap of luxury. It is not. It is a hard place but it is also for hard people. It is not inhumane.

Ms SYLVIA HALE: Minister, I am prepared to take your assurances, but can you reassure me on one other point—

The Hon. JOHN HATZISTERGOS: This is the upper House report. You are a member of the upper House.

Ms SYLVIA HALE: I can read the report, thank you.

The Hon. JOHN HATZISTERGOS: The report states:

> The evidence received by the Committee in this inquiry does not bear out any findings of conditions … in breach of Australia's international human rights obligations. Rather, the evidence supports the Department is aware of the importance of access to light for prisoners. The department has gone to considerable lengths to ensure that the ventilation system used in the HRMU is suitable for climatic conditions at Goulburn and has sufficient fresh air to inmates. Further, the physical design of the HRMU is such that prisoners have unrestricted access to natural light whilst the coach yard at the rear of their cells is open, generally for 5½ hours a day. The Committee also noted that the conditions within the HRMU are significantly more humane than those at the former … facility.

I have been to both.

Ms SYLVIA HALE: Can you assure me it is not the case that when prisoners first arrive at the super max they are held in solitary confinement for more than 23 hours a day for the first two weeks and they are not allowed any visitors during that time?

The Hon. JOHN HATZISTERGOS: We do not have solitary confinement.

Ms SYLVIA HALE: You are saying there is no solitary confinement whatsoever?

The Hon. JOHN HATZISTERGOS: We have segregated custody.

Ms SYLVIA HALE: Are they separated from all other individuals other than custodial staff?

The Hon. JOHN HATZISTERGOS: That is not solitary confinement. We have segregated custody.

Ms SYLVIA HALE: Is that by themselves?

The Hon. JOHN HATZISTERGOS: If there is a segregation order in relation to them, yes, they will be segregated.

Ms SYLVIA HALE: Is that common practice for every new arrival at the super max?

The Hon. JOHN HATZISTERGOS: It depends. If there is a segregation order, yes, it could be.

Ms SYLVIA HALE: But if there is not a segregation order?

The Hon. JOHN HATZISTERGOS: If there is not a segregation order then we do not segregate. It follows. If you have a segregation order made against you, as you know, that would last for 14 days. Beyond that there can be an appeal to the Serious Offenders Review Council. The Serious Offenders Review Council or the commissioner can determine that it is not to continue and then there is a three-monthly review and a six-monthly review.

Ms SYLVIA HALE: As you referred to earlier, the Council for Civil Liberties is expected to be raising the conditions at the super max at a United Nations meeting in Geneva. If the United Nations Special Rapporteur on Torture wishes to inspect the prison, will you allow them to do so?

The Hon. CHRISTINE ROBERTSON: Are we doing torture?

Ms SYLVIA HALE: There are many people, and I think the Minister's mindset is indicative of the same mindset at Abu Ghraib where you lock people up and you do not care how they are treated.

The Hon. JOHN HATZISTERGOS: The only torture that I know of is the 48 people who lost their lives during the mass murders committed by them. That is the only torture I am aware of that the super max relates to. As I said, this is a safe, secure but humane facility. We are not running some sort of secret agenda there of inhumane treatment.

Ms SYLVIA HALE: But you are running an establishment that supposedly breaches international covenants on human rights?

The Hon. JOHN HATZISTERGOS: It does not.

Ms SYLVIA HALE: So to indicate that it does not, you would permit the special rapporteur to inspect the prison?

The Hon. JOHN HATZISTERGOS: On these issues we will meet whatever international obligations we have. The Commonwealth has been in contact with us about these matters. We have provided the Commonwealth with information so that they can respond to the complaints in Geneva. We will continue to cooperate with the Commonwealth to ensure that Australia's international obligations are not compromised. That is all I can say about that. If a request comes to me from the Commonwealth that they want us to provide access to some people, that is fine. We have not denied access to the Parliament. The parliamentary Committee went—

Ms SYLVIA HALE: I do not think you permitted Peter Breen to visit the super max and you did not permit Lee Rhiannon.

The Hon. JOHN HATZISTERGOS: That is true, and I also did not permit some other members of the Labor Party to go. I am not prepared to allow ad hoc visits to correctional centres.

Ms SYLVIA HALE: But they were members of the inquiry?

The Hon. JOHN HATZISTERGOS: If the parliamentary Committee wants to organise a visit in conjunction with work that it is undertaking, yes, I will facilitate it. That has always been the practice. I did give special permission, after discussion with the commissioner, to Greg Smith to go along, bearing in mind that he is a new minister, he had a particular interest and these allegations were around. I thought that was appropriate. But we do not generally allow ad hoc visits from anyone. In Peter Breen's instance, I think he was visiting clients or something so that was a different issue.

Ms SYLVIA HALE: He is a barrister.

The Hon. JOHN HATZISTERGOS: That was a different issue. As I said, the place is well scrutinised. The Parliament itself has passed rules as to who should monitor these sorts of facilities, and we facilitate that. But over and above that, if there is a parliamentary Committee that wants to go down in conjunction with any of its inquiries to look at the facility, of course we will cooperate with that. If the Commonwealth asks us to allow the high commissioner for torture, or whoever he is, to go and have a look, then of course we will facilitate that. The Ombudsman goes down there regularly. I met with him this week. He did not express to me concerns along the lines that you have intimated.

Ms SYLVIA HALE: I am sure you will be happy to take the rest of my questions on notice.

The Hon. JOHN HATZISTERGOS: I always am.

CHAIR: I might add that I was on the Committee when we did do the visit to the high-risk management unit at Goulburn jail. It is apparent from my experience there that some of the prisoners do not appreciate groups wandering around looking at them as if

they are in a zoo, and that needs to be taken into consideration as well. Just because they are in a unit like that does not mean they do not have some basic rights to privacy.

That brings our time for the hearing today to a close. The Committee needs to have a short deliberative in order to determine the time that we will be setting for the answering of questions taken on notice. But, having done a straw poll during the break, I would indicate that that is likely to be 21 days. Minister, if the time for answering questions taken on notice is 21 days, would that cause you any particular problems?

The Hon. JOHN HATZISTERGOS: If it does, can I come back to you. It is just that last year in Health we were asked a large number of questions and it took a long time for us to be able to respond to them. It depends on the number of questions. If the questions are modest in number, then we will be able to comply; if there is a large number, we may need extra time. I cannot anticipate what investigations will be involved, but we will do our best. By the way, when will the questions be available?

CHAIR: I think you should get the questions from the Committee secretariat on Tuesday.

The Hon. JOHN HATZISTERGOS: I thought I might have some additional answers here, but I will follow them up in the written answers that we give you.

CHAIR: I thank the Minister and also thank the commissioner and senior staff from the Department of Corrective Services for their attendance here today. We need to have a very short deliberative just to confirm that answer.

(The witnesses withdrew.)

The committee proceeded to deliberate.