

UNCORRECTED PROOF ISSUE

Tuesday 4 June 2013 - Estimates Committee B (Wightman) - Part 1

LEGISLATIVE COUNCIL

ESTIMATES COMMITTEE B

Tuesday 4 June 2013

MEMBERS

Hon Ivan Dean
Hon Kerry Finch
Hon Mike Gaffney
Hon Dr Vanessa Goodwin
Hon Tania Rattray (Chair)
Hon Adriana Taylor

IN ATTENDANCE

Hon. Brian Wightman MP, Attorney-General, Minister for Justice, Integrity Commission, Director of Public Prosecutions and Office of the Ombudsman, Minister for Environment, Parks and Heritage

Department of Justice

Simon Overland, Secretary
Robert Williams, Deputy Secretary
Chris Batt, Acting Deputy Secretary
Dale Webster, Director, Office of the Secretary
Chris Jacoora, Department Liaison Officer
Kerry Worsley, Manager, Crown Law
Mark Cocker, Director, Monetary Penalties Enforcement Service
Catherine Vickers, Director, Office of Legislation Development and Review
Norman Reaburn, Director, Legal Aid Commission of Tasmania
Stephen Morrison, Director, Finance
Leon Atkinson-MacEwen, Ombudsman
Diane Merryfull, Chief Executive Officer, Integrity Commission
Daryl Coates, Assistant Director of Public Prosecutions (Criminal)
Paul Turner, Assistant Director of Public Prosecutions (Civil)

Department of Primary Industries, Parks, Water and Environment

Kim Evans, Secretary
Michele Moseley, Deputy Secretary

John Whittington, Deputy Secretary
Kane Salter, Manager, Finance
Alistair Scott, General Manager, Resource Management and Conservation
Deidre Wilson, Director, Policy Division
Alex Schaap, Director, EPA Division
Peter Mooney, Deputy Secretary, Parks and Heritage
Kate Kent, General Manager (Information & Land Services)
Pete Smith, Director, Heritage Tasmania
Steve Gall, Director, Aboriginal Heritage Tasmania
Mark Fountain, Acting Director, Royal Tasmanian Botanical Gardens

Ministerial Office

Denise McIntyre, Head of Office
Brad Arkell, Adviser
Brooke Craven, Adviser

The committee met at 9 a.m.

Ms RATTRAY (Chair) - I would like to welcome you and your team.

DIVISION 6

(Department of Justice)

Output group 1

Administration of Justice

1.1 Supreme Court Services -

Mr WIGHTMAN - During the coming months I will continue to ensure the delivery of high-quality and timely legal and judicial services to promote and maintain rights and responsibilities, and to facilitate the resolution of disputes for the benefit of the Tasmanian community. In this year's budget we have increased funding for the office of the Anti-Discrimination Commissioner and introduced additional funding for the establishment of an effective Mental Health Tribunal to complement the introduction of the new Mental Health Act. I will continue to progress legislative reform to improve access to justice and promote a fair and equitable justice system in this state.

With regards to law reform, I recently introduced the Criminal Code Amendment (Sexual Offences Against Young People) Bill 2013 to parliament. The bill gives effect to most of the recommendations of the Tasmanian Law Reform Institute report into sexual offences against young people. The bill will strengthen the defence of mistake as to age in relation to sexual offences against young people by not allowing a claim of mistake as to age to relieve criminal responsibility if the young person involved is 12 years old or younger. These legislative changes will ensure that Tasmania's children and young people are afforded the protection they deserve and sends a clear message to everyone that sexual abuse of children and young persons is simply unacceptable.

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I have also introduced to parliament a bill to amend the Crime (Confiscation of Profits) Act to insert provisions to allow the confiscation of profits that are unexplained by legitimate activity. I do not want Tasmania to be seen by criminals as a safe haven for illegal activity, which is why I am introducing unexplained wealth legislation as a deterrent to criminals. The main objective of this legislation is to disrupt and deter serious organised crime. The provisions of the bill are squarely aimed at those people who appear to live beyond their legitimate means of support. Safeguards are built into the bill to provide checks and balances between the policy of combating the power of organised crime and the preservation of civil freedoms.

In the coming weeks I will be tabling a bill to amend the Evidence (Children and Special Witnesses) Act 2001, which provides for a number of new protections for children and vulnerable witnesses when involved in court proceedings.

I also intend to table a bill to amend the Powers of Attorney Act 2000 and the Guardianship Administration Act 1995 to clarify the rights and responsibilities of a substitute decision-maker and provide adequate safeguards against abuse of enduring substitute decision-making. In coming weeks I will also be tabling a bill to amend the Limitations Act to remove the 12-year long-stop provision, thus making it easier for a person suffering a latent disease to commence civil proceedings. The bill will also provide an extension of the period of limitation, currently three years from the date of discovery, for a further three years with the leave of the court. In addition, the bill will amend the Civil Liability Act to allow for a court to award provisional damages and to create and limit a specific head of damages for the loss of the ability to care for others.

I am also responsible for the establishment and oversight of the Tasmanian Commission of Inquiry to operate jointly with the Commonwealth Royal Commission into institutional responses to child sexual abuse. This will necessitate some amendments to the Tasmanian Commissions of Inquiry Act 1995, which are being prepared. I will also be tabling two bills to enhance community safety. The first gives effect to the majority of recommendations of the Sentencing Advisory Council's report on arson and deliberately-lit fires. The second will create a new criminal offence of causing death or serious injury by a dangerous dog or restricted-breed dog.

This busy legislative program foreshadowed for the remainder of the year follows significant reforms already enacted and currently before parliament, such as the important surrogacy legislation passed last year; amendments to the regulation of R-rated and classified material, including computer games in this state; two separate justice miscellaneous amendment bills, each making important and necessary legislative changes across a range of statutes; and important amendments to the anti-discrimination act, aimed at improving the way complaints are handled and disputes are resolved, and increasing some of the protections under the act, particularly with regard to offensive and insulting conduct on the basis of certain attributes.

Madam Chair, it is a privilege and a pleasure to appear before you for the third time and I look forward to answering the committee's questions throughout the day.

Dr GOODWIN - I want to ask a couple of overview questions. The first one is about contracts and consultancies. Is it possible to get a list of those tabled for this financial year?

Mr WIGHTMAN - Would you like me to table that, Dr Goodwin?

Dr GOODWIN - Yes, if you are happy to do that, and could you indicate the total amount in costs?

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Mr WIGHTMAN - Consultancies are specialised advice or services which cannot be provided by staff within the agency. Interstate consultants are only used in such cases where the specialist service is not available in Tasmania. Total cost of the consultancies over \$1 000 to 30 April 2013 was \$1 292 601, made up of Tasmanian consultants, \$538 532, and non-Tasmanian consultants, \$754 069.

Dr GOODWIN - Attorney, are there any particular big consultancy issues there?

Mr WIGHTMAN - Do you mean significantly over \$100 000 in particular?

Dr GOODWIN - Yes.

Mr WIGHTMAN - In the Magistrates Court services, Quill Australia Pty Ltd, a Tasmanian contractor, \$136 220.

Mr DEAN - Can I ask what that was for?

Mr OVERLAND - That was to the Magistrates Court for assistance in the preparation of a business case for the criminal justice information management project. That is an initiative for which there is some funding in the budget this year for recurrent costs in the out years, but it is still subject to a capital bid that is yet to be considered. There has been an amount of money appropriated by the government for capital projects - IT projects - but the actual allocation of that funding is still to be decided. We are anticipating and hoping that some of that money will be used to fund the criminal justice information management project.

Dr GOODWIN - Do you have a figure for the capital amount that is required for that, based on the business case?

Mr OVERLAND - I am not sure that we have that figure here but we can certainly make it available.

Mr WIGHTMAN - My understanding is that it is an ICT project that is run through Treasury, but we can get it.

Dr GOODWIN - Thank you.

Mr WIGHTMAN - The second one over \$100 000 there, Dr Goodwin, is the Tasmanian Planning Commission. That was Icon Strategic Solutions Pty Ltd and \$120 036. That is assistance and advice documentation and technical support for the planning schemes' content management system as part of the planning schemes online project.

Mr DEAN - What has happened there? I look at value for money and I just want to know what has happened so far and what is going to happen as a result of that.

Mr WIGHTMAN - The Planning Commission is outside my direct responsibility. I am obviously right across the whole agency as Minister for Justice and Attorney-General but with issues such as that I am not the Planning Commission's minister in that regard.

Mr DEAN - But you fund it from your area?

Mr WIGHTMAN - The whole of Justice covers that. With regard to a budget sense like this, the Attorney-General is right across the Justice portfolio, however, individual questions about the Tasmanian Planning commission are obviously specific to a particular minister in that regard. I can give you the overall figures but it would be appropriate to ask the Planning minister about that.

Mr DEAN - So you cannot give me what happens -

Mr WIGHTMAN - Other than what I have just given there, Mr Dean, which is assistance in advice documentation and technical support of the planning schemes content management systems as part of the planning schemes online project. The Planning minister would, no doubt, be able to give you more information about that particular project.

Mr DEAN - For that consultancy to be brought into it, would that have been a request through the Deputy Premier?

Mr WIGHTMAN - That would be my understanding.

Mr OVERLAND - It is part of that Planning portfolio. Minister Green has ministerial responsibility for that but it is the Planning Commission that actually let that tender.

Mr DEAN - I see; it is the Planning Commission -

Mr OVERLAND - Yes, it is to put planning schemes online. That is a current project underway in the Planning Commission.

Mr WIGHTMAN - The prison infrastructure development, the next one there is Guymer Bailey Architects Pty Ltd, \$410 356. They are correctional design consultants in partnership with local firm Xsquared Architects. Guymer Bailey's role has to been to provide expert correctional design services for PIRP D1.

CHAIR - We are right across that.

Mr WIGHTMAN - I am sure you are from your discussions yesterday. That was \$410 356. Also Hansen Yuncken Pty Ltd, \$191 573. They are the managing contractor of construction and to produce a guaranteed construction sum that provides guaranteed maximum price - that is, cost certainty and represents value for money for the project. That was also within the prisons infrastructure redevelopment.

CHAIR - It is big bickies for consultancies, is it not? I know we need to get it right.

Mr WIGHTMAN - Yes, sure. They were the major ones over \$100 000, Chair.

CHAIR - Thank you, but you need to get rid of something off the bottom.

[9.15 a.m.]

Dr GOODWIN - Still in the overview area, have there been any major staffing changes within the department?

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Mr WIGHTMAN - With staffing numbers there has actually been an increase of 23.76; that is actually registered as a head count difference of 24. So an increase of 24 from May 2012 to May 2013. That is because there were 24 additional staff in prisons. The reason is to reduce the overtime load, which, I have no doubt, you had a long discussion about yesterday.

Dr GOODWIN - That is the only significant change.

Mr WIGHTMAN - Yes.

CHAIR - We were told there was an increase of 43 in prisons yesterday.

Mr WIGHTMAN - Sorry, an increase of 24 across the agency, but the majority of the increase is in the prisons.

CHAIR - Just recalling my homework, minister.

Mr WIGHTMAN - Very good; I was talking about global agency position.

Dr GOODWIN - Do you have any ongoing requirements in relation to budget savings?

Mr WIGHTMAN - I can talk through the savings we have been able to make. Firstly, what we were required to do over two years. When we realised after the global financial crisis that some difficult decisions had to be made, there was \$4.119 million, which I spoke about last year at length, that needed to be saved across 2011-12 and 2012-13. On top of that \$4.119 million, the Treasurer kindly put another efficiency dividend of 1 per cent on top of that, which added an additional \$1.2 million. That will continue over the next two years. Then there will be \$100 000 in 2015-16, which comes to a total of \$7.819 million that we need to save from the period 2011-12 to 2015-16.

In the period of 2011-13, if I talk about the \$4.119 million savings, we were able to make those savings. The only issue we have at the moment is the \$1.332 million, which was in 2012-13 when we were not able to save because the poppy legislation has gone off to a committee in this House. That would have been a saving of \$650 000 which we have not been able to make. What we will do to make up for that fund is attempt to secure a RAF to make up the \$650 000.

Just from a policy point of view, we think that, from an \$80-100 million dollar industry in Tasmania through the farm gate, \$650 000 to pay for a mature industry is a fair thing. I do not want to go into that because it is currently before a committee. That is where we have a shortfall and we will have a RAF to deal with that matter.

With regards to the \$4.119 million, that was broken up into 2011-12, which was \$2.887 million. We made those savings through the closure of the Sullivans Cove Waterfront Authority, structural savings, relocation and other administrative savings in the Tasmanian Industrial Commission, changes to legislative and administrative processes for the recovery of costs of criminal injury compensation, and administrative changes at Workplace Standards and WorkCover. In 2012-13 we are required to save the balance of the \$4.119 million, being \$1.232 million. There will be some further structural changes to some of the areas that I spoke about before to contribute to those savings. I have talked about being \$650 000 short at this stage, but we hope to get that through a RAF and then into the forward estimates we hope to be able to recoup that

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money via the money that goes through the farm gate. It is currently anticipated that the department will make all our other savings measures.

From 2012-13 there are additional savings targets for the department of \$3.7 million, so this is the additional \$1.2 million efficiency dividend that I spoke about. That is \$1.2 million in 2012-13, \$1.2 million in 2013-14, \$1.2 million in 2014-15, and \$100 000 in 2015-16, which will also be, as I understand, another \$100 000 in 2016-17 to finish off those forward estimates.

We plan to meet those savings through reducing overtime costs, which no doubt you spoke about yesterday, through the changes being implemented through the change management system at the prison; savings in the operating costs as a result of the closure and the sale of Hayes prison farm; increasing a number of fees and charges that were proposed to be retained by the department; and of course, as we always do, look at administrative changes such as vacancy control, travel, our spending within the department, our procurement activities within the department, to make sure that we can make those savings.

Yes, it has been challenging. Yes, we have had a number of challenging conversations to try to make these savings, but we are going to be able to make those savings.

CHAIR - Does that money from the sale, or potential sale, of the Hayes prison farm stay in your department or does it go to Crown Land Services?

Mr WIGHTMAN - Can I ask Robert to answer that question, please.

CHAIR - Just as an aside. I thought that might help your bottom line, minister, if you get to hold that money.

Mr WIGHTMAN - Always looking to help my bottom line.

Mr WILLIAMS - The minister has been talking about the recurrent expenditure and the Hayes proceeds obviously will be a capital amount which will go to the Prison Service and has already funded things like the O'Hara cottages for rehabilitation and a number of other projects around the prison site. The remainder, when it is sold, will come to the Prison Service for a capital injection.

CHAIR - So the money has been spent, but we haven't received it yet?

Mr WILLIAMS - Some money was allowed on trust, about \$1.8 million.

CHAIR - I noticed it for sale in the *Tasmanian Country* last week, minister.

Mr WILLIAMS - A very good property.

Mr WIGHTMAN - It is challenging to make those budget savings, particularly in what you might say is a small or skinny department within Justice. The other point is there are a number of statutory office holders as well that require the funds to do those things that Tasmanians expect them to do, whether it be the DPP or the Supreme Court or the Magistrates Court.

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I have to commend the Justice department for the way that they have worked to find those savings across the agency. That is what we were tasked to do and that is what we have been able to do.

If I can just go back to the Criminal Justice Information Management System, there was a question about capital costs. In 2013-14 the spending will be \$2 178 000 and in 2014-15, \$2 662 000 and - I am struggling to read that bit of writing. It is approximately \$4.8 million over two years.

Dr GOODWIN - The operational, or the ongoing management and maintenance, costs of that system, once developed, is an amount of \$573 000 in the forward estimates.

Mr WIGHTMAN - That is 2015-16 and 2016-17.

Dr GOODWIN - Yes, what is that for exactly?

CHAIR - Papers usually fly from three directions, minister.

Mr WIGHTMAN - I know, Chair, but I will try to find it through here, but it often arrives next to me quicker.

I just want to talk people through what it is in place for as it is important. The program will deliver more integrated management of information and services across Justice agencies and this is important when it comes to the administration of Justice. The program will contribute to the achievement of the Tasmanian government ICT strategy goal by 2017 of having an integrated, secure view of defendants and offenders in the criminal justice system. That includes the courts, police, youth justice and the prison. Delivery of the program will provide the following benefits to the Tasmanian community: improve community safety and confidence through timely access to information, improved information quality and integrity, improved integrity of orders and consequences, more integrated justice services for Tasmanians through improved identity management, improved access to information about individuals by authorised people and organisations and more effective use of government investment through more effective asset management and improved collaboration between agencies. It is \$4.84 million over two years with completion planned for 2015.

Mr OVERLAND - Some of it will be about maintenance of the system. Once it is built, you need to maintain and manage the system. Licensing fees and things like that are included within the recurrent costs, they are not a capital expenditure. They are annualised costs they need to be met.

Dr GOODWIN - Attorney, is it people as well? Is there a staffing payment in terms of data entry and those things?

Mr OVERLAND - Yes.

Dr GOODWIN - In terms of the process, this \$4.8 million is a bid that has to go through the ICT board, is that correct?

Mr WIGHTMAN - That is correct. It is run by Treasury.

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Dr GOODWIN - Then you have to compete with other bids, presumably?

Mr WIGHTMAN - There is a whole focus around ICT. We have seen the improvement in ICT in the ways it can manage systems. It is very important now that the government is forward looking and looking at ICT in the ways in which we can manage the systems right across. There will be a number of priorities of which Justice is one. But I would see Justice as a particularly high priority. We do not want siloing within the Justice department. We have talked about siloing in Tasmania; we have talked about it for years. I see ICT as one way of breaking that down. I think we will be making a very strong bid, but it is run by Treasury.

Dr GOODWIN - Is there an off-the-shelf product that you are looking at or does it need to be constructed from scratch?

Mr WIGHTMAN - There are probably other systems right across the country that we could build upon, but the issue with picking up from other jurisdictions is that it is not fit for purpose when it comes to Tasmania. In my view, and this is my personal view, Dr Goodwin, I would suggest that it is best to learn from other states but build a system within Tasmania to suit the needs, including the fact that we might only have two tiers of a court system and the like in Tasmania as compared to others.

Dr GOODWIN - I was wondering where the \$4.8 million figure came from because there is business case. I was wondering if that is outlined in the business case, the sort of system being considered.

Mr OVERLAND - Yes, it is. The proposal is to work with a company to develop a system for Tasmania. It is not quite an off-the-shelf system but it is about customising a software product and using it for Tasmanian requirements. The business case is complete. It has been well tested. It is a three-phase process and this is just the first stage that we are talking about. Overall, potentially it is a very big program but given the size of it, we have tried to break it down into more manageable chunks. Stage 1 is the first stage that we are talking about here. Decisions about stage 2 and stage 3 will obviously be made if we are successful with stage 1.

Dr GOODWIN - Sounds a bit like the prison infrastructure redevelopment program.

Mr WIGHTMAN - I think this sort of thing is critically important to the operation of Justice in Tasmania, as is the prison. There are opportunities within ICT to make a significant difference about the way that we manage these issues in Tasmania. I know you are drilling down on the expense of it in particular but I think this is a worthwhile project.

Dr GOODWIN - I am just trying to get a feel for it really. In terms of that staged approach just mentioned, the \$4.8 million is stage 1, so what does that cover?

[9.30 a.m.]

Mr WIGHTMAN - Stage 1 is \$4.84 million over two years, with completion planned for 2015. It is a shared repository which records sentencing orders issued under the Sentencing Act 1997 and the Youth Justice Act 1997, as well as bail and remand orders, and maintains information as to whether these orders are currently enforced. It establishes a shared approach for managing and recording identities across the Tasmanian justice system based on the existing approach taken by the Department of Police and Emergency Management; modifies existing systems in DPEM and the Magistrates Court to store relevant orders in the repository of orders

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and to access those orders; acquires a new system for the Supreme Court to replace existing systems and enable the court to store relevant orders in the repository; and modifies the existing system used by the prison, Community Corrections, Youth Justice and the Ashley Youth Detention Centre to enable them to receive orders from the repository and update the status of orders.

Dr GOODWIN - That is in the scope for stage 1, but what would stages 2 and 3 potentially involve?

Mr WIGHTMAN - The proposed stage 2 will extend the repository to include family violence, restraint, parole, early release and other relevant orders; enhance the systems used by Justice, DHHS and DPEM to make use of the improved repository and sharing information; establish a shared statistical repository for monitoring and evaluating changes in sentencing, reoffending and other issues affecting the justice system; and cleanse the shared identify records established in stage 1 to remove duplicates and verify, where feasible, data held on identities. Stage 3 will create a repository of documents relating to the management of offenders, court proceedings and the creation of an electronic court record; enhance existing systems used by the DPEM, DPP, the courts and other Justice agencies to access the repository; and replace the existing system used by the Magistrates Court and by the system required for the Supreme Court.

Dr GOODWIN - So essentially it is a whole-of-Justice information management system?

Mr WIGHTMAN - Absolutely.

Dr GOODWIN - So at the moment everybody is on a different type of system, presumably?

Mr WIGHTMAN - Yes.

Mr OVERLAND - Essentially what it will do is create a data warehouse so that information stored across the justice system is in the one place and all the users will have an interface with the warehouse and be able to extract their own data but also leverage and use other data from across the justice system. It will also help matters move through the justice system so ultimately it would hopefully get to a stage where information can be managed electronically, such as briefs of evidence, and move through the justice system that way.

Dr GOODWIN - So it may be possible to track offenders right across the justice system, through Ashley right through into the prison?

Mr WIGHTMAN - Absolutely.

Dr GOODWIN - Is there any consideration being given to include, for example, child protection information?

Mr WIGHTMAN - No, I wouldn't have thought so. You have to be so careful with child protection information and my understanding is it that would not sit within the repository.

Dr GOODWIN - I am interested because often there is that trajectory from children who are abused and neglected through the system and I am just wondering about data linkages because a lot of other states are quite advanced in their capacity to link across data sets.

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Mr WIGHTMAN - I guess you are inferring that there is a link between those who come under the care-and-protection orders who later on become involved in youth justice matters.

Dr GOODWIN - They're certainly in that highly at-risk population.

Mr WIGHTMAN - With that information, I have no doubt there is tracking across that but whether you would want to store that within the repository, I am not so sure. You have to be so careful about the information you hold. There are issues with those children who particularly have care-and-protection orders with child and family services and then leading on to a life of crime. We need to try at as many points as we can to break that cycle along the way.

Dr GOODWIN - Some of those matters will be dealt with in the Magistrates Court anyway, so presumably that will end up on the system.

Mr WIGHTMAN - Yes.

Dr GOODWIN - There was one other issue I wanted to raise in overview. Something came up yesterday in estimates in the Legislative Council with the Minister for Children. Apparently she indicated that Justice might be managing the working-with-children checks. Are you able to confirm whether that is in fact the case?

Mr OVERLAND - That is the case. The working-with-children checks will be done by the Department of Justice.

Dr GOODWIN - What does that mean exactly? What will that involve?

Mr OVERLAND - It will involve setting up the infrastructure and the capacity to conduct the checks. Under the legislative arrangements that have been put in place, the Department of Justice will manage the checks of those people who are working with children.

Dr GOODWIN - So you will have a unit or something established there.

Mr OVERLAND - Yes.

Dr GOODWIN - Will that allocation in this year's budget of \$900 000 come to Justice?

Mr OVERLAND - It will. We are in the process of setting up a project team to manage that and also to coordinate with DHHS, Tasmania Police and other players to put those arrangements in place. The funding that is in the DHHS budget this year will be used for that purpose.

Dr GOODWIN - So it will end up coming to Justice.

Mr OVERLAND - Yes, it will.

Dr GOODWIN - Was there any reason why it was in -

Mr OVERLAND - DHHS had carriage of this matter, from a policy perspective and from a budgetary perspective. The decision has been made by the government that once it is operationalised it will come to the Department of Justice and that is why the money is in the DHHS budget this year.

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Dr GOODWIN - Is that \$900 000 a recurrent allocation or will it drop down at some point?

Mr OVERLAND - No, it is a one-off cost of the establishment of the unit and all they have to deal with are the recurrent issues.

Dr GOODWIN - Do you know at this stage how big the unit will be?

Mr OVERLAND - No, we are currently doing the planning around that. Obviously we made a decision that it sits best within the Justice department.

Dr GOODWIN - Will those checks be mandatory?

Mr OVERLAND - Again, we have defined occupational types or people who are working with children in a particular context.

Dr GOODWIN - I think vulnerable.

Mr OVERLAND - And vulnerable people.

Mr WIGHTMAN - And similar to what I believe occurs in other states, Dr Goodwin.

Mr WIGHTMAN - Can I table the consultancies?

CHAIR - Thank you.

Dr GOODWIN - Can you start with the Supreme Court, just to get an indication of the backlog issue and how things are tracking?

Mr WIGHTMAN - I can make some overall comments about that and pick up the backlog and clearance rates as well as we go through. Then we can go even further into the criminal and civil jurisdiction.

CHAIR - There is a table on 7.8 with performance measures, so we will get to look at that.

Mr WIGHTMAN - The Supreme Court continues deliver its services in the administration of the justice very efficiently, as evidenced by the Services 2013. The court's case load for 2011-12, the last full set of figures I have, indicates a small increase of 2 per cent in lodgements compared with the previous year. The number of cases lodged in the Supreme Court are: criminal originating out of appeals, 592; civil originating out of appeals, 1 065; and probate, 2 240, for a total of 3 897 matters. Over the last few years, the court's caseload has remained pretty constant although the proportions of the case type have changed. Since last year, criminal lodgements have decreased by 8 per cent whilst civil lodgements have increased by the same amount, 8 per cent, and probate lodgements have increased by 2.5 per cent. The annual report on government services 2013 published in January 2013 by the Productivity Commission on behalf of the council.

Mr DEAN - The civil increases have gone up 8 per cent -

Mr WIGHTMAN - Criminal lodgements have decreased by the same amount.

Mr DEAN - In the civil area, what is causing the increase, is there a specific area? The criminal I would suspect is employees and so on. I am not sure, but an explanation there?

Mr WIGHTMAN - To go to the civil jurisdiction in 2011-12 there was a total of 1 065 civil matters lodged with the court. What we will find in that 8 per cent is the long-term trend has been fluctuating over time, but what we still see is a slight increase of 8 per cent in the number of civil lodgements. The civil lodgements have fluctuated over time and 8 per cent is seen as a slight increase. It is not seen as a huge increase or something the court cannot handle.

Mr OVERLAND - This is one year's data that we are looking at but if you look over a longer term there has been an escalation in the criminal caseload in the Supreme Court and a decrease, over time, in civil, but in this year there happens to be an increase in civil lodgings.

Mr WIGHTMAN - If we look at civil lodgements, which includes appeals, in 2007-08 there were 1 044; 2008-09 1 088; and then we had a reduction in 2009-10 to 907, a little increase to 986 in 2010-11; and 2011-12 1 065; so not quite at the 2008-09. There has been a fluctuation, so that 8 per cent is not seen as a major fluctuation. It is an increase that we can manage.

The two primary indicators are the clearance rate, which is finalisations as a proportion of lodgements, which indicates whether the court is keeping up with its caseload, and the backlog indicator, which measures the age of the court's pending caseload against timeliness standards. During 2011-12 the Supreme Court experienced a small decrease in its clearance rates for all matters from 100.7 per cent, so we were over 100 per cent. We were getting into some of those legacy issues in the previous year, to 99.3 per cent in the current year. However, the court is maintaining its previous throughput by finalising almost as many matters as are lodged in that reporting year. Once again a slight decrease, but not a significant decrease to set off alarm bells.

CHAIR - Minister, in the table it says that the expenditure per finalisation has increased substantially per case.

Mr WIGHTMAN - We still are one of the most cost-effective jurisdictions across Australia and it is \$7 024 per finalised case, which is below the national average of \$7 300 per finalised case. That finalisation amount applied both across criminal jurisdictions and civil jurisdictions. It can be expensive to be in court, but we still remain one of the most efficient jurisdictions in the country and the cost per finalisation is still lower than that of the national average, which is something that we hope to maintain.

[9.45 a.m.]

CHAIR - Your target is that you are going to decrease it. Is this an aspirational target or a real one?

Mr DEAN - At this stage of the year you would have an idea, would you not, of whether you are close to meeting that target?

Mr WIGHTMAN - We rely on those four figures that we receive through reports.

CHAIR - From the Productivity Commission?

Mr WIGHTMAN - Yes, and then I would need to work with the Registrar to find out those issues - whether it be part-year or full-year. What we do is work with the full year's reports that we have. It is important that we do set targets to meet those performance outcomes. When we set targets, such as the budget targets we have across Justice, we do our best to meet them. Within the Supreme Court though, you need to get all your ducks in a row. You have to be able to manage the list and we are very fortunate that the list is managed exceptionally well in Tasmania. We have everyone, whether it be witnesses or prosecution, ready so that these matters can proceed as efficiently as possible.

CHAIR - That is spelled out clearly in the notes, minister. It is the timeliness that is often affected by other factors.

Mr WIGHTMAN - I must have read that somewhere.

Dr GOODWIN - We just did not clear the backlog.

Mr WIGHTMAN - I talked then about clearance rates. It is pleasing to note that the Tasmanian Supreme Court has maintained a low criminal backlog indicator in the proportion of pending cases older than 12 and 24 months. While the actual number of pending criminal cases has increased slightly, Tasmania remains well below the national average with regard to that.

Dr GOODWIN - What about the civil back log? It appears to be a bit higher.

Mr WIGHTMAN - Yes, we have discussed that before in estimates. There is always pressure on the Supreme Court to finalise cases in a timely manner. That is an expectation that we have as a community, so backlog figure in the court civil jurisdiction at 30 June 2012 showed that 30 per cent of pending non-appeal cases were older than 12 months. This compares favourably with the national average of 35 per cent.

Similarly, Tasmania has few older-than-24 months civil cases pending; that is 9 per cent compared with the national average of 15 per cent. We would rather not have civil matters lasting more than 24 months because that is a long time for people to be involved. However, they are complicated cases and they do take a significant period, but 9 per cent compared to the national average of 15 per cent is a good result. For greater than 12 months, it is 30 per cent as compared to 35 per cent, which is also a good result. In estimates I make it clear when we are talking about the courts in Tasmania that we have a two-tier system. When you are comparing that to other jurisdictions that have a three-tier system, you just have to be cautious when you do comparisons with Victoria or New South Wales. But if you only look at the jurisdictions that have two tier-court systems such as Tasmania, the ACT and the Northern Territory, we have the lowest percentage of pending cases in the civil non-appeal category. While I use the statistics to say we are doing a good job on more than 12 months and 24 months, you are also comparing a two-tier system to a three-tier system and you need to be cautious about that. When we compare it to other jurisdictions with two tiers we report favourably.

Mr DEAN - Is it the availability of court time that creates this or is it the nature of the cases that are being dealt with that causes it?

Mr WIGHTMAN - Cases are becoming more complex in Tasmania. The best person to talk about this is the Director of Public Prosecutions, and when Daryl Coates comes today he could speak about it, but I will make some points. Cases are becoming more complex - you have a lot

more evidence, for example, that needs to be tested by experts. Things such as DNA evidence and the like play such a key role in cases before the courts nowadays, that we are finding the cases are becoming more complex. You still need to ensure that your court lists are managed well, and everyone is available when you need them, but the increase in specialised witnesses and expert evidence is making it a challenge. We hope that it leads to a fantastic justice outcome right across Tasmania, but it would be fair to say that the complexity of cases is increasing in Tasmania.

Mr DEAN - Is the number of appeals coming from the Magistrates Court into the Supreme Court increasing?

Mr WIGHTMAN - I can give you some numbers on appeals, but I obviously do not want to talk about the reasons why there are particular appeals.

Mr DEAN - I will wait until the Magistrates Court. I have one or two questions.

Mr WIGHTMAN - You will not be getting an answer from me on that.

Mr DEAN - I have not told you what the question is going to be.

Mr WIGHTMAN - I know exactly what your question is going to be.

Mr DEAN - Do you?

Mr WIGHTMAN - Yes.

CHAIR - We are not there yet.

Mr WIGHTMAN - We are not there yet. I have a pretty clear understanding of what your question will be. We do not have specific data on numbers of appeals, but we can certainly get that from the courts.

Mr DEAN - I would like them, if I could, minister.

Mr WIGHTMAN - Your question then, Mr Dean, is about the number of appeals from the Magistrates' Court to the Supreme Court? The number of appeals from the Magistrates' Court to the Supreme Court is 26, and that is static. If I could just have had that in my folder beforehand.

CHAIR - Your staff have to be available to do those things.

Mr WIGHTMAN - They certainly do, and they are outstanding staff, I must say.

Dr GOODWIN - I want to raise a couple of matters in the Supreme Court annual report. There is a reference there to the civil users group, which I am trying to find, suggesting they have raised and considered a number of issues for referral to the judges and the rule committee. One of them, which attracted my interest, was a proposal to amend the Supreme Court Civil Procedure Act 1932 to enable class actions to be commenced in the Supreme Court. I wonder whether that has been raised with you at all, or gone any further?

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Mr WIGHTMAN - I will have to take that on notice. I do not believe so but I would not want to present inaccurate information so it is best that I take that on notice - unless we have that information.

CHAIR - There are lots of 'noes' coming from behind you.

Mr WIGHTMAN - They can shake their heads all they like, but I will say no.

CHAIR - And you will check at morning tea break?

Mr WIGHTMAN - Rock solid.

Dr GOODWIN - The next matter was in regard to the overhead contribution by the Department of Justice. There seems to have been a rather large increase from the 2010-11 actuals to the 2011-12 actuals and I am wondering if we could get to the bottom of that?

Mr WIGHTMAN - Overheads of the Justice department?

Dr GOODWIN - Yes, it has gone up from \$794 550 in 2010-11 to nearly \$1.2 million in 2011-12.

Mr WIGHTMAN - What is the increase, Dr Goodwin? \$300 000?

Dr GOODWIN - No, much more than that. It has gone up from about \$800 000 to \$1.2 million.

Mr WIGHTMAN - The overhead is determined by Treasury and they adjust it every few years and last year happened to be the year they adjusted it.

CHAIR - That as lucky.

Dr GOODWIN - Have you any idea why it would have needed such a big increase?

Mr WIGHTMAN - They would have tracked the costs over time and seen that there needed to be an increase. That happens over a three to five-year period and it occurred last year and that adjustment was made. A good question.

1.2 Magisterial court services -

Dr GOODWIN - I want to ask first up about the pilot of the Youth Justice Court and particularly the evaluation of that and to find out where things are at with that.

Mr WIGHTMAN - I will stick to my brief so you get the exact detail that you after, Dr Goodwin, but you would know that I am a huge fan of therapeutic jurisprudence. If we can have problem-solving courts in place in Tasmania they make a significant impact on recidivism rates. The youth justice pilot is one where a designated magistrate - Deputy Magistrate Daly - works with particular individuals. They put the support services around those to try to ensure that when these young people do come in front of the courts their court experience is as timely as it possibly can be. We need to have an understanding of the supports that these young people need to ensure that the offences they commit do not happen again.

We have had that in place since 4 January 2011. Deputy Magistrate Daly is backed up by Catherine Rheinberger when he has leave in particular. It was planned for 12 months in Hobart from January 2011 but the court decided to extend the program for a further 12 months to enable sufficient data is gathered to measure its efficiency and effectiveness. The key goals of this are to support the young people, better coordinate youth justice support services, improve timeliness, encourage more consistency in the court decisions and grow the expertise of magistrates in how to work with and how to get the best outcomes when working with young people and increase the collaborative approach.

When you are working with a young person you have to wrap the services around them. There is no point in having one service sitting over here and one over there and then they have to get to this appointment and that appointment and it is not coordinated. The best thing you can do is to wrap those support services around them in a coordinated way. What the youth justice pilot actually does is provide an opportunity for that to occur.

What we are planning on doing is to have an evaluation report that will be available by the end of this month which will track the data to see whether we have made a significant difference. My understanding is that it is making a difference and it is something that we should look at extending. I have had discussions with the chief magistrate and the deputy chief magistrate about the potential for extending this project. There will be some budgetary constraints around that but the key thing that we need to do is identify the magistrate who has that capacity and empathy to be able to work with young people in the youth justice system. It is not just about cuddling them or wrapping services around them, they have committed a crime or an offence and they deserve the consequences but what we are aiming do is make sure that it does not happen again.

[10 a.m.]

Dr GOODWIN - To confirm, the evaluation report is being conducted internally by the department.

Mr WIGHTMAN - It is being conducted internally.

Dr GOODWIN - Are you intending to make that evaluation report publicly available or haven't you decided on that yet?

Mr WIGHTMAN - I haven't decided at this stage. Yes, it is being completed internally but I haven't made a decision about whether that will be released publicly at this stage. I would have to have some further discussions about that.

Dr GOODWIN - I think I mentioned last year that there is a high degree of interest in this and I would imagine in the evaluation report as well, so if it's at all possible to make it public, I think that would be terrific.

Mr WIGHTMAN - There is a high of interest in our therapeutic jurisprudence and what I mean by that is problem-solving courts, whether it be the mental health list or the drug conversion list. I think it was the drug diversion list that received an award, but there is a high level of interest not just in the state about these problem-solving courts but right across the country. Chief Magistrate Hill chairs that expertise right across the country.

One really interesting point you might like to know is that in May 2011 Save the Children Tasmania became an active partner in a pilot project of supporting young people on bail and that program supports these young people to re-engage with educational and vocational employment opportunities and also positive recreational opportunities. The Youth Justice magistrate may refer appropriate young people to the program using bail conditions.

CHAIR - Are Whitelion part of that?

Mr WIGHTMAN - I don't have a comment here about Whitelion; the only one I had was about Save the Children Tasmania. It is great to have another external support agency coming in because trying to re-engage these people who are caught up in the Youth Justice system with education and recreation and vocational opportunities is incredibly challenging, but if you can do it, incredibly worthwhile.

Mr FINCH - Minister, we need speedy resolutions for this so young people can get on with their lives and employment. In the notes that I made - and I am not sure whether you are talking to those figures on 7.8, table 7.3 - in 2011-12 almost 26 per cent of pending cases were older than six months and the papers speak of a number of initiatives aimed at reducing the proportion of cases in excess of 12 month old but predicts only a modest improvement. I was hoping we could do better than a modest improvement.

Mr WIGHTMAN - Once again, I hope we can have a better than modest improvement when it comes to these matters. I will be interested to see the figure when they come out when the evaluation is completed in this regard. It is about the complexity of cases and availability of support. The court tries its best to provide timely services and access to justice for young people if you could get them all through in under six month, that would be fantastic, but you have to realise that some cases are quite complex and will take a period of time to deal with. The courts do their best to improve and the magistrates are well aware.

Dr GOODWIN - On the therapeutic jurisprudence issue, are any other forms of that being considered? I know the Chief Magistrate has raised a couple.

Mr WIGHTMAN - This is an area of particular interest to me, and one that the Chief Magistrate continues to raise with me is drink-driving. Believe it or not, you have people who drink and drive and continue to get in a pattern of drink-driving. It is more than the simple go to the pub, end up 0.07 or 0.08. It happens, you get a rap on the knuckles as quite rightly you should, and then you modify your behaviour. In some cases we find people continuing to behave in that manner and the consequence does not seem to break the cycle, which I find hard to understand.

Dr GOODWIN - There may be quite deep-seated underlying issues.

Mr WIGHTMAN - Absolutely, and that is the point I make. The reason the Chief Magistrate is looking at the potential for improving and reducing that amount of recidivism. There is a cost but it may be a case of looking at a particular magistrate with an interest in this matter who may be able to take it up. It is not about setting up a new physical court building but it is having the infrastructure and support. If you are going to use bail conditions to sentence people and put a program in for drink-driving, a sober driving program - which you talked about yesterday - then you have more services that you need to provide. I know the Chief Magistrate is

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currently looking at this issue and then I will have further discussions with him about the potential.

Dr GOODWIN - He is working up some sort of proposal, is he?

Mr WIGHTMAN - That is my understanding. I am not going to speak for him, but from the couple of informal discussions I have had, that is where he is at.

Dr GOODWIN - Do you have any idea of the numbers of drink-drivers who potentially would fall into that category? There would be some who would be able to go to the sober drive program and that would be sufficient. I suppose these are the repeat offenders.

Mr WIGHTMAN - No, but we can look at the records from the Magistrates Court. What I preface my answer on are the discussions I have had with the Chief Magistrate and Deputy Chief Magistrate. I was very interested to find, as you point out, that there are some deep-seated issues as to why people commit these offences time after time. When I spoke of that earlier, it was my interest in talking to the Chief Magistrate about trying to understand why that would occur.

Dr GOODWIN - The Magistrates Court legislative package comes up quite regularly in their annual report. How is that progressing? The Chief Magistrate was optimistic in his report that the coming year might be the year.

Mr WIGHTMAN - The Chief Magistrate is a very optimistic man, as you know, Dr Goodwin. It is my understanding that act is working with OPC - there have been about 12 or 13 attempts at that and a number of conversations, to and fro, between the Magistrates Court in particular and in OPC about redrafting instructions. We have reached a final draft and we would be optimistic about having something to put before parliament, but I am in no way today guaranteeing that. We need to get it absolutely right. It has taken a long time and we have gone over and over it and sent it back to the Magistrates Court. It comes back and OPC looks at it again, so it is taking significant time.

CHAIR - Perhaps they could get together instead of sending it to and fro.

Dr GOODWIN - It is a suite of legislation, is it not, not just the one act?

Mr WIGHTMAN - It is a significant package. It is complex and one of those things you need to get right, so there has been a lot of work put into that over the years.

Dr GOODWIN - There is some optimism that when it is introduced it may lead to greater efficiency in effectiveness, so there are some benefits to it.

CHAIR - The committee will keep a watching brief on that, minister.

Mr WIGHTMAN - I doubt whether I am the first attorney to be questioned about it.

Mr DEAN - Last year, according to the police annual report, 3 572 offenders breached bail, which calculates to 10 a day breaching bail conditions. What discussions are there with your department and the magistrates to some way around this? Is there some remedial actions, activities, bracelets may I dare raise that issue again? Is there some way of getting some control? I am not saying bail should not occur.

Mr WIGHTMAN - You are raising a concern that there are offences committed while people -

Mr DEAN - Absolutely. The police say in their annual report that many offenders are committing offences.

Mr WIGHTMAN - But you are not saying that there should be a reverse onus around bail conditions?

Mr DEAN - No, I am asking if there are any discussions within the magistrates and your department as to a way to alleviate this?

Mr WIGHTMAN - There is a clear separation between the powers, as you well know, so I cannot direct the magistrates to change decisions. What you would perceive as improve their decision-making or reduce the amount of times bail is offered, it is not my role to do that.

Mr DEAN - I am raising the issue of bracelets for a start. Is there some other method of ensuring that these people who are bailed with certain conditions are complying with those conditions and one would be bracelets? I raised it yesterday with the minister.

Mr WIGHTMAN - At this stage it is not being pursued. You can get some technology, that is not very good, quite cheaply but we do not believe it is going to change people's behaviour because you need to be able to monitor those bracelets and things. You need the best technology you can possibly get your hands on and we just don't have access to that through budgetary constraints at present. I make the point again, I cannot comment on bail imposed by the courts.

Mr DEAN - I am not asking you to do that at all. That is not what I am asking.

Mr WIGHTMAN - Sorry, Mr Dean, your question was prefaced by the fact that on your figures there are a number of offences committed by people while on bail.

Mr DEAN - According to the police.

Mr WIGHTMAN - Then you said to me almost what discussions have the Justice department had with the court about that and that would be inappropriate.

Mr DEAN - I meant from the point of view of ways in which the magistrates could be assisted in providing bail and getting proper control of it?

Mr WIGHTMAN - The one way for that is about bracelets, as you talked about.

Mr DEAN - It is 10 offenders a day, which is a huge number really if you think about it.

Mr WIGHTMAN - I believe the TLRI did a report on bail and bail conditions about 2008.

Mr DEAN - My next question goes back to appeals coming out of the Magistrates Court. I will put it to you in a way that I think you should be able to answer.

Mr WIGHTMAN - Let's see.

Mr DEAN - The situation is what actions are taken because they appear, as they have been reported in the press, coming out of one area? Is there an educational program in place with the Justice department with magistrates, judges? Are magistrates on contracts and is there an appraisal of their work annually? How does that operate? You ought to be able to answer those questions.

[10.15 a.m.]

Mr WIGHTMAN - Under the act, the Chief Magistrate can provide support to magistrates so they can ensure that they undertake professional development. They make sure that they can have professional development. I am aware - not answering for the Chief Magistrate - but all of the four chief magistrates are involved in professional development opportunities throughout the year. That could be in a particular area of interest or an area that the chief magistrate might think that they need to have some improvement in. That is a job for the Chief Magistrate; that person is there to manage the magistrates and to provide the professional support that is required. While I cannot comment about what that might be or what that might look at or appeal decisions that have been made, it is my understanding that, under the act, they certainly can ensure that magistrates have professional development and ongoing professional learning.

Mr DEAN - Would the appraisal or the involvement of the Chief Magistrate inform a part of the criteria that are provided to you or to your department in the extending of contracts for magistrates? I suspect that the magistrates are on contracts, are they?

Mr WIGHTMAN - They are appointed for life.

Mr DEAN - Appointed for life so there is no.-.

Mr WIGHTMAN - Yes, first among equals.

Mr DEAN - So there is no opportunity there at all.

Mr WIGHTMAN - You can take them before both Houses of parliament for misconduct.

Mr DEAN - But there are no other opportunities for contractual changes - that is really what I am getting to.

Mr WIGHTMAN - No, magisterial independence, judicial independence, if you would like to have an animated conversation about first among equals, particularly in the Supreme Court, that is a very interesting discussion to have. There is scope for professional learning opportunities, not just provided by the Chief Magistrate, but also there are opportunities for magistrate to attend those and, while I do not have a spread sheet or anything about that, I know from discussions that they have had that they do attend and actually present at professional learning conferences right across Australia.

Our appointments are for life and the reason behind that is independence, and they are very protective of their independence. When I say 'first among equals', it is very important to them. There are professional learning opportunities and I believe there are professional learning opportunities provided in the Supreme Court as well for judges to attend conferences in particular. Long may that continue because we can all improve in the work that we do with a little bit of extra education.

Mr DEAN - I should say we are well served by our magistrates in this state.

Mr WIGHTMAN - We are and they are committed to problem-solving, in particular, rather than just a punishment style.

Dr GOODWIN - Attorney-General, a long-running issue that has now been resolved was taking the police out of the Magistrates Court in Launceston. Are you able to indicate the cost of employing the security guards?

Mr WIGHTMAN - I believe it is \$110 000.

CHAIR - That is fairly reasonable financially.

Dr GOODWIN - Is that a contract for service delivery?

Mr WIGHTMAN - The money comes out of the police service and is put across to Justice and they are now there as contractors and it would be a contracting firm that now do that. Likewise, it happens in other magistrate courts in Tasmania and that is something that you have raised with me before. I was pleased to note that now occurs, which puts eight police officers back on the beat.

Mr FINCH - I noticed on the Department of Justice website the position of Director of Legislation Development and Review is noted as vacant.

Mr WIGHTMAN - It is Catherine Vickers here, who is a wonderful appointment.

CHAIR - The committee would like to congratulate Ms Vickers on that appointment. The Legislative Council has had a number of dealings over the years with Ms Vickers.

CHAIR - If there is nothing else on 1.2 we will move on to enforcement of monetary penalties.

1.3 Enforcement of monetary penalties -

Mr DEAN - MPE were required to make some budget savings last year. Could we be informed in relation to that matter?

CHAIR - A fine collection rate of 105 per cent for last year.

Mr WIGHTMAN - That is getting into some of that legacy debt. Robert, would you like to start with that.

Mr WILLIAMS - We had some extra money for two years to increase the activity around MPE and getting in place some new programs around seizure of assets and that money finished so we had only staffed to the level that we were funded and then back down this coming period. We have met our budget in MPE, well and truly.

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Mr WIGHTMAN - Some seed funding to kick off the MPE collection which had some involvement with education but that was to get it going and then that budgetary addition has been removed.

Mr DEAN - And with little impact from figures on any of the services provided by MPE.

Mr WILLIAMS - It will reduce some of our capacity in the future.

Mr DEAN - How does it?

Mr WILLIAMS - It is a simple factor of economics that if we have less to spend on resources, we can undertake less enforcement activity but we have been doing well in terms of the collection rate and I would see that continuing but we are starting to get to some of the harder debts, some of the older debt, and it takes a lot more effort to collect that.

Mr DEAN - At what stage do you write off a debt?

Mr WIGHTMAN - We are a tenacious bunch. Sometimes we get caught into this and they are seen as almost the bad cop that goes and claims cars and takes away registrations and licences but registrations in particular. It is not that way, it is about working with people to get \$5 a week or \$10 a week, and the key part about is education. If you get a fine, do not put it in the top drawer and forget about it. We work with them as much as we can, to recover the amounts of money that are owed. We stick at it, we are tenacious about it and whether or not it is retired debt.

Mr COCKER - The Monetary Penalties Enforcement Act, and in particular section 109, provides specific provision to deem certain monetary penalties to be uncollectible in certain circumstances. That is, since 28 April 2008 until midnight last night, \$2.7 million in total has been deemed as uncollectable. That is for a range of reasons - deceased persons, incapacity, no seizable or sellable material assets to leverage against. So out of everything that has been imposed in the past four or five years plus the legacy debt, only \$2.7 million has been deemed as uncollectable.

Mr DEAN - My next question is about vehicle seizures. I think we were told last year that 200 vehicles were clamped and that none of them, as I understand it, were removed and/or sold. Is that position still similar this year?

Mr WIGHTMAN - I can give you a figure up to 31 March 2013 and then Mark, I suspect, will give some additional data till midnight last night. There were 8 500 debtors who were subject to enforcement sanction. These range from driver licence suspension to orders for the redirection of money as follows - 5 233 driver licence suspensions.

Dr GOODWIN - That is in a year, is it?

Mr WIGHTMAN - In nine months. There were 67 vehicle registration suspensions, 3 824 name publications, 19 orders for the redirection of money owed, and 636 enforcement warrants, which is seizure and sale.

Mr COCKER - Those figures are accurate as of now.

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Mr DEAN - No vehicles sold as a result of actions taken?

Mr WIGHTMAN - I have here 636 enforcement warrants, which is seizure and sale, but I will just ask Mark about what component is sales.

Mr COCKER - In terms of physical seizures that would amount to 42 conveyances or vehicles of interest that were seized. None of these was removed from the place of seizure and sold at a public auction. Each seized item resulted in -

Mr WIGHTMAN - Could I just make a point there? If we clamp a vehicle, people pay pretty quickly in most cases - like straightaway.

Mr DEAN - So 42 were seized means that 42 were taken possession of, or just simply clamped?

Mr COCKER - Taken possession of, left at the place of seizure but affixed with an enforcement tag or a wheel clamp.

Mr DEAN - None sold, minister?

Mr WIGHTMAN - That is my understanding, none.

Mr DEAN - I think we were told only one piece of property had been physically removed and that was a pushbike last year. It was a very valuable one, I might add, worth about \$12 500. It caused payment immediately, apparently. What happened this year? Are there any properties confiscated this year as a result of non-payment of fines and other actions?

Mr COCKER - In terms of property physically removed from the place of seizure and held in my office for about a week, there were two laptop computers, four mobile phones and two Navman TomTom devices. They resulted in payment of \$4 500.

Mr DEAN - That was all?

Mr COCKER - That is it.

Mr DEAN - Can I ask about the amounts that have been collected for local government, and outstanding monies?

Mr WIGHTMAN - Yes, effective 31 March 2013, the outstanding value of monetary penalties equated to \$65.9 million. This consists of the following - infringement notices, \$15 2 million; court-imposed fines, \$43 million; and enforcement fees \$76 million. The total value owed to the consolidated fund equates to \$50.1 million. This is why I am passionate about attempting to get back the money that is owed. Local government, \$9 761 245; consolidated fund, \$50 199 821.

Mr DEAN - Is there any breakdown for local councils, minister?

Mr WIGHTMAN - No.

Mr DEAN - I am interested to know which areas may be particularly the main -

Mr WIGHTMAN - We will have operations in particular suburbs at times where we know there might be a high proportion of debt that we believe is recoverable. So you actually target those areas where you think you are able to recover that debt. We do not have a breakdown by council but we could certainly get that. We have just put all those figures together to create that \$9 million figure, but we can provide that detail, Mr Dean.

[10.30 a.m.]

Mr DEAN - What sort of relationship is there with the mainland for collecting moneys from people who have left the state?

Mr COCKER - All fines enforcement jurisdictions around Australia meet annually and share a lot of information. Insofar as ex-territorial enforcement is concerned, we operate under the commonwealth's Service and Execution of Process Act 1992, but that is more concerned with the enforcement of unpaid court fines than unpaid infringement notices.

Mr DEAN - Okay. Can I ask about the current number of staff?

Mr WIGHTMAN - Yes, I can give you some staffing numbers. It might be in that first brief. I will have a go first, Mark, and then I will let you -

Mr COCKER - Yes.

CHAIR - Minister, while you are finding those numbers, if the program has been so successful, with the extra funding it has generated - it has obviously paid for itself - why wouldn't you somehow squeeze enough money out of somebody's budget to continue the program?

Mr WIGHTMAN - Because it has to come out of somewhere else.

CHAIR - I am sure there would be somewhere.

Mr WIGHTMAN - Teachers, nurses, police. It just has to come from somewhere else.

CHAIR - But if it pays for itself, you would almost think that -

Mr WIGHTMAN - In the cost recovery, yes.

CHAIR - Yes, so -

Mr WIGHTMAN - Yes, that is what it is.

CHAIR - That is everyone's response. It is -

Mr WIGHTMAN - But it is the truth.

CHAIR - law and order, health and education -

Mr WIGHTMAN - It is the truth. It is not a -

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CHAIR - but it appears to me to be such a successful program that you would want to continue running it.

Mr DEAN - Minister, while I -

Mr WIGHTMAN - I have found those.

Mr DEAN - You have got them? That is all right.

Mr WIGHTMAN - The head count as at 30 May 2013 is 21. So the difference is -

Mr COCKER - Minus nine.

Mr DEAN - Yes. My last question is to clarify a position from last year, and it is recorded in *Hansard*. Regarding the amounts collected on behalf of local government, I was confused with the answer given. At one stage, you said \$39 was attracted by each infringement - that is, retained moneys. Later I asked you what was retained from collection of rates owed to local government and you said, 'No,' meaning nothing was retained at all. In other words, it was all done free of charge.

Mr WIGHTMAN - So on the infringement notice - is it \$39 for the cost? So, \$39 for the cost to recover, but on a rates notice it is zero.

MR COCKER - We do not deal with rates, minister.

Mr WIGHTMAN - No, of course.

Mr DEAN - So when local government can't get rates paid, they can't go to this area for recovery of moneys?

MR COCKER - No.

Mr WIGHTMAN - No.

Mr DEAN - So it is only for local government infringement notices?

MR COCKER - Infringement notices.

Mr WIGHTMAN - Correct, yes. I am sorry if I did not quite get that right last year.

Mr DEAN - No, that is all right. So, \$39, I think -

Mr WIGHTMAN - Thirty-nine dollars is the charge.

Mr DEAN - Thirty-nine dollars is kept out of each infringement notice that is actioned.

Mr WIGHTMAN - Yes, it is the charge.

Mr DEAN - Thank you.

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Mr WIGHTMAN - The charge as in the money to be charged, as opposed to a criminal charge.

Mr DEAN - Yes, sure.

Dr GOODWIN - Yes. Did we get some figures on the number of individual debtors?

Mr WIGHTMAN - Yes, we did. I think it was about 8 507.

MR COCKER - That is the number of people sanctioned.

Mr WIGHTMAN - The total number of offenders or debtors is 51 882.

Dr GOODWIN - How many individual monetary penalties does that equate to?

Mr WIGHTMAN - Of those 51 882 offenders, the number of penalties is 462 669, totalling \$65 million.

Dr GOODWIN - So some of them are obviously serial offenders. Did you get the age of the debt outstanding?

Mr COCKER - Total book debt is \$65.9 million, of which \$13.25 million is not yet due, \$5.1 million is in default but not past 28 days overdue. In default by 30 days is \$2.2 million; \$1.4 million is over 60 days; \$4.7 million is over 90 days; \$7 million is over 180 days; \$11.6 million is over a year; \$7.9 million is over three years; and debt older than five years or more is \$13.2 million.

Mrs TAYLOR - At what point do you write those off, minister?

Mr WIGHTMAN - Under section 109, which gives you an opportunity to write it off but we would look at each of those individually.

Mrs TAYLOR - After five years or longer you'd think your chances of recovery weren't good.

Dr GOODWIN - I have a final question around unlicensed driving and unregistered vehicles as a result of sanctions. Do you know to what extent that is a problem? It has been raised as an issue with me.

Mr WIGHTMAN - You mean when you suspend someone's licence and then they drive? We'd have to get those figures from the Magistrates Court to see if there has been an increase in those sorts of offences. Then you would have to trace that back as to whether they'd had a suspension. I have a note here which says that 70 per cent of people with new debt also have old debt, so we don't just write off the old debt because unfortunately when a new fine or infringement notice comes in you need to collect upon then you would go after the old debt as well.

Dr GOODWIN - In relation to these figures you cited around the enforcement sanctions for licence disqualification and the vehicle registration issue, how does that compare to previous

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years? I am wondering if there has been an increase in the use of those sanctions or are similar numbers to previous years.

Mr DEAN - I have them. It was 3 412 licences last year, minister.

Mr WIGHTMAN - Licence suspensions for 2011-12 were 4 372; for 2012-13 until midnight last night were 7 996; registration suspensions for 2011-12 were 3 363, and that is down to 75. Publication of names, naming people, went from 147 in 2011-12 to 3 125, so that has been a tactic that has worked, in my view. Redirection of money owing orders were 1 162 in 2011-12 and 19 in 2012-13; and enforcement warrants were 764 and appears to be zero for 2011-12. I think MPES is finding the tactics and techniques that make a difference and encourage people to pay their fines.

Mr DEAN - Where a licence and registration is withdrawn, I take it they are restored on payment of the fine.

Mr WIGHTMAN - Correct.

Mr DEAN - Are there any administrative charges in relation to that to DIER or any other department for those people?

Mr WIGHTMAN - If your licence and registration is suspended you have to go back to Service Tasmania or wherever it might be.

CHAIR - And you lose your months or weeks or whatever.

Mr COCKER - Each sanction imposed such as a driver licence suspension attracts an additional fee legislated under the Monetary Penalties Enforcement Regulations 2008 of \$39.

Mr DEAN - I see, so to get it back they have to pay an extra \$39.

Mr COCKER - You'd have to pay the sanction debt including the enforcement fees or make a representation to me to show cause as to what impact this sanction is having against you and we can then look at lifting that sanction irrespective of payment in full. You may not be able to do that so we would take you onto a repayment plan.

Mr DEAN - Plus then it's a \$39 fee to DIER to get -

Mr COCKER - No, it's a fee imposed under the MPE act in addition to the original monetary penalty.

Mr WIGHTMAN - Chair, I am not sure what I said about enforcement warrants but in 2012 to midnight last night there were 790.

The committee suspended from 10.42 a.m. to 10.56 a.m.

1.4 Support and compensation for victims of crime and others -

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Mr FINCH - Minister, a steady increase in the forward estimates from \$5.095 million this fiscal year; I am wondering whether you are confident that support compensation is sufficient and is getting to the right people.

Mr WIGHTMAN - Yes, I am confident of this. It is a very difficult situation dealing with a lot of emotional needs and providing support to victims. It is a key part of what this government does. With regards to monetary payments, which can be up to \$30 000 and we have some reserved-by-law funding that comes each year within the budget and money fed into that is from confiscation of profits legislation. So the Director of Public Prosecutions may undergo some prosecutions on confiscation profits and then money is provided to victims of crime compensation payments and support as well.

Mr FINCH - Do you have a breakdown on those figures?

Mr WIGHTMAN - The reserve by law is \$1.5 million and then at times the DPP makes payments across to victims of crime compensation pool and just over \$1 million is ready to transfer into that. So you have the \$1.5 million reserved by law and also \$1 million from confiscation profits transferred across as well.

Mr FINCH - Minister, the number of Tasmanians accessing the victims of crime service -

Mr WIGHTMAN - It is \$1.5 million reserved by law, an additional \$2 million from appropriation and also an additional \$1 million, which comes from confiscation of profits.

Mr FINCH - Gets you up to your \$5.095 million. The number of Tasmanians accessing the victims of crime service is said to have dropped significantly last year and the figure that I have come across was 17 601 new clients in 2010 to I understand 2 160, so that is a huge drop. These figures came from the media and I am a little uncertain about them. Can you confirm fewer Tasmanians are applying for compensation and why might that be?

Mr WILLIAMS - I am not sure exactly where those figures have come from. The information I have to the end of March is that there were - this is the number of client contacts and not people claiming money or compensation; this is people who may come in for counselling or some other sort of support - was 4 187. A full year figure for the financial year last year was \$6 728.

[11.00 a.m.]

You asked about the awards. In the July 2011-June 2012 period, the number of applications received was 332; in July 2012-March 2013 it is 287. That is applications received. Then there is a tail end of cases that are finalised each year. The average award was made in relation to the finalised cases, the previous year was \$10 981 and this year it is quite consistent at about \$10 533. It is looking fairly consistent, with some minor variation.

Mr WIGHTMAN - If you look over the last four years in particular, in 2009-10, \$10 734 was the average award; in 2010-11, \$9 974 - so it is fairly consistent around \$10 000.

Mr FINCH - You mentioned that maximum payout of \$30 000. I believe that payout is for murders; is that right?

Mr WILLIAMS - It is the maximum payout for a primary victim. It is for a person who has been assaulted, and it is assessed on a case-by-case basis. To get the \$30 000 payout, the commissioners would have to determine it is at the serious end of the scale. It drops down to \$20 000 for a secondary victim, so someone who witnessed a murder, for example, may be able to claim for the stress they have suffered or some adjunct injury incurred. It is a case-by-case basis but for a primary victim who may have been assaulted - and I can give you the sorts of numbers. The largest payouts come from aggravated assault and common assault. They are the major risk categories.

Mr FINCH - How many times was a maximum payment made last year?

Mr WILLIAMS - We do not have the figure of how many were made at the highest payment.

Mr WIGHTMAN - There were 242 finalised awards from the period July 2012-March 2013, but I do not have a breakdown with me of how many received the \$30 000 payment.

Mr FINCH - Minister, these payments were quite controversial some years ago. I note your surprise so obviously you do not have a situation where people are pressing you or there is controversy around this area.

Mr WIGHTMAN - The only questions I am asked about this matter are what sort of budgetary circumstances are we in to pay compensation payments and how much support are we giving to victims? I have never had a question in the time I have been attorney about whether there should be payments to victims. More of the focus on this has been, 'How are you supporting victims in Tasmania?'. It is a very difficult set of circumstances, a difficult situation we do. Hand on heart; I can say we try our absolute best to provide as much support as we can. That does not mean everyone will be happy or satisfied all the time, but we do our best to support victims.

Mr FINCH - Before your time it was suggested money from that pool should be used in the Youth Justice area and people were concerned there would not be compensation going to victims.

Dr GOODWIN - With the unexplained wealth amendments, obviously that is part of the proceeds of crime legislation. If you do end up with any unexplained wealth moneys, where will it go?

Mr WIGHTMAN - It goes to consolidated revenue.

1.5 Legal Aid -

Dr GOODWIN - I am interested to know about the pressure on Legal Aid, because it seems to occur every year - it is an ongoing issue. I note from the annual report that there have been increases in the family law and criminal law areas. I am trying to get a feel for the pressure in the current year, and how things are tracking in relation to the funding, and whether there has had to be any rationalisation of services.

Mr WIGHTMAN - In 2011-12, the Legal Aid Commission received 6 913 applications and approved 6 072. This was a 12 per cent increase in applications and a 16 per cent increase in approvals. In the criminal jurisdiction we received 4 143 applications, and approved 3 783, so 91.31 per cent of criminal applications were approved. In the Family Court, 1 888 applications

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were received and 1 493 were approved, a percentage of 79.37 per cent. Civil actions - 889 applications were received and 796 were approved, an 89.54 per cent approval rate. Around 88 per cent of people who apply for legal aid receive legal aid in Tasmania. We would like that to be 100 per cent, but obviously there are budgetary constraints from both a commonwealth and a state level.

With regard to the budget, there has been a \$50 000 decrease from consolidated funds to legal aid, but that has been offset by \$780 000 from the Solicitors' Guarantee Fund.

CHAIR - Nearly \$800 000.

Mr WIGHTMAN - Money from the Solicitors' Guarantee Fund has been apportioned across to legal aid, and they have received some additional commonwealth grants to supplement funding. The basic fact is around 88 per cent of people who apply for legal aid in Tasmania get it, with a focus primarily on those cases where the accused is likely to go to gaol.

Mr REABURN - As at the end of May, we are about 300 off the total figures for 2011-12, in terms of applications for aid, so we are going to have more this year - there will be an increase. Not as dramatic an increase as there was in 2011-12, but there will be an increase in 2012-13. We just keep squeezing the budget.

CHAIR - More with less.

Mr REABURN - More with less used to be a very common rubric - just how we keep doing more with less, I am not sure, but we do. The money from the Solicitors' Guarantee Fund is always welcome and the distributions from that fund which are made by the Attorney-General have always assisted us quite significantly over the last two or three years. One of the things we will be doing with some of that money is providing a further boost to the Civil Disbursement Fund we operate because the rate of applications to that fund has been quicker over the last year and a half to two years.

The other thing we will be doing with the Solicitors' Guarantee Fund money is underpinning the service we provide to people with mental disability. The commission has deliberately set a hierarchy of priorities and the top priority is children. That means the care and protection jurisdiction, the Youth Justice jurisdiction and the independent children's lawyers in the family jurisdiction. The next priority is people with mental disability and we deal with that in the specialist tribunals and the criminal side. Then we have cascading series of priorities.

Mr WIGHTMAN - To clarify things, \$780 000 was made available in 2012-13 from the SGF and there are currently 851 500 requests from Legal Aid I am currently considering when I disburse the SGF.

Dr GOODWIN - For this year's SGF?

Mr WIGHTMAN - Yes.

Dr GOODWIN - I wanted to ask whether people with mental illness is a growing client group for Legal Aid.

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Mr REABURN - It is. I cannot give you precise figures but we began a particular and directed serviced a few years ago to assist people before the Guardianship and Administration Board and the Mental Health Tribunal, and our criminal lawyers appear before the Forensic Tribunal. We have a regular turnover within the Forensic Tribunal, we would be doing some work with the Mental Health Tribunal and most of it has been in the Guardianship and Administration Board. The new responsibilities that have been placed now on the Mental Health Tribunal will undoubtedly increase our work in that area.

Dr GOODWIN - There has been an increased allocation of funding to reflect the passage of the Mental Health Act. If there is to be a further impact on Legal Aid, is that perhaps the reason there is an increased ask for the SGF this year?

Mr WIGHTMAN - No.

Mrs TAYLOR - Minister, can I clarify something because you said, first of all, mental disability. Are you talking about intellectual disability or mental health here, or both?

Mr WIGHTMAN - Both.

Mrs TAYLOR - Because there is a difference. The Mental Health Act will not deal with people with intellectual disability.

Dr GOODWIN - No, but Mr Reaburn was talking about people with mental illness and that being an increase in demand.

Mr WIGHTMAN - The funds under consideration, which is the \$851 500, includes the Civil Disbursement Fund top-up of \$250 000 and the Mental Health Tribunal and GAB representation, where \$255 000 is up for consideration in the coming weeks.

[11.15 a.m.]

Mr DEAN - What position does Legal Aid have in relation to who will defend whom - a choice of lawyers - where some would be wanting Senior Council to defend them when it is considered that the matter should be dealt with at another level?

Mr WIGHTMAN - This is a discussion that we often have had in this place. Norm is often involved in these discussions about choice of lawyers. I have always maintained we are the only jurisdiction in Australia that actually allows a choice of lawyers. I have spoken to Norman and Peter when concerns were raised about some in the profession believing that there was not a choice permitted. The best figures I can give you are 2012-13 year-to-date figures which suggest that 54 per cent of those applying for legal aid are serviced or defended by private practitioners and 46 per cent are supported by the Legal Aid Commission.

CHAIR - Half and half.

Mr WIGHTMAN - The figures have been maintained for a long time. I know there is always discussion and debate about this but they are the figures I have to present to the committee today.

Mrs TAYLOR - You have talked about the fact that there are more people applying for legal aid. Is the cost per service also increasing and that is why you can service fewer people from the same money?

Mr REABURN - We find that on the family side and on the child protection side the cost per unit is increasing. On the criminal side it is difficult to tell. A high proportion of what we do on the criminal side is done in the Magistrates Court and it can be relatively straightforward. It is pretty important for the person we are helping, but relatively straightforward for the lawyers involved. There is no doubt that major Supreme Court trials are becoming more complex and therefore more expensive. But a lot of what we do on the criminal side is relatively straightforward and therefore the unit cost of those is continuing at a reasonable level.

1.6 Protective jurisdictions -

CHAIR - I note that this area is the only area with a 24 per cent increase. That relates to the mental health field.

Dr GOODWIN - There have been concerns expressed by the Chairman of the Mental Health Tribunal about the funding over the years. Of course, this is an increased allocation because of the Mental Health Act. I am just wondering how confident you are that it will be sufficient to meet the increased demand associated with the passage of the Mental Health Act.

Mr WIGHTMAN - The best that I can say is that that is an estimate of what we believe the cost will be; that is why that figure has been budgeted. Once the legislation is enacted and we can see how it is actually working, we will be able to determine further whether it needs a top-up or whether additional funds are required. The additional allocation is for half the year until next year because of when it comes into effect.

Dr GOODWIN - Are you able to provide a split - and we could do this on notice - of how much goes to each particular tribunal or board within the Protective Jurisdiction's output? Last year we had a discussion around a review of the Criminal Justice (Mental Impairment) Act. That needed to wait until the new Mental Health Act was passed before consideration could be given to looking at that act. I am just wondering whether any further consideration has been given to reviewing that act because it was something that has been raised for a number of years.

Mr WIGHTMAN - I would have to have a look.

Dr GOODWIN - Could you take that one on notice?

Mr WIGHTMAN - I would have to take that on notice.

Dr GOODWIN - If I can turn to the Guardianship and Administration Board, the chair has indicated that, after many years of being critically underfunded, they are having to look at cost-recovery fees on some statutory functions. Can elaborate on that issue?

Mr WIGHTMAN - 'Critically underfunded' - that is a subjective comment -

Dr GOODWIN - I am just quoting from the report.

Mr WIGHTMAN - Yes, and I understand exactly where you are quoting from. It is my understanding too, when it comes to fees for service, that we would be the only or one of the few jurisdictions that does not have a fee for some of their services. In saying that, I have had a discussion with the GAB in particular about raising some of these fees and that is something that I had approved of this time. Just to make it clear, that is similar to other jurisdictions right across Australia. The fees for examination of estate set at around \$170 per year for private administrators and \$120 per year for the Public Trustee is comparable to interstate equivalents, and that fee does not apply to small estates. The fee is means-tested as follows: fees are not charged when the total value of the represented person's assets is less than \$50 000. The amount does not include the value of the household furniture and effects, their personal jewellery, the represented person's principal place of residence or that of their spouse, de facto partner or minor, and the represented person's former principal place of residence if it has been occupied by the represented person for any time during the reporting period and has not been rented to a third party. In that regard, it is cost recovery but it is not targeting estates that cannot afford it.

Dr GOODWIN - Is there an estimate of what might come out of that cost recovery process in terms of helping with the budgetary pressures?

Mr WIGHTMAN - Since 1 March 2013, the board has generated approximately \$8 000 in fees under the regulations so it will make impact.

Dr GOODWIN - The Public Guardian has also expressed concerns about the volume and complexity of the cases being handled in the office and I think this is something that is raised every year. There is mention of it being compounded by the rationalisation of services of other agencies. In that context, there has been a reduction due to budget constraints in the number of hours of two of the positions. It would seem there are some issues around their capacity to manage their workload. I know there has been a review of that office and a number of recommendations came out of that review. How many of those recommendations have been progressed and which ones still need to be progressed? I am happy to take that on notice.

Mr WIGHTMAN - I will take that on notice.

Dr GOODWIN - Okay.

Output group 2 Legal Services

2.1 Crown Law -

Mr DEAN - Minister, last year there was discussion about the change within Crown Law to providing services to the agencies free of charge. You made a comment that you expected an increase in business as a result. What eventuated and what is the position?

Mr WIGHTMAN - I think Dr Goodwin and I have spoken about this before. I had a belief that there should be a shift and that is why it is being undertaken. I think it manages government risk far better when you do not have agencies paying for the Office of the Crown Solicitor in particular or DPP civil. That was an important change made with the support of the Solicitor-General, the DPP and the Crown Solicitor. We are looking at better ways to manage government risk. One of the key things that does not get covered in the media is how you structure the Crown

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Law Office or how the Attorney-General works with crown law to ensure that we have best management risk. I saw this as a key and fundamental way to improve management.

We acted upon that advice. We moved from the fee for a service model to a model where Crown Law receives all of its funding from the Consolidated Fund and I am pleased to report that the change to the funding model has had a very positive impact on the management of legal risk.

There have been much higher levels of referral to Crown Law. In the Office of the Crown Solicitor, it is expected approximately 400 additional matters will have been referred in 2011-12. The office of the DPP civil division has an estimated increase of more than 20 per cent in the number of matters referred for legal advice. It points to the fact that we are managing legal risk better as a government and I was a full supporter, indeed I pushed those with the Treasury to make sure that it actually occurred. It occurred because it took a little bit off each agency to be able to provide that line funding for the Crown Solicitor and DPP civil.

Mr DEAN - Minister, is there a breakdown of those referrals?

Ms WORSLEY - Mr Dean, they are fairly well across the board. We have had more work from most departments. We have noticed that agencies have been more willing to bring smaller matters where before they might have been trying to provide their own legal services. We have always had the upper level work and we are now getting into that lower range work. A small value matter can present a very significant legal risk to government so we should not just measure it on the size of the issue being discussed, it is the risk it presents so it has been across the board.

Mr DEAN - The other matter is the time to complete these matters because of all of the additional work. What is happening in that area? Is there a greater hold-up?

Mr WIGHTMAN - I will let Kerry speak on that in a moment but it is challenging to work with Crown Law. There is a lot of pressure from various agencies and as we have seen with managing legal risk there is an increase in the numbers but as far as I understand, and I have regular meetings with the Solicitor-General in particular, they have been able to handle much of the work that is coming in. If you talk to the Crown Solicitor, the Solicitor-General or the DPP civil they would be pleased that there is additional work because it means they are able to manage that legal risk more effectively. There is no doubt there is increased pressure on those officers within the agency.

Ms WORSLEY - Mr Dean, our numbers have declined over the last three to four years and that decline has now been arrested so we are returning to the sorts of levels that we had three to four years ago. At this point there is no issue with us being able to absorb that demand but if it continues to rise then we will need to speak to the minister.

Mr WIGHTMAN - They will be back for a chat.

Dr GOODWIN - I have a couple of matters I want to raise from the Solicitor-General's report. The first is in relation to the current Director of Public Prosecutions Act, which provides that if for some reason the DPP cannot perform his or her role then it will be the Solicitor-General.

[11.30 a.m.]

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The Solicitor-General is suggesting that is not the best approach and he would like to see the act amended to provided for a senior Crown Law officer, other than the Solicitor-General, to perform the functions of the Director of Public Prosecutions. I understand that is a live issue at the moment because of the situation we have, but he has raised that concern. I want to get your feedback on that issue.

Mr WIGHTMAN - I will make a couple of points. It is time we had a look at the DPP act and also the Solicitor-General act. Not because of anything other than it is timely these matters are looked at. The Solicitor-General, Leigh Sealy, has taken on the responsibilities of Director of Public Prosecutions while Tim Ellis is absent. However, given the extended time that is involved, additional administrative arrangements have been designed to ensure, as far as possible, segregation from the day-to-day function of the office of the Director of Public Prosecution from the functions of the office of the Solicitor-General. I have every confidence in the justice system and I have received advice that reassures me these are matters that can be dealt with. It is probably timely we had a look at the DPP act and the Solicitor-General act.

Dr GOODWIN - It seems to me he has a point.

Mr WIGHTMAN - I make the point very strongly that I have absolute confidence in the work of the Solicitor-General and the DPP, in particular Daryl Coates, at the moment.

Dr GOODWIN - The Solicitor-General talks about 'a discernable increase in the average length and complexity of individual advisings' and he talks about the factors contributing to that. He talks about the interrelationship between new and existing provisions and about the creation of evermore emanations of the crown as distinct legal identities. Perhaps a lack of clarity within the new provisions as to whether these new entities are intended to have the identity and all the privileges and immunities of the crown. Is this something that can be addressed?

Mr WIGHTMAN - You may have an example where someone may require some advice, but you make sure there is not a situation where there is going to a conflict - is that what you mean?

Dr GOODWIN - No.

Mr WIGHTMAN - The constant discussion is whether particular agencies or independent statutory authorities are the crown.

Dr GOODWIN - Yes, because that has implications.

Mr WIGHTMAN - It does have implications. More often than not, when legal advice is sought, the Solicitor-General attempts to provide that advice because he sees himself as a service to provide to a variety of different agencies or independent statutory office holders. There are times under the act that if he is asked to provide legal advice he would come to me and ask whether that would be appropriate, for that legal advice to be sought, under the act. Then he and I would have a discussion on the individual basis about any of those matters.

Dr GOODWIN - What he might be getting at is if there was more work done on the front end of the legislation creating these new entities, it may be possible to prevent these issues arising. I am trying to see whether that advice is being taken on board. I do not know what the process is, whether draft legislation or bills go to him to have a look at as a general rule.

Mr WIGHTMAN - In my view there has been an increase in the amount of interaction, particularly between agencies and the Office of Crown Law, as we have detailed earlier. There are certainly protocols and procedures in place to encourage those people, whether they be drafters or members of the department, to make sure that they have specific legal advice, whether it be about a contract or a piece of legislation. We strongly encourage that, the Solicitor-General strongly encourages that and Crown Law strongly encourages that. It has been our focus for the past two years to manage risk as much as we possibly can by encouraging people to use the Office of Crown Law for legislation before the parliament or contracts or whatever.

Dr GOODWIN - It seems to be something that could be fixed, but I'm not sure, so I'm just asking.

Mr WIGHTMAN - I guess there is the situation of someone coming to you asking for advice and they are not an emanation of the crown. You think it would be appropriate at that time for the Solicitor-General to provide the advice as a public service or a public duty so the Solicitor-General and I have those discussions at that period.

2.2 Legislation development and review -

Dr GOODWIN - Attorney, you ran through a list of bills that we can expect to see later this year. I want to ask you about the Commissions of Inquiry Act. You mentioned that there would need to be some amendments to that. Could you flag what they are?

Mr WIGHTMAN - On Friday 11 January 2013 the Governor-General appointed a six-member commonwealth royal commission to investigate institution responses to child sexual abuse, which we are all well aware of. All states including Tasmania have established a royal commission consisting of the same persons appointed by the commonwealth and then appointed here in the state and having complementary terms of reference and coercive powers. Amendments will be required to the Commissions of Inquiry Act 1995 to ensure that the Tasmanian Commission of Inquiry can operate jointly with the commonwealth royal commission. The intention of the amendments is to eliminate the prospect of a successful challenge to the exercise of the inquiry's coercing powers on the ground of a lack of jurisdiction.

Mr OVERLAND - The commonwealth has appointed six commissioners under their royal commission legislation. We understand it is the intention to have the commissioners able to sit individually or in multiples up to six and they, for all intents and purposes, sit as a commission. At the moment under the Commissions of Inquiry Act it is, at best, ambiguous, as to whether that would be valid under our legislation so that is an amendment we need to make to clarify that situation.

Dr GOODWIN - Can I ask about the Sentencing Advisory Council's final report on arson and deliberately-lit fires. You mentioned that you are intending to bring in some legislation to implement some of their recommendations or -

Mr WIGHTMAN - The majority of them.

Dr GOODWIN - the majority of them. Does that cover pretty much all their recommendations around amendments to the Criminal Code?

Mr WIGHTMAN - Correct.

Dr GOODWIN - What about the Sentencing Act amendments? Would they be included as well?

Mr WIGHTMAN - Yes. I am consistent with the findings of the Sentencing Advisory Council. There were some matters raised about providing support for juvenile offenders, particularly putting support programs around those. We will have to look at those in the budgetary circumstances.

Dr GOODWIN - One of the recommendations relates to amending the Sentencing Act to include a general sentencing option to allow the court to defer the imposition of a sentence to allow an offender the opportunity to participate in a treatment program prior to final sentencing. The same provision but in relation to the Youth Justice Act is currently in a bill yet to be considered by the Legislative Council but the commencement date of those provisions is being deferred because there are resource implications associated with deferral of sentences. I am just wondering whether that same issue applies to the Sentencing Act amendment?

Mr WIGHTMAN - It is currently being considered at this stage and that is where we are at at the moment. Obviously there are resource implications that need to be taken into account but we are at the point of considering that and we think that might need some further investigation and work.

Dr GOODWIN - In relation to the unexplained wealth amendment, it has been about three years because it was a commitment of the Labor Party at the last state election and I am just wondering why it has taken so long to bring it to the parliament.

Mr WIGHTMAN - First, it is a very complex piece of legislation.

Dr GOODWIN - I have seen the bill, yes.

Mr WIGHTMAN - That takes a significant period of time to draft. Obviously, too, there has been consultation around that bill. There would be some people of the view that we do not need unexplained wealth legislation in Tasmania and others of the view that we do not need - and it has been talked about much recently - anti-association laws in Tasmania. That was a commitment in 2010 and the reason it has taken so long is because the bill is extremely complex and you have to get it right. There would be no point bringing a bill to the parliament that could not be used or challenged in a higher court. Obviously consultation has taken time as well and there have been some concerns about the reversal of the onus of proof in particular but we believe we have been able to overcome those with some arguments around that and have arrived at a point where we can table that piece of legislation. It is a complex piece of legislation that has taken time and further consultation. As I said, it is important that we get it right because we do not want a piece of legislation that cannot be used.

Dr GOODWIN - Last year in estimates we had a discussion about self-defence because it was something that the DPP was keen to pursue and I think you indicated that the department would prepare a discussion paper on this issue. I am just wondering if that is progressing or has progressed?

Mr WIGHTMAN - Yes. At this stage our understanding is that that will go to the Tasmanian Law Reform Institute.

Dr GOODWIN - The department is not doing the discussion paper?

Mr WIGHTMAN - We certainly had some discussions about that at the time. We talked about a discussion paper in particular last year. It is once again a very complex matter and we think it is probably best after consideration to give it to the Law Reform Institute.

[11.45 a.m.]

Dr GOODWIN - So you have not done a formal referral of that yet but you will at some point. Okay. In the Legal Profession Board's annual report they have suggested that there is a need to amend the Legal Profession Act and talk about urgent need for action in relation to that. I am just wondering whether that process has commenced in terms of consultation and work on that particular issue.

Ms VICKERS - We have had some correspondence from them about a few issues so we are actively looking at that and will provide some advice to the Attorney shortly.

Dr GOODWIN - Okay.

CHAIR - How are we going on our legislation list?

Dr GOODWIN - I have a quick question in relation to the Sentencing Advisory Council. One of their projects is a sentencing database and I am just wondering if you can provide an update on that?

Mr WIGHTMAN - Yes, they have a couple of referrals before them at the moment. One is sex offences. The sentencing database is something they have been looking at and will continue to look at into the future. There is much conjecture about a sentencing database and some other jurisdictions across Australia have done that, but my understanding is that that work is ongoing.

Dr GOODWIN - It has been on the books for a while.

Mr WIGHTMAN - Yes, and other things have been put ahead of those. I am not devaluing that in any way but other things have been put ahead of those.

Dr GOODWIN - I am just trying to get a bit of concrete information as to how far it has progressed or what stage it is at.

Mr WIGHTMAN - I am just hearing from Ros that it is also linked to the criminal justice information system as well.

Dr GOODWIN - Yes, I did wonder about that too.

Mr WIGHTMAN - It is all wrapped up in that. We have had issues like assaults on police and emergency workers, arson and sentencing sex offenders that have taken precedence. They are a small group who do an absolutely outstanding job and they are working on those key priorities at the moment.

Dr GOODWIN - It is on your website as a project, so I just wonder whether it might be better to take it off if it is going to be part of that bigger project.

Mr WIGHTMAN - That is a fair point. As I said, there have been matters that have been referred as priorities and we have seen from feedback from the Tasmanian community, in particular, and my view as well, that there have been priorities put in place and we will certainly undertake to have a look at that, Dr Goodwin.

Dr GOODWIN - In terms of the funding to the Sentencing Advisory Council, that would be coming out of the -

Mr WIGHTMAN - Solicitors' Guarantee Fund.

Dr GOODWIN - For this coming year what would be the allocation you would be thinking of?

Mr WIGHTMAN - The first grant of \$150 000 was to set up the council and the first year of operation. The second grant of \$250 000 funded the council for the 20-month period through to the end of 2013 financial year, and a further grant of \$220 000 will fund it through to 2014 financial year. The council is something that I absolutely support. We set it up and think it is doing some absolutely outstanding work. We will continue to find a way to support that through the Solicitors Guarantee Fund.

Dr GOODWIN - I have a question in relation to something the DPP raised following a request from the Criminal Law Committee around the prosecuting of all criminal matters. I was just wondering if that was something you can comment on?

Mr WIGHTMAN - I have had some animated discussions with the DPP previously about it. While I'm not against it in any way or think we shouldn't look at it and investigate it further, I don't believe now is the right time because of the costs associated.

Dr GOODWIN - You have an idea of what the costs involved could be?

Mr WIGHTMAN - Not to give you right now, but we have done some preliminary work and had a bit of a look at it. As I said, it is not something I am against - not something I have even formed a firm view upon - but the current budget constraints make it extremely difficult to undertake it at this stage.

Output group 3 Registration Services

3.1 Births, deaths and marriages -

CHAIR - Minister, it is obviously tracking fairly well with the unit cost per transaction and also the performance measures outlined on page 7.11.

Mr DEAN - What registration occurs in relation to immigrants coming into this state and living here? Is there any registration through this office at all? If marriages occur -

Mr WIGHTMAN - No.

Mr DEAN - The only registrations are through the electoral rolls?

Mr WIGHTMAN - That would be one. Citizenship records, and the electoral roll but BD&M deals with births registered, deaths registered, marriages registered, relationships registered and relationships revoked. It would be the electoral roll or, as you say, citizenship records.

**Output group 4
Review Services**

4.1 Anti-Discrimination commissioner -

Dr GOODWIN - I was going to ask about the profile of complaints for this current year and how it compares to previous years and whether there has been any obvious change?

Mr WIGHTMAN - At the end of April 2013, the level of complaints received by the OADC - Office of the Anti-Discrimination Commissioner - was 128 per cent of complaints for the same period in the previous year, so there has been an increase. The level of race discrimination complaints continues to rise - it was alleged in 21 per cent of complaints to date compared to 20.3 per cent in 2011-12. The level of disability discrimination complaints is slightly down on last year - it was alleged in 40 per cent of complaints to date compared to 41.4 per cent in 2011-12. The level of gender complaints is the next highest, up from the previous year - it was alleged in 17 per cent of complaints to date compared to 14.3 per cent in 2011-12. Other complaints are discrimination on the basis of industrial activity - 10.6 per cent; family responsibility - 10 per cent; and age - 10 per cent. This indicates a continuing area of concern.

The level of complaints in the area of provision of facilities, good and services has dropped to being alleged in 36.6 per cent of complaints to date compared to 48.1 per cent in 2011-12, with employment discrimination alleged in 41 per cent of complaints to date compared to 45.1 per cent in 2011-12. The level of complaints against government is at 31 per cent - down slightly from 32 per cent in 2011-12.

Dr GOODWIN - In terms of the additional funding allocation to this output group -

Mr WIGHTMAN - It is \$300 000.

Dr GOODWIN - Yes, so that is in response to increase in demand.

Mr WIGHTMAN - Correct.

Dr GOODWIN - Can you provide an indication of how that money will be used, specifically? Is it more staff?

Mr WIGHTMAN - There are two parts. One is complaint handling ability - having people in place to investigate complaints. We are incredibly fortunate to have a wonderful Anti-Discrimination Commissioner and a wonderful Anti-Discrimination Commission. There will be increased complaint handling ability and they will also continue an educative role, informing the public about discrimination and how we can best eliminate discrimination in our community.

Dr GOODWIN - Will that equate to any additional positions?

Mr WIGHTMAN - I do not know. We can get that, how many additional people with the \$300 000 they are going to put on. We can let you know.

Dr GOODWIN - The Anti-Discrimination Commissioner undertook an investigation into volunteers insurance and age, which is quite a significant problem for our ageing population here in Tasmania because we have a higher level of volunteering. Where to from here with that?

Mr WIGHTMAN - It was an excellent piece of work and I commend Robin Banks for what was done. There are two parts to it. I have written to the Australian Insurance Association and asked to meet with them about any concerns that I might have that they are breaching the act. Also, I have sent the report to the attorneys right across Australia and we will talk about it at the next standing council. A very interesting report, well worth a read because we rely heavily on volunteers in Tasmania. They add value to every organisation. Older people and younger people should not be discriminated against because they are more likely to suffer an accident or injury, particularly if they are volunteering in a low risk area. I commend Robin for the work and that is how we will be progressing it further.

**Output group 5
Electoral services**

5.1 Elections and referendums -

Mrs TAYLOR - I know that the Attorney-General is waiting for this because it will be an accrual accounting question, which he loves. There is not a great deal of problem with this area, but can you explain to me the breakdown of the \$5.459 million in the output expense group summary, which is the accrual accounting I understand, as opposed to the appropriations bill for next year, which is \$796 000? I know there is always a relation between the two and that the accrual accounting is different from the cash. But there is a big difference here between one and the other.

Mr WIGHTMAN - The answer to your question is that a component of that is reserved by law.

Mrs TAYLOR - Obviously this is for the state government election next year, which is why there is such a big increase. Why does it sit there rather than here?

JULIAN - The \$700 000 figure would be our normal appropriation but the majority of our revenue is reserved by law or is paid to us by local government as reimbursement of the costs of conducting their elections.

Mrs TAYLOR - Correct, but this will not be a local government one, this will be the state government election.

JULIAN - This financial year there will a general election for the House of Assembly as well as two Legislative Council elections and there are some other items, which are also reserved by law and that is the difference between the two figures.

Mrs TAYLOR - Where does that come from then? Can you give me a breakdown of that?

Mr WIGHTMAN - Page 7.25 of the budget papers, table 7.17, says that expenses of parliamentary elections and referendums in 2012-13 was \$1.033 million and in 2013-13 the budget is \$3.44 million.

[12 p.m.]

Mrs TAYLOR - When something is reserved by law, where does it come from? Where does it sit until you need it? It just sits in Treasury?

Mr WIGHTMAN - It sits in Treasury, yes.

Mrs TAYLOR - In consolidated revenue in Treasury and then as you need it; it never goes into your cash for that year? I would have thought that this year you would need it so it would go into your -

Mr WIGHTMAN - You park it in Treasury as opposed to parking it in the Justice department.

Mrs TAYLOR - So it is not a special appropriation?

Mr WIGHTMAN - No. It is reserved by law and sits there ready for the next state election. It does not come through the appropriation bill.

Mrs TAYLOR - No, obviously not.

Mr WIGHTMAN - It is treated differently. It sits within Treasury and then is called upon as required.

Mrs TAYLOR - So Treasury has an amount sitting for things reserved by law and then when they are required -

Mr OVERLAND - It does come to the department but it is just treated in a different way. There is money appropriated through an appropriation bill but the reserve by law is dealt with in a different way. That is reflected in table 7.17. It is included in the total, the \$5 million figure you are talking about. It is two different funding sources essentially, but it is all government money at the end of the day and it is money that comes to the department to administer.

Mrs TAYLOR - I understand that. I am asking a background question just to understand what 'reserved by law' actually means.

Mr OVERLAND - 'Reserved by law' means it is applicable to the purpose of a particular piece of legislation and only for that purpose.

Mrs TAYLOR - So it is just sitting in a big Treasury bucket?

Mr OVERLAND - No. It actually comes to the department as part of the department's funding.

Mrs TAYLOR - Yes, but until it comes to you?

Mr OVERLAND - It is the same with consolidated revenue. It sits in a big Treasury bucket until it actually comes to the department, but it comes to us on an annual basis.

Mr JULIAN - The authority is contained in the Electoral Act rather than in the appropriations bill.

Mrs TAYLOR - Okay, thank you. There is still a fairly big discrepancy between your normal electoral services appropriation and what sits in the accrual. Like if you look at some of the other figures on that same page they are fairly close. Normally there is not much more in the output group expense summary than there is in your appropriations.

Mr JULIAN - I can only assume it is because of the House of Assembly general election during the -

Mrs TAYLOR - No, I mean in any other year as well.

Mr JULIAN - Reserved-by-law items in other years relate to Legislative Council elections, to the expenses of the Electoral Commissioner -

Mr WIGHTMAN - And local government as well, so there is trust fund in there for local government elections.

Mr JULIAN - The Aboriginal Lands Act and the Legislative Council Electoral Boundaries Redistribution Act.

Mrs TAYLOR - Okay, so you have more sitting in reserved by law than most other departments would have.

Mr JULIAN - In fact the consolidated fund is probably, in the scheme of things, a minor source of our funding.

Mrs TAYLOR - Yes, that is the point I am making - compared to lots of other departments where the relationship is much closer.

Output group 7 Other Services

7.1 Supervision of poppy and hemp crops -

Mr GAFFNEY - This output group is to deal with the responsibility for licensing, inspection, supervision and management of the poppy industry. Last year you mentioned a new funding model - and Dr Goodwin put it quite well when she said it is the manufacturers who pay for the recovery from the growers - how many hectares were harvested in 2012-13?

Mr WIGHTMAN - There were 1 043 licences issued to Tasmanian farmers to grow poppy crops during the 2012-13 season, with a total of 29 396 hectares harvested.

Mr GAFFNEY - What is the amount of the levy per hectare?

Mr WIGHTMAN - It is \$26.

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Mr GAFFNEY - I see that \$26 is the price, consistent for the next four years, so is that saying you are considering the hectare will be the same?

Mr WIGHTMAN - No, it is not by hectares. The board will require the same amount of funding per year to be paid - \$650 000.

Mr GAFFNEY - On the hectare, not the yield?

Mr WIGHTMAN - Correct, it is on the hectares harvested - this is the debate we had in the House of Assembly - because we thought that was the fairest and most economical way to work out the cost.

Mrs TAYLOR - The yield varies hugely.

Mr WIGHTMAN - I understand that. We had this debate in the House and we have looked at this a number of times and we firmly believe the best, fairest and easiest way is by hectare.

Mr GAFFNEY - Who estimates how the hectares will be cultivated for the year? Who are the groups that say to the 1 043 poppy growers how much return they want?

Mr WIGHTMAN - The companies they are growing for.

Mr GAFFNEY - If the hectares increase, they want more of the substance, the cost per hectare could come down?

Mr WIGHTMAN - Yes.

Mr GAFFNEY - The transference of that would go to the farmer or the pharmaceutical company? Who determines how much yield?

Mr WILLIAMS - The decision to grow a certain hecterage belongs to the manufacturing companies, which also supply the seed and the technology. The model we proposed is that the levy would be split on a hectares-harvested basis between the three manufacturers based on how much they end up harvesting, which gives a fairer outcome at the end of the growing season. The other thing we were talking about with the amount and not the yield from the crop, because it does vary, is the fee relates to the licensing and growing of the crop. It is not a tax, it is in relation to the direct recovery of costs in relation to the services of licensing, supervising the crop during its growing period.

Mr GAFFNEY - GlaxoSmithKline said that even in November when they know how many hectares are sown, by February there could up to a 10-15 per cent decrease in the yield, which would be unfair for some growers. Does the importation of straws or seeds from Turkey have any impact on this whole issue?

Mr WIGHTMAN - No, it does not. It is a one-off importation but it does not impact on the levy.

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Mr GAFFNEY - I thought the idea of the Turkey straws and seeds were so there was always the security of a resource because it would be undermining the Tasmanian poppy industry if they could not have that resource.

Mr WIGHTMAN - The companies have long talked about resource security in Tasmania. As we know, there have been trials ongoing in different places. We are a huge supporter of the poppy industry in Tasmania. It is not only a wonderful industry but it has great opportunities for Tasmanian poppy growers to make some money and produce a product that is much sought after right across the world. When it comes to our science around growing poppies we are ahead of the world with our development activities in that regard. It is a very important industry and with irrigation going right across the state we hope to be able to increase acreage.

Mr GAFFNEY - I agree with that, but I think the concern was if we don't have that security. New Zealand and Victorian growers could then come more into the equation.

Mr WIGHTMAN - There is a lot more that goes into that. There is Vienna and the international impact upon that and who they might allow to grow. There is a customs issue at a federal level as well. Peter Patmore has come back from Vienna where they are incredibly impressed with the work that is done in Tasmania. They see it as a very secure harvest, which means that we don't have a lot of poppy heads stolen in Tasmania. It is a very secure crop, which is what they look for from an international perspective.

Other people will be interested in growing and maybe even some Tasmanian companies are interested in making sure that they have enough product. However, a lot more conversations would have to go on before we see that sort of expansion. We do have a natural advantage for growing poppies here with our soil structure, ability to rotate crops, the irrigation system, the rain we have and the climatic conditions.

Mr GAFFNEY - I wasn't questioning the viability of our industry, I was just surprised that you said that it would only be the one year that you would import the substance and that is all. I would have thought that it would have been too early to predict that.

Mr WIGHTMAN - That is all the government has supported.

Mr GAFFNEY - Could you give us a breakdown of the number of FTEs in the PACB, their overheads and their fixed costs?

Mr WIGHTMAN - Overall it's about \$650 000. Do we have a breakdown of that \$650 000? I can give you some staffing numbers and then we can get you a breakdown of that figure and table it.

Mr DEAN - Last year, minister, you said that there would be a review of the functions of the board. What did that review find? What changes were made to the board? I notice that one of their functions is to ensure that the cultivation of poppies is performed in accordance with the Poisons Act and so on. Have there ever been any breaches by any growers or anybody else in that area?

Mr WIGHTMAN - I don't know the answer to the second part of your question, unless someone has those matters to hand, but I will come to that in a moment. Yes, we did. On announcing that there was proposed legislation to support the payment of \$650 000 to run the

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PACB out of a total farm-gate profit of \$81 million, which we as a government believed was fair for a mature 40-year old industry in Tasmania, we then listened to the stakeholder feedback and commenced a review. John Ramsay is undertaking that review and I understand that he has had some excellent conversations with growers and their representatives. He has not finalised that report yet, but I would expect a draft of that report to come to me any day.

Mr DEAN - Minister, obviously he is taking a long time to do it because you told this committee last year that it would be done within the next few weeks.

[12.15 p.m.]

Mr WIGHTMAN - Did I? A few weeks of review. I will chastise myself for that, Mr Dean.

Mr DEAN - I take it there is obviously a delay in it and it has taken a lot longer to do than what was originally thought.

Mr WIGHTMAN - When you are undertaking these reviews it is very important that we do it right and do it effectively. It has taken a period of time; first we needed to get the right person in place to undertake that review - someone who is not just respected in the industry, but respected across Tasmania and by Tasmanian growers - to make sure that we get the right information. That is where we are at with that and I expect to receive the report within the next few weeks.

Mr DEAN - Right. The other one is, can you get the breaches, can that be tabled?

Mr WIGHTMAN - Breaches by farmers?

Mr DEAN - That is one of the duties or functions of the board - to ensure that it complies with the Poisons Act.

Mr WIGHTMAN - Yes.

Mr WILLIAMS - The Poisons Act is administered by the Minister for Health so it probably is a question for Mr O'Byrne. But to my knowledge, the only significant breach of the growing practice was quite a long time ago, certainly before I started at parliament. It was subject of an ombudsman's inquiry; it must be 10 years ago. It was well publicised but in recent times, certainly since I have been here in the last four-and-a-half years, I have not been advised of any significant breaches apart from the annual review of how many poppy capsules have been stolen because anyone who steals them is in breach of the Poisons Act by holding them.

Mr DEAN - You do not have the breaches by growers yet?

Mr WILLIAMS - The answer is I have not seen any, but it could be with the Minister for Health.

CONSOLIDATED FUND APPROPRIATION BILL (No. 2) 2103

DIVISION 2

(Integrity Commission)

Output group 1

Integrity Commission

1.1 Integrity Commission -

Mr DEAN - There was a small decrease in the budget as a part of the budget saving strategy. What did that mean to the Integrity Commission; did it have any impact?

Mr WIGHTMAN - Without playing politics, the slight decrease is very small compared to what the Liberal Party would do to the Integrity Commission. Just a small bit of politics, which is a more streamlined Integrity Commission, which means about \$600 000 out.

Mr DEAN - What is the impact of that small decrease in the budget for the Integrity Commission?

Ms MERRYFULL - For next year? That is manageable; we factored that into our budgetary planning.

Mr DEAN - In relation to the complaint that was made to the Integrity Commission from Mr Greenberry, it was indicated by the Integrity Commission that there was no complaint for them to answer and accordingly, I think it was indicated that they did not need to get back to the complainant in relation to that complaint. Can you explain to me why that was the situation, where a complaint was made as I understand it, in relation to the organisation and on government departments. What is the position of the Integrity Commission in relation to that?

MS MERRYFULL - Thank you for asking me about that. I would like to firstly explain how the Integrity Commission works because this goes to the heart of what you are asking. I think it is important that everyone is reminded that the commission is established by an act of the Tasmanian Parliament and its objectives, functions and powers are all established under the legislation. That act provides that we are to conduct our investigations in private. The commission is only authorised to report to parliament either through its annual report or through a special report that it can lay before the parliament. The act does not provide for the commission to make public reports outside of reporting to parliament. Unlike for example, the Ombudsman, who I know is here, and in his act he has a provision to make a public report generally or on a particular case. If the commission were to make a public report outside of parliamentary reporting it could lay itself open to legal action and, as well, not complying with the clear intention of the parliament when it passed the legislation.

The commission is required to observe and comply with obligations concerning the privacy of individuals, and this includes not only a complainant but also the subject officer about whom allegations are made. So clearly the parliament intended that we would not report publicly on matters, either when they are under investigation or when they are completed, unless we report to parliament. It is important too to remember what the act says about the outcomes of our investigations. The commission does not conduct criminal proceedings. The commission does not conduct proceedings for a breach of the code of conduct. We do not do that. That is not what the act says that we do.

At the end of any investigation or assessment the act says the complaint is either dismissed or it is referred to another body to take action. If the board is considering a report then a board can recommend a commission of inquiry or convening an integrity tribunal. So that is what the commission can do with the outcomes of its assessments or its investigations. If you understand

what the act says we can see that some of the comments that have been made about the commission, for example - about what it is doing with investigations or what it is not doing with investigations - are based on a false premise. That false premise is that the commission in its usual way of operating, in its usual method of operation, would in fact be talking about what it is doing. That is not what the act says it is to do. That is not what parliament intended that we should do. We are bound by a confidentiality provision and unless we put a confidentiality notice on what we write to a complainant, any complainant is then free to use the information that we give them. We do not impose a confidentiality notice on complainants unless it is operationally necessary. A confidentiality requirement is to restrict somebody's freedom of speech, so we do not do that lightly.

That means complainants are free to selectively put material into the public arena, which we are not in a position, as a responsible public body operating under legislation, to respond to. I think it is also important to remember that parliament did not intend us to resolve complaints. Parliament intended us to investigate misconduct and that means sometimes we will not necessarily be able to notify a complainant of an outcome of a complaint. Can I give you an example of what that might be? A complainant might make an allegation of serious misconduct, which we might assess and that might indicate that there has been criminal conduct. Generally, we would refer that to the police. This is just an example, hypothetical example. We might refer that matter to the police to investigate. We are hardly going to write back to the complainant and says, 'Thanks for that information, there is something going on there, we have got the police investigating it'. That may be operationally very counterproductive to the police investigation. It might also be very damaging to the subject officer, particularly if a police investigation finds no evidence of misconduct or criminal conduct. So that is why the act allows us to exercise discretion about what we tell a complainant. I also want to remind everybody, if I can, about the strong coercive powers that the commission has, which can apply to any assessment or investigation that we can do.

We can compel the production of records. We can compel the production of people's bank records, for example. We can compel the production of electronic information that is held in a department. We can enter a department or government offices and seize computers that are there, even people's personal computers. We can obtain a warrant to attach a tracking device to a vehicle and follow a vehicle all around Tasmania electronically. We can compel people who are not just public sector employees but ordinary members of the public to come here and give us information under claim of committing a criminal offence.

We deal with lots of allegations of misconduct and some of them are very serious. When we deal with those allegations, we have to do so with the utmost propriety. It is what parliament and the community expect. We have to consider the public interest in how we deal with the complainant and how we deal with the subject officer. We have to use responsibly not only our powers but also the information that we get. Sometimes this is uncomfortable for us, particularly when people are criticising us for not responding to things that are put in the public arena by other people - complainants who might selectively or otherwise put the information out there. I am willing, and the commission is willing, to bear that criticism because in doing so we are fulfilling our statutory obligations.

I want to say that we intend to lay a report before parliament in the June sitting, a de-identified point about some of our investigations. This is not something that we would routinely do but we think that it is in the public interest that there is a bit more information about what we

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are doing. That is something that we will lay before the parliament in accordance with our statutory charter.

Having heard of all that, Mr Dean, I wonder whether that answers your questions or whether you can understand why I am not going to respond to some of the assertions that have been made.

Mr DEAN - It answers my question in part but I have a couple of issues arising. Inasmuch as the matter with Mr Greenberry was not being referred to the police, why would not the Integrity Commission get back to Mr Greenberry and simply advise him that the matter does not fall within the ambit of the Integrity Commission and advise him of another area that he could take his complaint to?

Ms MERRYFULL - Mr Dean, you are assuming that we did not get back to Mr Greenberry. I do not know why you are making that assumption that we did not get back to him.

Mr DEAN - Did the Integrity Commission go back to Mr Greenberry and advise him of the circumstances? Perhaps I should have asked the question in the first place.

Ms MERRYFULL - It is not something within the minister's knowledge. That is only -

Mr DEAN - I have to direct my questions to the minister.

Mr WIGHTMAN - I cannot answer that question.

Mr DEAN - That is why I asked the Integrity Commissioner.

Ms MERRYFULL - Once I start down the track of saying what I have or have not told to a complainant, we get to the question, 'Why did you tell them that? Give us some details'. I am just saying, do not assume that we did not get back to the complainant.

Mr DEAN - My question is, did you?

Ms MERRYFULL - I am not prepared to say that but do not assume that because certain information has been put in the public arena that that is the entirety of the information. I have explained that the commission is very careful about what it puts out into the public arena. Just because somebody puts a certain amount of information out there, the commission is always very careful about responding, keeping in mind our obligations and way of operating. I hope you can understand that.

Mrs TAYLOR - The same thing would be if you had a referred a complaint to the police or not. You would not make that public either.

Ms MERRYFULL - Absolutely not. I would not necessarily canvas the reasons for dismissing a complaint because it might have an impact on somebody's personal privacy and it does not necessarily help. If you say, 'I have dismissed a complaint because - just hypothetically - there is no substance in the complaint'. The next question is, 'Why is there no substance? We have seen what the complainant has put into the public arena. What makes you say that there is no substance?'. Then you are starting to talk about the details of the complaint. From our perspective, the better approach - and keeping within our parliamentary intention - is to say, 'I am

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sorry, I cannot comment on that'. I urge you all not to necessarily assume that what is in the public arena is what has happened.

CHAIR - Thank you. We are starting to repeat the answers and we do have a fairly short time frame on this.

Mr DEAN - Just on this, minister, is it envisaged then that there will be amendments to the Integrity Commission's act in relation to this matter. Is that being considered?

Mr WIGHTMAN - Not in relation to this matter.

Mr DEAN - In relation to what the Integrity Commission can do.

Mr WIGHTMAN - We made some

[12.30 p.m.]

Mr WIGHTMAN - We made amendments last year, which were recommended by the committee. We are about to undertake a review of the act and a committee will be involved in that. Should they suggest that amendments are required, we will seek to make those amendments but it needs to go through a process. It was maintained by the committee and by the commission that we should have those administrative amendments put in place to make sure that the act worked as it was intended to and if there are any changes to the powers of the Integrity Commission they should go through a full parliamentary committee and then come to me as minister to make those changes, should they be required.

Dr GOODWIN - What is the process, in general terms, about responding to complainants? If someone makes a complainant, is there a standard form letter that you use to acknowledge receipt of their complaint and does that wording remain consistent - if it were a standard form letter you would presume it would - across all complainants?

Ms MERRYFULL - There are a couple of different steps. People get an acknowledgement that we have received their complaint because the general way we like to get it lodged is through our electronic system and people need to be reassured that we have received it. It then depends on what we do with the complaint. There are a number of approaches that we can take to a complaint and the act sets out what they are.

Generally speaking we would notify a complainant about what we have done with their complainant but it will sometimes depend on the circumstances. If, for example, a complaint comes in and we might triage it, and look at it, and we might dismiss it straight away. We will write to the person and say I am sorry we are going to dismiss your complaint for these reasons. Sometimes we might refer that complaint to an agency. A significant proportion of our complaints get referred to another agency to action; that is what the act intended us to do. It helps build capacity in agencies and we will write to a complainant and say we have referred your complaint to another agency. We might audit the outcome of that investigation, or we might acknowledge the complaint and depending what is in it we might do something with it. We might put it into assessment which is that step under the act where we assess a complaint before it goes to investigation and the investigators can undertake and use all of their prolific powers if they choose to, to gather information to define what to do with it. The act says you can dismiss or you can refer it for further investigation.

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This is where the act says at that point you may or may not tell the complainant what you do with that and it is a case-by-case basis about whether you would tell the complainant or not about what has happened. It is not about being secretive, it is about the operational requirements of what we are dealing with, taking account of everybody's interest, including the interests of the person about whom allegations are made which can be any public officer.

Dr GOODWIN - If I can summarise, what you have indicated is that it depends on the circumstances of the complaint and how it progresses but, in some cases, the complainant may just get an acknowledgement of their correspondence because something might be ongoing in relation to that. Presumably, some matters might take some time to resolve but during that time assuming it is something that goes on for a while, you would have complainants who contact you and request updates. Is that something that you provide?

Ms MERRYFULL - What we would normally say to a complainant is that the matter is still with the commission. We are not a complainant-driven organisation; we are not about resolving complaints. We are about getting information about misconduct. We are not quite like other complaint resolvers. Even in my experience with the commission, there will be a complaint that takes a long time to go through, for example an investigation, and the complainant will constantly be in contact. We have to say, I am sorry I cannot tell you anything more than we are still dealing with this matter. At the end, because it was appropriate to do so, the complainant was told what happened: this is what we did with your complaint; this was the outcome. Not necessarily telling them everything because there would be operational reasons, particularly where we are dealing with another agency and we might have made recommendations to an agency about what has happened here, but we would go to the complainant generally sometimes and say, 'This is what happened, this was the outcome'.

CHAIR - Is that clarified now?

Dr GOODWIN - Would you warn a complainant, as part of your normal process, that they may not hear from you as to how their matter is progressing? Is that something you do up-front, or does that come later?

MS MERRYFUL - Sometimes we will say that to them, because we know it might take some time to deal with their matter. We will say, 'There is no point getting back in touch with us because it may take some time for us to get back to you'. Some people will not necessarily hear us, and will keep getting in contact with us. They are the exception, because in numerical terms, most complaints are dealt with reasonably quickly and people hear quite quickly. But, all complaints are not the same. You could have a really large investigation that takes months and months - and I am happy to talk to the committee about what is involved in some of these large investigations - where they may not hear from us for some time. It could take a year before all the interviews have been done, and all the evidence has been gathered and the investigation is completed. In these cases, there is no point in them contacting us every two weeks to ask us what is going on.

Mr FINCH - Thank you, Ms Merryfull, for your explanation of how the Integrity Commission works. Do you take the opportunity to explain that to the media? Do the media come to you for responses to investigations and information about the work you do?

MS MERRYFUL - The media comes about particular cases, yes. They generally come in and want to ask me questions about a particular case. Obviously I have to say, 'I am sorry I

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cannot provide you with any comment because the act says so'. Generally speaking, that is not really what they want to hear from me - they want a comment about a particular case.

Mr FINCH - But you do engage with the media and try to explain the work of the Integrity Commission and how you function? Because we have got a pretty good understanding of it from your explanation today and the media of course, is here now.

Mr WIGHTMAN - I have to commend the Integrity Commission for the educative role they play. They play a key role in helping our public service ensure they know exactly how they should undertake their duties. They provide advice about rights and responsibilities, and conduct and misconduct, and investigate accusations of corruption. That function will continue to grow as the Integrity Commission becomes more embedded in Tasmania. Is the number of complaints made to the Integrity Commission, this year to date, growing or decreasing?

MS MERRYFUL - The number of complaints coming through the door has decreased but that does not necessarily translate into decreased workload for the commission. Not all complaints are the same. We might have 10 complaints come through the door that take a few hours to go through the processes we have in the commission, and they can be dismissed or referred. But we had one complaint come through the door that involved multiple allegations. It went through assessment and investigation - one staff member worked on it half time for about 17 months. We interviewed 40 people, we gathered significant quantities of information, and we seconded two police officers to the Commission for six months to work on it. The cost of that complaint was around \$200 000. That was one complaint, whereas we might have 10 complaints that are dealt with in a few hours. So, it is not really a matter of how many complaints you have coming through the door, it is what is in those complaints. That is the first thing.

The second thing was the rush of complaints at the start, because of a lot of people had stuff built up from years of wanting an Integrity Commission. There was not necessarily that much of substance, but we had to work through those complaints. As time has gone on, and people have become aware of the Commission, we are getting more complaints from people inside the public service. Information about misconduct is much more held inside the public sector than outside the public sector. Now we are getting more complaints coming from - I guess you might call them whistleblowers - inside the public sector and they are complaints of substance, so they require a lot more work.

CHAIR - Can we still have numbers, thank you?

Mr DEAN - Have any of those complaints investigated by the Integrity Commission been referred to the courts?

Ms MERRYFULL - We don't refer matters to the courts. We would - and again I do not want to, in the absence of doing a report to parliament, get into the outcomes of some of those complaints, but the cases that we can refer them to are the police, for that kind of action, or the DPP. We don't take the prosecution. Numbers, year to date - 61 complaints. There are more allegations in those complaints than the year before.

Mr DEAN - Have you referred any to the police or the DPP?

Ms MERRYFULL - I don't want to say that, I am sorry, Mr Dean. Again, when the opportunity comes for me to report publicly on those things, then I will report publicly.

Dr GOODWIN - There was mention of a report being tabled later this year and you normally table your annual report -

Ms MERRYFULL - No, I am going to do it before then.

Dr GOODWIN - This is a different report that you are tabling. Can you just elaborate a bit more on what that is?

Ms MERRYFULL - Only a small bit and what I intend to do is just lay a report that sets out in a de-identified way, a couple of investigations that we have done to kind of demonstrate how we go about our business and what the outcomes might be. That is not something that we would plan necessarily on routinely doing, but at this junction in our work I think it is important, particularly leading up to the three-year review, that people understand a bit more about what we do and perhaps when they see that then some of these questions might actually become resolved for people. It is a special report.

Dr GOODWIN - Perhaps part of the educative process around the Integrity Commission?

Ms MERRYFULL - Exactly so. Of course we haven't talked at all here about our education prevention function, but people are interested in it, aren't they? They are interested in the investigation function, so that is why we are thinking having recently completed some investigations that would be of interest we should tell the public about it.

Dr GOODWIN - Some of the other bodies that are similar in nature around the state publish some of their reports from some of their investigations, so it is not an intention that we might go down that path here in Tasmania of doing that?

Ms MERRYFULL - You would have to amend the legislation to allow us to publicly report outside of the parliamentary process. If that is the parliament's intention then we will comply with that, but that is not currently the way it is set up in the act.

CHAIR - With such a new piece of legislation, minister, there is always going to be some toing and froing, I expect, to get it right.

Mr WIGHTMAN - Those amendments that we made in November last year were about those issues that we identified that needed sorted out straightaway. Those more philosophical issues can be dealt with via the committee and then if there are significant amendments to be made then we will take the committee advice.

CHAIR - There is a new member on the committee, so we will be looking forward to some feedback in the parliament at a later time. The honourable Leader for the Government, Craig Farrell is the new member.

DIVISION 5

(Office of the Director of Public Prosecutions)

Output group 1

The Office of the Director of Public Prosecutions

1.1 The Office of the Director of Public Prosecutions -

[12.45 p.m.]

Dr GOODWIN - I will start off with the replacement of Open Practice, as practice management and software. I noted there has not been a specific allocation made for that yet.

Mr COATES - We have saved the money for that.

Dr GOODWIN - Yes, I see that from the budget papers.

Ms WORSLEY - Over a period of almost eight years, we put aside money each year from the revenue area of our practice towards that management system and we have also done the same in the Crown Solicitor's office. We will go to the first stage of our tender process on 11 June this year.

Mrs TAYLOR - Attorney-General, do you think that might be a practice that could be adopted across other areas, saving the money up and then paying for it?

Mr WIGHTMAN - They are an absolutely fantastic organisation. I am proud to be Attorney-General and working across Crown Law. They are an outstanding group of public servants and a testament to their work, of being able to save a few dollars.

CHAIR - Frugal as well, minister.

Dr GOODWIN - How will that new software assist you and is it an off-the-shelf product?

Ms WORSLEY - Open Practice is our current system. The primary areas where it is deficient is that it does not contain a document management system and that increasingly moves towards electronic filing and electronic briefing would be a major hindrance to our operations. The next area is that the software is 16 years old and is close to no longer supported. We need to move into a system which will work with the new criminal justice framework project, that will work with any electronic lodgement facilities in the Magistrates, Supreme Courts, or federal courts. We need to get a modern practice management system.

Dr GOODWIN - Are you anticipating that your new software will be able to feed into this much larger project that was talked about this morning?

Ms WORSLEY - Yes. It will be able to retrieve data from numerous court systems and also be able to give out data, such as results data to the police, for example, the information bureau of where your criminal record is maintained and to collect data from the Magistrates Court, so a complaint coming up on committal or to then file an appeal in the Supreme Court. It will be part of that major project, although we are funding our own bit of it.

Mr COATES - Apart from data, what we are hoping also is that intellectual knowledge can be stored on there. What happens now, if somebody has a legal problem, is they walk around the office and say, have you ever done any submissions on such and such, and someone will go to their filing cabinet and pull out a file. What we hope is that it can be on the computer and people can plug in and get the submissions out.

Dr GOODWIN - That will help your corporate knowledge?

Mr COATES - Yes.

CHAIR - Will there be a cost to supplying that information once your data gets up and running?

Ms WORSLEY - In the criminal justice framework project, there will not be an exchange of payments between the agencies. In terms of the last part of Dr Goodwin's earlier question which I did not answer, we are hoping it will be an off-the-shelf product, modified for our use. That will be part of the tender proposition.

Dr GOODWIN - You are without Mr Ellis at the moment. I am trying to get a feel for how things are tracking in the office in his absence and also whether there has been workload increases.

Mr COATES - There has certainly been a workload increase because we have to do Mr Ellis's work. That means I do his and someone is doing mine, and so on. We have also had a person on sick leave, so we are short at the moment. But people are working hard to overcome it and morale is good.

Mr WIGHTMAN - It has been a challenging start for the office of the DPP, but the leadership Daryl has provided should be highly commended. I wish to publicly thank Daryl for the leadership he has provided at this time. They are a fantastic organisation and we need them doing a very efficient job. Thank you, Daryl, in particular.

Mr DEAN - Will that office pressure now being felt calculate into delays in court actions and proceedings?

Mr COATES - For the year we have had 443 committals and finalised 429. Over a year the committals build up and the finalisations catch up at the end because you do not have the break period over the Christmas holidays. We are tracking to doing as many in as out, and hopefully that will not create any delays.

Dr GOODWIN - In relation to the child protection proceedings, which were taken over by the DPP a couple of years ago, how is that going? Is there any increase in the number of proceedings? Is it a growing area?

Ms WORSLEY - So far this year we have had 291 child protection orders referred to us. That represents an increase in our first part-year of operation, which was the previous financial year. We have been in discussions with the Department of Health about some additional resourcing to meet that need because the demand is growing. Statistically, demand for court-based child protection action has increased across Australia and we are part of that general increase.

Dr GOODWIN - We had a discussion earlier about the self-defence issue, but I wonder whether there are any other matters that the office of the DPP in the criminal area were concerned about or thought there might be a need to have a look at?

Mr COATES - The Criminal Code, section 178(2), states that a spouse cannot be compelled to give evidence in proceedings against that offence. The Evidence Act makes it that they are

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compellable for crimes of violence. The two are contradictory. I have written to the secretary and spoken to the Director of Legal Policy and I think there will be a change in relation to that.

Mr WIGHTMAN - It is my understanding we received that request yesterday.

Mr DEAN - Last year there was some discussion around opening an office or a contact at Burnie. Can you give me some detail on that - how it is faring, the staffing - and the Launceston office as well?

Mr COATES - In Burnie we have a witness assistance officer and a child protection lawyer. We have just been able to put on a criminal lawyer in that office; before that we were not able to fill that position. He has just started, so hopefully that will help in the Burnie area.

Mr WIGHTMAN - Mr Coates also supports on a circuit basis, so a number of the DPP will go to Burnie, particularly out of Launceston and Hobart, to offer that support as well.

Mr DEAN - Are they full-time positions at Burnie?

Mr WIGHTMAN - They are, and the Magistrates Court is a busy court right across the state.

Mr COATES - Hopefully with the criminal position, he will do preliminary proceedings which will save a fair bit of the travel for my senior lawyers from Hobart.

Mr DEAN - And the Launceston office?

Mr COATES - In the Launceston office we have 4.6 lawyers, two support staff and also a witness assistance officer.

Mr WIGHTMAN - Once again, Mr Coates offers support to that group of people as well and leadership support right across our state.

CHAIR - Minister, I take you to table 17.3 with a query in relation to the reduction this year for the office of the DPP. Is that just a reflection of the payroll tax? That was mostly the response we received yesterday to every reduction, or has this one become leaner and meaner as well?

Ms WORSLEY - The DPP has suffered an efficiency dividend. That took \$60 000 out of our budget last year; \$125 000 will come out the coming financial year, \$190 000 the year after and \$190 000 the year after. The cumulative effect of that is \$565 000 which will be very hard to find.

CHAIR - Is the payroll tax not reflected?

Ms WORSLEY - Yes, it is. There is a \$316 000 reduction in payroll tax.

CHAIR - That will offset some of those losses but it will not make it any easier to carry out the role of the DPP.

Mr WIGHTMAN - No. The office of the DPP, and I can speak for them in this regard, would rather not have an efficiency dividend. Let us be perfectly honest about that. But we need

to be able to find the savings across the department. There are larger departments for teachers, nurses and police where we have looked at protecting those services. But everyone has an efficiency dividend to make. I know that we would rather not have this but that is, unfortunately, the way it is.

CHAIR - You are lucky to have good people.

Mr WIGHTMAN - They can show me, through their savings, that they will then have to be able to reinvest into the justice system in Tasmania. They have been frugal and kept that money aside, knowing that they have a significant project to undertake. I am extremely supportive of the ICT program. Do not underestimate the work of Daryl and Kerry in recent times; we should be incredibly proud of the public service they are providing to Tasmania.

CHAIR - We would like to thank both Daryl and Kerry but we would also like to place on the public record, on behalf of the committee, our best wishes to Tim Ellis for a speedy recovery. He would be very pleased that this committee has challenged the minister on his budget.

Mr WIGHTMAN - He would be.

DIVISION 7

(Office of the Ombudsman)

Output group 1

The Office of the Ombudsman

1.1 Decisions on complaints referred to the Ombudsman and Health Complaints Commissioner and freedom of information -

[1.00 p.m.]

Dr GOODWIN - I wanted to ask about the resource pressures on this office because it has been raised in the Ombudsman's annual report about the increase in complaints but also issues around the capacity to manage the workload and also to undertake own-motion investigations. I am interested to hear about what the pressures have been like this year to date and how that has been managed.

Mr ATKINSON-MacEWEN - As you can see from the budget, the appropriation in real terms is declining and the number of complaints is increasing. In the previous two financial years, in the Ombudsman's space we have had increases of around 30 per cent each year. In the first six months of this financial year, it was running above that; it has now dropped below and I think it is a bit seasonal at the moment - but I would expect that if the rate of increase is not 30 per cent then it is likely to be about 25 per cent on the previous year. The number of complaints that we need to deal with, as opposed to those which we either dismiss or refer to someone else is increasing, and the number of staff to deal with it has declined.

I lost 0.4 FTE in November and I will lose one FTE at the end of this month, and that will continue. That does place a great deal of pressure on the staff to deal with complaints, particularly as some of them in the Ombudsman's office and certainly many of them in the health complaints base are getting more and more complex. What we have done and what we will continue to do is bounce complaints back to the agencies from which they come, where it is appropriate. I am not suggesting that the officers become the de facto complaint handling body

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for the public sector but it feels like that sometimes. What we have been doing is bouncing - as I say, where appropriate - things back to the agencies saying, 'This is not a failure of administration, this is a failure of complaint handling. You need to sort out your complaint handling and deal with this and let us know how you do it.'

About two months ago I put some guidelines out to agencies not only on complaint handling but how to deal with the difficult behaviours of some complainants, which we get. I expect, over time, that agencies will find that more things will bounce back to them if it is a complaint matter rather than an administrative matter. That will, to a degree, release some of the pressure on us, but at the end of the day the number of complaints that individual staff members are dealing with is increasing, therefore the time it takes to resolve complaints blows out. We have KPIs that at the moment are looking like they won't be met, which is unfortunate, but with staffing numbers that is the best we can do.

What we are dealing with though is the issue of own-motion investigations. They are important because they deal with systemic issues - not to say that individual complaints are not important to the individual complainant, they are. We think there is probably more benefit to more Tasmanians from dealing with the systemic issues where we can, and so we have looked at ways in which we can provide support to staff, to move some key staff offline for a period to deal with systemic issues in a much more efficient and effective way than we have been in the past, and to slow down dealing with the more routine day-to-day complaints so that we can focus in particular in those important own motions.

Dr GOODWIN - One of the things you mention in your annual report is nearly a 300 per cent increase in the number of complaints against the water and sewerage corporations. I am wondering whether that might calm down a bit with the merger of three into one.

Mr ATKINSON-MacEWEN - It has calmed down. We took the same approach with the water and sewerage corporations as we have taken with Aurora in the electricity space. That is, we have put arrangements in place so that we can send things back to the appropriate people in the corporations, what we refer to as 'refer to a higher level', and we say again that this is more about poor complaint handling than it is about a billing issue or whatever it might be. We bounce a lot of things now back to the corporations themselves. I understand they all have the same billing system, so I would imagine that there should not be too many billing problems after the merger. Yes, we have, in a sense, drawn our breath and we will wait and see what happens. We are hoping that it all goes very smoothly and that the number of complaints will continue on a reasonably steady trajectory.

Dr GOODWIN - We had a discussion yesterday with the Minister for Corrections about the possibility of an independent prisons inspectorate and he indicated that he had had some discussions with you and there may well be a cabinet proposal about that soon. Obviously quite a significant number of complaints you get are from prisoners, whether it is food, visits or security classifications is another one that you mentioned; how do you see that working in the future? If there was an independent prisons inspectorate attached to the Ombudsman's office would that help with your level of prisoner complaints?

Mr ATKINSON-MacEWEN - It may, but when I look at the inspectorate in WA, in a sense they have a very clear schedule of matters that they need to look at in a particular calendar year, for example. Those matters are both vertical within the prison from accommodation to security to a whole range of things and then horizontal across the prison system. With the introduction of the

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sort of guidelines you need to conduct the inspections that may assist in reinforcing the existing processes, procedures and guidelines that currently exist, it is possible that it may not necessarily significantly reduce the number of complaints. What it might do, though, is provide another avenue to sort matters out before they become too significant; or just lead to a number of complaints being dismissed as being not reasonable in the circumstances.

Dr GOODWIN - With your resource constraints if you were to add an independent prisons inspectorate to your office, you would need that to be properly resourced otherwise it would just lead to more pressures on your existing demands?

Mr ATKINSON-MacEWEN - I would hope that if the inspectorate was to come to my office that it would come with, as you say, the appropriate resources to do the job.

CHAIR - Thank you. I was toiling away there, but I was listening. I heard the Ombudsman say he can't take on any more work without extra resources, so I was listening for sure.

Mr DEAN - I want to raise, again, the absence of an office in Launceston and for the north-west coast. Would it be a consideration of the Ombudsman to want to go back there again and revisit that situation? Has there been a saving in money as a result of closing that Launceston office, when you take into account the travelling and all of the other extra things that are occurring. Also, the matters that are coming in from the north-west coast and the Launceston area into the Ombudsman's office?

Mr WIGHTMAN - We had this discussion last year about the closing of the Launceston office and the removal of a 0.9 FTE. There are various methods in which complaints are made nowadays and I think we are able to understand and, in fact, manage those complaints out of the Hobart office. For further detail I will ask the Ombudsman to comment.

Mr ATKINSON-MacEWEN - There has been no notable change in the nature of the complaints that we have received since we closed the Launceston office, in terms of geographical distribution. In that sense you could argue that there has been no disadvantage to the north and the north-west in that we are still seeing the same sorts of complaints by geographic distribution. There has been a significant saving, because we have had to make that saving in order to meet our budget targets. We have met our budget targets and we will continue to do so. So, the saving had to be made. Whether going back to Launceston, or to Burnie or anywhere else would improve service delivery, I really could not say. As the Attorney said, we do a lot of complaint work online, and we do a lot of responses to people through email these days. Only when we move to conciliation of a health complaint do we get involved face-to-face with the complainant. Health complaints were not necessarily, if at all, dependent on the existence of the Launceston office for the ability to undertake conciliations. It is a bit of a moot point, I would think.

Mr WIGHTMAN - There has been an increase in electronic means when it comes to complaints. Savings needed to be made, and a significant portion of that saving, to bring the Ombudsman's office in on budget, was through the closure of the Launceston office.

Dr GOODWIN - It might be appropriate to ask about the energy ombudsman's role. There is a reference in the annual report to the wrong tariff issue; does that continue to be a problem?

MR ATKINSON-MacEWEN - That has settled down now. We still get issues with wrong tariff from time to time, but that tends to be because the contractor has failed to put the paper

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work in, or has put the wrong paper work in, and those matters can be resolved. Sometimes the contractor may have gone out of business, or something like that, but generally speaking, wrong tariff, while it still occurs, is not where near where it used to be.

Mr WIGHTMAN - I have an answer on drink drive reports. At this stage it is difficult to say what percentage, or number, of defendants will be involved in this program. It will also depend on the criteria placed on eligibility for the program. One option might be to start with a target group of, say, 15 repeat offenders in a particular location, like Hobart or Launceston, then trial for 12 months and evaluate.

The committee suspended from 1.14 p.m. until 2:20 p.m.