

UNCORRECTED PROOF ISSUE

Thursday 26 June 2008 - Estimates Committee A (Llewellyn) - Part 1

LEGISLATIVE COUNCIL

ESTIMATES COMMITTEE A

Thursday 26 June 2008

MEMBERS

Ms Forrest
Mr Hall (Chair)
Mr Harriss
Mr Martin
Mr Wilkinson

SUBSTITUTE MEMBERS

IN ATTENDANCE

Hon. David Llewellyn, Attorney General; Minister for Justice; Minister for Primary Industries and Water; Minister for Energy and Resources

Department of Justice

Lisa Hutton, Secretary
Brian Smith, Deputy Secretary, Corporate
Michael Stevens, Deputy Secretary
Graeme Barber, Prison Service
Marja Elizabeth, Director, Community Corrections
Jim Connolly, Magistrates Court
Seth Hills, Monetary Penalties Enforcement Service
Len Armsby, Legislation Development and Review
Chris Batt, Office of Consumer Affairs and Fair Trading
Norman Reaburn, Legal Aid Commission
Elizabeth Knight, Registrar, Supreme Court
Dale Webster, Guardianship & Administration Board, Forensic Tribunal, Mental Health Tribunal
Bruce Taylor, Chief Electoral Commissioner
Simon Allston, Ombudsman

Department of Planning and Workplace Relations

Lisa Hutton, Secretary
Brian Smith, Deputy Secretary, Corporate
Michael Stevens, Deputy Secretary
Peter Fischer, State Planning Adviser
Roy Ormerod, Workplace Standards Tasmania

Department of Infrastructure, Energy and Resources

Tony Van De Vusse, Director, Energy Planning and Conservation
Mark Addis, Chief Executive, Office of the Secretary
Mandy Russell, General Manager, Corporate
Tony Beaumont, Manager, Energy Security
Bob Rutherford, Deputy Secretary, Energy and Resources
Tony Brown, Director, Mineral Resources
Michael Leonard, Director, Mining Projects
Grahan Sargison, Chief Executive Officer, Private Forests
Graham Wilkinson, Chief Forest Practices Officer
Luke Gregory, Executive Officer
Matthew Fitzgerald, Manager Royalt, Finance and Administration
Andrew Blakesley, Director, Forest Policy

Department of Primary Industries and Water

Kim Evans, Secretary
Michele Moseley, Deputy Secretary
John Whittington, Deputy Secretary

Robert Cockerell, General Manager (Corporate Services)
Stephen Godfrey, General Manager (Information & Land Services)
Wes Ford, General Manager (Primary Industries)
Penny Wells, A/g General Manager (Resource Management and Conservation)
Martin Read, A/g General Manager (Water Resources)
Alan Harradine, A/g General Manager (Water Resources)
Kate Kent, General Manager (Strategic Policy)
Alex Schaap, General Manager (Biosecurity and Product Integrity)
John Diggle, Director (Inland Fisheries Service)

Ministerial Staff

Graham Wilson, Head of Office
Michelle Lowe, Adviser
Dr Kathryn Campbell, Senior Adviser
Simon Boughey, Senior Adviser
Nick Wright, Senior Adviser
Peter Pearce, Senior Adviser
Scott Bacon, Adviser

UNCORRECTED PROOF ISSUE

CHAIR (Mr Hall) - Thank you everybody and welcome to Minister Llewellyn and his staff today. The order of the running sheet is Department of Justice division 7 first, then Energy and Resources division 6 and finally DPIWE Division 11.

DIVISION 7

(Department of Justice)

Mr LLEWELLYN - In relation to the Attorney-General and Justice portfolio, I can advise that this year will be mainly one of consolidation for the portfolio. Demand remains strong for most of the services provided by the Justice department and our associated bodies. This demand is being managed with additional resources provided in both last year's Budget and this year's. There are, however, a number of initiatives in this year's Budget that the committee needs to draw its attention to, and I am sure they have looked at it. The Tasmanian Prison Service budget has been under pressure from increasing operating costs since the opening of the prison in 2006. This year's Budget has an additional \$1.6 million recurrent funding for the Prison Service to cover increasing costs of salaries and wages, services, food, clothing, energy, power, water and so on. The Budget also delivers on safety with a one-off allocation of \$800 000 to undertake work to secure the perimeter fence at the Risdon Prison complex. Also, committee members should note that the department's forward Estimate includes funding to commence phase D of the prison infrastructure redevelopment program. That is a program that will continue through 2009-10 with the bulk of the construction costs associated with an additional maximum security block falling in 2011-12. It is out a bit but that was part of the original program. This allocation is significant because it demonstrates the Government's commitment to continue to upgrade the infrastructure at the prison.

The Budget also includes further capital allocation of \$874 000 this year to upgrade the holding cells at the Hobart Supreme Court. Work is needed to maintain a safe working environment for Corrections and court staff, and having regard to the State's duty of care to people in detention. I would also like to note in passing the launch of the Monetary Penalties Enforcement Service, which I know was of interest to members in the Legislative Council. We are going along pretty well with outstanding penalties owed by corporations, money that was previously uncollectable. I think we are making quite significant inroads in collecting that money. Quite a number of corporations have come forward with fairly large sums of money that have been derived from fines and so on for vehicles that have been attributed to the company rather than to individuals.

Another long-running project coming to fruition is the new legal professions regulation regime. The Legal Profession Act, which implements the national model in Tasmania, will come into force in the next few months. In the meantime, there has been a lot of work taking place in the new regulations and legal profession rules, with very valuable assistance coming from the Law Society and other stakeholders.

Appointments have been made to the new Legal Professions Board and the Disciplinary Tribunal membership is close to finality.

Mr WILKINSON - How many complaints did you receive last year?

Mr ALLSTON - On the latest figures, 943 in all jurisdictions.

Mr WILKINSON - Is that up on the previous year?

UNCORRECTED PROOF ISSUE

Mr ALLSTON - It is about the same as last year on the figures that I have. I should qualify that. We have both complaints and inquiries: a complaint is a matter where we open a file and we actually do some substantive work on it; an inquiry is something which does not get that status. A person might ring in and say that it is out of jurisdiction or they need to be referred back to the agency to make their complaint there or some other reason. We have had an increase in inquiries over the last year by a substantial amount.

Mr WILKINSON - What is the increase in inquiries over the last year?

Mr ALLSTON - In the previous year it was in the order of 700 and this year it has been in the order of 1200. That is largely attributable to the fact that I am taking calls direct from the inmates in the prison and from detainees at Ashley who can ring in direct if they have a concern. On the complaint level we seem to be holding the same sort of levels as the previous year.

Mr WILKINSON - In relation to these extra inquiries that you have they have to be looked at in some depth to see whether they become a complaint or not, correct?

Mr ALLSTON - Yes, that is right.

Mr WILKINSON - And the average time for that would be what?

Mr ALLSTON - Probably 10 to 15 minutes.

Mr WILKINSON - So you have an extra 500 of those from last year. As you say an extra 10 to 15 minutes to see whether they can become a complaint. Are your staffing levels able to cope with that or are they under some stress in meeting all their obligations?

Mr ALLSTON - At the moment we are able to cope. A concern I have is whether or not I can resource major investigations if they come along. At the moment I have to take staff off-line from complaint management in order to carry out a major investigation.

Mr WILKINSON - In relation to major investigations how many of those have you got going?

Mr ALLSTON - We had one we started recently which as it evolved did not become as large as I expected. That is ongoing and will be completed in the next couple of months. I have three matters which I am looking at that I think deserve considerable resources.

Mr WILKINSON - In relation to those you would need some investigative staff, have you got those with your division?

Mr ALLSTON - I have if I take them off-line from complaint management work. It is very hard to find really competent investigation staff and you tend to grow them through your organisation rather than find them elsewhere.

Mr WILKINSON - It would seem to me that the only two areas where investigative staff can be gained are firstly the police and secondly through the Ombudsman's office as a result of experience that they have had in that office.

UNCORRECTED PROOF ISSUE

Mr ALLSTON - That is right, and police are not always well suited to the sort of work an ombudsman does.

Mr WILKINSON - Why is that?

Mr ALLSTON - Because they have a different focus, they have a focus particularly on investigation of crime, perhaps they are less sensitive than they need to be when you are dealing with government agencies.

Mr WILKINSON - How many investigative people have you?

Mr ALLSTON - I have 10.

Mr WILKINSON - And you are saying if the investigations that you believe might become worthwhile to proceed with, three in the melting pot at the moment, are those nine or 10 people able to cope with those?

Mr ALLSTON - I trust so.

Mr WILKINSON - But by doing that they would have to take their eye off the ball as far as the complaints are concerned?

Mr ALLSTON - That is right. It causes backup. It means that the complaint management work has to be moved around the office to other staff.

Mr WILKINSON - So it would seem to me as an outsider without any actual knowledge of exactly what goes on in the Ombudsman's office, that you would be classed as being understaffed if that were the case and you continued with your three investigations?

Mr ALLSTON - Yes. It is a tentative situation.

Mr WILKINSON - If that is the case do you then have to decide whether to proceed with the investigations as a result of the staff that you have compared to whether the investigation is worthwhile or not?

Mr ALLSTON - I have not been placed in that situation but it could arise.

Mr LLEWELLYN - Can I make a comment about it?

Mr WILKINSON - I do not care who answers the questions.

Laughter.

Mr LLEWELLYN - I am conscious that the Ombudsman is independent. But I just want to make the comment that I have met with the Ombudsman on a couple of occasions now. I have not been in the Attorney-General's job all that long and we did

Mr LLEWELLYN - I have not been in the Attorney-General's job all that long and we did discuss the issue of some restructuring within the office that would enable a freer arrangement et cetera. It was very late in the budgetary period. I recall it was in May or April -

[9.45 a.m.]

Mr ALLSTON - It was in April.

Mr LLEWELLYN - Yes. So I have just said to the Ombudsman, I am happy to pursue the issues of resourcing with him if there are any issues that he has and he thinks he cannot handle through the year, and the difficulties associated with it, to come and talk to me about it; not only from the point of view of providing extra resources in money terms but there could be some options of providing additional staff that might assist the Ombudsman displace other people that can actually do other work and so on. So I would be very happy to receive any submissions from him on that sort of basis. In the meantime for next year's Budget we might be able to have a fuller look at the issue.

Mr WILKINSON - All right. In relation to the extra staff that you may need, then, does that require any change in your officers to properly equip those people to do the job that they would be required to do?

Mr ALLSTON - Perhaps to follow up on what the Attorney was saying: what I put forward in April was the possibility of having a deputy ombudsman. That would help with the administration of the office, which, as you would know, operates across a diverse range of jurisdictions. My intention was that it would enable me to have an additional investigation officer and to have a separate investigation string which would deal just with these more significant investigations. So I probably would end up recruiting an additional investigator.

Mr WILKINSON - Often the Ombudsman's office is either the last or the second-last port of call, have gone through solicitors, gone through the courts, gone through solicitors again after the courts have been -

Mr LLEWELLYN - Members of parliament.

Mr WILKINSON - That is what I was saying; first or second last port of call, because often it is either the parliamentarian or alternatively the Ombudsman's office where the complaints finish. Therefore, because of that they are fairly difficult clients to handle from time to time. It would therefore seem to me that there is a need for a certain type of person with the expertise to deal with those people. Is there any special training that your staff go through in order to deal with these, if I can call them, difficult clients?

Mr ALLSTON - You are quite right that a very large proportion of the people who come to us are not easy to deal with and they have been taxed by what they have experienced up to that point. There is a national program which has been run over the last year or 18 months which is funded by the Commonwealth Government and is run out of the New South Wales Ombudsman's office, which is called Dealing with Unreasonable Complainants. This has involved workshops around the country and the development of training materials and we have been part of that project. We had two workshops in Tasmania in the last year on that very subject. We do not have rolling training on that issue; people learn from their peers I suppose. It is a small office; it is only 17.5 FTEs. There is a lot of interaction and a lot of experience can be gained from others.

Mr WILKINSON - I hear what the Attorney is saying. How do our office numbers compare with other States.

UNCORRECTED PROOF ISSUE

Mr ALLSTON - We are the smallest office, I think, other than the one in the Northern Territory. But we are very different from any other office because there is no other jurisdiction, aside from the Commonwealth for obvious reasons, which has as many responsibilities. So I am not only the Ombudsman but I am also the Health Complaints Commissioner, the Energy Ombudsman. I deal with applications for review of FOI decisions, audit police records under the telecommunications interception legislation, and am about to acquire other audit functions under the police powers legislation and the water and sewerage ombudsman's service -

Mr LLEWELLYN - A very versatile, multifunctional -

Laughter.

Mr WILKINSON - From what you are saying it seems glaringly obvious that in order to properly carry out those tasks there needs to be -

Mr LLEWELLYN - I have some sympathy with him.

Laughter.

Mr WILKINSON - a couple more FTEs, to say the least.

Mr ALLSTON - I would certainly appreciate one very capable extra FTE.

Mr WILKINSON - How many more duties do you deal with as opposed to ombudsmen in other States? We are looking at a per capita-type comparison as opposed to numbers, because obviously Tasmania is smaller.

Mr ALLSTON - I cannot give you a per capita figure. Complaints to the Ombudsman per capita of population: I could not provide you with that and I do not know where that information would be.

Mr WILKINSON - I know last year you were saying that what you were aiming at was a 75 per cent turnaround of complaints with three months. How has that been going?

Mr ALLSTON - I think we are getting close to that; I think it is still an objective. We are doing a lot of work in the health complaints area to try to achieve the statutory timetables and I think that will affect those figures as well. I have absolutely transformed that unit in the last four months and now have a dedicated assessment team that assesses each complaint as it comes in and focuses very much on achieving the statutory timeframes. That will yield results very soon. In the Ombudsman area, it is harder to focus on any one area - the complaints are of a much more disparate nature. I would be surprised if we do not get close to the 75 per cent in the next year.

Mr WILKINSON - And that is going to be the aim as it proceeds, a 75 per cent turnaround within three months?

Mr ALLSTON - Yes, that seems to be a realistic objective.

Mr WILKINSON - Do you have any complaints that have not been dealt with in 12 months and over?

UNCORRECTED PROOF ISSUE

Mr ALLSTON - That is an interesting question. I have nine complaints in the Ombudsman area which are more than a year old but less than two years old; 10 in the health complaints area, which will come down rapidly over the next matter of weeks; six in the energy area; and five long-term conciliations. There are five that are more than a year old and less than two years old and five that are over two years old. We are focussing very much at the moment in getting down all those old files.

Mr WILKINSON - Is your percentage rate of that better than it was in the past? Is it improving?

Mr ALLSTON - Yes, it is much better.

Mr WILKINSON - How much?

Mr ALLSTON - I cannot tell you; that is just an overall management impression. It has been a focus of mine for some time but it has become an increased focus lately because it seems to me to be totally wrong to have a complaint that has not been resolved after more than one year, unless there is some very good reason for it. The conciliations, as I indicated, tend to be older files. There are two reasons for that: one is the nature of the matters that end up in conciliation and the other is the previous focus of investigating health complaints rather than conciliating. In the transformation that I am just achieving in that section of the office we are now preferring to conciliate cases rather than investigate them because we are finding that we can often resolve the systemic issues in conciliation rather than having to do an investigation, and also because of the experience that the sooner you conciliate a matter the more likely it is that you will be able to resolve it. If you investigate it and then send it to conciliation, it is very likely the parties bog down and they are not in a position to resolve the matter between themselves.

Mr WILKINSON - But the majority of clients who came before you would have gone through that process, would they not, and therefore the majority would be long-standing problems prior to coming to you?

Mr ALLSTON - Very often.

Mr WILKINSON - So therefore conciliation is worth trying but is not very successful, is that what you are saying, because they come to you after a period of time when they have gone through other channels?

Mr ALLSTON - No, what I was saying is that it is less successful if we allow it to linger in the office before we conciliate. The sooner we can conciliate the more likely it is that we can achieve positive results. Conciliation is mainly used in the health complaints area but we are starting to use it in energy complaints with some success. We are also starting to use it where we can in the Ombudsman area.

Mr WILKINSON - In relation to staffing, has your staff increased over the last year?

Mr ALLSTON - No, it has not - well, only by 0.3 of an FTE.

Mr WILKINSON - Compared to 2003?

UNCORRECTED PROOF ISSUE

Mr ALLSTON - I do not have figures with me for that but it was 17.1 FTEs in 2005-06. I am sorry but my previous answer was mistaken, I was comparing 2005-06 with now. 2005-06 was 17.1 FTEs; last year was 17.6 FTEs and this year it is 17.4. So it hovering around the same point.

Mr WILKINSON - So in summary and in conclusion, it would seem to me that the amount of complaints that you have received are increasing and on the increase?

Mr ALLSTON - The complaints are static; the inquiries are vastly increased; the FTEs are the same.

Mr WILKINSON - Therefore the work load would seem to be significantly increased because of the inquiries that you are getting that have risen by 500 in the last year. Your staff level has stayed the same for at least three years and therefore even now and looking into the future there would seem to be a need, and a real need, for more FTEs to help you carry out the work load that you are carrying out now and in the future.

Mr ALLSTON - Particularly if I am to look at systemic administrative issues around the State service and look at major issues that come to me.

Ms FORREST - I know that you undertook some trips to other parts of the State, the north-west and the west coast; I am not sure about other parts of the State. What was the feedback from that and is that something that you intend to continue and does that increase the workload or not?

Mr ALLSTON - I personally went to the west and north-west, as you know. It was quite well advertised but it did not have many people come to talk. My principal officer went the north-east earlier this year and nobody came, even though again the advertising was quite wide.

Ms FORREST - People do not come until they have a problem, do they?

Mr ALLSTON - That is right. People probably contact the office direct if they really have an issue that they want to raise. I would like to continue to travel around the State because I think that it is important to just maintain the profile of the office. So there will be quite a concentration on outreach this coming year. It is quite interesting - I just explained earlier the changes that I am bringing about in the health complaints area. We have got through the file load very rapidly and now have a fairly low file load per case officer in that area and I am going to be putting in a particular effort to make sure that the Health Complaints jurisdiction is widely known through the State.

Ms FORREST - And the stand at Agfest - was that a success in your view?

Mr ALLSTON - You can never see complaints arise just because you have been involved in one particular bit of publicity. I think that it is the most effective outreach that we do in the year. Many people pass through Agfest and so many people stop to talk. We will continue to do that. We are also going to have a presence at the Hobart Show this year. We are looking for any opportunity to make sure that the public know that we are there, which is difficult again when you have got such a wide range of jurisdictions to publicise your activities in.

Mr WILKINSON - Are children going to come after those Ombudsman showbags?

UNCORRECTED PROOF ISSUE

Laughter.

CHAIR - You can come in with the independents to our tent at Agfest if you like, we could accommodate you there.

Ms FORREST - The independents go and visit him at his stand don't they. I got the Ombudsman show bag from Agfest.

Mr HARRISS - In answering Jim with regard to health complaints and within statutory periods and so on, what are the conditions or the provisions under which you extend from the 45 days out to a 90 day statutory period?

Mr ALLSTON - A 45-day period is very challenging. Unlike other offices, we run that time period from the time comes into the office. Some interstate health complaints commissioners run it from the time when they actually start working on the file. So we get the complaint in; we immediately decide how we should investigate it. At the very least we need to write to the provider and get their response. That can very often consume the 45 days. So it is just extended as a matter of practicality; if we cannot make it within the 45-day period it goes out to 90 days.

Mr HARRISS - So you can say 'Right, 45 days has now expired, we can process this and extend that to 90.

[10.00 a.m.]

Mr ALLSTON - That is right. The statute does not impose any criteria. It just gives me the opportunity to do it.

Mr HARRISS - You would have to wonder, then, why we have a statutory requirement of 45 days at all, would you not?

Mr ALLSTON - Good question.

Mr HARRISS - Just get on with it, change the legislation and set it at 90 days for a resolution.

Mr ALLSTON - Well it is not for resolution. It is for assessing -

Mr HARRISS - Oh, yes.

Mr ALLSTON - The assessment involves deciding what the destiny of the complaint should be and it is one of a number of options. It could be investigated, it could be sent to the registration board, it could be conciliated, it could be dismissed; any one of those or a combination. So it is really deciding at the outset what you do with the matter.

Mr HARRISS - Again, when you were responding to Jim, you were talking about performance information in the budget papers: 36 per cent was the actual in 2006-07, but if we look at the 90 days then 58 per cent was the actual in 2006-07 and your target, as Jim mentioned, was 75 for this year. Did you mention to Jim how you were tracking for this year? Your target was 75; are you going to get close to that or not?

Mr ALLSTON - I would very much doubt it, mainly because I was very short staffed at the beginning of this calendar year and a lot of matters had to be extended because of that. So I am not looking forward to seeing the figure for 2007-08 for either 45 or 90 days but I would like to think that the figure for the next financial year after that will be much better.

**Output group 1
Administration of Justice**

1.1 Supreme Court services -

Mr WILKINSON - I know we have been speaking about juries. It is probably a good story for you because for a number of years now we have been putting questions to the Government saying there needs to be an increase in pay. I think it was \$80; it has gone up to \$125 I believe, or more?

Mr LLEWELLYN - No, \$176.

Mr WILKINSON - Okay. When is that coming into play?

Mr LLEWELLYN - From 7 July is the next Supreme Court term so we won't be requiring any jurors until then, but it comes into effect at that time.

Mr WILKINSON - Obviously one of the areas that is certainly going to improve is people's willingness to sit on juries. Previously they said we just cannot afford to because we are just losing money, especially if they are at trials and on the jury list, as you know, for a few weeks.

Mr LLEWELLYN - I think that was certainly the major issue we had there, and it was certainly recognised and represented as such to the Government. The Government thought it was appropriate to increase the jury allowance or whatever. Maybe we should look at that on a more regular basis than what has occurred in the past.

Mr WILKINSON - How does that compare with other States?

Mr LLEWELLYN - It compares fairly favourably, I understand, but I defer to anyone in regard to that.

Ms HUTTON - I do not think we specifically did that comparison. It was more about moving from where we were when it was set last time by means of CPI increases over the period to work out where we should have been, if you like.

Mr WILKINSON - Have you got any statistics at all as to the jury members? When they are first sent their letters, how many replies state, for whatever reason, that they could not sit on the jury for a certain month, whatever the month might be, and whether that increased in recent times because it would be hoped that that now would start to level out and probably decrease.

Ms KNIGHT - The statistics will vary from year to year and also with the sittings. It do not have the actual figures for you but I think the statistics can be that, say, 20 per cent of the ones that are summonsed actually arrive at the court to appear to work on a jury.

Mr WILKINSON - So 20 per cent of those people -

Ms KNIGHT - It can be as low as that, yes.

Mr WILKINSON - Are we saying that those people write in to you to say that they are unable to sit for whatever reasons?

Ms KNIGHT - For a number of reasons. It can be because of their age and they can be automatically excused because of that, or they are going to be out of the State or out of the country or they have to care for relatives. There are a wide variety of reasons upon which they will be excused.

Mr WILKINSON - The beauty of a jury system is that you are being tried by your peers, as you know, and therefore there has to be that broad cross-section of people willing to sit on juries. That I what I am endeavouring to examine at the moment, whether that broad section of the community has been decreased. If it has, what do you believe the reasons have been?

Ms KNIGHT - I believe that we are still getting a broad selection of people on the jury. It can vary, as I said, from time to time but I believe that overall there is still a broad selection. The system is based on random selection from the electoral roll. I do not think there are specific statistics about the numbers of professions represented on the jury, but anecdotal evidence is that it is a broad selection.

Mr WILKINSON - On the actual jury panel, when you received them years ago there used to be the occupation of the juror. In the last five or so years that has not been the case with a lot of members of the jury. Is there any reason for that?

Ms KNIGHT - My understanding is that the profession is no longer on the electoral roll.

Mr MARTIN - It would change too often.

Mr WILKINSON - Has that caused a problem?

Ms KNIGHT - Not to my knowledge, no.

Mr WILKINSON - In relation to the uncontested committal proceedings which previously were dealt with in the Court of Petty Session or Magistrates Court, there has been a change. Rather than waiting for those matters to come before the Magistrates Court they go straight to the Criminal Court. You then have to make application before a judge as to whether this proceeding should take place and it is up to the judge to say yes or no. There seems to be quite a backlog and quite a problem at the moment with that process. Have you received any complaints? If so, what are you doing to overcome those complaints?

Ms KNIGHT - No, I have not received any complaints. As a general comment I think it was anticipated that there would be a temporary increase in the number of matters going to the Supreme Court because of the decrease now in time they are spending in the Magistrates Court. We are experiencing an increase in the number of matters being lodged with the court. Over time it is anticipated that that will settle down but it could take some time, given that there is a lead time in matters still coming through from the Court of Petty Sessions to the Supreme Court.

Mr WILKINSON - How much has that increased your lists at the moment?

UNCORRECTED PROOF ISSUE

Ms KNIGHT - We are still collating the figures. The number of new matters coming to the court has varied over the sittings. We have had, I think, four sittings this year. We anticipate having over 100 new matters lodged with us for the beginning of the last sittings which started on 16 June. So that is quite a big increase in the number of matters that we would normally be getting.

Mr WILKINSON - That is a concern. I know it was raised in the upper House by a couple of members when the legislation came through. Rather than having the waiting in the Magistrates Court now the waiting is going to be in the Criminal Court and I believe the majority of the problem with the wait is the police have not finalised their file.

Ms KNIGHT - I think that it is a bit too early to tell. The system came into place, the legislation came into operation on 1 February. It needs a few months, even perhaps longer than that, to determine whether there are going to be any issues with the system that need to be addressed.

Mr WILKINSON - So it is obviously being monitored. We can see there are, from what you say, an extra 100 matters listed for the next criminal sittings on 7 July.

Ms KNIGHT - No, no, they were the ones that were lodged for the sitting starting 16 June. The next sitting starts on 21 July. I had misheard the question; my apologies - 21 July is the next sitting.

Mr WILKINSON - Right. As to costs associated with that; obviously, the more people that are involved in criminal matters, the more costs are going to increase as well.

Ms KNIGHT - Do you mean to the parties or to whom?

Mr WILKINSON - Not to the parties but for the administration of justice.

Ms KNIGHT - I cannot speak for the administration of justice overall; the resources that are being put into the new criminal system from the registry perspective are being absorbed into our budget.

Mr WILKINSON - And you have the staff capable at this stage of coping with that or are you under added stress as a result of the increase?

Ms KNIGHT - I believe it is a bit early to tell yet. We are keeping that under observation.

Mr WILKINSON - It must be a concern, though?

Ms KNIGHT - With any new system it can be a concern whether you have the appropriate resourcing and the appropriate level of staff and that is something we are keeping an eye on.

Mr WILKINSON - When you look at the criminal cases in the Supreme Court and you look at 2005-06: 537 people presented and there were 101 persons discharged. Likewise in 2006-07, 104 discharged from 562 people presented. The majority still would be pleas of guilty; there would be some trials; and we have the acquittal data as well, but there is a significant number being discharged. My concern is that rather than that occurring because of, let us say, uncontested

committal proceedings in the Magistrates Court where they are still brought to the criminal court, you can then negotiate with the Crown prosecution and bring forward the matters that were raised in the Magistrates Court and as a result there are discharges. What I am concerned about is without that occurring there might be fewer discharges, more matters going to trial, more costs, more backlog of cases.

Mr LLEWELLYN - You would probably see an initial more than a continuing arrangement.

Mr WILKINSON - Although when you look at the persons discharged, especially from the start of this decade: 79, 111, 132, 134, 115, 101, 104. When you have 406, under 500, 500, and 500 people presented it is quite a significant amount of people being discharged. For what reasons, you might ask. A number of reasons, but the work that is done to get those people to court and then to be discharged is significant and a cost to the justice system

Mr LLEWELLYN - I think what we need to do is to keep a very close monitor on it and see what the situation is and if an observed problem emerges there then we can move to address that. I think your questions could be put next year when we have got the data on what has happened and we will be in a better position to do that. But I suggest that we monitor it through the process. From a Supreme Court point of view, we still have one of the lowest national criminal backlog indicators for non-appeal matters.

[10.15 a.m.]

I have some statistics here; 13.3 per cent or 24 matters were greater than 12 months old at 30 June 2007 and this represented a considerable reduction, because they are only small figures - 20 per cent of 6 matters from the previous year. The next lot of figures I give you are even smaller so it is pointless, in a sense, talking about the percentages. Matters greater than 24 months old was only four in the system and the Supreme Courts achieved the lowest backlog indicator for appeal cases on a national basis with no matters being greater than 12 or 24 months old.

Mr WILKINSON - Those figures are good; no question about that. What I am concerned about is that people that people that have presented first for trial, the work that is involved in getting those people charged in the first place is significant; the work that is involved in running them through the system prior to them being discharged is significant; and then when you have a fifth of the people in 2006-07 who have presented being discharged and if you added up the cost of that, it would be a significant cost. What I am concerned about is why there are so many discharges? The only reason, it would seem, would be because of lack of evidence. If there is a lack of evidence and therefore the people have to be discharged, why then present the person in the first place? The work should be done at the start as opposed to suddenly realising 'Look, we do not have enough evidence; we are four months down the track so we will discharge the person'. Can you see my concern?

Mr LLEWELLYN - You are obviously talking about things from the DPP's perspective and other areas later on in the Estimates debate, but are you saying that there is not enough effort from the administration point of view or from the prosecution, or what?

Mr WILKINSON - No, I am saying there is a lot of effort, obviously, at the prosecution because they have to work through it to see whether they proceed or not. I just question whether the work is being done by the police in the first place and whether they believe that they charged the person, therefore their job is done. Why? Because it is then a - that is the statistic that the

UNCORRECTED PROOF ISSUE

police take into account, the charging, and as opposed to the back end, whether the person is found guilty or not, which to me should be the relevant statistic for the work that the police do. Just because you are charged, to me, does not dispense with justice; it is whether that person is guilty or not guilty after a due deliberation, due process of evidence.

Mr LLEWELLYN - But everyone has to have their rights through that system and the system has to provide for their rights.

Mr WILKINSON - Sure.

Mr LLEWELLYN - So that is going to cost.

Mr WILKINSON - I understand that. I think there would be a saving in costs, though, if the work was done at the front end you would not have to go through this process where one fifth of the people, because of a lack of evidence in the main, are discharged.

Mr LLEWELLYN - I understand that is one of the reasons why the DPP has been looking to get involved earlier in the process than in the past. I know there have been some interchanges between the police service and the DPP about that matter.

Mr WILKINSON - I am not criticising the Crown Law office; I think they are doing a super job and I always have. But I can see the problems that they have as well because they have got to then sift through everything to say whether it should or should not proceed. If the job were to be done more strenuously at the start, they would not have the same pressures on them.

Mr LLEWELLYN - Yes, I take the point. My observation as the past Police minister is that the police service do a pretty good job.

Mr WILKINSON - I accept that.

Mr LLEWELLYN - People are sifted out at that level; if there is not enough evidence those matters do not go forward to the DPP. The DPP then makes the assessment as to whether or not there needs to be more evidence. He is getting involved earlier in the process so that can be assessed but you could always do more in any area of Government. It is a matter of that balance between providing adequate resources and getting on with the job and not having enough resources.

Mr WILKINSON - I have endeavoured to make my point in relation to that. As to the work that is involved with the Supreme Court, there is still a significant number of people coming through the Supreme Court, both civilly and criminally, correct?

Ms KNIGHT - Yes.

Mr WILKINSON - Have you noticed there to be an increase in workload of the staff at the Supreme Court?

Ms KNIGHT - Generally?

Mr WILKINSON - Yes.

UNCORRECTED PROOF ISSUE

Ms KNIGHT - No, not in my observation. I do not think that the workload has increased significantly.

Mr WILKINSON - So you believe your present FTEs are adequate to do the work?

Ms KNIGHT - I believe they are.

Mr LLEWELLYN - He is promoting your administration, Elizabeth, and leading the witness, I think.

Laughter.

Mr WILKINSON - We have an increase from 2007-09 of \$1.4 million, which is significant when you look at the totality of it. What are the major reasons for that?

Mr SMITH - Jury fees at the moment are \$440 000, plus the normal increase in judges' salaries.

Mr WILKINSON - So the reason for that is because of the jury panel?

Mr SMITH - Yes, \$440 000.

Mr WILKINSON - Originally that was thought to be \$380 000, was it not? I thought that was the forward Estimates as to the extra costs.

Mr SMITH - That is an additional amount of money to cover the increased jury fees and the normal indexation on judges' salaries.

Mr WILKINSON - That covers the vast majority of that increase?

Mr SMITH - Plus normal indexation on the salaries for the normal public servants.

Mr WILKINSON - Witness support scheme, I know the DPP has been an advocate of that. He is saying that solicitors should not have to take hold of the witness's hand and walk them through the process each trial, that there should be a support person to do that work. How is that going, if at all?

Mr LLEWELLYN - You are talking about witness assistance services? I have some comments about serious crime witness assistance services, if that would be helpful. It was in last year's Budget. Plans are well advanced for the introduction of the serious crime witness assistance service, however difficulties in recruiting a suitable service manager have delayed the implementation of the service for more than eight months. A manager for the witness assistance service has been now selected and is expected to commence in July this year. Recruitment of the remaining three witness assistance officers will be the first priority of the service manager. The aim of the witness support service is to minimise the stress and trauma on witnesses, particularly vulnerable witnesses, by their involvement with the criminal justice system. A successful service also allows witnesses to give their evidence to the best of their ability and in this way assist the effectiveness of the trial and justice system as a whole. The specialist and practical services provided to witnesses by a witness support service include the following: preparation of court appearances, including court tours and demonstration of special witness facilities; plain English

UNCORRECTED PROOF ISSUE

explanations of rules of evidence, court processes and terminology; information about progress with a case and when the witness will be required in court; accompanying witnesses to court, in court or when giving evidence by video; liaison with the police and prosecutors on witness protection measures; information about the availability and restitution and compensation orders against an offender; referrals for specialist counselling or treatment; assistance with victim impact statements; organising interpreters and other aids to communication; post-trial debriefing and support and community training and education.

Not every witness in a trial wants or needs help and the serious crime witness support service will not be able to assist every witness in every trial but they will do their best, I guess. The serious crime witness support service will give priority to the most vulnerable witnesses and, of course, they include children involved in sexual assault matters, matters involving deaths, including workplace health and safety matters; adults involved in sexual assault matters and crimes of violence.

Mr WILKINSON - So the witness support scheme is up and running?

Ms HUTTON - About to be.

Mr WILKINSON - That will involve just the one person?

Mr LLEWELLYN - No, there was the one person plus the others that I mentioned earlier. Do not tell me you were not listening to what I was saying.

Mr WILKINSON - I was endeavouring to.

Laughter.

Mr LLEWELLYN - The remaining three witness assistant officers will be the first priority of the manager once he is on the case.

Mr WILKINSON - I was thinking, when you were saying that, I took those three people around the State. Is that right that there is going to be one in the north-west, one in the north, and one in the south or, alternatively, is there going to be a person here travelling?

Mr LLEWELLYN - The advice is that there is certainly someone in the north of the State. I am not sure about the north-west.

Ms FORREST - Why don't you know whether there is one there or not?

Mr LLEWELLYN - My adviser did not know.

Laughter.

Ms FORREST - That is too far to get past Launceston to see, is it?

Mr LLEWELLYN - Yes.

Mr WILKINSON - So, at the moment, one in the north and one in the south, as I understand it?

UNCORRECTED PROOF ISSUE

Mr LLEWELLYN - There were three.

Mr WILKINSON - Where is that other person, that is what I want to know?

Mr LLEWELLYN - In their car.

Laughter.

Mr WILKINSON - Are there any other initiatives that the DPP or the Supreme Court staff have for this year that they wish to focus on?

Mr LLEWELLYN - Now you are back on the line item. You were not until the last one.

Mr WILKINSON - Yes, we were - Supreme Court services.

Mr LLEWELLYN - No.

Mr WILKINSON - That is where the DPP has always come. Where then please?

Ms HUTTON - Legal services.

Mr WILKINSON - Okay.

Mr LLEWELLYN - So, you see I was very understanding.

Mr WILKINSON - Yes, you are right.

Mr LLEWELLYN - Civil registry management system is a software system project that has been developed and it will provide civil jurisdiction information for both the Supreme and the Magistrates Courts. The system will improve the operational efficiency for both courts and provide the tools necessary for the courts to actively and expeditiously manage all civil matters from initiation to completion. The project commenced in 2005. A formal contract between the tenderers and the State were signed in August 2006. It takes a long time for these things, doesn't it?

[10.30 a.m.]

Stage 1 of the project has been successfully completed in the Supreme Court across all regions and incorporates core registry features, including diaries and document lodgements, listing capabilities, reporting and statistical information, file tracking and resource management features. Stage 1 has commenced in the Magistrates Court, with the introduction of a test environment. The target date for completion in the Magistrates Court is December 2008.

The total project development budget for stage 1 is \$643 000, excluding contingencies that might occur along the way, and a total of \$474 000 of the budget has been expended to date. Funding for stage 1 of the project has been secured from the Supreme Court retained revenues. Future stages of the project will cover electronic lodgement, documents by court uses and practitioners, joint pre-trial management and the development of a criminal case management system. Future project stages are currently under review as to priority and timing.

UNCORRECTED PROOF ISSUE

Mr WILKINSON - Thank you. Conciliation is becoming, I think, more popular as years go by. How is that going in the Supreme Court at the moment?

Ms KNIGHT - The mediation service is continuing. I would not say that it has increased significantly. We are still providing the same number of mediations that we have been doing over the last few years. It has been fairly standard and fairly consistent.

Mr WILKINSON - Have you seen a decrease in civil matters? There does not appear to be any on the statistics.

Ms KNIGHT - Generally there has been a slight decrease over the last few years.

Mr WILKINSON - Is that, do you believe, a result of conciliation and mediation?

Ms KNIGHT - Well I think mediation has a role to play in finalising matters. As to what part it is playing, I cannot comment on that.

Mr WILKINSON - The argument always is that it costs if you go to court and argue a matter out in court, which it obviously does, in order to allow people to make a claim and properly defend their claim if necessary. I would have thought the mediation process is a good process to follow. I am just wondering what the Government's thoughts are and what are they doing to promote that?

Mr LLEWELLYN - I am of like mind. The backlog indicator, however, for civil non-appeal of cases in the Supreme Court that are greater than 12 months was 30.4 per cent or 328 matters; pending matters older than 24 months - 107 matters. This was a reduction of 34 matters from the last financial year. There is a steady decrease in civil jurisdiction total pending case load over the last five years. This reduction is predominantly due to improved reporting capabilities of the court and also the court's finalising inactive pending cases that have already been settled without parties informing the court, and the effects of targeted case management. The focus of the court is to ensure that when matters are ready for trial there is a minimum delay in listing matters for hearing.

The backlog indicator for civil appeal matters as of 30 June 2007 was 5 per cent or 1 matter being greater than 12 months, and no matters greater than 24 months. So that result was obviously well within the national standards.

I mentioned the management system for the registry. If you can mediate in cases then I suppose it is beneficial to those people that are involved in civil matters and probably minimises legal fees a little bit - but you would not worry about that, Mr Wilkinson.

Laughter.

Mr WILKINSON - I do; I think that is a good thing. One of the interesting and I think successful aspects in the Magistrates Court is the contest mention courts, where parties come together and they can get an indication as to what would happen if a person pleads guilty. I think that has been successful.

Mr LLEWELLYN - Plea bargaining.

Mr WILKINSON - It is not plea bargaining; it is an indication as to what would happen if the person was found guilty. So you do not bargain as to what should or should not occur; what happens is that the person knows what penalty awaits them if they do plead guilty. Often if they do not go to prison that person is willing to plead guilty. It has been successful, I believe, in the Magistrates Court. I have asked for a couple of years now whether it is considered to be an appropriate method of dealing with cases in the Supreme Court jurisdiction. Has it been thought of and if so how are we going with that?

Mr LLEWELLYN - I have not put any thought to that matter. It has not been raised with me but that is not to say that it might not be in the future.

Ms KNIGHT - I do not think that I can comment on it. I do not think it has been discussed in any great detail to the Supreme Court.

Ms HUTTON - I am not aware of it being discussed.

Mr WILKINSON - It would seem to me that if that was done in the Supreme Court or Criminal Court, and if it could be done within the first or second month of the person being indicted for trial, then that could save a substantial backlog of cases, especially now with the extra case load that you have because of the new process in relation to the old uncontested committals.

Mr LLEWELLYN - I would suspect that those sort of matters are discussed in full between client and their legal representatives. A lawyer would advise a client on what sort of penalties they might face on a particular issue.

Mr WILKINSON - They can do that but if you have the contest mention proceeding then a person actually knows what penalty they will get by that judge if it goes to a criminal court. That person can then and there accept that penalty or alternatively say, 'I am not going to accept that. I want to proceed with the matter'.

Mr LLEWELLYN - I understand that you are making that suggestion.

Mr WILKINSON - I am just looking at it as cost-saving and time-saving device.

Mr LLEWELLYN - I hear what you are saying.

1.2 Magisterial Court services -

Mr WILKINSON - In relation to matters dealt with in the Magistrates Court over the past year, how have they been going?

Mr CONNOLLY - Performances are going as well as expected. We have not anticipated any unforeseeable problems. Our performance has improved in some areas, reducing backlogs in the last six months or so. More recent figures indicate that the case load has reduced by a reasonable percentage. That is partly because of the impact of the monetary penalties enforcement legislation.

Mr LLEWELLYN - The actual number was approximately 81 000 cases lodged each year, which is a large number of cases. This amounts to 99 per cent of all the criminal cases and 90 per cent of the civil cases lodged in Tasmania. Managing that case load is a very big challenge in

itself. The criminal lodgements reached a peak of just under 68 000 per annum in November 2007 following a coordinated approach between the court and the police to deal with unpaid infringement notices - TINs. The commencement of the Monetary Penalties Enforcement Act is contributing to a significant drop in demand with the numbers of criminal lodgments expected to fall to between 20 000 and 30 000 lodgments. Although this represents a drop of 55-70 per cent of cases, the reduction in actual court workload is nowhere near those figures. The cases the Monetary Penalties Enforcement Service will take out of the court are normally dealt with by JPs rather than magistrates but the reduction in lodgments will enable the court administration to focus more resources on its core activities.

During the last 11 months the court has seen its active pending case load on criminal matters reduce by 28 per cent from 25 000 to 18 000 and the proportion of cases older than six months dropped from 34 per cent of all cases to 28 per cent. Again, that is primarily due to the court/police initiatives in dealing more effectively with the minor traffic matters. The court expects the active pending case load to fall to below 10 000 in the coming year due to the impact of the monetary penalties enforcement legislation. Currently 28 per cent of active pending cases in the Court of Petty Sessions are older than six months; however, this represents an overall reduction of 5 per cent in the active pending case load over the past year. We expect further improvements there.

Mr WILKINSON - I noticed across the jurisdiction there is around about 80 000 new matters each year.

Mr LLEWELLYN - Do not tell me you were not listening to me again. I just told you that.

Mr WILKINSON - No, I was. Please listen to the question, Attorney, rather than trying to jump to conclusions. If you look at the numbers of, say 80 000, they are going to decrease because of one of the new systems in place. Also, the matters that were taking up a significant time in the Magistrates Court - there are a couple of fisheries matters and a coronial inquiry which took a significant time and took a magistrate off the bench - have dropped. Are there any cases in the wings that could tie the courts up for a significant time at present?

Mr CONNOLLY - We do occasionally have large cases. You mentioned some long committals and some coronial inquests. We are gearing up for the Beaconsfield Mine inquest, which will be commencing in Launceston in July and will be running for two to three months. Fortunately we have the supplementary assistance of additional coroners. Coroner Don Chandler will be conducting that matter. He does not do general magisterial work but if there is a 2-3 month case he can take it and go with it. We have had a long committal recently on some fraud charges but we have absorbed that within our existing resources. So we mix and match it.

[10.45 a.m.]

Mr WILKINSON - What I was getting at was the stress that was on the Magistrates Court a couple of years ago does not appear to be, on the face of it, as acute now as it was then. Is that a fair argument?

Mr CONNOLLY - I think that is a fair comment. I think we have been fortunate that the Government has supported the magistracy over the last five years. We have had six temporary magistrates appointed to supplement temporary absences of permanent magistrates so we have been able to maintain our level of service, and I think that has been of great assistance to the magistrates in keeping the organisation's performance up to standard.

Mr WILKINSON - Are there still stresses in the system though and, if so, where?

Mr CONNOLLY - It is a constant workload; it is a heavy caseload in the court, as you know, because you have seen it yourself first-hand. There are new initiatives that are now in operation, for example, the court mandated drug diversion program, the medical health diversion list and new therapeutic jurisprudence initiatives which require more magisterial supervision of individual cases. So the work unit for each case for those matters takes more resources from start to finish, but in the scheme of things they are a relatively small number; they are interesting new jurisdictions and initial indications are that they are providing a very useful outcome.

Mr WILKINSON - I was going to get on to the court mandated diversion drug program because my belief is and from anecdotal evidence from others as well that it is being successful in the main, even though the press recently said that it was not, but I think a number of the people who are on it believe it is of assistance and it has helped a number of people. Is that going to be continued to be funded, because I know it is a pilot program?

Mr LLEWELLYN - Yes. We received \$2.45 million over two years from the Commonwealth under the illicit drug diversion initiative for the court mandated diversion of drug offenders pilot program, and that was until 30 June 2008. A further \$1.2 million has now been made available by the Commonwealth to extend the C and D pilot program until 30 June next year. Under that program offenders who are found guilty of many of the non-violent crimes in order to pay for their illicit drug use or who commit certain family violence crimes may be eligible for sentencing through the Magistrates Court to a drug-treatment program. This program includes assessment, intensive case management and addictions treatment. Some offenders can be subject to ongoing drug testing. Offenders are required to accept responsibility for their ongoing participation in the treatment program and further court action can be taken if they do not comply with the treatment ordered.

Short-term treatment programs under bail orders are available to eligible offenders following a guilty plea and prior to sentencing. Long-term treatment programs are also available to offenders through the provisions of the Youth Justice Act or the Sentencing Act. The Sentencing Act was amended to introduce drug treatment orders and sentencing options for adult offenders. Those orders provide magistrates with a sentencing alternative for offenders who would otherwise be serving a period of imprisonment.

Mr WILKINSON - So the Government is happy that it is working, and working well?

Mr LLEWELLYN - I think it is still under review and assessment but it certainly appears to be beneficial, yes.

Mr WILKINSON - Is the only funding for that from Commonwealth sources or is the State inserting any money into that?

Mr LLEWELLYN - Quite a lot of in-kind support. We are clever, kind and connected.

Mr WILKINSON - It takes time though, doesn't it, and because it is a new pilot scheme there is a new learning experience for the people who are in charge of it, and also the magistrates - correct?

Mr LLEWELLYN - True.

Mr WILKINSON - Has that put pressures on the magistrates to be up to speed with it?

Mr CONNOLLY - The department has organised a lot of training and orientation with external providers, interstate magistrates who run similar drug courts in their jurisdiction, and academics like Professor Ari Freiberg from Monash University who is one of the leading academics in this area. We have had a number of seminars on this; some theoretical, some very practical. We have engaged the legal profession with seminars with the Law Society. It is all part of providing the necessary information and support to implement this successfully and it will involve a change of culture in the legal profession and in the magistracy as well as to how they deal with these matters in less of a traditional adversarial process.

Mr LLEWELLYN - I can give you a few figures, they are only brief.

Mr WILKINSON - Yes.

Mr LLEWELLYN - From July 2007 to May 2008 there were 218 offenders referred for suitable screening under the mandated diversion; 120 of these offenders had commenced the program by the end of May. Of these, 83 per cent required individual counselling, 25 per cent required group counselling and 20 per cent required residential rehabilitation. By the end of May 2008 five of these offenders had successfully completed the program while 30 had withdrawn or been excluded from the program. Approximately 50 per cent of the offenders on the CMD program are on bail orders, 15 per cent are on community-based orders and 35 per cent are on drug treatment orders.

We have already mentioned that the trial is subject to formal review and evaluation in conjunction with the Commonwealth because they provide the money.

Mr WILKINSON - What about the mental health court?

Mr CONNOLLY - It is being run still as a pilot in the south of the State. It is a relatively small case load. It is being run by Deputy Chief Magistrate, Michael Hill, and more recently supplemented by Magistrate Glenn Hay. It has had a similar supervisory function of offenders prior to their final sentence and there are some figures on that.

Mr LLEWELLYN - We have already told you who is the presiding person and assisting. The pilot builds on existing approaches, such as the availability of forensic mental health liaison officers who are based at the court. The mental health diversion list is similar to the mental health courts that already operate in Victoria, New South Wales, Queensland and South Australia. The mental health diversion list is intended to deliver more therapeutic responses to the offending behaviours of defendants with mental health issues. Court supervision of offenders occurs approximately once a month involving the magistrate, the prosecutor, defence lawyers, the offender, forensic mental health officers and other agencies as required. It takes a multidisciplinary approach that addresses a range of factors contributing to the offender's behaviour. It is very much part, also, of the Closing The Gap program that, when I was minister for health, focused on trying to keep people out of hospital or the court systems by a multidisciplinary approach to dealing with this. It took a long time to recruit the necessary people to coordinate this and that was part of the issue here too. In its first year of operation the list has dealt with -

Ms FORREST - What qualification did those people need that you were having

Mr LLEWELLYN - I cannot tell you that. They needed formal qualifications. I am trying to draw on my memory from the time I was Minister for Health and I cannot recall that. We could find out for you.

Mr MARTIN - Has Closing the Gap had an impact on this?

Mr LLEWELLYN - I believe it has. It is not mentioned much now but the \$35 million was an ongoing program that provided for more on-the-ground people in that area. I am not encroaching on my colleague's jurisdiction.

Mr MARTIN - We do not mind.

Mr LLEWELLYN - I know you do not mind but I do not want to get myself into trouble.

In its first year of operation the list has dealt with 67 defendants, of whom 32 or 48 per cent have had their cases finalised following a period of judicial supervision of community-based obligations, including compliance with mental health treatment services. Dependents on the program suffered from a range of diagnosed mental illness, the largest of which was schizophrenia, followed by bipolar disorder, psychosis, post-traumatic stress disorders, personality disorder and depression. Dependents who received treatment from Mental Health Services, 64 per cent from private psychiatrists, 13 per cent from Forensic Mental Health Services, 11 per cent from private psychologists, 5 per cent from general practitioners and 2 per cent from Disability Services. The average number of appearances prior to finalising was 2.9, with 21 of the 32 finalised cases being disposed of in three to five hearings after being referred to the list. That is not the other list that transfers titles and so on.

Mr WILKINSON - There are about 550 people in prison and 80 per cent of those, anecdotally, say they are there because of either a drug or alcohol problem. The drug diversion, CMD, is in relation to drugs; is it going to be extended at all to alcohol in the hope that it can assist some people with their alcohol addiction as opposed to just the drug addiction?

Mr LLEWELLYN - The Commonwealth has excluded that from their guidelines.

Mr WILKINSON - Are negotiations taking place with the Commonwealth for that to be inserted into the program?

Mr LLEWELLYN - I do not think so.

Mr STEVENS - Discussions with the Commonwealth have come from the illicit drug package of money and this is one particular area under that. There have been some preliminary discussions when it first started about including alcohol because of the overall effect of alcohol on crimes, but at this stage there is no movement at all from the Commonwealth Government. It would only be for illicit drugs.

Mr LLEWELLYN - Co-morbidity is the name of the game in this area and pretty nearly everyone has a co-morbidity issue with regard to substance abuse.

UNCORRECTED PROOF ISSUE

Mr WILKINSON - There are some murmurings that another magistrate is needed. Do you believe that another magistrate is needed and, if so, in which district? Are the courts available for that magistrate to sit in, say, on the north-west coast?

Mr LLEWELLYN - You have not been prompted by Mr Hodgman to ask this question?

Mr WILKINSON - No.

CHAIR - No, we are never prompted. We do not take any notice of what goes on downstairs.

Laughter.

Mr WILKINSON - I have done some homework on it and that has led me to that question, which no doubt you will have a very good answer to.

[11.00 a.m.]

Mr LLEWELLYN - I have. The Government continually reviews the level of demand for magistrates in the various regions of the State to ensure that all Tasmanians have an equivalent access to justice. Currently there are 12 permanent magistrates of whom effectively three are either on leave or working part time to accommodate parental responsibilities and there are three temporary magistrates.

According to yearly assessments undertaken by the Productivity Commission the annual report on government services, Tasmania enjoys a high level of access to justice. On the basis of permanent magistrates alone Tasmania has a per capita proportion of magistrates that is above the national average, in fact the third highest in the nation at 2.2 magistrates per 100 000 population.

Nevertheless the Government acknowledges that circumstances occasionally reduce the availability of magistrates. I have worked with the department and I indicated to them that I am very happy to try to make temporary magistrates available if any unforeseen circumstances arise. We have appointed one temporary magistrate as I think the magistrate retired from there and the second one is in the pipeline as well.

Mr WILKINSON - Where is that to be - in the north or the north-west?

Mr LLEWELLYN - I do not want to go into the personal details of why these issues occur, people on leave and so on.

Mr WILKINSON - I am not talking about personal details; just regional details.

Mr LLEWELLYN - There is one in Hobart and one in Burnie at the moment. Two in the south and one in the north-west.

Mr WILKINSON - Currently.

Mr LLEWELLYN - Yes.

Mr WILKINSON - As I understand it, the north-west are saying there is capacity for another magistrate in the north-west. Does the case load show that?

UNCORRECTED PROOF ISSUE

Mr LLEWELLYN - I do not have the details about the case load but my information is broken up on an across-the-State basis. I have had discussions with the chief magistrate about the issue. I do not think this was high on his priority list because we are dealing with it by providing temporary magistrates and I think that he is quite happy with that process. There again the secretary might add more.

Ms HUTTON - I might just add, Mr Wilkinson, that the temporary magistrate that we have currently in Burnie was appointed on the advice of the Chief Magistrate because of the period of long leave that was coming up. That is the only specific advice that we have had from him on that point.

Mr WILKINSON - Okay, so as far as the courts are concerned there is no pressing need for another magistrate in any area; is that what you are saying?

Mr LLEWELLYN - That is what we are saying, but having said that, any area of government - and I have provided this caveat once before to this committee - would desire more staff or more resources. It is a matter of priority, is it not?

Mr WILKINSON - Okay. As far the magistrates courts are concerned is there any pressing need in any area at all for more resources, more staff, more money, and if so which area?

Mr LLEWELLYN - The secretary was putting in a bid there. She would like a new court building in Launceston.

Mr WILKINSON - Because with the number of magistrates, if there is no place for them to have a court in then we do not want them in City Park, do we?

Mr LLEWELLYN - I am sure that if that is a major issue, that will be brought forward as a bid from a capital program point of view sometime into the future.

Mr WILKINSON - The Launceston Court is an old court, is it not and is, I would have thought, in desperate need of some upgrade?

Mr LLEWELLYN - It is a nice building.

Mr WILKINSON - It depends if you are looking at it from the outside or from the inside.

Mr LLEWELLYN - The facade I was talking about.

Mr WILKINSON - You just have to step inside.

Mr LLEWELLYN - I do not spend much time inside.

Mr WILKINSON - No, as an expert witness I was going to say. Inside is not the best, and it is probably now, as the old Court of Petty Sessions was in Liverpool Street, in desperate need of a new court or an upgrade.

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Mr MARTIN - One of the key recommendations of the Ashley Select Committee Report and we have had a whole-of-government response to the recommendations. One that was not agreed to -

Mr LLEWELLYN - Is that in this area?

Mr MARTIN - No, it is definitely in this group. One of the key recommendations was that there would be appointed a special children's magistrate, as in other jurisdictions, especially New Zealand. So I would like some explanation as to why that was not agreed to.

Ms HUTTON - The problem, Mr Martin, would be because of the decentralised nature of our population. If you had a single children's magistrate, the preponderance of matters would mean you would locate it - where, Jim, in the south?

Mr CONNOLLY - To cover the whole State they would have to be very mobile. They would have to be able to be transferred around the State at very short notice.

Mr MARTIN - Would that not be possible? It is not that big a State.

Mr CONNOLLY - But youth justice matters come before a court on a daily basis. So you would need to be, theoretically, able to cover the whole State all the time.

Ms HUTTON - Because we have a relatively small jurisdiction, the way we can best use our resources is to keep them as flexible as we can. If we start putting a particular magistrate in a particular box and saying, that is what they do, then it means they are not available to do other work and that causes a problem for the court with managing its listing.

Mr LLEWELLYN - They would have to multiskill the magistrates.

Ms HUTTON - They are multiskilled now.

Mr MARTIN - It really is a tragedy. The chair and Mr Wilkinson, in particular, on their visit to New Zealand we were all impressed with the children's magistrate there and the fact that it really was a better way to have someone with the expertise. Magistrate Walker, I think his name was.

Mr WILKINSON - Johnny Walker.

CHAIR - Yes and the manner in which he ran the proceedings was impressive.

Mr WILKINSON - Just very briefly. A new process for this year was going to be, believe it or not, SMSing defendants because quite a significant number of defendants were not answering their bail when matters were set down for hearing, thereby causing a problem with court lists. South Australia was the State that used it first. I thought Tasmania was going to be the next State. Did they use it and how successful has it been, if it has been used?

Mr LLEWELLYN - Yes, I think we do have a brief.

Mr CONNOLLY - We have an IT contractor who is working on some changes to our IT system and we are hoping to have it in production in July next month. There is a 20 per cent

non-appearance rate for defendants on bail, which is the largest single factor for all court delays in the magistrates court. So we are hoping that this is going to reduce that significantly. It will also save other costs down the track because for every defendant who does not appear an arrest warrant is issued that goes to the police, and police resources are invested in executing the warrant and bringing the person back to court. So, hopefully, we can make a lot of government savings on that.

The committee suspended from 11.10 a.m. to 11.25 a.m.

1.3 Enforcement of monetary penalties -

Mr WILKINSON - The monetary enforcement system has changed recently and now, as people would understand, if a court imposes a fine they get 28 days to pay and if they cannot pay it within 28 days the monetary enforcement division deals with collection of those fines. Is that a fair summary of the big change? How is it going; how is it improving with the fine collection?

Mr LLEWELLYN - We have quite a number of briefings on this particular matter that I am sure members would be interested in. I will encapsulate.

It commenced on 28 April. It has responsibilities for enforcing all court fines regardless of when they were imposed and infringements issued after 1 December 2007. The Monetary Penalties Enforcement Act fundamentally changes the way an infringement notice operates. You have indicated that process - the 28 days. Where an offence has been heard and ruled on by a court, a court order imposing a fine is referred straight to the Director of the Monetary Penalties Enforcement Service for collection and enforcement. Again, the offender has 28 days to either pay the penalty in full or apply to the director for a variation of payment conditions.

Once the 28 days for a the court fine or infringement notice penalty have expired an enforcement order can be issued by the director in respect of the outstanding money. Once an enforcement order is issued the amount owing by the debtor will be increased by a prescribed amount. The enforcement order will state that if payment in full or application for a variation of payment is not made within 14 days then the director may proceed with a range of suitable enforcement options. I will not go through them. They went through the Parliament a little while ago.

It is early days but the new service has already had some successes. One example is the enforcement of debts owed by corporations where employees racked up large numbers of traffic infringement notices while using company vehicles. As a result of being warned about the sanction that could apply to them one company has already come in and paid in excess of \$20 000 worth of debt. Another company which owes more than \$29 000 has entered into an arrangement to pay the debt and they have been keeping up with their payment schedule so far. I think that is pretty good news.

The enforcement service is able to agree on payment arrangements that are tailored to each debtors capacity. At 30 September last year the number of minor cases pending in the court was around 20 000. As of 31 May this year, within a month of the new legislation coming into operation, this had more than halved to 9 400.

Mr WILKINSON - 9 400 cases.

Mr LLEWELLYN - Yes.

Mr WILKINSON - Can I ask what the outstanding fines are at the moment, at whatever date you last looked at the statistic?

[11.30 a.m.]

Mr LLEWELLYN - As of 31 May 2008 a total of \$38.4 million was owed. I can break that down into when that occurred. Some 2 850 defaulters have entered into a payment agreement to make regular payments in relation to their outstanding accounts. The nominal collection rate for 2006-07 was 69 per cent. For all fines or infringement, the average for the previous three years was 69 per cent. Because of the change in IT systems and the legislative basis of collecting and enforcing fines and infringements, and the introduction of the new act, it is presently not possible to give a collection-rate figure for any period in 2007 or 2008.

Mr WILKINSON - Would it be fair to say that this new system hopes to recover fines far better than the previous system? You would obviously have some forward Estimates as to how much better it is going to be. If so, are you able to appraise us of that.

Mr LLEWELLYN - I will refer this to Mr Hills.

Mr WILKINSON - He has been going through the whole process with the new computer system, so we should congratulate him on that.

Mr HILLS - It certainly is a more efficient system and will be a more efficient system. As for forward estimates, that is a bit difficult to make. It is probably something I would prefer not to make because it would be an estimate only. Suffice to say we are already starting to recover fines that previously were not recovered.

Mr WILKINSON - And that is in two months?

Mr HILLS - Yes, that is in two months.

Mr WILKINSON - How much have you recovered in the last two months? Are you able to tell us that, just to give some support to what you just said?

Mr HILLS - No, I do not have those figures with me. It would be very difficult to break down a two months' figure. It would be very difficult to say, 'This is what we would normally recover, and this is what we have recovered because of new legislation'. I would very much like to be here next year with the figures and then be able to give you that sort of breakdown.

Mr LLEWELLYN - I did mention two specific cases which in aggregate added up to \$49 000.

Mr HILLS - And that is not mentioning quite a lot of the smaller fines that we have also recovered.

1.4 Support and compensation for victims of crime and others -

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Mr WILKINSON - The victims of crime compensation levy seems to have increased quite dramatically - which seems to be a bit of a turnaround from the Government originally not wanting to have the victim of crime compensation levy in the way that we know - a jump of \$2.5 million from 2007-08 to 2008-09, then a gradual increase from there. Can I ask why that increase has arisen?

Mr SMITH - The increase is mainly to do with the indexation associated with running the office. The amount of money for the CIC compensation generally stays the same. You are right in saying that \$2.5 million has been added. You can see that in table 8.27, which shows it coming back into our budget. The money has been put back into our budget again to keep going with that scheme.

Mr WILKINSON - So there is no thought by the Government to get rid of that?

Mr LLEWELLYN - There has not been any rethink on the matter, no. We noted what happened in the passage of the legislation through the Parliament.

Mr MARTIN - I seek an assurance that that idea has been dropped completely.

Ms FORREST - It has not reappeared on the Notice Paper.

Mr MARTIN - We have not officially been told it has been dropped.

Mr LLEWELLYN - Haven't you?

Mr MARTIN - No.

Mr HARRISS - I think the Leader got cold feet.

Laughter.

Mr MARTIN - Has the Minister -

Mr LLEWELLYN - I doubt whether you would see it again in the Chamber, no.

Mr MARTIN - While you are the Minister it won't happen, obviously.

Mr LLEWELLYN - No.

Mr WILKINSON - Can I ask whether the actual claimants have increased over the past year and if so, how have they increased?

Mr LLEWELLYN - We have the numbers here from 2004 through to 2008. In 2005, at the end of 2004-05 financial period, there were 642 applications, 542 awards and the average award was \$10 739. The next year, 2005-06, 531 applications, 566 awards finalised - it must have been a carry over from the previous year - \$9 586 average; 2006-07, 510 applications, 471 awards, \$9 244 average award. 2007-08 -at is to May so it is not a complete year -0 applications, 374 awards and an average of \$8 129. So it is actually going down.

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Mr WILKINSON - I can see it is going down. It is something that I think is contrary to what the Government believed, is it not? They believed that the claimants were going to increase and as a result it was going to blow out as far as the budget was concerned, whereas -

Mr LLEWELLYN - Well, they had convinced Treasury of that.

Mr WILKINSON - Yes. Anyhow, that is the main question I had in relation to victim of crimes.

Mr MARTIN - Minister, I understand that for victims of crime who are under the age of 18, payments are put into a fund to draw upon when they turn 18 unless they have good reason to do so beforehand. Can you explain what happens to the money if that is not true? I understand it is, because I have a constituent that has drawn it to my attention.

Mr LLEWELLYN - It may well be.

Ms HUTTON - Mr Martin, often the payments made under criminal injuries compensation are reimbursements of money expended and there would be no reason for those to be delayed. I think the pain and suffering awards that perhaps you were talking about may well be put into a trust arrangement for minors, in which case there would be a trustee responsible for the administration of those funds until the applicant reached the age of 18 years. I think I am aware of the case you are talking about and we had some correspondence about it in the past but I do not recall the detail of it.

Mr MARTIN - I won't go into the details, obviously, but the concern is I was just interested to know where there is any trust fund, whether it is interest bearing, whether effort is made to make sure -

Mr LLEWELLYN - We have the Office of the Public Guardian and there is the Public Trustee but -

Mr WILKINSON - I know in the Supreme Court that what happens is an infant's compromise. As you probably know, with an infant's compromise the child is not allowed to obtain that money; it goes into this 'trust' account for the infant on attaining age. I just wonder whether it is the same type of system with this; whether it is the infant's compromise and it goes into the same process.

Mr LLEWELLYN - I will find out that information, but I would be pretty sure if it was the Public Trustee and if they were holding money on behalf of someone else it would go into some interest bearing arrangement.

Ms FORREST - I can help the minister here a little bit. It is not always the case.

Mr LLEWELLYN - It is not always the case?

Ms FORREST - No, and we have a number of minor victims of crime, minor being the age of the child, where the money has, for the pain and suffering component, been put into trust account that has not been performing particularly well and the fees have eroded the principal that was invested at the time. So it is clearly an area that is not well managed. I am following up a

request myself on a matter last year. The funds were then transferred to another account within the Public Trustee to redress that problem. But it is not an uncommon event.

Mr LLEWELLYN - There would be a number of different accounts that would be held. But even though it was not getting a good return on the money, there would have been some return.

Ms FORREST - No, it was being eroded by the fees. The reason I was given that it was put into that particular account was so that money could be drawn down and the money was never intended to be drawn down on. The child was being cared for by family members who were well able to meet the needs of the child. That money was put aside and the guardian of that child informed the Public Trustee that that was the purpose of the account. It was only when the person realised the amount was reducing considerably that I took action by writing to the Public Trustee about that it was changed. Having said that, the principal amount had reduced.

Mr MARTIN - That is basically a similar reason why I am asking. It would be good if we could clarify it.

Mr LLEWELLYN - It is certainly an issue that we can clarify; under certain criteria funds are transferred that are not going to be the subject of draw-down for administrative purposes from offices like the Public Trustee. If they are working on behalf of a client, then they charge fees. But if they are just there as a holding account, as it were, for a child until they reach the age of maturity, then that is a different issue and I understand the issue that you are raising. So we will get a response to that.

Mr MARTIN - I was a bit surprised there are no performance indicators in the budget papers in relation to victims of crime. I wonder why there are none and I would be interested in indicators that show how victims were compensated during the year and what the average payout would be.

Mr LLEWELLYN - I just answered that.

Mr MARTIN - Why is it not showing in the -

Mr LLEWELLYN - It is published in the annual reports and so on. But I did give you a block from 2005 to 2008.

1.5 Legal Aid -

Mr LLEWELLYN - Mr Reaburn is not able to be with us today because he is addressing a national conference.

Mr WILKINSON - You look at the Legal Aid outputs and it seems to be steady as she goes as far as money is concerned. I suppose the increases mainly relate to staff increases and wages. Is that fair?

Mr LLEWELLYN - It is a little more than that. I think it provides some additional support for people, particularly in remoter areas in the State at times.

Mr WILKINSON - Can you expand on that?

[11.45 a.m.]

Mr LLEWELLYN - I can. The Government has added to the funding it provides to the community legal centres in Tasmania by allocating an extra \$200 000 per year. The funding is to increase and enhance the services provided by the community legal centres in Sorell and surrounding areas, Bridgewater, Gagebrook and in the north-west. Community legal centres provide a range of legal services to individuals and communities and include some legal representation, preventative services such as information and advice, community legal education and work contributing to law and policy reform. People who access the centres often face a number of barriers in accessing those services in the form of travel, inability to access grants, Legal Aid and so on. In such cases they lack the knowledge that their problem is a legal problem and that there might be a fairly ready remedy. Community legal centres have traditionally been funded by the Federal Government. Over the years this funding has not kept pace. Without additional funding, some centres may have had to close or scale down their services in the next 12 months. I think the extra \$200 000 was well received in that context.

Mr WILKINSON - In relation to the number of people that Legal Aid has been granted to, are you able to give us that figure and how it compares with previous years?

Mr LLEWELLYN - In 2006-07 Legal Aid received 7 848 applications and approved 6 759. There is a breakdown there between criminal, family and civil: 5 648 were received in the criminal area and 5028 approved; in the family jurisdiction, 2 167 received and 1 714 approved; and in the civil area, 33 received and 17 approved.

Mr WILKINSON - So far as finances paid out, the family law allocation would be the highest, I would imagine, even though the criminal claim has more than doubled it?

Mr LLEWELLYN - That was in that year. Up to the beginning of June 2008 the commissioner received 8 075 applications and approved 7 312. Obviously they are predominantly criminal matters. On this basis, 2007-08 is looking to become the busiest year that the service has had over the past six years. The amount of criminal work done each year by the commission lawyers and private practitioners paid by Legal Aid grants has doubled. I cannot give you the other details of the amounts.

1.6 Mental health review and the Guardianship Board decisions -

Ms FORREST - Minister, I would like a bit of information about the number of abusers who have been held receiving treatment in hospital and restriction orders made under the Mental Health Act in the last 12 months. Is it growing or is it a fairly stable figure over the last few years?

Mr LLEWELLYN - Are you talking about the performance of the tribunal?

Ms FORREST - The number of reviews they undertake of the treatment orders.

Mr LLEWELLYN - It is estimated that during the year ending 30 June 2007 the tribunal will have scheduled some 550 reviews of mental health orders. That is an increase of about 15 per cent on the year before, but it is about the same level as the year before that, so 2005-06 was about that level.

In 2007-08 the tribunal's base allocation from the State Government was increased by \$10 000 to allow for increased numbers of hearings over the last three years. During 2007-08

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reviews were conducted into the remuneration of tribunal members and the President resulting in an increase rate of pay to members from August 2007.

Of the 550 reviews, around 500 are mandatory reviews required by legislation; 75 per cent relate to person under a continuing care order and 25 per cent under a community treatment order. Of the 550 reviews scheduled it is estimated that 270 matters, or 49 per cent, will proceed to an actual hearing compared with 40 per cent in 2006-07 and 60 per cent in 2005-06.

Approximately 280 orders will have been cancelled before the hearing due to the patient being discharged from involuntary status prior to a review by the tribunal. The tribunal has taken an active role in the review of the Mental Health Act which commenced on October 2006 and is being managed by the DHHS.

The review is due for completion in June 2009 and it is expected that a review of the operation of the tribunal will be required if the act review results in any significant change.

Ms FORREST - So is there any significant change expected having involvement in that review, you said? And what implications could it have for the operations of the tribunal?

Mr WEBSTER - The discussion paper - position paper - that is part of the public record indicates that reviews will be brought forward from 28 days to 7 days, in which case we would expect that it would almost treble the number of orders being reviewed by the tribunal.

Ms FORREST - Is it not going to make it three rather two reviews over the life a process?

Mr WEBSTER - No, it will not. We are bringing forward the 28-day review to 7 days so there is not an extra review - it is just bringing that forward.

Ms FORREST - It will treble the number of hearings?

Mr WEBSTER - Yes.

Ms FORREST - So how is the department going to cope with that increase in demand?

Mr WEBSTER - As part of the review, we have looked at what impact that would have on the tribunal and we see that it would probably need to increase the resources of the tribunal by about 100 per cent because there are some efficiencies in the act suggested in terms of how the reviews have occurred. If the current indication of where the act may end up goes through then we would expect that there would need to be a doubling of the resources in the Mental Health Tribunal.

Ms FORREST - Is that likely to be supported by Government?

Mr LLEWELLYN - The matter has not come back to Cabinet but the DHHS people will deal with that. I understand that they are also dealing with any remuneration associated with that in the actual Cabinet submission. So once we receive that, Cabinet will make a decision about it.

Ms FORREST - So are you saying that DHHS will pay for the increased cost in justice?

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Mr LLEWELLYN - No, I do not think they are so generous but they are the ones drafting the Cabinet document in consultation with the Justice department and the remuneration issues will be in that Cabinet submission.

Ms FORREST - Do you believe then that there also is a need to review the Guardianship and Administration Act? My understanding of the mental health review will see an inclusion of not just the restriction orders but also the treatment orders, taken in under the one body, which is a positive move, in my view. Do we need to look at reviewing the Guardianship and Administration Act to ensure that we have a comprehensive service here that meets the needs of the individual and does not have fragmentation of services and care?

Mr LLEWELLYN - Again, there is a review occurring within Disability Services that needs to take this into account. Any consideration of this matter would arise out of that.

Mr WEBSTER - The overlap in terms of the treatment provisions of the guardianship act with the mental health jurisdiction is quite small. There are only around 30 matters a year, currently, where there is that overlap in terms of treatment. Obviously, the review of the Mental Health Act may see some minor amendments to the guardianship act in respect of those matters.

Ms FORREST - Do you think it should be broadened out, though, to decisions considered under the Guardianship and Administration Act under that process?

Mr LLEWELLYN - That is a policy issue.

Ms FORREST - That is why I am asking you.

Mr LLEWELLYN - If there are any suggestions coming forward from Mental Health and so on that relate to this, they would be very sympathetically received. I have had a bit of experience with the public guardianship arrangements. Oddly enough, not in this State but in some constituency issues that arose a few years ago in my career, which I was very upset about. I was dealing with the Public Guardian in New South Wales. The act up there needs a fair bit of review, I can tell you.

Ms FORREST - I have a situation in New South Wales with one of my constituents. Maybe it is the same one. It is not a west-coaster, so it may not be.

Mr LLEWELLYN - I think they have upgraded their act in more recent times.

Ms FORREST - I am interested in the Tasmanian act rather than the New South Wales act.

Mr LLEWELLYN - I just make that point that I would be sympathetic to any recommendations that positively addressed the issue and made a smoother process for those people on orders and guardianship arrangements and also the relatives and other people involved in the process.

Ms FORREST - I am aware, from the annual report to the Mental Health Tribunal, of the total inadequacy of the hearing facilities in some parts of the State. What is being done about that?

UNCORRECTED PROOF ISSUE

Mr WEBSTER - The president of the tribunal has done a review with Mental Health Services and has identified appropriate rooms in each area of the State. There are some minor capital works which the Department of Health and Human Services have agreed to undertake to improve those room and so we are confident that we have appropriate facilities statewide.

Ms FORREST - So when will we have those, because they are not appropriate or adequate at the moment?

Mr WEBSTER - During the 2008-09 financial year, as I understand.

Ms FORREST - All of them will be up to speed by then?

Mr WEBSTER - That is right. The president's review has determined which rooms. The rooms that were completely inadequate are not no longer used and we have replaced them with other rooms.

Ms FORREST - So some were adequate?

Mr WEBSTER - Mostly adequate. There are just some minor works, for instance putting a second door into a room and those things.

Ms FORREST - That is what has been lacking, that second egress?

Mr WEBSTER - That is right.

Output group 2 Legal services

2.1 Crown law -

[12.00 p.m.]

Mr WILKINSON - A lot of the questions were asked, as you know, in the area of Supreme Court services so I will not repeat myself, but it was interesting when we read the annual report of 2006-07. The DPP spoke about:

'Increased reliance on mental state issues, particularly involving fitness to plead and insanity, has placed a significant strain on the services able to be provided to us and the courts by the State's Forensic Mental Health Services. That strain will need to be quickly addressed and managed.'

What has happened about that, if anything?

Mr LLEWELLYN - Well, the DPP has not actually raised that particular matter with me directly. Maybe he has been talking with officers in the mental health area but I am not aware of it. He has not raised it in the two or three times he has been to see me.

Mr WILKINSON - It was certainly something he made mention of in his annual report 2006-07 on page 3.

Mr LLEWELLYN - There were other issues that the DPP raised at that time -

Mr WILKINSON - One of the major issues was the pressure on the staff, but a couple of years ago that was addressed and there was an extra staff member - or two. There were certainly extra staff members to cope with the workload.

Mr LLEWELLYN - There was an agreement between the DPP and Tasmania Police in May 2007 regarding the prosecution of summary matters. That has been addressed to a more appropriate level, with only environmental workplace, health and safety and electoral prosecutions remaining with the DPP, so summary prosecutions were greatly reduced by this new arrangement with Tasmania Police. So that was one of the ways they addressed that. In all other summary prosecutions now undertaken by Tasmania Police, other than the ones I mentioned, the DPP remains available to deal with any matter that is referred by Tasmania Police on the basis of complexity or conflict of interest. The new arrangements are working well. So sex offences, drug offences, personal violence matters -

Mr WILKINSON - There has been an increase, has there not, of sex offences?

Mr LLEWELLYN - Yes, they make up the majority of the workload of the DPP; 62 per cent now. These are all resource-intensive case types and have largely replaced simple aggravated burglary matters. The pending caseload has increased markedly from this time last year with 391 defendants awaiting disposal in the Supreme Court - that is not a very good word, is it, 'disposal', but it is the matters we are talking about, not the people. That was as of 15 June 2008. The figures include 41 defendants who are subject to warrants for arrest due to non-appearance.

Sexual assaults: 2002-03 was 133 and 2007-08 to date is 158. There were some higher figures: 2004-05 was 177 and 2006-07, 185. So it has actually reduced a little bit, presuming that they do not have a late burst of those matters in 2007-08. The note is that additional funding has been provided for the prosecution of sexual assault matters until June 2010. Given the current trend, that funding will be required on a permanent basis.

Mr WILKINSON - The Chief Justice, I think two years ago, mentioned, as did the DPP, that the complexity of cases now has increased, mainly because of the sexual matters and also other matters and that was putting pressure on his staff. What has happened as a result of that?

Mr LLEWELLYN - I mentioned that a bit earlier. I was saying that we are taking all these actions with the police in regard to summary prosecutions and that has left the DPP free to deal with the more complex matters. It has taken a bit of load off through that administrative arrangement.

Mr WILKINSON - I would imagine that the DPP's office now will have an added workload because of these uncontested committal proceedings I was speaking about earlier on now having to be dealt with at first instant - or very soon after that - by Crown Law officers and solicitors. That is going to put an added strain, I would think, on these Crown Law solicitors because they will be endeavouring to get the matters ready so they can decide whether they should or should not proceed. There will be a lot of negotiation, I would think, with the police to get those matters ready. I can see added strain again starting to impact upon the DPP's office.

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Mr LLEWELLYN - I can give you some information about the Crown Solicitor and the office. Demand for services for the office and the Crown Solicitor is directly related to the level of commercial activity.

Mr WILKINSON - No, this is the Director of Public Prosecutions, not the Crown Solicitor.

Mr LLEWELLYN - We were saying before that there is probably going to be a hump. We do not know whether it is going to continue; we do not believe it is, but there will be a hump in the changes that have been made and we have to manage that through the system.

Mr WILKINSON - So obviously there will be contact and monitoring going on with that for the added workload that now is involved.

Mr LLEWELLYN - The DPP has been talking to me about his resource issues, but it has been mainly about the structure of his team and suggesting some changes to that rather than specifically about extra people.

Mr WILKINSON - It is a fairly stable team they have and have had now for some time. I would think we are lucky we have the team that is presently there.

Mr LLEWELLYN - Yes. He is concerned that he does not want to lose any of the members who are there.

Mr WILKINSON - So therefore the structure would mainly be a monetary structure, would it not, in order to keep those people?

Mr LLEWELLYN - Indeed. He was talking to me about the establishment of deputy directors of public prosecution and so on, but he has only raised that with me about a week ago.

Mr WILKINSON - Obviously that is going to be monitored as well?

Mr LLEWELLYN - Yes.

2.2 Legislation development and review -

Mr WILKINSON - Does that output take in the Law Reform Commission?

Mr LLEWELLYN - Yes, it does. It takes into account those things coming back.

Mr WILKINSON - The university plays a major part, does it not, in that output group?

Mr LLEWELLYN - Yes, they generate a lot of work.

Mr WILKINSON - How many of the recommendations that have been put forward by the Law Reform Institute have been taken up by the Government?

Ms HUTTON - Do you mean over the life of the institute or do you mean the recent sentencing review?

Mr WILKINSON - The last three or four years.

Ms HUTTON - I could not give you an actual figure. For example the recent sentencing review has 96 recommendations in it and it has not yet been considered as a package by Government. Most of the work on the institute reports have a series of recommendations, there will rarely be a single recommendation, so sometimes we have taken them up partially, sometimes in full and sometimes not at all. We have done counts in the past but I do not think I have a current figure.

Mr WILKINSON - Is the money involved in the output group paid for staff?

Ms HUTTON - Yes, it is basically for Mr Len Armsby's small and dedicated team who produce an enormous amount of legislation for us, plus a small grant to the Law Reform Institute.

Mr WILKINSON - So the legislative development review is Len's arm is it? The output there is the moneys for Len and his team in relation to the legislation that they draw up to come before Parliament?

Ms HUTTON - Largely.

Mr ARMSBY - Plus, as the secretary said, the annual amount that we pay to the Law Reform Institute.

Mr WILKINSON - The Legal Profession bill was finalised last year; there would have been a huge amount of work involved with that and that would have stretched the resources.

Mr LLEWELLYN - Some people have said that they did not get the value out of that bill because it went through the Parliament very quickly.

Mr WILKINSON - It was a good bill you see and the negotiating was terrific in the end, it was great.

Mr LLEWELLYN - They were disappointed, though.

Mr WILKINSON - What do they say, fail to prepare, prepare to fail, and the preparation in that certainly was extensive. As a result of that are the number of people now not as great in the department as they previously were, because that was a big bill and would have taken a number of resources to get it up to scratch?

Mr ARMSBY - The resources have not changed. Staffing is changing at the moment but resources have not changed. We produce bills on an ongoing basis and whether it is a big one or a little one we are working on bills on a continuous basis. The size of the bill sometimes is not a measure of its value in some respects. As far as that one is concerned, particularly, we are still in the implementation stage of that so we are still working.

Mr WILKINSON - You are still working out the regulations, aren't you?

Mr ARMSBY - Regulations, rules, appointments and all the other things that go with getting it off the ground.

UNCORRECTED PROOF ISSUE

Mr WILKINSON - Is it your department which works hand in hand with the law reform part of the university or is it the government? In other words, is it for you to say we believe this is an appropriate recommendation to take up and then do you take it to government or alternatively does it happen in a different way?

Mr LLEWELLYN - We listen to what is going on down there and if we want to refer something to the institute then we will do that through the appropriate processes of government. They have their own independent right to generate whatever they think as well.

Mr MARTIN - The charter of rights and responsibilities act for Tasmania which has been recommended by the Law Reform Institute and implemented in Victoria, where is it up to for consideration?

Mr LLEWELLYN - The Government did ask the institute to deal with that one and I received that a little while ago now and we have been considering that. There have been some statements about it by the former Premier and I have made a few statements also.

Mr MARTIN - Changing Premier might actually speed things up?

[12.15 p.m.]

Mr LLEWELLYN - The present view of the Government is that we need to take on board what has been said at a national level by the Federal Attorney. I have been to ministerial councils of Attorneys-General and I think all jurisdictions are waiting to see what might happen at that national level before any other decisions or considerations are taken at a State level. I know -

Mr MARTIN - I think there is a strong opinion, though, that even if there is national legislation there should also be State bills. I think that is the Law Reform Institute's view.

Mr LLEWELLYN - Yes, but I am reminded that the law reform people have actually recommended that a national reform would be preferable and the new Attorney-General has indicated this is something that he wants to give consideration to at the national level. We note that in the last year's Budget or this current budget year at the national level there is some \$2.3 million made available for national consultation on the process, so no doubt they will be going through that process.

Mr MARTIN - Are you saying you won't introduce a Tasmanian charter of rights until a decision is made whether the Federal Government is introducing one or not?

Mr LLEWELLYN - What I am saying is that we are not going to address that recommendation of the Law Reform Institute on a government policy until we know the details of what has happened at a national level.

Mr MARTIN - Do you know what the national timetable may be for a decision?

Mr LLEWELLYN - The \$2.3 million is in this current year's Budget so I assume that at least \$2.3 million worth of work will be done this year.

Mr MARTIN - The Law Reform Institute also did a report on sentencing reform. Can you say where that is up to?

Mr LLEWELLYN - We are very pleased to note the release of that. It was only released on 10 June. It has been a lengthy project commencing in 2001 with the reference from the Attorney-General then. Background for the request was community concern about the adequacy of sentencing of violence and property crimes and criticism of bail decisions. The terms of reference originally took an issue related to bail as well as sentencing but the Institute decided to deal with the bail separately. Subsequently, the institute was asked to look at non-parole periods and the process of the Parole Board and my predecessor requested the Institute to expand its report to cover the guiding principals that should be taken into account of sentencing offenders in rape cases and other similar sexual offences. There has been some criticism about how long the report has taken, but it is a highly complex area and so we have not been as critical. We are lucky to have Professor Kate Warner at the university to lead this work and in fact she has actually conducted a lot of the work herself. She is recognised as a leading researcher in this field and she obviously knows about Tasmanian law practice, otherwise she would not be in the position she is at the university.

It is also true to say that the issues paper released by the institute in 2002 covered research into Tasmanian sentencing patterns and crime rates and I think that has made an important contribution to the knowledge and debate on these subjects. The report covers a lot of territory; it makes just under 100 recommendations so I am sure that you or other members are not going to expect me to express a concluded opinion on every one of those today. I can say that one set of recommendations I have specifically asked my department to provide advice on are those involved in home detention. I believe we should be able to keep offenders out of prison where it is feasible. We are particularly interested to look at how the South Australian system operates and how they are tackling that. A large number of the Institute's recommendations made suggestions about changes to current law. Some of these really be described as tidying up the current arrangements. I think we would agree with those. Others, such as home detention have quite heavy resource implications. It is a bit late in the budget cycle this year to factor in things, having received this in early June, but it is already in place. So whatever happens will have to be considered in the budget context for next year.

Mr MARTIN - Minister, I think there was a suggestion made that perhaps a working party to look at the implementation of the recommendations be set up.

Mr LLEWELLYN - A working party - you have enough committees going, have you not? Are you talking about a parliamentary working party or a working party within the government?

Mr MARTIN - Within the government.

Mr LLEWELLYN - The secretary has already volunteered; she said she is a working party of one.

Mr MARTIN - I appreciate the comments you have made and I realise how comprehensive it is. What I am trying to gauge is what the timetable forward will be as to which recommendations you accept or do not accept.

Mr LLEWELLYN - I think a lot of them - and I do not know how many in number - are tidying up legislation and doing that sort of thing. We will take those on board as quickly as we possibly can.

Ms HUTTON - I did a really quick analysis of the recommendations and divided them into categories. No-change: there were quite a few of those, probably a couple of dozen, in the sense we have already implemented it and in that there is no change. Others were relatively minor amendments were being recommended, which we would probably factor into one of our normal Justice miscellaneous amendments next time we have an appropriate vehicle going by, which would be Len's people. Others, as the Attorney has said, involve significant resource implications and they would have to be factored into a budget cycle. It just depends which recommendations you are thinking of, but if there is any significant cost or resourcing changes that would not be able to be accommodated until a future budget year.

Mr MARTIN - On a different matter, there was legislation passed in 2005 to set up a rental deposit authority which still has not been set up.

Mr LLEWELLYN - Mr Batt will be able to tell you a bit about that.

Mr MARTIN - The Ombudsman admitted on ABC Radio just recently that the Public Interest Disclosures Act is ineffective and difficult to work with. I thought Minister Giddings also stated the act should be improved. Is the Government considering that? Is there a timetable for considering it?

Mr LLEWELLYN - Yes, freedom of information.

Mr MARTIN - What is known as the 'whistleblower' legislation.

Mr LLEWELLYN - Yes. I think it is appropriate that those matters be raised at Mr Wilkinson's joint select committee. The Government intends to put some views before that committee.

Mr MARTIN - So you would expect the Public Interest Disclosures Act to be looked at by the joint standing committee?

Mr LLEWELLYN - Elements of it.

Output group 3 Registrations Services

3.1 Births, deaths and marriages

Mr WILKINSON - There is a large increase in the transactions of 2005-2006 to what you expect in 2008-2009 - about 20 per cent. I am just interested to know why?

Mr MARTIN - Why would that be the case? Are more people being born, dying?

Mr LLEWELLYN - The number of transactions has increased steadily over the past five years. This is due to the more stringent evidence of identity required by public and private sector organisations. The total number of registrations between 2002-03 and 2006-07 is: 2002-03, 12 853 and 2006-07 15 336. So that is really the reason for it.

Mr MARTIN - It is the demand for identity, which is what I thought it might be. One thing that worries me a little bit is the key performance indicator measuring the turnaround time of the

UNCORRECTED PROOF ISSUE

certificates blowing out from 92 per cent in three days to only 25 per cent in three days, which could have an impact on people. In fact it could have an enormous impact if they needed to get a passport or a bank account - all the reasons that you need identity today. Is this a staffing issue? And should we be aiming to try to improve the performance?

Mr LLEWELLYN - You are talking about the table 8.8, are you?

Mr MARTIN - Yes.

Mr LLEWELLYN - And there is a note on there: 'Due to the significant increase in the demands of certificates and the seasonal nature of demand, the previous target of 90 per cent is no longer achievable'. Mr Batt, would you like to comment on it?

Mr BATT - The answer is yes in terms of what we see over the long-term - and I think we need to - so we are basically waiting and seeing. There has been a sustained increase but I suspect that that increase will not be sustained long term. We have seen a shift in the requirements for school entry, the increase of the number of people travelling and therefore the number of people needing documents, passports et cetera so we think we are looking at a levelling out. At the moment there is a little bit of tension and the time required to get a certificate has blown out. But we think that will settle down.

Mr MARTIN - What would be the time be now?

Mr BATT - I think ordinarily people are getting a certificate within a week but that varies depending upon the time of year. Prior to school starting at the beginning of the year for example there is a bit of hiatus. The other thing of course is that if a person does have a need for a birth certificate immediately then they can pay an extra fee to get a priority certificate within three days.

Mr MARTIN - How much is the extra fee?

Mr BATT - I think it is an extra \$25. I have listed all the fees except for that one.

Mr MARTIN - So is there a bit of grumpiness amongst your customers because they have been delayed?

Mr BATT - There is from time to time if we have a bit of a backlog; we do get some irate callers. In recent years we have contracted out the front-line response to TMD and they are doing an excellent job in deflecting the calls - purely for the reason that when we are behind there is nothing more distracting than having an irate caller. So the answer was yes.

[12.30 p.m.]

Mr MARTIN - Obviously there is a drop in the service standard, which is not your fault. It is because of demand. Have you put in a budget bid, for example, for extra staff to be able to maintain the service that has been provided in the past?

Mr BATT - As I said, I we are in wait and see mode at the moment. The question is whether the demand is going to be sustained and I think it is a little early to determine that. If the demand were sustained, then that is obviously something we would need to talk about. But if demand

UNCORRECTED PROOF ISSUE

stays about the same or declines a bit, then we may be able to manage within existing resources. It is certainly a decision I think that we need to make in the next year or so.

Ms FORREST - Do you think, in the days of electronic communication that we should not be looking at this challenge? It brings to mind an e-mail I received a couple of days ago, highlighting the nonsense that we require sometimes, of the repetitive nature of providing identification and that is an issue that needs to be looked at. I can forward that to the minister for his interest. In fact, I might do that. It is tongue in cheek but it points out the frustrations of the system. Most of us have probably had constituents who have had delays. It takes a week to get your birth certificate or your marriage certificate - not your death certificate if you do not travel, obviously. But if it takes that long and then you have to go through the process of getting your passport and that takes at least 10 working days, usually more.

Mr LLEWELLYN - I agree with you and I think it is possible to put in place processes and systems these days which are very similar, for instance, to what happens in the land information system in Tasmania where you can get your title and all the details if you pay your money. But the issue with births, deaths and marriages tends to be one of security. Getting a system that is absolutely tightly secure, that only the person who is trying to access their own information can access, is a very difficult task. I suppose we could all have a barcode on our forehead to scan into the computer system.

Ms FORREST - The health minister would appreciate that too because their medical records would be also similarly kept?

Mr LLEWELLYN - Yes, a national identity card.

The committee suspended from 12.32 p.m. to 1.30 p.m.