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PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Inquiry into 2002–03 budget estimates

Melbourne – 20 June 2002

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Mr R. Hulls, Attorney-General;

Mr P. Harmsworth, Secretary; and

Ms E. Eldridge, Deputy Secretary, Legal, Department of Justice.

The CHAIRMAN — We will resume on the portfolio area of Attorney-General. I welcome Mr Peter Harmsworth, secretary of the Department of Justice, and Ms Elizabeth Eldridge, deputy secretary, legal. Attorney-General, would you care to make a presentation to the committee on the portfolio of Attorney-General.

Mr HULLS — I understand that you have a handout, which I will run through briefly. The total Department of Justice budget is $2.04 billion but my part of the portfolio only makes up 23 per cent of that.

The Attorney-General's portfolio is $459.3 million: it is 23 per cent of the entire justice portfolio. It is divided into four key areas. The first is legal support for government which includes legal policy, law reform, legal advice to government, privacy, native title, the state electoral role and elections, and registration of birth, deaths and marriages. That has a budget of $71.2 million. Dispensing justice, which deals with things like public prosecutions, forensic evidence, matters in courts and tribunals, alternative dispute resolution, legal aid, and victim support, has a budget of $289.4 million. Achieving equal opportunity, which deals with things like discrimination prevention and redress, and advocacy and guardianship, has $10.4 million. Enforcing court orders, which includes traffic fine processing, asset confiscation and the like, has a budget of $88.3 million.

There are a number of agencies within my portfolio area. There are statutory agencies like the Director of Public Prosecutions, the Legal Ombudsman, the Electoral Commission, the Law Reform Commission, legal aid and the like. There are also quasi-judicial bodies such as courts and tribunals — the Supreme, County and Magistrate courts and VCAT — and statutory officers like the Public Advocate, Law Reform Commissioner, and business units such as legal policy, court services, victim referral and native title. There is a slide in relation to this year's budget and some of the variations in relation to legal support and the like. I do not know if you want me to go through those key budget variations now or wait for question time, but you have to the slide there showing the variations.

In relation to some of the initiatives that we have been able to deliver in the past year, we have rolled out the court referral and evaluation for drug intervention and treatment (CREDIT) program and criminal justice diversion. We have extended CREDIT to Geelong, Moe, Sunshine, Dandenong, Ringwood, Frankston and Melbourne. A modified version of CREDIT has been extended to the Melbourne Magistrates Court. The criminal justice diversion program has been rolled out and is operational in all 12 court regions. The drug court pilot — I know some members of this committee are particularly interested in this — commenced at the Dandenong Magistrates Court in May of this year. It will be trialled over a three-year period with 450 offenders to enter the program. A second location is currently being considered.

In relation to the Aboriginal justice agreement, we have established the Aboriginal justice forum. The Koori court has been established. The Koori recruitment and career development strategy has been established as part of that program.

The next slide is in relation to further initiatives, including legal aid and community legal centres. A regional office has been established in Shepparton and there has been an expansion of the duty lawyer services. We believe we have secured the future of community legal centres. We have set up the Judicial College of Victoria, with $2.8 million allocated over four years. The legislation has now been passed. The college board of directors has met and is recruiting staff and fitting out premises. You can see judicial management of criminal trials in the County Court has seen the appointment of additional judges to the County Court. That slide is self-explanatory.

Further major achievements in relation to the output group, legal support to government: we were very keen as you know to get the Crimes (Workplace Deaths and Serious Injuries) Bill, known as the industrial manslaughter bill, through. We got that through the lower house but it did not get through the upper house. There has been a review of street prostitution, which you have probably read about, in the City of Port Phillip. I am pleased to say that with the Acting Premier yesterday I was able to launch that final report, and the government's response to that report. I do not know if there will be any questions about that later, but we believe that the initiatives set out in that report are innovative initiatives to an age-old problem.

As I said yesterday, you can either bury your head in the sand over this, shut your eyes and hope that street prostitution will go away or you can actually take it out of the too-hard basket and do something about it. We believe the innovative solutions that have been proposed are commendable, and we expect to get bipartisan support for the legislation when we introduce it into the Parliament to set up street worker centres and on-the-spot fines for lewd and offensive conduct.

There has been a review of sentencing and a review of the Legal Practice Act. The Electoral Act has been totally revamped and reformed. In the output group of dispensing justice, we opened the new County Court. For those of

you who have not seen it, I suggest you take a walk through. It is an extraordinary building. It is a great space and a great place. It is a state-of-the-art court. It is one of the largest courts in the world. The facilities there are quite extraordinary. I am more than happy to facilitate people going on a tour of that if they want to do that. There has been a review of services to victims of crime, which resulted in a consultation with service providers in Melbourne and regional Victoria to provide the government with a direction for the future of the provision of services for victims of crime. We also passed the Koori court bill — again another very important initiative.

As to the output group enforcing court orders, that slide speaks for itself. We had a legislative problem with that, but that has been rectified. As you know, there was a recent court decision that indicated that the PERIN court was not able to process fines because enforcement orders had been issued in the wrong names. That dated back, would you believe, to 1986, so we had to fix that up retrospectively. That has now been done and it has been passed through both houses of Parliament. I would have liked to have blamed the former government for that stuff-up, but the fact that it dated back to 1986 is probably a bit difficult.

The CHAIRMAN — Blame the government before that!

Mr HULLS — I am still looking for a way! You guys should have fixed it.

Mr RICH-PHILLIPS — We did — we passed your legislation.

Mr HULLS — In relation to our budget commitments in this budget, as you can see $0.7 million has been allocated for a justice statement, which is the development really of a strategic and integrated vision for the justice system in this state. There is funding for upgrading facilities and courts in areas like Wangaratta, Horsham and Bendigo, and also strengthening of alternative dispute resolution and further support for legal aid.

As to future directions in the portfolio, obviously there is going to be a fair emphasis on the development of terrorism and transnational crime legislation, which we are working on in cooperation with the commonwealth and other states. Lead responsibility for various issues in that area has been shared between the commonwealth, New South Wales and Victoria. We have taken a lead in developing model legislation and coordinating reforms, primarily concerning terrorism offences and transnational crime. The review of services to victims of crime has been completed. There are matters that are still being discussed as to the best way to implement the recommendations of that report.

We will be implementing the recommendations from the sentencing review. As I said earlier, it is our intention to implement the reforms enunciated in the street prostitution review, which will enable the establishment of a street worker centre in the City of Port Phillip and the implementation of infringement notices for clients. We do not need legislation for the proposal to have designated areas; the tolerance zone aspect of the proposal does not require legislation. That is why I say when legislation is introduced it will relate to the street worker centres and also on-the-spot fines. The tolerance zones will be an area of priority policing. There will be an agreement with the police, who are fully accepting of this proposal — in fact fully supportive of the proposal — that tolerance zones be set up in the City of Port Phillip. Obviously we are still looking at the reforms in relation to the review that was undertaken on the Legal Practice Act, which ultimately, without giving too much away, I expect will culminate in one entry point for complaints — a less confusing and more consumer-friendly system. That is basically a broad overview of the portfolio.

The CHAIRMAN — Thank you. Can I take to you a matter you commented on during your presentation, and it is referred to in budget paper 3 at page 189 — the Aboriginal justice agreement, which is now in its third year of implementation, and the development out of that of the Koori court. We have known for some time that there are cultural difficulties quite often in the attendance or appearance of indigenous Australians in our court system and of some of the traditional cultural relationships with authority that do seem to impact adversely on them when they enter the court system. Can you provide the committee with some detail regarding the Koori court system and how you see that might change for the better or to the benefit of the Koori community in the way in which they are dealt with within the court system?

Mr HULLS — I think this is a very important initiative, and I am pleased that it has received bipartisan support. I think we would all agree that for far too long Aboriginal people have been grossly overrepresented in our criminal justice system. I think we would also all agree that the delivery of fair, equitable and relevant justice services that improve the access of Aboriginal people to local protection is a vital component of the Aboriginal justice strategy.

Despite Victoria having the lowest imprisonment rate of indigenous offenders in Australia, with the exception of Tasmania, it is still estimated that indigenous people are approximately 11 times more likely to be imprisoned than non-indigenous Victorians. That really is a startling figure in the year 2002. Some other figures to show you how stark the reality is are: indigenous offenders are more likely than non-indigenous offenders to be remanded in custody — 23.4 per cent compared to 13.8 per cent. Victoria Police in 2000–01 processed 4676 Aboriginal people, an increase of 1118, which represents an increase of 31.4 per cent over five years. These are quite extraordinary figures.

The opportunity to establish a Koori court I believe acknowledges that it is absolutely crucial to incorporate Aboriginal communities and cultural beliefs and practices into our justice system. It is all about giving ownership, if you like, of our justice system to a group that has been disenfranchised for far too long. It is also an opportunity to divert Aboriginal people away from prison and the justice system itself where it is appropriate to do that. We believe that these aims are best achieved through a partnership approach between the Aboriginal community, the government, and of course the justice system.

I believe the Koori court will be better able to address the underlying causes of criminal activity, to foster trust with the Koori community and to have more direct involvement and participation of the Aboriginal community in the justice system. The whole concept of the Koori court is to ensure that indigenous offenders understand the nature of proceedings and to ensure that the process is culturally responsive. You might think a court is pretty easy to understand. You may have heard me tell this story before, but I can remember in outback Queensland being involved in a coronial inquest where an old Aboriginal fellow came into the court to give evidence. He had seen a motor vehicle collision on the side of a country road. He was simply asked what happened. He looked around, saw a whole bunch of lawyers with white faces and people in robes. He was asked his name and what he saw, and he said, 'I plead guilty', which on one view is funny but which shows in many circumstances how totally inappropriate our current system of justice is to Aboriginal people. The Koori court aims to change that. A magistrate will be advised and assisted by an Aboriginal elder or a respected person, an Aboriginal justice worker and a community corrections officer. The role of the elder is not to impinge upon judicial discretion, of course, but to advise the magistrate on the background of an offender, and the victim, where appropriate, and of course that elder may be asked to explain to the offender the meaning of the magistrate's questions and the like.

I am pleased to say that the bill received royal assent on 12 June this year, just a few days ago, and that the first Koori court is scheduled to open as a division of the Shepparton Magistrates Court later this year. In line with this initiative, the first Aboriginal justice worker commenced employment at the Melbourne Magistrates Court in April this year and has already proved to be a pretty valuable asset to both the Aboriginal people appearing before the court and various magistrates hearing matters. In preparation for the Koori court opening the Department of Justice will engage further Aboriginal justice workers and Aboriginal elders or respected people to assist in the operation of the court. Once it is trialled in Shepparton, we also envisage that a Koori court — in fact work is being done now to have a division of the Koori court at Broadmeadows as well, and, depending on how the trial goes, there is a real possibility that a similar court will open up in another regional area of Victoria.

Ms BARKER — As a follow-up question I ask about the Aboriginal justice workers; are they receiving training or already trained? I am curious.

Mr HULLS — Indeed.

Ms BARKER — It seems a good opportunity to also provide future career opportunities for a lot of people.

Mr HULLS — They are. They receive training, and indeed ongoing training will be provided. Talking of training, of course, training on culturally sensitive issues will also be provided to members of the judiciary through the Judicial College of Victoria. But the Aboriginal justice workers under the justice agreement certainly receive training and I think will be an enormous asset to our justice system.

Mr CLARK — I refer you to the Auditor-General's report on public sector agencies of June 2002 in relation to the victims counselling service (VCS) and the report of the restriction of the eligibility criteria, which the Auditor-General says effectively excludes access to counselling for victims of unreported crimes, victims who delay reporting crime and witnesses of violent crime, which the Auditor-General says will extend to quite a large number of victims of domestic violence. You should also be aware the Auditor-General was critical of the reduction of the number of counselling sessions per victim from 10 to 5. Could you tell the committee whether you

agree with the current restrictions or eligibility criteria that have been imposed for the VCS, and, if you regard them as unsatisfactory, what changes you intend to make?

Mr HULLS — Yes: first of all, let's deal with the report. You are right, the Auditor-General indicated that there were difficulties in managing the significant increase in growth in demand for services for VRAS. He made a whole range of findings, including the fact that it was important that future directions for assistance to victims of crime are clarified. Can I say in relation to victims generally, but specifically in relation to your question, that I believe the system that was in place for victim services was not coordinated properly, nor was it based on a clear identification of the demand or the needs of victims.

When the system was first set up — and I think that was in 1997 — as you recall, compensation for pain and suffering was abolished. This new system was set up on the basis that all primary, secondary and related victims of reported crime were eligible for five sessions of counselling. You have to remember that when it was initially set up people could access five sessions of counselling. That was while their application for assistance to the court was processed. So it was always meant to be short-term counselling to enable an application to be processed by VOCAT, which is the court.

This was subsequently extended to victims of unreported crime, and the five sessions were extended to 10 sessions. So there were originally 5, then 10. That was done because the service was not being utilised. There was a lack of coordination of and a lack of publicity for the service, and as a result, the eligibility criteria were expanded to try to get people to use the service. As a result, there was overwhelming demand and it became very difficult for VRAS to manage that demand. As a result, additional funding had to be sought from the government to assist VRAS in meeting that demand.

In February 2001 certain demand management strategies were put in place. They included primary and related victims of violent crimes being eligible for five sessions, as you said; sexual assault cases being referred to CASAs for assistance, and domestic violence cases being referred to the court, to VOCAT, through a specially established protocol which gave priority to these applications. So demand management strategies were indeed put in place.

Difficulties were experienced with the protocols, and in October 2001 new eligibility criteria were approved on the recommendation from VRAS. So it was VRAS itself which approved the new eligibility criteria, which included — primary and related victims of violent crimes which had been reported within 12 months were eligible for five sessions of counselling; primary victims of domestic violence who had been granted an intervention order within 12 months were eligible for five sessions, and victims of sexual assault were referred to — and are referred to — CASAs, where they are provided with services that are specific to their needs.

You asked what we are doing now in relation to the situation. By the way, can I say that the present criteria that exist fairly closely resemble the criteria that were initially approved when this system was set up. In relation to the Auditor-General's report and what we are doing, as you know we set up a review of services to victims of crime. Bob Stensholt, the honourable member for Burwood, headed up that review. The purpose of the review was to develop the best way forward in providing support, referral and advisory services to victims of crime, because the report found there was just a lack of coordination. Victims could access services from all sorts of entry points and there was not coordination between the relevant service providers. It even indicated whether or not people providing the services were appropriately qualified, whether or not there was overservicing, whether or not people who needed urgent assistance were actually getting it — a whole range of problems, particularly in relation to coordination, were published.

The recommendations included a number of things, including firstly, a single point of contact via a statewide helpline, which would advise and assist victims in contacting appropriate support services in their area; secondly, a victim support agency, which would be a single agency to manage policy, research and program management for government victim services; and thirdly, a victim of crime consultative committee, which would advise on service standards, protocols, research and future demand.

What are we doing about that report now? We are absolutely committed to ensuring that there is a coordinated approach in delivering services to vulnerable victims in our community. By the way, I think there were some 84 submissions received in relation to that review that took place, and there was enormous consultation. We are now liaising with other government departments as to the best way to implement the recommendations of that review. We want a coordinated victims service. There is some argument as to whether or not the Department of Justice ought be the agency that actually oversights and manages victim support services, and whether or not that is better done through the Department of Human Services, and that is something that is currently being coordinated

between my department and DHS, to ensure that we put in place the best possible support services and the most coordinated possible support network for victims.

The CHAIRMAN — Do police provide the single helpline number to victims at the time of the incident or whatever?

Mr HULLS — It is supposed to be done. Whenever a victim reports to the police a form is handed to them and it does have that particular number.

Ms BARKER — They are supposed to do it.

Mrs MADDIGAN — Probably like a number of other women members of Parliament I have been to a lot of functions where the disparity in men and women's representation at senior levels across the spectrum of employment, et cetera, is highlighted, but often particularly in the judicial area that is raised. What action have you taken to try to bring a bit more gender balance towards the judiciary system in Victoria?

Mr HULLS — As a general point you are right; there is a very substantial glass ceiling in the legal profession, and I know that there are a number of lawyers sitting around this table — —

Mrs MADDIGAN — He called me Judge Judy!

The CHAIRMAN — You would not want to know what they call him!

Mrs MADDIGAN — That's true!

Mr HULLS — There is a substantial glass ceiling that exists in the legal profession which, particularly in the judiciary, is considered to be the domain of white Anglo-Saxon males from a private school background. I have tried to change that culture through a number of policies. The government outsources something like $35 million to $40 million worth of legal work each year to the private sector; we are going through a tender process at the moment. Part of that tender process affirms the tender for government will have to show a commitment to a number of things, including equal opportunity briefing practices, to enable women to get decent work. It is not tokenism. We kid ourselves if we think that the best and brightest in the law are only blokes; that is not the case. In relation to judicial appointments and QCs — who are now called SCs, a change that we made — despite some opinions around the place I do not appoint Senior Counsel; a recommendation is made from the Chief Justice. It is an ancient system and no-one knows how names get on this particular list, but it is presented to me — —

Ms BARKER — The vibes!

Mr HULLS — It might be the vibes! A list is presented to me and I simply take it to the Governor in Council. Whether or not there should be changes to that system is another question. When I first received the list of Queens Counsel, as they were, only one woman was on the list. Of 25 people, I think there were 24 blokes and 1 woman. I approached the Chief Justice and said, 'Why is there is only one woman?' He said that only two had applied. In one view, 50 per cent of all women who applied were appointed, but the reality is that women are not being encouraged to put their names forward for these positions.

The process in relation to appointments to the judiciary is that I will consult with the heads of jurisdictions; I will consult with people at the bar; and I will consult with the Law Institute of Victoria and people in the private profession. Ultimately I approach somebody. Despite the old-fashioned view that used to exist that anyone who is approached for judicial appointment will grasp it because it is considered an honour, I say within these four walls that in relation to appointments to the Supreme Court, in particular, I probably have to approach at least half a dozen people and get half a dozen knock-backs before I get one person to take the appointment. There is a whole range of reasons for that such as superannuation, which is in the paper at the moment. There is also the salary; some high-flyers at the bar are making close to $1 million or more a year and the remuneration for a Supreme Court judge is about $220 000. Many say, 'I am not ready to go yet. When I'm heading closer to retirement I will want to go then'. There is a whole range of reasons. It is very difficult to get people to take such high office.

In relation to the County Court, I have appointed 8 women out of 13 appointments. In relation to the Magistrates Court, I have appointed 10 women out of 14 appointments. That is a very high percentage, but it is not tokenism; it is because I want the best and brightest to go. The government has a role in ensuring that the broadest possible pool is looked at, and that is why I advertised for expressions of interest in the paper some time ago. I sought people who were interested in being appointed to the County and Supreme courts, as I had previously done for the Magistrates Court. This was to try to broaden the pool from which I can choose people to go to these courts. We are making

inroads, but I believe we still have a long way to go to get rid of this culture and the glass ceiling that exists in the legal profession. There are some great, talented women out there, women who need to be encouraged to put their names forward. As a government we take a lead role, but the legal profession generally has to continue to try to get rid of this outdated view that the law ought to be a male-dominated profession.

Mr RICH-PHILLIPS — Given you want the best and brightest, should we be concerned that with respect to the Supreme Court you are appointing your fifth and sixth preference when you make the appointments?

Mr HULLS — No, I did not necessarily say I am appointing the fifth or sixth preference. What happens is that I will get people up and have a discussion with them about the profession generally. I do not get them up under the guise of, 'Come up and see the Attorney-General because he wants to appoint you to the Supreme Court'. I will get them up and get a feel for where there heads are perhaps in relation to an appointment down the track. When I said knock-backs, I meant that some of them have said, 'I would be interested in an appointment down the track'. I still believe I am appointing the best and brightest available, and that we have very superior Supreme, County and Magistrates courts. I have the highest regard for our judiciary, but it is becoming more difficult for a whole range of reasons, and particularly so with women. When I speak to women about why they have not put their names forward for higher positions in the legal profession, or have a general discussion about where their heads might be about a future appointment, some of the reasons are that it is a male-dominated bench, or they believe they have to make a choice between family commitments or higher positions within the legal profession. Our legal profession is fairly rigid; it does not cater for women to be able to choose between the two. We have to change that culture.

The CHAIRMAN — Are attacks on the court a factor in some of their thinking?

Mr HULLS — Yes, there is no doubt about that. A number of them are of the view: 'Why should I go when I can't defend myself as a judge? I'm constantly under attack', whether because of a decision that has been handed down or for any other reason. For instance, look at the scurrilous, outrageous attack against Michael Kirby.

As Attorney-General I take the view that I have a very important role to play — to defend the integrity and independence of the judiciary. I know the federal Attorney-General, Daryl Williams, is philosophically of a different view — that it is not the role of the Attorney-General to be out there defending the judiciary. His view is that is a matter for them, that they can do it for themselves. I do not think it is an Attorney-General's role to abrogate their responsibility to defend the judiciary.

Being a member of the judiciary is not an easy job, whether as a magistrate, a County Court judge, a member of Victorian Civil and Administrative Tribunal (VCAT) or a Supreme Court judge. More and more you are under the scrutiny of the public. It is appropriate that the media report on cases, but what often occurs is that a particular charge and a particular penalty equals public outcry, without taking into account the particular circumstances of the case, the antecedents of a defendant — whether they pleaded guilty or not. As you know, I am a firm believer in judicial discretion. I know there are moves to get rid of judicial discretion and to go down the mandatory sentencing paths; I am vehemently opposed to that. I am fully for judges and magistrates having discretion to decide cases on their particular merits.

Mrs MADDIGAN — Wouldn't their antecedents also encourage people not to apply for those positions?

Mr HULLS — Why would you sit as a judge when a computer can do the job? 'Here is the offence, here is the penalty.' It did not work in the Northern Territory, and in my view mandatory sentencing will be rejected by Victorians because it takes away the discretion, the independence of a judge to act, and it really makes politicians judges, jurors and executioners and that is not what the doctrine of separation of powers is all about.

Mr DAVIS — I refer to the review of street prostitution in the City of Port Phillip, which I note you described as one of your major achievements in 2001–02. Obviously you intend to proceed with the implementation of those changes in 2002–03. I know they recommend the presence of taxpayer-funded facilities and tolerance zones, but I wonder if you might flesh out for us how that will operate. In particular I am wondering in the first instance — I am trying to seek a little more detail — if you can rule that the strip along the bay, the beach area and the surrounding public areas while being in the City of Port Philip would not in any way be included in that. I want to be clear that those zones could not be placed there, nor could any of the taxpayer-funded facilities.

Mr HULLS — I do not have the report with me, but I am fairly au fait with it. Can I say about the street prostitution issue that about 18 months ago you probably recall members of the community were pitted against

each other because of the street prostitution issue in the St Kilda area. Sex is taking place in people's front yards. Sex is taking place in public areas. At the moment we have an open-air brothel in the City of Port Phillip.

Street prostitution has existed in that area for about 60 years. There has been a range of ideas and proposed reforms to fix up the public amenity of that area, and no government has taken the hard ball and run with it. For too long it has been in the too-hard basket. I as Attorney-General decided on behalf of the government to take this issue out of the too-hard basket and to see if we could come up with a local solution to what is a local problem. I set up the Attorney-General street prostitution advisory group, and as you would know a member of your party, Andrea Coote, was on that group. I think it did an excellent job because there is a range of competing interests, as you would be aware. The group unanimously made a number of recommendations and has signed off on a number of them. As I understand it Andrea Coote supports those recommendations. The key highlights are tolerance zones, street worker centres, on-the-spot fines for inappropriate behaviour, and those recommendations have now been made.

I see in today's *Herald Sun* the street worker centres are being called government-funded brothels. Nothing could be further from the truth. It is an absolute nonsense to use that type of emotive language to get a headline about what is a very important issue that needs innovative solutions. The report is quite clear — and this is fully supported by the police who have been on this committee — about all its recommendations, including the tolerance zones. How the tolerance zones will be progressed now is a matter for the local council and for the group to have further consultations with the local community. I was asked yesterday where the tolerance zones will be. The report states clearly that it will not be the Attorney-General who says that there will be a tolerance zone here, there, or anywhere else; it will be for the local community, and that is what communities taking ownership of this issue is all about. The community will decide where the tolerance zone is.

Mr DAVIS — But equally there are certainly areas that will be problematic for those zones. The one I am specifically interested to hear your views on to in effect rule out is whether there would be tolerance zones down in that trip along the beach which are public spaces used by local people but also by others, and I want to be clear on that.

Mr HULLS — The report itself sets out the criteria that will be taken into account for any tolerance zone — for instance, it makes it clear that it will not be near any place of worship, obviously, and it will not be near any schools. A whole range of things are taken into account that would preclude tolerance zones from going into certain areas. Ultimately the community will consult and agree on where that tolerance area is.

As I said, at the moment a large proportion of the St Kilda area is an open-air brothel, and that has to change. It is anticipated that there will be some government funding for the street worker centres. The exact amount is yet to be worked through. But to say this is a government-sponsored brothel is a nonsense. The funding in the main will be for health workers, for diversion programs, for safe-sex education, and obviously for some security. These are to protect the vulnerable street workers but also to protect the security of the local community as well. At the moment the situation down there is totally inappropriate. Local residents are seeing sex take place on the footpath outside their house or in their front yard, local residents and street workers being subjected to violent and lewd behaviour and conduct, and we have to fix this problem.

Any funding from the government for these street worker centres in the main will be, as I said, to have health workers, drug rehabilitation programs. As you may or may not know, most of the street workers are people who probably could not get a job in a brothel because of their drug addiction. These are pretty vulnerable members of our community who desperately need help. Some people say the only way to help them is to lock them up — in other words, have zero tolerance, have more police there, and use a whole range of police resources to lock these people up, get them off the streets and put them in jail. It just does not work. It has never worked. Zero tolerance does not work for street prostitution and you have to be more innovative than that. So I am proud to be supporting the proposals. I think that this will go a long way to resolving a situation that has existed for many years. Touch decisions have been made and you will have your own party room discussion about this. I would simply urge you not to take this sort of myopic 1950s view of the world that we can shut our eyes and street prostitution will go away. These proposals have the support of the police and to be simply saying that what we need is more policing down there and get more coppers to move these prostitutes off the streets is just not the way to go. It is not what the police want. The police support these proposals.

Mr DAVIS — But I am interested in some specific zones down there and another area is the wedge — —

Mr HOLDING — Your leader has already said that they oppose it totally.

Mr DAVIS — The other area — —

Mr HOLDING — Your leader has already said that — —

The CHAIRMAN — Order!

Mr DAVIS — The area that is bounded by Carlisle Street, St Kilda Road and Barkly Street — —

Mr HOLDING — Your leader has already said that he is totally opposed to it on the radio this morning.

Mr DAVIS — I am just wondering, given the residences in that area, what is your view on that area, and I am wondering if you can give some assurances about the likelihood of tolerance zones in that area.

The CHAIRMAN — I think that is the same question — —

Mr DAVIS — That is a different part of the city.

Mr HULLS — My view is this — —

The CHAIRMAN — Can I just stop you for a moment, Attorney-General, because I do not want to get to a point where were are just progressing by drawing a different boundary around a few streets and asking the question again and again on different streets.

Mr DAVIS — On related but different matters.

The CHAIRMAN — It seems to me that the Attorney-General has answered that those areas will be declared by the local council. I will let him go to this question, but I do not want to proceed to just run a boundary around another set of streets and ask the question again.

Mr HULLS — I support the criteria that is set out in the report — the figures that will be taken into account in the establishment of any tolerance zone. But it is not just me that supports that, Andrea Coote supports it as well. Andrea Coote from your party supports tolerance zones and supports the criteria that ought to be taken into account in deciding where those zones are. She also supports the community deciding and council leading the way after community consultation. So she supports that, the police support that, I support that, the local council supports that, street workers themselves support that, and ultimately I hope that your party room will support that as well, because as I said, this is a problem that has been in the too-hard basket for too long.

You are probably aware that former Attorney-General Jan Wade also set up a working group to have a look at street prostitution. That report made a number of recommendations — and it is still on the shelf. It was never adhered to because these are hard decisions. You do have to subject yourself to the front-page nonsense that was in today's *Herald Sun* and talkback callers who will say, 'The best thing to do with street prostitution is simply lock them all up'. I do not take that view. I take the view that these are vulnerable members of our community. I take the view that people who live in that area are entitled to live in a safe area, and we have to have innovative solutions to what has been a problem that has existed for a long period of time.

Mr DAVIS — I am far from reassured about the beach or about the wedge that I referred to.

Mr RICH-PHILLIPS — Can I just get clarification on the process with relation to the zones? I understand from your introductory comments that tolerance zones will not require legislation. If I understand correctly, it is basically police turning a blind eye to activities in that area. You might like to correct me if that is the case. Once council has decided X area or Y area, what sort of process is then involved with the police in terms of actually ignoring tolerance zones or having regard to what has been decided as a tolerance zone? Does that have to go through the police minister? What is the process by which Victoria Police will effectively have regard to the council's decisions about tolerance zones.

Mr HULLS — I now have the Attorney-General's street prostitution advisory group report in front of me, and I can give you some absolute specifics. I will not go back to the previous question, but it does give the figures that will be taken into account in relation to tolerance zones. Key recommendation 1 is that tolerance zones be established and that the geographic areas for those tolerance zones:

> … be established in the City of Port Phillip in which police resources would not be targeted at persons loitering and soliciting for the purposes of prostitution (as defined under sections 12 and 13 of the Prostitution Control Act 1994). Instead, police resources and strategies should target loitering and soliciting offences in locations outside the tolerance areas.

> Tolerance areas should be established for a trial period of two years, during which an ongoing independent evaluation should take place.

Then the report goes on to speak specifically about how tolerance areas would be implemented and how they would work. It makes it quite clear that tolerance areas can be set up without legislation; it would be through local protocols. The protocols would be formalised through an agreement between Victoria Police and relevant governments — the state government. Following feedback received during consultation, and in particular detailed input from Victoria Police, the advisory group then proposed a revised model for the establishment of tolerance areas. Whilst tolerance or designated areas have operated in New South Wales for many years, the model is not directly transferable to Victoria. Sorry, what I spoke about earlier was the interim report.

> For tolerance areas to be trialled in the City of Port Phillip, an administrative solution must be developed under which police, residents, traders, street sex workers and welfare support agencies share a common understanding of what behaviour is acceptable and where. Such an approach must be mindful of the general discretion the chief commissioner has in respect to the enforcement of all laws. Furthermore, it must not fetter the discretion of police officers to act independently.

And then it talks about local policing and local safety committees, and it gives specific details about how these tolerance would work.

In a nutshell, police always have a discretion and under these protocols they would exercise their discretion in areas outside the tolerance zones. They would still exercise their discretion inside the tolerance zone if there was lewd behaviour or other laws were being broken or drug offences were taking place — absolutely — but in relation to street prostitution itself, the police would enter into a protocol where the discretion would be exercised, and indeed street sex work could take place in that tolerance area. Then once the contractual arrangement, if you like, has been agreed to it is envisaged that the actual act will take place in a street workers centre. So clearly there has to be a fairly close connection between the tolerance area and the street workers centre.

Mr RICH-PHILLIPS — Those protocols with police and the state government which you mentioned, are they with you as Attorney-General or the police minister? Where would those protocols be developed?

Mr HULLS — No, that is all set out in the report. The protocols are protocols that will be developed by the police in relation to how their discretion will be used in that particular area. That will have the full support of the government, because we support the recommendations, and it will also have the full support of the local council, but ultimately it is a matter for the police to develop the protocols. They have said that legislation is not required for these tolerance areas, but it can be developed by way of police protocols and the police deciding how to use their discretion in those areas.

The CHAIRMAN — This would in some way be similar to the police having exercised the discretion in the drugs area — of issuing cautions rather than arrests?

Mr HULLS — Exactly the same. Police always have a discretion as to how they will act in certain circumstances, and it will be the same sort of thing. The police have been very supportive of this approach, and I want to congratulate the police for their involvement in this. In particular, Inspector Duffy, who has been involved in this with my parliamentary secretary, Richard Wynne, right from the start. The police are interested in looking at innovative solutions as well because enormous resources are taken up, as you know, in addressing street prostitution. Sometime ago I actually went down there with the police to have a look at the area and to have a look at exactly how the police try to control what is happening down there now. But to get a conviction the police have to act as a decoys: they have to dress up as street prostitutes, pretend to be soliciting, get somebody to make an offer to them and then arrest them. That takes up an enormous amount of police resources.

The CHAIRMAN — Some of the media and other commentary in the past 24 hours have suggested that what you are intending to do is decriminalise street prostitution. You have referred to no legislation. I would have thought legislation would have been required to decriminalise, so can you just clarify the intent there?

Mr HULLS — Again, the report on street prostitution makes it clear that this is not about decriminalising street prostitution. Decriminalising would have a statewide effect. This is a local problem and we are looking at local solutions. This is really a matter of the police exercising their discretion in a particular area. We do not require legislation. The report says that we should not go down the path of legalising street prostitution, nor should we go down the path of decriminalising it. I agree with the report, and the government agrees with it. So I say to people who say this is all about decriminalising or legalising street prostitution that they should read the report because it actually refers to that specific issue. It is not legalisation; it is not decriminalisation. You read 'red-light district'. It is not a red-light district. Red-light districts are all about the promotion and commercialisation of sexual activity

and it usually involves very low levels of policing. This is not a red-light district. This is a tolerance zone where police will exercise their discretion. Again, it is a local solution for a local problem.

Mr HOLDING — I congratulate both you and all those who were involved in the review of the street sex industry because it is a very difficult problem that the local community there has had to deal with. I was very disappointed to hear the Leader of the Opposition on the radio this morning pouring scorn on the process and indicating opposition to a lot of what seems to have been proposed. One of the things I found most offensive about what the Leader of the Opposition said — and it relates to the question I would like to ask — is that he appeared to associate his party's opposition to supervised injecting facilities with a reduction in the deaths from heroin overdoses in Victoria that has occurred in the last while. I would like to ask about the government's strategy in dealing with illicit drug use, and in particular I ask about the drug court pilot program which you launched in Dandenong several months ago and which will be trialled in the Dandenong Magistrates Court. What benefits do you see coming to Victorians from that pilot program?

Mr HULLS — I believe the drug court is a very important initiative. It is aimed at repeat drug offenders who commit crimes to feed a drug addiction, continue to abuse drugs and obviously offend following release from prison. It is targeted at individuals who are drug or alcohol dependent and whose dependency has obviously contributed to the offending and people who may have a fairly extensive criminal history.

There is a process that will screen people to ensure that they are genuinely ready to enter the drug court. An intensive screening and assessment process is essential. A range of sanctions are available to the drug court to coerce, I guess, compliance with conditions, including increased court supervision, drug testing, community service, curfew, and even short periods of incarceration. The benefit to the community that you spoke about I believe will include preventing further offences, and of course there will be financial benefits. Obviously it is more cost effective than incarcerating them.

As I said, it is a new initiative. Drug courts have been trialled elsewhere, including Ireland and Scotland in the United Kingdom, Canada and the United States of America. Before we set up our drug court we had people look at all those courts in other states and around the world. The court itself is given a supervisory power over somebody who is drug dependent and is committing offences as a result of that drug dependence. As part of the court a new order will be able to be imposed on a drug offender. It is called a DTO — drug treatment order — and that sentencing option has now gone through and was passed by Parliament in the Sentencing (Amendment) Act. It is a much more flexible sentencing option which allows the court to address issues that actually contribute to offenders' criminal behaviour by focusing on the offenders' problems and their solutions rather than just their criminal conduct. If you focus just on their criminal conduct you send people off to jail and when they get out they continue to reoffend because they have a drug problem. This is, if you like, therapeutic justice, where you focus on their problems and solutions.

Deputy Chief Magistrate Brian Barrow has been appointed as the first drug court magistrate. He will work very closely with a special multidisciplinary team that will consist of a range of case management and treatment perspectives, including drug clinicians, case managers, prosecutors, defence counsel, treatment agencies and a whole range of other service providers. As I said, to ensure someone is ready for the drug court — because the drug court is not an easy option by any stretch of the imagination — a fairly intensive screening and assessment process is essential. That process involves a drug court team, which will consider the defendant's status of health, their homelessness, the severity of their addiction, their criminal history, their employment and education history, their family and social relationships and support networks. All those sorts of things will be taken into account to assess whether or not a person can go before the drug court. Of course consent is crucial: you have to have the consent of the person before they can go through the drug court.

As I said, a range of sanctions will be available, including increased court supervision, drug testing, community service, curfew and the like — including short, sharp terms of imprisonment if a person continues to breach orders that have been placed on them. All this may occur before the ultimate sanction of a person going to jail and being dealt with again for the actual offence. So under the drug treatment order a whole range of interim sanctions can be applied, including short, sharp jail terms as well.

Will it work? We believe it will. We believe, again, you have to look at innovative ways to address the drug scourge on our community. A huge percentage of matters going through our courts are drug related. You can take one of two options: you can take the view that if a person has committed the offence, who cares why they have done so, just lock them up and throw away the key; or you can look at the therapeutic option, where you look at why the person is committing these offences and try to address those problems and try to stop the recidivism that

occurs as a result of the drug problem. This drug court is expected to do that. It is a trial, it will be evaluated, and we hope it will be extended to other courts. We think it is pretty innovative and exciting, and again it had bipartisan support, which I am pleased about.

Mrs MADDIGAN — Is it too early for you to have had any reports about that?

Mr HULLS — There was an evaluation done in New South Wales. It is certainly too early for Victoria, but an evaluation of the New South Wales court by the New South Wales Bureau of Crime Statistics and Research found that it cost $144 a day for an offender on the drug court program compared with $152 a day for the incarceration of an offender. While you might say that is only a slight difference, the reality is if you incarcerate somebody, one, it is costing you more, and two, there is a real likelihood of recidivism and the cost to the community is immense. I believe $144 a day is a small amount for the community to pay if it results in a person's offending behaviour as a result of drug addiction being stopped. It is too early to evaluate the Dandenong drug court but there will be ongoing evaluation.

Mr RICH-PHILLIPS — I wish to ask about the Victorian Civil and Administrative Tribunal. At page 212 of budget paper 3 a figure is quoted in terms of matters finalised by VCAT of 95 664 for the 2000–01 year — that is the first column — which is at odds with what VCAT published in its annual report. The annual report only reports 91 482 to be exact. Can you reconcile those figures?

Mr HULLS — I am getting advice from the head of the department on that. I am told there are accounting differences. In the budget papers we account for the number of cases as per the budget allocation from Parliament, whereas in the VCAT annual report I am told there is a different accounting procedure.

Mr RICH-PHILLIPS — The VCAT published figure is actually lower than the budget figure.

Mr HARMSWORTH — We would need to check it against how they count it.

Mr RICH-PHILLIPS — The committee would appreciate if you could get clarification on that. I have a follow-up question related to funding for the output group versus the number of cases. We cannot pin down how many matters were handled but I was hoping you would explain the decline in output costs versus the increase in the number of cases being finalised.

Mr HULLS — I can in relation to that issue, because some time ago there was an *Age* article in which the shadow Attorney-General indicated VCAT's budget — this is what you are referring to — had dropped $2.7 million over the past two years, from $31.1 million in that budget document to $28.4 million, despite VCAT hearing more cases. The claim was based on, I assume, his reading of the budget papers. As you can see, page 212 indicates the actual output cost was $31.1 million and the target output cost for 2002–03 is $28.4 million. These output costs actually contain a number of items which do not form part of VCAT's operational budget, including things like the appeals cost fund and the cost of administering the justice of the peace registry. These do not form part of the operational budget of VCAT. The operational budget of VCAT was $18.78 million in 2001–02. In the current financial year it is $18.9 million, so there has been a slight increase.

Mr CLARK — That is for the next financial year, 2002–03; it will be $18.9 million?

Mr HULLS — There has been a slight increase of $17 000. The actual operational budget of VCAT has not decreased. From time to time at VCAT issues arise in particular lists. As the committee knows, VCAT was formed to put all those tribunals under the one body and from time to time issues will arise in the planning list or other lists at VCAT and the government will be contacted by the head of VCAT, Murray Kellem, in relation to progression of a particular list to ensure that blow-out times do not exceed expectations. From time to time the government will be asked by VCAT for extra funding for a particular list, and that occurs. It occurred fairly recently in the planning list where there were some difficulties. I am reminded there was an adverse court decision in relation to planning, the Warehouse decision, and as a result we had to put in a fair amount of money to get further sessional members to sit pending legislation either being passed or the appeal being heard on that matter. We are in constant contact with VCAT in relation to financial matters but its operational budget has not gone down.

Mr RICH-PHILLIPS — Could you give the committee some clarification then because the annual report again shows the budget appropriation for VCAT as declining between 1999–2000 to 2000–01 from $11.63 million to $11.24 million, and the total funding for the agency declining from $19.96 million to $19.73 million, figures which are different from those you have provided? Can you or Mr Harmsworth reconcile that?

Mr HULLS — We will have a look at that report and give the committee a full explanation of the difference between the figures.

Ms BARKER — While being of course protective of every Victorian's right to access courts and tribunals, I am interested in the alternatives such as dispute resolution and mediation. As local members we all know of minor neighbourhood disputes which become major neighbourhood disputes and taken to court, when they could easily be resolved if they have access to dispute resolution and mediation. Can you inform the committee of efforts that have been made to ensure that these forms of mediation and dispute resolution are made available?

Mr HULLS — If you are serious about access to justice you have to look at new low-cost ways of resolving disputes because the court option is painstaking, can be very costly, and the trauma it causes to participants is drastic because often in a court hearing there is either a winner or a loser and no in between. Alternative dispute resolution (ADR) has a much greater role to play in our justice system. It already plays a role but I believe it should have a more important role in our justice system. It is true, as you would know, that ADR Services promote conflict resolution and aid parties to a dispute to resolve matters without resorting to courts and thereby enormous cost benefits to the government and to the community. ADR Services also raises awareness of the rights of Victorians, their responsibilities, and methods of dispute resolution with the aim of avoiding disputation.

Where a dispute does occur, they encourage parties to reach a mutually satisfying outcome in relation to that dispute. In the budget we have allocated funding of $3.7 million to trial a range of online dispute resolution processes including the development of an online dispute resolution web site involving pilots in the areas of consumer and business affairs and the Dispute Settlement Centre. The cost benefits of diverting matters to online mediation will need to be vigorously evaluated. The potential market for online alternative dispute resolution services across the state and local government will be assessed in the initial stages of the project and refined during the operation of the pilot.

Further details of the funding of $3.7 million: it has been initiated to develop a self-help web site to aid Victorians to resolve their own disputes without resorting to a third party, without resorting to courts and without resorting to lawyers. It will be used to research leading-edge technical and administrative facilities to support interactive online dispute resolution. It will develop the necessary capabilities to be piloted in the dispute settlement centre of Victoria and Consumer and Business Affairs Victoria and will develop protocols between those groups and the Magistrates Court aimed at diverting suitable neighbourhood, community and consumer disputes to mediation wherever that can be done.

It will also increase awareness of the rural dispute settlement centre, which is again, a pretty important initiative. If we can divert people of out of our court system it saves enormous heartache for those involved in the process and it saves costs to the community generally. From the Attorney-General's point of view I am also looking at a further beefing up of alternative dispute resolution as part of the justice statement and the strategic directions for justice in this state. I believe that alternative dispute resolution has been greatly under-utilised in Victoria. It is a low-cost way of resolving disputes, and I think that the more ADR we have in the justice system, the better off we all are.

Ms BARKER — In terms of that, I think one of the things that needs to be addressed — I am sure you are looking at it because this government has a whole-of-government approach to things like ethnic and multicultural affairs — is the issue of translation of pamphlets regarding alternative dispute resolution into a range of languages other than English.

Mr HULLS — I agree with that — educating people about ADR needs to be done on languages other than English. I absolutely agree.

The CHAIRMAN — Can I take you to a matter that I think this committee has discussed with you at each of your appearances over the past few years, and that is the issue of legal aid. It is on page 213 of budget paper 3. I note there increases in the budget allocation for legal aid in the coming year. However, it is also the case that this is a joint responsibility between the state and the commonwealth. Over the past couple of years we have seen various arguments and debates about the relative contributions of the state and commonwealth governments to legal aid and what responsibilities apply. While I say I note the increase there, can you advise us of the status of commonwealth contributions to the legal aid area in Victoria and whether there have been any negotiations taking place in relation to that? Are we seeing an increased budget from there? What is the effect on legal aid in Victoria of any agreements that may have been reached between yourself and the commonwealth Attorney-General?

Mr HULLS — Can I start off by saying that there will never be enough funds supplied by governments to meet unmet legal demand out there. That is the first point. Governments have to play their role and contribute their fair share if they believe in legal aid, but it does not matter how much governments contribute to legal aid, there will never be enough funding to meet the unmet demand out there. Therefore we have to look at new, innovative ways of meeting that unmet demand. That is why we have embarked upon a pro bono program where the best and brightest lawyers from private law firms go into legal aid offices and community legal centres to assist in their work. It is a win-win situation because in my view they come out better lawyers and go back to the law firms as better lawyers, and they are also assisting community legal centres and legal aid offices. All those on-costs are met by the private firms. We have to, as I said, look at new, innovative ways to unmet that unmet demand.

Nonetheless, there is no question or doubt that governments have a responsibility. The old system that used to exist with legal aid was it was a 55 per cent–45 per cent contribution from the commonwealth and the states. It all went into a bucket and the legal aid commissions from the states could use that money as they saw fit, as they believed their states warranted. There was a change in the guidelines. The federal government changed the situation so federal funds could only be used for federal matters. That meant that no longer was there this pool of money, that there were now two streams where federal money could only be used for federal matters — which is basically family law matters — and none of it could be used for state matters.

That was and still is in my view a disaster for legal aid. Not only did it take discretion away from the Victorian legal aid commission but also it meant that the guidelines had to be changed drastically. In my view the federal government has reduced its funding to legal aid as a result. If you look at the figures there has been a turnaround in the contributions made by state and federal governments. In 1997–98 the federal government contributed $32.1 million to legal aid and yet it is estimated in 2002–03 that that will be reduced to $27.8 million. As opposed to that, the Victorian government in 1997–98 contributed to $24.3 million to legal aid and it is estimated that in 2002–03 that it will be $32.5 million. There has certainly been a turnaround in relation to commonwealth and state contributions to legal aid.

There have been negotiations with the commonwealth government; we were right in the middle of them when I was last here. I argued that the commonwealth's proposal to further reduce funding for legal aid in this state was totally inappropriate. I argued that we should go back to the old system where federal money could be used for state matters; we believe that that was appropriate. I am pleased to say that the funding issue was resolved and we have signed up to an agreement on the basis that Legal Aid Victoria would receive easier access to what they call accumulated case revenue funds — in other words, commonwealth reserves that have been built up over a period of time. The legal aid commissions will have access to those funds. Legal aid's advice to me at the time was this had the potential to provide access to up to $9 million in commonwealth reserves which would have otherwise been handed back to the commonwealth. As a result of advice from Victoria Legal Aid we believed that we should sign up to the last agreement.

The alternative was not to sign up, and that could well have meant the outsourcing of legal aid. The federal government threatened that if we did not sign up to an agreement it may well outsource its contribution to other groups within the community than the Victorian legal aid offices — it could be religious groups or any sort of group. It would have created an absolutely chaotic system. I am pleased that we were finally able to reach an agreement.

Since then we have contributed extra funding for legal aid, including some capital funding for community legal centres (CLCs) and some funding for legal aid as well. The injection of funds to community legal centres has been fairly substantial. You will probably remember that community legal centres were under threat. There was a review that had been undertaken in relation to CLCs that I believed had a predetermined outcome, and that was to have a McDonalds-type community legal centre system, where you would have north, south, east and west only, which totally misunderstood the nature of community legal centres — their community nature and volunteer system in community legal centres and the like. We had a commitment before the last election that no community legal centre would be forced to amalgamate or close. As a result of extra funding I am pleased to say that the future of community legal centres seems pretty viable.

Mr DAVIS — On the legal aid issue, just looking at your output group on page 213, matters arising from state law, I note the number of new applications approved dropped from an expected outcome of 28 000 to 25 000 whilst there is an increase in funds. So the number of matters appears to be dropping while there is an increase in funds on the issue of state law matters.

The CHAIRMAN — There is also an increase in the target.

Mr DAVIS — Either way — —

The CHAIRMAN — If you compare it to the previous target, it is an increase.

Mr DAVIS — Either way — —

Mr CLARK — But below 2000–01 actuals — —

The CHAIRMAN — I understand, but comparing target to target you are increasing.

Mr HULLS — I was advised by Victoria Legal Aid that there was an unprecedented surge in applications for legal aid in that year to 28 000. Legal aid advised us that it was unprecedented. It has now gone back to a more appropriate target of 25 000. Legal aid believes that that is a more appropriate and realistic of the number of new applications that will be approved.

Mr CLARK — If you look at the legal advice provided, that also is well down on 2000–01 where it is 28 491 down to 25 000, so it does look like a significant decline over time.

Mr HULLS — The target has actually gone up, as you can see. The target has gone up from 22 600 to 25 000 in relation to legal advice.

Mr DAVIS — Thirty thousand being delivered last year and 28 491 the year before.

Mr HULLS — Yes, but legal aid advised us that there was unprecedented demand. We have a whole range of other options now apart from anything else. People who perhaps were going to legal aid for advice are now able to go to other areas like alternative dispute resolution, which has been beefed up. More firms are doing pro bono work. It may well be that some of that load is taken off legal aid. Legal aid has advised us it was fairly unprecedented — the expected outcome in 2001–02 — and it believes its targets in relation to both legal advice and new applications are now more realistic.

Mr DAVIS — But with respect it does not explain the fact. If you accept the explanation that legal aid is advising the number of cases have dropped, why then the increase in funds? I am trying to resolve those two — —

The CHAIRMAN — Because the target has gone up.

Mr HULLS — The actual target has gone up.

Mr DAVIS — But you have serviced 28 000 with $31.4 million, and you plan to service 25 000 with $32.5 million.

Mr HULLS — Yes. The funding does not just go to legal advice and duty lawyer services. The funding goes to things like CLCs, videoconferencing and the like. It goes to a whole range of IT upgrades — those types of things. Are you suggesting there should be, on the basis of this, less funding for legal aid?

Mr DAVIS — I am trying to get an explanation.

Mr HULLS — The explanation is that, no. 1, it was an unprecedented year as far as legal aid was concerned. It believes the targets are now more appropriate. But the increased funding is still appropriate for a whole range of other initiatives, including CLCs, videoconferencing that is being set up, like information technology upgrades, and the like.

Mr CLARK — As to confiscation of assets from persons with criminal convictions, I read your announcement about that in one of the weekend newspapers — the reference to criminals' assets being forfeited if they could not prove to a court that they were obtained legally and your reference to there being billions of dollars of unexplained assets out which you are going after. In relation to what has been proposed, it stuck me as being very similar to legislation that was passed a few years ago which provided a reverse onus of proof in relation to drug offences and other serious criminal convictions. I was wondering if you could explain what the difference is between your proposal and what the existing law is in ballpark terms, or else take it on notice and give us further detail. What are we expecting to get, say, this year in terms of confiscation under the existing legislation, and how much extra do you expect to get under your legislation, and do you have any proposals to earmark that or hypothecate that extra revenue, or will it simply be an addition to consolidated revenue?

Mr HULLS — Good question. In relation to hypothecation, the police would love it to be hypothecated, but I expect there will be fairly rigorous discussions about that. The figure that was quoted in that article of billions of dollars of unexplained assets was not a comment I gave. It was the journalist who indicated there were billions of dollars. I would not have a clue as to the exact figure in relation to assets out there, and I do not think anybody would. It is simply guesswork. But there are two processes for confiscation of assets. There is confiscation of assets when a person is convicted in a court of a particular offence. What has to occur then is that the police have to make application to the court to have assets they believe are tainted assets confiscated, and the onus is on the police to prove that those assets indeed are tainted. Often it is very difficult. The police themselves have indicated that a better system needs to be looked at.

There is also the civil forfeiture procedure. Under civil forfeiture procedure it is true that an application can be made to a court. There is a reverse onus situation in the civil forfeiture procedure whereby the police can confiscate assets and then the onus is on the person whose assets have been confiscated to show that those assets are not tainted. We have two separate procedures running. The difficulty with the civil procedure is that it is fairly cumbersome. There has to be a new court case basically in relation to whether or not assets can be confiscated. What I am talking about is legislation in relation to the criminal forfeiture procedure whereby when somebody is convicted of an offence, it is a drug-related offence, and the court receives an application for assets to be confiscated by the police, it is a reverse onus situation. The onus is not on the police to establish that the assets were tainted. The onus is on the convicted person to establish that those assets are not tainted assets and have been obtained on a bona fide basis. In relation to the amount of assets out there that may be forfeited, obviously further work would need to be done on that. I do not want to sit here and make any guesses, but the figure quoted in the paper was not my figure.

In relation to hypothecation, I repeat I expect there will be a fair amount of discussion between the police and the department in relation to that. My initial view is that the government is reluctant to hypothecate because once you start doing that, you get all sorts of groups within government suggesting, 'We can increase funds or we can raise funds as long as it comes back for other purposes'. So we are always reluctant to go down the hypothecation path. My initial answer to you is that in all likelihood we are talking about those assets going into consolidated revenue and being used for things like hospitals, roads and other government projects. Having said that though, I would expect, as is their wont, the police to put up a fairly substantial argument that some of this money should go into their area of the justice portfolio. That is an argument that I expect will be had in due course.

Mr CLARK — For clarification, you are confident that the existing law does not apply automatic forfeiture to criminal offences? I refer to your predecessor's second-reading speech to legislation she introduced back in 1997 which said:

> ... the restrained property of persons convicted of certain serious offences is deemed to be unlawfully acquired unless the person can prove otherwise.

Mr HULLS — Yes, under the civil forfeiture and automitic forfeiture provisions that is right.. But under the ordinary forfeiture provisions once a person is convicted in court, if the police want to obtain that property and have it forfeited to the Crown, or forfeited to the state, the onus is on the police to satisfy the court at that time that that property is indeed tainted property. It is not a reverse onus situation. The reverse onus situation only comes in in the civil forfeiture procedure. We believe that needs to be looked at. The police have made application to us in relation to tightening up the asset confiscation rules and regulations here in Victoria, and in effect that is what that article is about. It does not just deal with that; it also deals with whether or not we have an appropriate body dealing with asset confiscation. At the moment I think we have the DPP, the police and the asset confiscation office all involved in asset confiscation. In New South Wales, for instance, a single body actually deals with asset confiscation. Is the system here too cumbersome? Again we want to look at that to make sure we have the best asset confiscation regime we can have.

Mr CLARK — Could you let the committee know in due course what you are currently getting under existing confiscation?

Mr HULLS — Sure.

Mrs MADDIGAN — I want to ask you about court facilities. I know the Heidelberg court is currently hearing its cases in the Moonee Ponds court. Can you tell me what steps your department is taking to improve and modernise court facilities throughout Victoria?

Mr HULLS — Yes, the County Court was not bad.

Mr DAVIS — Wasn't that a Kennett government initiative?

Mr HULLS — Yes, but we got the plaque! The County Court is a wonderful initiative. I think access to justice is also about ensuring that we have modern court facilities, and we are keen to improve the amenities of various courts and legal sector facilities around the place. We have reviewed the condition of a number of courts throughout the state and $4.1 million has been allocated for the upgrade of courts in Bendigo, Wangaratta, Mildura, where, as you know, we are building a new court, and Horsham, as well as providing the refurbishment of the Office of Public Prosecutions. I do not know if anybody has been down there, but it is in pretty dire need of — —

Mr DAVIS — Just on Mildura, recently you made some statement that that date has gone out to December 2003. Why is that? Is that finally a confirmed date?

Mr HULLS — Yes, it is — compulsory acquisition. There were two sites in Mildura. We set up a committee to look at the best sites in Mildura. I do not know if you have seen where the Mildura court is now, but it is basically right in the CBD. It is part of the fabric of the Mildura community but it is a Third World court. We had a choice of knocking down the old court and acquiring land around it, or building a new courthouse on what is called the old hospital site, which is way out of town. We decided, after consultation with the community, that the best site was where the current court is, but it meant acquiring land around the facility. We were able to do that, except one aspect of the site, which was a music shop. I remember it well — it was a music shop and he did not want to sell; he was keen on playing right to the end. Ultimately we had to go down the compulsory acquisition path. As you are probably aware, that takes time unfortunately. But while that was going on plans were still being drawn up and the like. It is my understanding now that the estimated completion date of the Mildura court is December 2003. That delay is as a result of the compulsory acquisition.

As I said, the Bendigo court upgrade is about $1.5 million — $1.4 million — and that is due for completion in 2003. It includes airconditioning being installed in the court and the jury pool room being refurbished. The Wangaratta court is just over $500 000; it should be completed in June 2003. Again it involves improving the disabled access to one of the courts — we are actually installing disabled access with a new lift and ramps at the court. At Mildura building cost increases have occurred, obviously, due to the delay in consolidating the site, and we are spending I think over $1 million on the Office of Public Prosecutions — —

Ms ELDRIDGE — It is $1.3 million.

Mr HULLS — Or $1.3 million to refurbish a number of levels of that particular building. As I said, I think at the Horsham court some $640 000 is being spent to provide additional airconditioning and ventilation systems and a new jury pool room.

So we are constantly looking at courts to see how we can upgrade them, because court facilities are community assets. On that point, as you would know, there are some disused courts around the place. When I say disused — under-utilised courts around the place. One of those is the Moonee Ponds court, which is in your electorate, Judy. I am pleased you were able to head up a committee to look at how under-utilised courts can be better utilised. The Moonee Ponds court is used only one or two days a week and is closed for the rest of the week. This is a great community asset, and your committee's recommendations will be implemented. It is a way of using the court for one or two days a week, but using it for community facilities and as a community asset for the rest of the week. In my view it is a fantastic example of how a court facility can continue to be used as a community asset as well as a court. We expect, after monitoring what happens with the Moonee Ponds court after it goes back to two days a week — as you know, with the Heidelberg court being refurbished at the moment a lot of its work is being done at Moonee Ponds — we will utilise your example in Moonee Ponds in other areas of the state, including some under-utilised country courts. I believe they are not government courts; they are community courts, community assets, and we should utilise them as much as we can.

Mr DAVIS — On a further point on capital works and so forth, I understand that significant money has been allocated for court security upgrades. What is the expected completion date for the court security upgrades the government has been undertaking?

Mr HULLS — I am just told very soon. There was a $2.1 million project aimed at ensuring that court premises are secure, and obviously court staff need to work in a safe environment. The safety and security master plan, so-called, was completed earlier this year. It established security standards across all jurisdictions and also highlighted works required to upgrade security in Victorian metropolitan and regional courts. I am told these works will be completed by the end of June.

Ms ELDRIDGE — That is right.

Mr HULLS — Of this year.

Mr DAVIS — The original date was early 2002, I think.

Mr HULLS — It will be completed by the end of June 2002. It has been spread over a period of time.

Mr HARMSWORTH — Over two years.

Mr HULLS — Over two years, yes. Works have included things like linking metropolitan and regional courts to an off-site security monitoring company, issuing duress alarm pagers to court staff, introducing new locking systems in courts across the state, upgrading closed-circuit TV monitoring systems, upgrading external fencing and security lighting where required, and also installing weapons detection systems in some metropolitan courts. It is being progressed and it is pretty important that we have appropriate security in our courts. Again, it is a matter of balance between having appropriate security and ensuring our courts are still user friendly, if you like. Courts are public assets. Whenever I address schools — and I am sure you do the same thing — and talk about justice issues, I encourage people to go and have a look at our courts and see how they operate. The last thing you want is for people to shy away from going to our courts because there are bouncers on each door. You must have appropriate security, that goes without saying, but it is a matter of getting the balance right.

Mr DAVIS — When will that happen? At the end of this year?

Mr HULLS — The end of June.

Mr DAVIS — Fine. Good.

The CHAIRMAN — That concludes consideration of the budget estimates for the portfolios of racing, manufacturing industry and Attorney-General. I thank you and your various departmental officers for your attendance here today. The committee has a couple of issues that it will follow up with you, and there may be some other questions that we will forward to you in writing at a later date.

Witnesses withdrew.